



2018

Collier County Procurement Manual



Collier County

Administrative Services Department

Procurement Services Division

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**PROCUREMENT MANUAL
SECTION INDEX**

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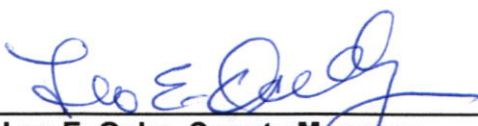
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1. TITLE AND CITATION

This Manual shall be known and may be cited as the "Collier County Procurement Manual" or "Procurement Manual."

1.A. AUTHORITY

Approval of this Manual by the County Manager pursuant to "SECTION SIX" of the Collier County Procurement Ordinance:

Approved: 
Leo E. Ochs, County Manager

Effective Date: May 14, 2018

Modifications to this Manual shall be effective when the revised document is approved in writing by the County Manager and a new effective date is assigned.

Standard Operating Procedures (SOP's), forms and ancillary documents for procurement process shall be effective with the approval of the Procurement Services Division Director.

2. PURPOSE

The purpose for this manual is to provide the steps necessary to execute procurement actions in compliance with the Procurement Ordinance. These steps are designed to not only ensure compliance with the adopted Ordinance, but also maximize the purchasing value of public funds, maintain the integrity of the procurement process, and ensure that both the process and end result are auditable.

This manual applies to the procurement of all goods and services irrespective of the source of the funds. Nothing within this manual will prevent the County from complying with the terms and conditions of any grant, gift or bequest that is otherwise consistent with law.

The Procurement Services Division provides centralized procurement support and services to county departments and other offices, including appointed and elected officials who elect to utilize the Procurement Services Division under the Board of County Commissioners of Collier County.

The reader is reminded to consider all of the information in this Manual, as well as Standard Operating Procedures and forms, when undertaking procurement activities.

3. APPLICABILITY AND APPROVED THRESHOLDS

This Procurement Manual applies to the procurement of goods and services by the County after the effective date, as indicated by the date of the County Managers signature. This manual shall apply to all expenditures of public funds by the Board of County Commissioners for public purchasing, irrespective of the source of the funds.

Nothing contained herein shall be construed as requiring Collier County's Constitutional Officers (Clerk of the Circuit Court, Property Appraiser, Sheriff, Supervisor of Elections, and Tax Collector), Court Administration, State Attorney, Public Defender or the Collier Metropolitan Planning Organization to be covered by the provisions of this Procurement Ordinance. However, the services of the Collier County Procurement Services Division and Procurement Services Director may be made available for consultation.

When the Procurement Services Division is providing services to a Constitutional Officer, the Constitutional Officer may issue a letter to the Procurement Services Division Director electing to not follow the Procurement Manual and/or Procurement Ordinance.

The Board of County Commissioners shall execute formal contracts in excess of \$50,000 having a binding effect upon the County, to include revenue generating contracts, and has then delegated to the County Manager or designees, the authority to approve contracts or agreements and amendments, extensions, and renewals of such contracts or agreements, including change orders, work orders and other ancillary documents, providing the total amount of County expenditure for any such contract or agreement does not exceed \$50,000 unless otherwise specified by action of the Board of County Commissioners. The \$50,000 limitation set forth above shall be determined by the following:

- a. the per fiscal year dollar total expenditure for term contracts,
- b. the per fiscal year dollar expenditure for fixed-fee agreements,

- c. the per fiscal year dollar expenditure for lease agreements,
- d. the total dollar expenditure included in the contract for lump-sum or specific project agreements.

Following formal action taken by the Board of County Commissioners on purchases greater than the formal competitive threshold, the Board delegates to the County Manager or designee the authority to carry out the administrative and ministerial actions necessary to effectuate the Board's action, including but not limited to the subsequent issuance of Work or Purchase Orders.

By signing this manual, the County Manager delegates to the Procurement Services Division Director the authority to act on his behalf in all procurement activities as they relate to this manual.

The authority to solicit for and enter into contracts provided here in requires strict compliance with the standards and procedures established in this Manual, CMA's, and the Collier County Procurement Ordinance, as well as any applicable provisions of State or federal law.

The requesting department/division shall be responsible for the development of all plans and specifications sufficiently detailed to provide a basis for full and fair competitive solicitation. The Procurement Services Division will provide support and input during this process.

Requesting constitutional officers or appointed officials may opt out of following the provisions of the Procurement Ordinance by notifying the Procurement Services Division Director in writing.

The Procurement Services Division may require the requesting department to provide a market analysis prior to issuing a solicitation.

The availability of funds for the current fiscal year shall be confirmed prior to any transaction or execution of any contract.

4. DEFINITIONS

Agency shall mean all departments, divisions, units and offices under the Board of County Commissioners, including the Collier County Redevelopment Agencies, the Collier County Airport Authority, Collier County Water Sewer District and all departments under the auspices of the County Manager. Also included are those elected or appointed officials that agree to utilize procurement services provided by the Collier County Board of County Commissioners.

Change Order shall mean a written order by a project manager, approved by the Procurement Services Director or Designee and the Board of County Commissioners, directing the contractor to change a contract's amount, requirements, or time. All changes must be within the original scope of the contract and in accordance with the Board approved contract's changes clause or, if no such clause is set forth within the agreement, in accordance with this Procurement Ordinance.

Consultant/Contractor/Supplier/Vendor shall mean a provider of goods or services to the County agency. These terms may be used interchangeably.

Continuing Contract shall mean a contract for professional services as defined under Florida Statute 287.055.

County Manager shall mean the County Manager or County Administrator of Collier County, or designee, as defined in the County Administration Law of 1974, F.S. ch. 125, pt. III.

Term Contract A type of contract in which a source of supply is established for a specific period of time for specified services or supplies; usually characterized by an estimated or definite minimum quantity, with the possibility of additional requirements beyond the minimum, all at a predetermined unit price.

Fixed-Fee Agreement is a contract providing for a firm price, or a price that may be adjusted only in accordance with contract clauses providing for revisions of the contract price under stated circumstances.

Lease Agreement is a contract outlining the terms in which one party agrees to rent property owned by another party, which may include real estate or personal property for a specified amount of time.

Lump Sum or Specific Project Agreement is a contract where a firm fixed total price is offered by the vendor for the completion of a project; typically this is done through a competitive process and where the final invoicing will require no cost breakdown.

Responsive Bidder/Proposer shall mean a vendor who has submitted a bid or proposal that fully conforms in all material respects to the solicitation and all of its requirements, including form and substance.

Responsible Bidder/Proposer shall mean a vendor who has the financial and technical capacity to perform the requirements of the solicitation and subsequent contract.

Minority business enterprise or any other designation assigned by the Office of Supplier Diversity shall mean a firm or individual whom satisfies the registration requirements of that agency and/or satisfies the requirements outlined in Florida Statute Chapter 287.0943(2)(e), Chapter 295.187, Chapter 60A-9, Florida Administrative Code.

Purchase Order shall mean a form of contract which encumbers appropriated funds and which is directed to a single vendor to furnish or deliver commodities or services to the County.

Purchasing Card shall mean a credit card officially assigned to specific employees under the purview of the Board of County Commissioners for the purpose of transacting small and/or strategic purchases.

Single source refers to a procurement directed to one source because of standardization, warranty, or other factors, even though other competitive sources may be available.

Sole source refers to a procurement where the selection of one particular supplier to the exclusion of all others may be based on a lack of competition, proprietary technology, copyright, warranty or a supplier's unique capability.

Work Order/Work Assignment is a contract instrument issued under the terms and conditions of an approved continuing or fixed fee agreement, which authorizes a contractor or consultant to perform a specific task within the broader scope of the master agreement. Nothing in the work order shall conflict with the terms and conditions of the fixed fee contract, and all work done must fall within the scope and term of the underlying agreement.

5. ESTABLISHMENT OF PROCUREMENT SERVICES DIVISION AND PROCUREMENT SERVICES DIRECTOR

The Board of County Commissioners, through the adoption of the Procurement Ordinance has established the Collier County Procurement Services Division, which shall be a distinct administrative division under the direction of the County Manager.

- 1) The Procurement Services Director of the Procurement Services Division shall have the authority to negotiate all purchases for all Agencies except as required by State, Federal or Local Law. In keeping with F.S. ch. 125, the Procurement Ordinance grants to the Procurement Services Director only those powers and duties which are administrative and ministerial in nature and does not delegate any governmental power imbued in the Board of County Commissioners as the governing body of the County pursuant to Fla. Const. Art. VIII, § 1(e). The Procurement Services Director may delegate to one or more Procurement Services Division employees any and all aspects of the authority vested in the Procurement Services Director by the County Manager Except as otherwise specified by law, this manual shall apply to every procurement under the authority of the Collier County Board of County Commissioners and to elected or appointed officials (Clerk of the Circuit Court, County Attorney, Property Appraiser, Sheriff, Supervisor of Elections, Tax Collector, Court Administration, State Attorney, Public Defender or Collier Metropolitan Planning Organization M.P.O.) who choose to utilize procurement services provided by the Collier County Board of County Commissioners.
- 2) Notwithstanding any other provision of the Procurement Manual, the Procurement Services Director, is authorized to issue purchase orders at the written request of elected or appointed officials.
- 3) Nothing in this manual shall limit the Collier County Board of County Commissioners' right to waive any provisions contained within the Procurement Ordinance when the Collier County Board of County Commissioners shall deem it in the best interest of the County.

6. DUTIES OF THE PROCUREMENT SERVICES DIVISION

Within the constructs of this Manual, the Procurement Services Division shall be responsible for:

- A. Seeking Maximum Value: Acting to procure for the County the highest quality commodities and contractual services at least expense to the County.
- B. Encouraging competition: Endeavoring to obtain as full and open competition as possible on all purchases, services and sales.
- C. Procurement Analysis: Keeping informed of current developments in the field of purchasing, prices, market conditions and new products, and securing for the County the benefits of

research conducted in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations having national recognition, and by private business and organizations.

D. Procurement Manual: Preparing and recommending for adoption by the County Manager a Procurement Manual for the implementation of the Procurement Ordinance. The Procurement Manual shall be maintained and published on-line for the benefit of the public.

E. Division Systems, Procedures and Standards: The adoption of systems, procedures, forms, standards, reporting and evaluation tools related to: (i) the effective development, negotiation and administration of County contracts, and (ii) the evaluation of performance of contractors, suppliers and vendors doing business with Collier County.

F. Non-Contract Purchases: Reviewing non-contract purchases under \$50,000.00, as defined in Section 3, to determine if an aggregated contract approach may provide value and offer pricing advantages to the County.

G. Tax Exemption: Procuring items for the County to exercise its tax exemption status when eligible.

H. Inquiry and Control: Full authority to:

- a. Question the quality, quantity, and kinds of items requisitioned in order that the best interests of the County are served;
- b. Ensure the proper and orderly acquisition of services to the various operating divisions;
- c. Ensure purchases are consistent with the Procurement Ordinance;
- d. Determine if specific purchases should be approved by the Board prior to the purchase;
- e. Determine work assignment rotation schemes when multiple contracts are awarded for the same service;
- f. Question the effectiveness of contract administration being performed by the Divisions and provide training and counseling on proper contract administration methods;
- g. Consolidate purchases of like or common commodities or services and entering into term contracts to obtain maximum cost savings while preserving department specifications and needs;
- h. The authority to review and approve or disapprove the composition of each evaluation committee and;
- i. Verify funding sources, and acquire an account number, for each purchase prior to advertising a solicitation.

- I. Records of procurement activity shall be maintained in compliance with the Chapter 119, Florida Statutes, “the Florida Public Records Act.”
- J. Administer the County Purchasing Card Program.
- K. Administer the County property disposal process through auction sales, and others means, and report that activity along with any proceeds to both the County Manager and the Board.
- L. Administering the County internal mail function, including processing, sorting, delivering and postage metering.
- M. Advise the County Manager of misuse, inappropriate use, or purchasing activities that are inconsistent with the purpose and intent of the Procurement Ordinance, Manual or applicable local, state or federal law.

7. ETHICAL STANDARDS

- A. Every employee and elected or appointed official of Collier County has the responsibility to maintain the confidence of the citizens of Collier County by conducting the procurement process in an ethical, fair and transparent manner. Collier County employees shall act in good faith to discharge their duties and avoid either the intent or appearance of unethical practices in procurement relationships, actions and communications.
- B. Any attempt by Collier County employees, or elected or appointed officials of Collier County to realize personal gain from the procurement process is a breach of public trust. All County employees shall govern themselves in accordance with the Standards of Conduct as set forth in applicable Collier County Government Regulations, to include the Collier County Ethics Ordinance No. 2003-53 as amended, County Manager Administrative Procedures (CMA) Code of Ethics, and F.S. ch. 112.
- C. Collier County requires each vendor who seeks to do business with Collier County to comply with the following ethical standards:
 - 1) No vendor shall discuss or consult with other vendors intending to compete for the same or similar contract for the purpose of bid rigging, collusion or other activities that are illegal, unethical or limiting competition.
 - 2) No vendor shall submit false information or intentionally submit misleading information to Collier County.

- 3) After the issuance of any solicitation, no current or prospective vendor or any person acting on their behalf, shall contact, communicate with or discuss any matter relating to the solicitation with any Collier County employee or elected or appointed official, other than the Procurement Services Director or his/her designees. This prohibition ends upon execution of the final contract or upon cancellation of the solicitation. Any current or prospective vendor that lobbies any Collier County employee or elected or appointed official while a solicitation is open or being recommended for award (i) may be deemed ineligible for award of that solicitation by the Procurement Services Director, and (ii) will be subject to Suspension and Debarment outlined in Section 28.

D. Failure to comply with this Section shall be deemed a violation of ethical standards and may subject the violator to administrative actions and to civil, and/or criminal penalties for ethical violations as described below:

- 1) Employees who violate the ethics standards described in this section shall be subject to administrative disciplinary action, following Collier County Government Human Resources procedures and guidelines, up to and including dismissal from Collier County Government employment.
- 2) Vendors who violate the ethics standards described in this Section shall be subject to Suspension and Debarment as provided in Section 28 of this manual.

E. Vendors doing business with Collier County shall comply with the provisions of Section 287.133, Florida Statutes ("Public Entity Crimes Act").

8. EXEMPTION FROM THE COMPETITIVE PROCESS

The following procurement categories may be eligible for exemption from the competitive process based upon the determination of the County Manager or Designee that approval of such an exemption is in the best interest of the County.

- 1) Purchases from another government agency or from a nonprofit organization authorized to do business in the State of Florida.
- 2) Dues and memberships in trade or professional organizations; registration fees for trade or career fairs; fees and costs of job-related seminars and training.

- 3) Subscriptions, periodicals, newspapers, books, electronic information, media, maps, pamphlets and similar material in printed or electronic form.
- 4) Advertisements.
- 5) Utility Services: water, sewer, electrical, gas, or other regulated utility, communications and data transmission services subject to government rate control.
- 6) Educational or academic programs; educational or recreational field trip instructors, trainers, facilitators, professional advisors and speakers.
- 7) Legal services including retaining services of law firms or other outside counsel for any reason, expert witnesses, court reporter services, appraisal services, trial consultants or similar persons or firms deemed by the Collier County Attorney as necessary to address the legal needs of Collier County, together with document management and production, legal research, and information technology products and services.
- 8) Goods or services purchased from grants, gifts, bequests or donations to the extent that the application of this Manual would conflict with the requirements, conditions, or limitations attached to the grant, gift, bequest, or donation.
- 9) Products or services necessary to maintain existing warranties and licenses or to maintain compatibility with existing Collier County systems.
- 10) Repairs based upon shop estimates for equipment that has been disassembled.
- 11) Personnel services; recruitment services.
- 12) Works of Art for Public Display
- 13) Direct purchase orders issued when it is in the best interest of Collier County. Collier County may make direct purchases of goods and services when the County can procure these items at a lower cost and/or realize a tax or delivery savings.

- 14) Financial Instruments: professional services required for the issuance of Collier County debt, debt service and Collier County investments related thereto, including the selection of investment bankers for Collier County's Underwriting Pool and the selection of Collier County's Financial Advisor.
- 15) Entertainment services for County-sponsored events.
- 16) Services for management studies, executive analysis and related matters as directed by the County Manager.
- 17) Where specified by general law, ordinance or Collier County Board of County Commissioner's policies, any purchase governed by explicit provisions of general law or other Collier County ordinance or Collier County Board of County Commissioner's policies (resolution) unless the solicitation indicates the applicability of this Manual, and this Manual shall apply only to the extent set out in the solicitation.

The operating division seeking an Exemption shall, complete an Exemption from Competition Request Form and Business Case along with required supporting documentation, as indicated on the form, and specifying the estimated or actual anticipated expenditure, and forward to the Procurement Services Division for review. Once reviewed and approved by the Procurement Services Director, the operating division, depending on expenditure level, may be required to prepare an Executive Summary and request Board approval at the next available agenda.

Exemptions over the approval authority given to the County Manager require Board approval.

The Exemption Request Form and the Business Case Form are available on the Procurement Services Division website.

Approved Exemptions are valid for a period of twelve (12) months, unless otherwise determined by the Procurement Services Division Director or the Board.

Exempt purchases in excess of \$100,000 require a contract in addition to a Purchase Order. In the judgment of the Procurement Services Division Director, contracts may be required for Exempt purchases less than \$100,000.

In all cases the requesting Division shall strive to obtain best value from a vendor when obtaining goods and services under an Exemption.

Should the Procurement Services Director determine that the request is not eligible for exemption and/or that it would be in the best interest of the County to conduct a competitive process, the requesting Division will be required to work with Procurement staff on an appropriate procurement method.

9. SMALL PURCHASES (Purchases \$3,000 or less)

A purchase shall not be artificially divided or split so as to qualify under this or any other section of this Procurement Manual. All small purchase quotes will be obtained by Operating Division staff without competition by a Single Quote, with documentation, and generally be processed using a regular purchase order, or a purchasing card in accordance with the Purchasing Card Policy Manual.

Operating Division staff should make all reasonable efforts to purchase goods and services under Board approved contracts. In the event a contract is not available or able to be utilized, staff will procure the highest quality items or services at the least expense to the County.

Operating divisions will seek the best value for the purchase and attempt to combine like purchases for cost centers under the division's control, and will ensure that the purchase supports the mission of the division.

The Procurement Services Division Director may, for strategic purchasing reasons, direct all purchases of a specific nature (for example; office supplies or industrial supplies) to one or more specific vendors regardless of the individual or aggregate purchasing volume.

10. INFORMAL COMPETITION (Purchases \$3,000 - \$50,000) Request for Quote (RFQ)

Three (3) written quotes will be sought by Operating Division Staff for purchases exceeding \$3,000 but not greater than \$50,000. Operating Divisions will seek the lowest quote obtained (based on quote identified unit or total price), from the responsive (submits all information requested, agrees to meet timeline, terms and conditions, etc.) and responsible (has references that check, current licenses, certifications, demonstrated years of experience with equipment and staff to perform the work, etc.) bidder.

Where Operating Division Staff are unsuccessful in securing three (3) comparable quotes, the Operating Division will seek the assistance of the Procurement Services Division, where it may be determined by the Procurement Services Division Director that a good faith effort was conducted and an award may be made with fewer than three (3) quotes. The Procurement Division may recommend that additional sourcing and soliciting are required by either the Operating Division Staff or by the Procurement Services Division Staff.

A purchase shall not be artificially divided or split so as to qualify under this or any other section of this Procurement Manual. Operating Division staff should make all reasonable efforts to purchase goods and services under Board approved contracts. In the event a contract is not available, or staff demonstrates that the price under contract exceeds the price on a non-contract, Operating Division Staff will procure the highest quality items or services at the least expense to the County.

Operating Division Staff who are requesting quotes are to conduct themselves in a fair and equitable fashion by providing the same information, under the same conditions, to all vendors in a fair and open competitive process. Once trained, Division Staff will utilize the County's electronic bidding platform to obtain quotes.

Only the Procurement Services Division Staff may issue a qualification based solicitation. Final recommended award of any quote will be reviewed and approved by the Procurement Services Director or Designee.

11a. PROCUREMENT METHODS (PURCHASES IN EXCESS OF \$50,000)

The Board of County Commissioners established an amount of fifty thousand dollars (\$50,000.00) as the County's threshold for formal competitive solicitations to include Invitation to Bid (ITB), Request for Proposal (RFP), Request for Professional Services (RPS), Invitation to Negotiate (ITN), Invitation for Qualifications (IFQ), and Reverse Auctions administered under the supervision of the Procurement Services Director. Award of any resulting agreements or contracts shall be made by the Board except where otherwise provided for in the Procurement Ordinance, Procurement Manual, or unless an exception is granted by the Board.

The standard advertising period for all formal competitive solicitation methods is thirty (30) days. The advertising period may be modified by the Procurement Services Director should unusual circumstances require it.

All advertising will take place on the County adopted electronic bidding platform, and the County may make use of additional advertising platforms or publications as is deemed necessary by the Procurement Services Director.

Invitation to Bid (ITB)

Invitations to Bid (ITB) shall be issued by the Procurement Services Director with public announcement and competition. Any resulting contract shall be awarded to the responsive and responsible bidder submitting the lowest or best overall bid which meets all specifications.

A bid is the preferred method of solicitation when price is the prevailing basis of award.

Details on the bid process and procedures will be contained within the ITB solicitation.

In the event of a tie, selection will be determined based on random selection (coin toss) by the Procurement Services Director before at least three witnesses, or if Local Vendor Preference is a factor as described in SECTION FIFTEEN of the Procurement Ordinance, then the language in that section will prevail.

Once a responsibility review is completed a Notice of Recommended Award (NORA) indicating the lowest responsive and responsible bidder being recommended for award will be posted on the Procurement bid platform.

Request for Proposals (RFP)

A Request for Proposal (RFP) shall be issued by the Procurement Services Director with public announcement and competition. Any resulting contract shall be awarded to the responsive and responsible proposer submitting the best proposal according to the criteria set forth in the solicitation.

An RFP is the preferred method of solicitation when multiple factors are considered for the basis of award, and price may or may not be the prevailing factor.

An RFP may be conducted in one or more steps and may involve oral presentation or demonstrations by the proposing vendors. At the conclusion of all steps which may include both scoring and ranking by an Evaluation Committee, the results including standardized score/rank sheets, meeting minutes, and audio recordings will be preserved by the Procurement Services staff member facilitating the Evaluation Committee proceedings.

In the event of a tie at final ranking, award shall be made to the proposer with the lower volume of work previously awarded. Volume of work shall be calculated based upon total dollars paid to the proposer in the twenty-four (24) months prior to the RFP submittal deadline. Payment information will be retrieved from the County's financial system of record. The tie breaking procedure is only applied in the final ranking step of the selection process.

In the event a tie still exists, selection will be determined based on random selection by the Procurement Services Director before at least three (3) witnesses.

Details on the request for proposal process and procedures will be contained within the RFP solicitation.

A Notice of Recommended Award (NORA) indicating the final ranking order of the proposers will be posted on the Procurement Services bid platform and the County will then begin negotiations with the number one ranked firm. In the event the County is unsuccessful with the number one ranked firm it will publish a revised NORA indicating that it is initiating negotiations with the next firm in the rank order.

Request for Professional Services (RPS)

A Request for Professional Services (RPS) shall be issued by the Procurement Services Director to procure professional engineering, architectural, landscape architectural or surveying and mapping services in accordance with the Consultants' Competitive Negotiation Act (CCNA), F.S. § 287.055. An RPS can be issued and awarded for either a Continuing Contract or for a Single Project as described in the statute. Note the Florida Statute provides standards for defining a project (Section 287.055 (2)(f) Florida Statutes).

Award of a Request for Professional Services (RPS) can be for either a continuing contract or for a single project.

Each RPS shall be awarded based upon the scoring criteria as set forth in the RPS solicitation document, to the responsive and responsible Proposer or Proposers who, in the sole opinion of the Evaluation Committee, is determined to be the most qualified to perform the work. The Evaluation Committee, whose composition is approved by the Procurement Services Director, will be comprised of voting members, that may have technical assistance from non-voting members, and have their committee activities facilitated by a member of the Procurement Services Division. The determination of award is made in two steps. First by the application of the numerical scoring points outlined in the

solicitation, using a standardized scoring form, to establish a “short listing” of the proposers. Short listing is then followed by oral presentations at which point the Evaluation Committee places the short-listed proposers in a final Rank Order of preference using a standardized ranking form. Ranking shall be determined without regard to the score established during the first evaluation. At the conclusion of both the scoring and ranking Evaluation Committee meetings, the results which may include standardized score/rank sheets, meeting minutes, and audio recordings will be preserved by the Procurement staff member facilitating the Evaluation Committee proceedings.

In the event of a tie at final ranking, the order of ranking shall be determined based upon the proposer(s) with the lower volume of work previously awarded. Volume of work shall be calculated based upon total dollars paid to the proposer in the twenty-four months prior to the RPS submittal deadline. Payment information will be retrieved from the County’s financial system of record. The tie breaking procedure is only applied in the final ranking step of the selection process.

In the event a tie still exists, ranking will be determined based on random selection by the Procurement Services Director before at least three witnesses.

A Notice of Recommended Award (NORA) indicating the final ranking order of the proposers will be posted on the Procurement bid platform and the County will begin negotiations with the number one ranked firm. In the event the County is unsuccessful with the number one ranked firm it will publish a revised NORA indicating that it is initiating negotiations with the next firm in the order ranked.

Professional Services Library

The County will maintain a “Professional Services Library” as its repository for vendors under continuing contracts solicited under the provisions of F.S. 287.055 Section 2 (g) (“continuing contracts”). The Library is used to award work assignments for professional engineering, architectural, landscape architectural and mapping & surveying services on an on-going basis through the use of continuing contracts.

The Professional Services Library must be used if the services needed are included in the professional services library and the resulting construction costs or study costs meet the requirements of F.S. 287.055.

If the services are not included in the professional services library, Purchasing will issue a formal solicitation, or pursue services as outlined in F.S. 287.055 as determined by the Procurement Services Director.

Collier County reserves the right to confirm a firm's qualifications in order to remain in the Library for each Service Category. Firms unable to meet minimum qualifications may be removed from the Service Category.

All professional services for work defined per Section 287.055 estimated to cost equal to or in excess of the category amounts per Section 287.017, Florida Statutes must be solicited through a standalone formal Request for Professional Services for that single project. Use of a Continuing Contract is not allowed.

A. Professional Services Library Rotation

1. Work assignments within each service category are awarded on a rotational basis by the Procurement Division.
2. For each service category, the Procurement Division will place qualifying firms in the Professional Services Library in the order they are ranked, with the highest scoring firm placed in the first position in the rotation.
3. As each work assignment is identified the next firm in the rotation will be offered the opportunity to negotiate that work assignment with the County's Administrative Agent.
4. Should a firm decline a work assignment, or be unable to reach a satisfactory fee negotiation with the County within a reasonable time frame, the County will contact the next firm on the list until the work assignment is successfully negotiated.
5. Firms will have the option of rejecting one work assignment within each service category within a twelve (12) month period without penalty. A second work assignment rejection within any twelve (12) month period will cause the firm to be skipped in the rotation. A firm who rejects three (3) work assignments (or is unable to satisfactorily negotiate 3 work assignments) in any twelve (12) month period may be removed from the service category at the direction of the Procurement Services Division Director.
6. Firms wishing to reject a work assignment for any reason must complete a Work Assignment Rejection Notification Form. A copy of this completed form must be provided to the Procurement Division by the County's Administrative Agent.
7. Once a full rotation through all firms in a service category is complete, a method that attempts to impart an equitable distribution of work among selected firms will be based on prior dollars awarded; with the firm having received the least amount of dollars being considered for the next work assignment.

B. Professional Services Library - Direct Selection

For work assignments requiring unique experience or knowledge, including past experience on another phase of the project, the County project manager may formally request permission to forego the rotation and select a specific firm. This request will require the completion of a Work Assignment Direct Select Form, which requires the approval of both a Division Director and the Procurement Services Director. Firms that are directly selected for a work assignment as a result of this process shall be passed on their next scheduled turn in the rotation.

The professional services library content for each service category is posted on the Procurement Services Division web site.

Procurements for the design and construction (Design-Build) of public construction projects may be obtained through a single contract with a design-build firm selected in a manner permitted under F.S. § 287.055 and the procedures set forth in this section.

Invitation to Negotiate (ITN)

An Invitation to Negotiate (ITN) shall be issued by the Procurement Services Director with public announcement and competition. An ITN is used when it is determined beneficial to issue a written solicitation for competitive sealed replies to select one or more vendors with which to conduct negotiations. Details on the Invitation to Negotiate process and procedures will be contained in the ITN solicitation. The ITN will generally follow the procedure outlined for an RFP.

Invitation for Qualifications (IFQ)

An Invitation for Qualifications (IFQ) shall be issued by the Procurement Services Director when it is in Collier County's best interest to first establish a qualified pool of vendors, to limit participation in a subsequent solicitation process to those qualified bidders, proposers or offerors who demonstrate a capability to provide the goods and services required by the Collier County. An IFQ may also be issued when qualifications are the only criteria. The process of selecting a vendor when using the IFQ process will utilize a selection committee in a single or multi-step process to evaluate proposals based on qualifications, experience, past performance, references and credentials. Details on the Invitation for Qualifications process and procedures will be contained in the IFQ solicitation.

Reverse Auctions

A Reverse Auction shall be issued by the Procurement Services Director when it is deemed to be the most efficient means of obtaining the best price through open competition. A Reverse Auction shall utilize a third-party auction service selected by the Procurement Services Division Director and be based on a public bidding process where the offerors bid down the pricing over a set time frame, with the award going to lowest bid received from a responsive and responsible offeror.

The offerors may come from a pre-qualified pool of participants screened by the 3rd party auctioneer, or may come from the open market; based on the nature of the purchase and the recommendation of the auctioneer.

11b. OTHER PROCUREMENT METHODS

Cooperative Purchasing

1) Piggybacking

The Procurement Services Director shall have the authority to procure goods or services from vendors who have been selected, as a result of a competitive selection process by a federal, state or municipal government, or any other governmental agency, political subdivision, or government-related association, provided that the originating entity utilized a competitive process similar to Collier County's. The Procurement Services Director shall annually bring forward to the Board of County Commissioners a list of recommended cooperatives for Board consideration. The Board will annually establish, through a separate authorization (Executive Summary), the approval authority for the use of these Cooperative Purchasing Agreements.

The Procurement Services Director may also consider other agencies and consortiums outside of the list presented annually to the Board, for piggy backing when it best meets the needs of the County.

The operating division seeking to utilize a Cooperative Agreement shall complete a Cooperative/Consortium Agreement Form along with required supporting documentation as indicated on the form and forward to the Procurement Services Division for review. The Cooperative/Consortium Agreement Form is available on the Procurement Services Division website.

For purchases made using Board approved cooperative or government contracts, a requisition is entered referencing the Board approved Executive Summary, the approved Cooperative/Consortium Agreement Form, and any supporting quote or contract documentation by the operating division. As long as there is sufficient documentation, no additional action will be required.

Use of cooperative or governmental contracts which have not been Board approved that are within the informal competitive threshold must be approved in advance by the Procurement Services Director. Attachments to the requisition may include Cooperative Governmental / Consortium Agreement form, quote information, bid tabulation or selection scoring/ranking, prices, contract, etc.

Purchases using cooperative or governmental contracts which have not been Board approved that exceed the formal competitive threshold will be submitted to the Board on an executive summary prepared by the operating division.

2) **Consolidated Joint Purchasing**

The Procurement Services Director shall have the authority to join with other government entities and consortiums in cooperative purchasing ventures when in the best interest of Collier County. This can be accomplished by acting as the lead agency on a solicitation, or by participating in a solicitation issued by another agency.

Requests for Information (RFI)

An RFI shall be issued by the Procurement Services Director when it is in Collier County's best interest to request information from potential vendors prior to the issuance of a planned solicitation. An RFI is used to collect comments and obtain inputs from the market place.

Emergency Procurements

An Emergency Procurement may be used in the event of an unexpected and urgent need where health and safety or the conservation of public resources is at risk, or during Board absences (all efforts should be made to obtain Board approval prior to anticipated recesses), using such competition as is practical under the circumstances, as follows:

- a) Following a declaration of the existence of an emergency situation by the County, the Collier County Board of County Commissioners or their designee may declare the existence of an emergency procurement condition and may suspend any or all of the provisions of this article and authorize an emergency procurement.
- b) The Collier County Manager or designee, on a case by case basis may approve an emergency purchase based upon the Procurement Services Director's good faith review of the available sources that may timely respond to the urgent need for

goods and services and the documentation of the emergency conditions related to that purchase. Upon written determination, utilizing the Emergency Procurement Request Form, and approval of the Collier County Manager, the emergency purchase may be made. The Collier County Manager will report to the Collier County Board of County Commissioners all such emergency procurements at the next available Board meeting.

- c) This section in no way constrains the provisions of Collier County's Civil Emergency powers and authority pursuant to F.S. ch. 252, Emergency Management.
- d) An Emergency Procurement is not to be confused with exercising after hour, overtime, holiday or week-end rate provisions contained in existing agreements to address critical needs.
- e) An Emergency Procurement is action taken outside of the competitive requirements described in both the Procurement Ordinance and Procurement Manual.

Single and Sole Source Procurements

Either a Single or Sole Source Procurement may be issued by the Procurement Services Division Director after the requesting department/division submits to the Procurement Services Division a completed Single or Sole Source Request Form.

(1) Single Sourcing;

is a procurement decision whereby purchases are directed to one source because of standardization, warranty, or other factors, even though other competitive sources may be available.

(2) Sole Source Procurement;

is a selection of one particular supplier to the exclusion of all others. This decision may be based on lack of competition, proprietary technology, copyright, warranty or a supplier's unique capability.

In the event that the request for either a sole or single source cannot be granted, the Procurement Services Division Director will direct the requestor to work with Procurement Staff and utilize an alternative acquisition method.

12. RESERVED RIGHTS

Collier County reserves the right in any solicitation to accept or reject any or all bids, proposals or offers; to waive minor irregularities and technicalities; or to request resubmission. Also, Collier County reserves the right to accept all or any part of any bid, proposal, or offer, and to increase or decrease quantities to meet additional or reduced requirements of Collier County. Notwithstanding any other provisions of this Section, if none or only one responsive and responsible bid or proposal is received following any solicitation, the Procurement Services Division Director, reserves the right to reject all bids, proposals or offers and to negotiate with any responsible providers to secure the best terms and conditions in the sole interest of the County unless otherwise provided by law.

Rejection of Bids and Negotiation:

- a. The Procurement Services Director shall have authority to review all submittals in response to a County solicitation and to review these submittals for responsiveness, responsibility, price and other factors in making a determination for Recommendation of Award. The Procurement Services Director may reject any submittal and cancel any solicitation at any time prior to a contract being signed. The Board of County Commissioners shall have the authority to reject any and all bids at any time.

- b. If the lowest, responsive bid exceeds the budgeted amount and, if the purchase is not funded in whole or in part with interagency grant dollars, the Procurement Services Director may negotiate changes with the apparent lowest responsible and responsive bidder that will bring prices into budgeted limits subject to the final approval and acceptance of the Board. If the budgeted amount includes grant funds, the Procurement Services Director shall be authorized to conduct such negotiations provided said actions are not prohibited by law or the grant conditions.

All Notices of Recommended Award will be generated and posted by the Procurement Services Director prior to presentation of any contract for signature by the Board of County Commissioners.

13. UNSOLICITED PROPOSALS

The Board incorporates by reference F.S. § 255.065, as may be amended from time to time, which addresses the procurement of services for qualifying projects through public-private partnerships, including through an offer of an unsolicited proposal.

The Board shall by separate Resolution (Resolution No. 2016-85) establish all Application Fees referenced under F.S. § 255.065 that a private entity must pay concurrent with the submission of an unsolicited proposal. Payment shall be made by cash, cashier's check, or some other non-cancellable instrument. Personal checks shall not be accepted.

The current Resolution sets a fee structure that shall include with any proposal submission a base application fee in the amount of .001 of the proposed project cost but not less than the sum of \$10,000.00.

To the extent that the cost to evaluate an unsolicited proposal is more than the Initial Application Fee adopted by Resolution, the County may request payment of any additional amounts required to conduct its review as provided in F.S. § 255.065.

If the costs of processing, reviewing and evaluating, attorney fees, financial or technical adviser fees, or other consultant fees required to properly evaluate an unsolicited proposal exceed the base application fee, then the Procurement Services Director is authorized to charge a supplemental fee as long as no such supplemental fee exceeds an additional \$10,000 without further authorization from the Board.

14. SMALL AND DISADVANTAGED MINORITY AND WOMEN BUSINESS ENTERPRISES

1. Policy Statement: Collier County stands committed to providing equal opportunities to small businesses and disadvantaged business enterprises (DBE), minority business enterprises (MBEs) and women business enterprises (WBEs) as well as to all vendors, consultants, contractors and subcontractors who seek to do business with the County. Pursuant to this policy, Collier County encourages its vendors, consultants, contractors and subcontractors to provide qualified small businesses and DBE's with an equal

opportunity to participate in the formal competitive processes for the procurement of commodities and services by the County.

The Policy is not intended to require or to allow partiality toward or discrimination against any small business or DBE, MBE, WBE, or any other vendor, consultant, contractor or subcontractor on the basis of gender, race or national origin, or other such factors, but rather to create an opportunity for small businesses and DBEs, MBEs, WBEs, and all qualified vendors, consultants, contractors and subcontractors to participate in the County's formal competitive processes. Nothing in this Policy shall be construed to provide for or require any preference or set-aside based on gender, race, national origin or any other such factor.

2. Implementing Measures: In an effort to implement this policy, the County may undertake the following measures:
 - a. Designate the Procurement Services Director to administer this policy.
 - b. Utilize outreach programs to identify, register and educate small businesses and DBEs, MBEs and WBEs to participate in the procurement/contract process which may include:
 - (1) Attending trade fairs which include representatives from these enterprises.
 - (2) Attending meetings and social events wherein these enterprises are present.
 - (3) Utilizing publications aimed at reaching these enterprises.
 - (4) Utilizing Purchasing Directories and other reference sources that list these enterprises.
 - (5) Publicizing this Policy to encourage these enterprises to participate in the County's procurement process.
 - (6) Other actions designed to identify opportunities for these enterprises who seek to provide commodities and services to the County.
 - c. Maintain a list of these enterprises.
 - d. Disseminate information regarding competitive opportunities with the County in order to allow qualified small businesses and DBEs, MBEs and WBEs to participate in the County's procurement process.

3. Conformity with Applicable Law: The provisions of this section shall be construed in conformity with applicable state and federal law. To the extent that state law conflicts with federal law, federal law shall supersede such state law.

15. PROCEDURE TO PROVIDE PREFERENCE TO LOCAL BUSINESS IN COUNTY CONTRACTS

Except where otherwise provided by federal or state law or other funding source restrictions or as otherwise set forth in this Procurement Ordinance, purchases of commodities and services shall give preference to local businesses in the following manner:

1. "Local Business" defined. Local business means the vendor has a current Business Tax Receipt issued by the Collier County Tax Collector for at least one year prior to bid or proposal submission to do business within Collier County, and that identifies the business with a permanent physical business address located within the limits of Collier County from which the vendor's staff operates and performs business in an area zoned for the conduct of such business. A Post Office Box or a facility that receives mail, or a non-permanent structure such as a construction trailer, storage shed, or other non-permanent structure shall not be used for the purpose of establishing said physical address. In addition to the foregoing, a vendor shall not be considered a "local business" unless it contributes to the economic development and well-being of Collier County in a verifiable and measurable way. This may include, but not be limited to, the retention and expansion of employment opportunities, support and increase to the County's tax base, and residency of employees and principals of the business within Collier County. Vendors shall affirm in writing their compliance with the foregoing at the time of submitting their bid or proposal to be eligible for consideration as a "local business" under this section. A vendor who misrepresents the Local Preference status of its firm in a proposal or bid submitted to the County will lose the privilege to claim Local Preference status for a period of up to one year.
2. Preference in purchase of commodities and services by means of competitive bid, request for proposals, qualifications or other submittals and competitive negotiation and selection. Under any such applicable solicitation, bidders/proposers desiring to receive local preference will be invited and required to affirmatively state and provide documentation as set forth in the solicitation in support of their status as a local

business. Any bidder/proposer who fails to submit sufficient documentation with their bid/proposal offer shall not be granted local preference consideration for the purposes of that specific contract award. Except where federal or State law, or any other funding source, mandates to the contrary, Collier County and its agencies and instrumentalities, will give preference to local businesses in the following manner:

- a. Competitive bid (local price match option). Each formal competitive bid solicitation shall clearly identify how the price order of the bids received will be evaluated and determined. When a responsible and responsive, non-local business submits the lowest price bid, and the bid submitted by one or more responsible and responsive local businesses is within ten percent of the price submitted by the non-local business, then the local business with the apparent lowest bid offer (i.e., the lowest local bidder) shall have the opportunity to submit an offer to match the price(s), less one (1) dollar, offered by the overall lowest, responsible and responsive bidder. In such instances, staff shall first verify if the lowest non-local bidder and the lowest local bidder are in fact responsible and responsive bidders. Next, the Procurement Services Division shall determine if the lowest local bidder meets the requirements of F.S. § 287.087 (Preferences to businesses with drug-free workplace programs). If the lowest local bidder meets the requirements of F.S. § 287.087, the Procurement Services Division shall invite the lowest local bidder to submit a matching offer, less one (1) dollar, within five (5) business days thereafter. If the lowest local bidder submits an offer that fully matches the lowest bid, less one (1) dollar, from the lowest non-local bidder tendered previously, then award shall be made to the local bidder. If the lowest local bidder declines or is unable to match the lowest non-local bid price(s), then award will be made to the lowest overall responsible and responsive bidder. If the lowest local bidder does not meet the requirement of F.S. § 287.087, and the lowest non-local bidder does, award will be made to the bidder that meets the requirements of the reference State law.
- b. Request for proposals, qualifications or other submittals and competitive negotiation and selection. For all purchases of commodities and services procured through the Competitive Proposals or Competitive Selection and Negotiation methods not otherwise exempt from this local preference section, the RFP solicitation shall include a weighted criterion for local preference that

equals 10 percent of the total points in the evaluation criteria published in the solicitation. Purchases of professional services as defined and subject to F.S. § 287.055 and audit and accounting services subject to F.S. § 11.45 shall not be subject to this local preference section.

- c. Should a tie bid occur between a non-local bidder and a local bidder, the County shall award the contract to the local bidder. Should a tie occur between two local bidders, the County will "flip a coin" in front of three (3) witnesses, between the two lowest bidders. The coin toss winner will be awarded the contract upon approval by the Board of County Commissioners.

3. Waiver of the application of local preference. The application of Local Preference to a particular purchase or contract may be waived upon approval of the Board of County Commissioners, or as identified where exempt from competitive process in SECTION EIGHT.

4. Comparison of qualifications. The preferences established herein in no way prohibit the right of the Board of County Commissioners to compare quality of materials proposed for purchase and compare qualifications, character, responsibility and fitness of all persons, firms or corporations submitting bids or proposals. Further, the preferences established herein in no way prohibit the right of the County Commission from giving any other preference permitted by law instead of the preferences granted herein.

5. Reciprocity. In the event Lee County, or any other Florida county or municipality ("local government") deemed appropriate by the Collier County Board of Commissioners, extends preferences to local businesses, Collier County may enter into an inter-local agreement with such local government wherein the preferences of this section may be extended and made available to vendors that have a valid occupational license issued by that specific local government to do business in that local government that authorizes the vendor to provide the commodities and services to be purchased, and a physical business address located within the limits of that local government. Post Office Boxes are not verifiable and shall not be used for the purpose of establishing said physical address. In addition to the foregoing, a vendor shall not be considered a "local business" unless it contributes to the economic development and well-being of the said local government whichever is applicable, in a verifiable and measurable way. This may include, but not be limited to, the retention and expansion of

employment opportunities, the support and increase to that local government's tax base, and residency of employees and principals of the business located within the limits of that local government. Vendors shall affirm in writing their compliance with the foregoing at the time of submitting their bid or proposal to be eligible for consideration as a "local business" under this section. In no event shall the amount of the preference accorded other local government firms exceed the amount of preference that such local government extends to Collier County firms competing for its contracts.

6. Purview and administration of this Local Preference Policy. This policy shall apply to all departments and units under the direct purview of the Board of County Commissioners. For purchases of \$50,000.00 or less, the Procurement Services Division shall systematically encourage departments to include local vendors when soliciting quotations in accordance with this policy.

7. This Policy shall not be utilized with respect to any competitive solicitation for construction services in which 50 percent or more of the cost will be paid from state-appropriated funds which have been appropriated at the time of the competitive solicitation.

16. PAYMENT OF INVOICES

1. Agencies under the purview of the Board of County Commissioners shall be in compliance with F.S. § 218.70, otherwise known as the "Local Government Prompt Payment Act." Pursuant to this, the requirements of this section shall apply to the following transactions:

- a. The purchase of commodities and services;
- b. The purchase or lease of personal property;
- c. The lease of real property.

2. Should the County Manager intend to authorize minor payment variances between the purchase orders and invoices, this authority to pay such variances shall not exceed 5% of the purchase order amount or \$500, whichever is less. All such variances need to be identified on the modified purchase order and are subject to approval by Procurement Services.

3. The County Manager or designee, may pay freight and delivery charges not in compliance with the FOB destination terms contained in the County General Terms and Conditions as an exception.

4. It shall be the responsibility of the County Manager, in consultation with the Clerk's Finance Director and operating Divisions, to establish, procedures for the timely payment of all transactions as defined under subsection 16.1. Such procedures shall be contained in a separate Standard Operating Procedure and include, but are not limited to the following:

- a. Formally defining the County's requirements for the content and submission of a proper invoice, codifying the County's payment requirements and notifying each vendor of their availability.
- b. Steps required for the receipt of all invoices and the prompt return of improper invoices.
- c. Steps required for the resolution of payment disputes between the County and a vendor.

5. Vendor Payment Dispute Resolution Process. The purpose of this section is to establish a procedure whereby payment disputes with vendors who provide goods and services to the County are resolved in a timely manner and in keeping with the Local Government Prompt Payment Act.

- a. Definitions. The definitions set forth in the Local Government Prompt Payment Act (F.S. § 218.72, 2016) are hereby incorporated by reference.
- b. If an improper payment request or invoice is submitted by a vendor, the County shall, within 10 days after the improper payment request or invoice is received, notify the vendor, in writing, that the payment request or invoice is improper and indicate what corrective action on the part of the vendor is needed to make the payment request or invoice proper.
- c. If the parties are unable to reach resolution on the payment dispute, the County Manager shall appoint a Hearing Examiner, to whom the matter will be referred to. The Hearing Examiner shall have the sole and full authority to thereafter resolve the dispute. The proceedings before the Hearing Examiner to resolve the dispute shall commence within 45 days after the date the payment request or improper invoice was received by the County and shall be concluded with

final written decision by the Hearing Examiner within 60 days after the date the payment request or improper invoice was received by the County. These proceedings are not subject to F.S. ch. 120, and do not constitute an administrative hearing. Rather, these proceedings are intended to be quasi-judicial, open to the public, with the written decision of the Hearing Examiner being final, subject only to certiorari review. If the dispute is resolved in favor of the County, interest charges shall begin to accrue 15 days after the Hearing Examiner's final decision. If the dispute is resolved in favor of the Vendor, interest begins to accrue as of the original date the payment became due.

- d. If the County does not timely commence this dispute resolution process within the time required, a contractor may give written notice to the County of the failure to timely commence this dispute resolution procedure. If the County fails to commence this dispute resolution procedure within four business days after such notice, any amounts resolved in the contractor's favor shall bear mandatory interest, as set forth in F.S. ch. 218, from the date the payment request or invoice containing the disputed amounts was submitted to the County. If the dispute resolution procedure is not commenced within 4 business days after the notice, the objection to the payment request or invoice shall be deemed waived. The waiver of an objection pursuant to this paragraph does not relieve a contractor of its contractual obligations.
- e. In an action to recover amounts due under this part, the court shall award court costs and reasonable attorney's fees, including fees incurred through appeal, to the prevailing party.
- f. The conduct of the Hearing Examiner proceedings, including notice, process, and criteria, shall be set forth in the Procurement Division's Policies and Procedures.

17. ADVANCE PAYMENTS FOR GOODS AND SERVICES

Procedures for the pre-payment of goods and services with County funds including, but not limited to, dues and membership, insurance, maintenance agreements, subscriptions, travel arrangements, postage, and other purchases shall be as prescribed by the Department of Financial Services through their Administrative Rules. As provided for in F.S. § 28.235, the Procurement Ordinance "SECTION

SEVENTEEN", the Clerk of the Circuit Court is authorized to make advanced payments on behalf of the County for goods and services.

Advanced payments may be made for other goods and services if approved in advance by both the Procurement Services Director and the Clerk of the Circuit Court Accounts Payable up to the Formal Competitive Threshold. The Board may review and approve requests for advanced payment above the Formal Competitive Threshold. The criteria for approval may include:

- a. Advance payment will result in a savings to the County, and/or,
- b. The goods or services are only available if the advance payment is made.

Requests for approval of advance payment will be forwarded to the Procurement Services Division for approval and must include information indicating that the payment meets one of the above criteria and that the division has complied with the applicable procurement requirements.

18. STANDARDIZATION, COOPERATIVE PURCHASING AGREEMENTS AND GOVERNMENTAL CONTRACTS

1. Where standardization is determined to be desirable by the Board of County Commissioners, and the resulting action is either a Single or Sole Source procurement, the purchase of commodities may be made by negotiation with the approval of the purchase by the Board or, if under the Formal Competitive Threshold, with approval of the purchase by the Procurement Services Director.

2. Annually, the Board of County Commissioners will approve a list of authorized purchasing cooperative organizations and governmental schedules and contracts. The Procurement Services Director may approve purchases using these approved cooperative organizations, agreements and contracts with no further action required by the Board providing that funds have been budgeted for these specific purposes.

Additionally, the Procurement Services Director may join other public agencies in cooperative purchasing organizations and/or agreements if it is determined to be in the County's best interest, and if the consortium agreement has not had prior Board approval. The use of any new cooperative agreement must be approved by the Board prior to the use of the agreement.

19. CONTRACT ADMINISTRATION

Purpose.

The purpose for this section is to provide the steps necessary for the administration of contracts entered into by the County. This section is designed to advise employees of County procedures to ensure compliance with laws, rules, procedures and regulations. Proper contract administration protects the rights of the parties and ensures that obligations of the parties are met. The goal is to achieve the best interest of Collier County citizens through the successful administration of contracts. The administration of County contracts involves the contribution of a variety of distinct disciplines and roles, including:

- Organizational Management
- County Project Management
- Planning
- Contract Development
- Procurement Professionals
- Financial Management
- Audit Professionals
- Contractor/Project Manager

Governing Laws, Policies and Regulations.

The Collier County Procurement Ordinance, Section 19, Contract Administration Collier County contracts shall be administered in accordance with procedures established in this manual, the Collier County Procurement Ordinance, and any applicable State and Federal law provisions.

The requirements of this section serve as a guide in the administration of County contracts. If the terms of a Collier County contract differ, conflict, or are inconsistent with this manual, the solicitation, or the purchase order, the documents shall be given precedence in the following order:

1. Procurement Ordinance

2. Contract
3. Solicitation
4. Purchase Order
5. Procurement Manual

1. Contract Document: Contracts are generally created under any of the following circumstances:

- a. Construction services and on-site services where the County prefers a contract and deems it in the best interest and protection of the County;
- b. For the procurement of commodities or services, resulting from informal or formal competition in excessive of \$100,000;
- c. In the best interest of the County to memorialize details of the transaction, or if an expenditure would benefit from specific written terms and conditions; and
- d. When required by law, policy, or other established regulations.

1.1. Types of Contracts.

In additions to the contracts defined in Collier County Procurement Ordinance, Section Four, Definitions (*Continuing Contract, Fixed-Fee Agreement, Lease Agreement, Lump Sum or Specific Project Agreement, Term Contract, and Work Order/Work Assignment*), the following are additional types of contracts:

Blanket Purchase Order shall mean a form of contract that encumbers appropriated funds directed to a single vendor to furnish or deliver commodities or services to the County on an as needed basis without having to obligate itself to a total contract amount.

Concessionaire Agreement is a negotiated contract between a vendor and the County that gives the vendor the right to operate a specific business within the County's jurisdiction, subject to certain conditions.

Construction Manager at Risk (CMR/CMAR) Agreement is a construction delivery method in which the County enters into separate contracts with the designer and builder, often at or about the same time so that both parties can collaborate. Selection is based on an evaluation of qualifications and

price, and the contractor offers a Guaranteed Maximum Price (GMP) instead of a fixed bid. The Construction Manager at Risk is responsible and accepts risk for constructing the entire project for the GMP and the Contractor is responsible for assembling the team of suppliers and subcontractors.

Design-Build Agreement is a delivery method for construction projects that combines the architectural, engineering, and construction services required for a project into a single contractual agreement.

Revenue Generating Agreement shall mean a contract whose primary purpose is to generate revenue or to create a business opportunity for the County.

2. Administration.

Pursuant to the Procurement Ordinance, Section Nineteen, Contract Administration, subsection 2, every procurement for goods and services shall be administered by the requesting Division through an appointed Contract Administrative Agent.

2.1. Roles and Responsibilities:

- 2.1.1. **Originating Division Director** is accountable for all contracts within his/her designated authority. The Division Director is responsible for the following, as applicable:
- a. Designating a Contract Administrative Agent for every contract under the division;
 - b. In cases where two or more divisions are responsible for a contract, the parties will select a Contract Administrative Agent to serve on behalf of the divisions;
 - c. Ensuring that the designated Contract Administrative Agent has a thorough understanding of the terms and conditions of the Contract and effectively manages the Contract in accordance with County procedures;
 - d. Reviewing work orders, change orders, and amendments to confirm that the scope is in accordance with the scope of the contract; and
 - e. Approving work orders, change orders, and amendments in accordance with County procedures.

2.1.2. **Contract Administrative Agent** may also be referred to as Project Manager. Unless otherwise noted, the Administrative Agent is responsible for the following, as applicable:

- a. Proper contract management and administration process;
- b. Developing the contract/project scope and specifications;
- c. Completing the necessary steps to request a new solicitation with the Procurement Division;
- d. Participating in the development of the Contract and writing draft documents for approval through the appropriate County procedures;
- d. Consulting with other divisions that may be affected by the Contract;
- e. Recommending an annual expenditure cap for the contract;
- f. Establishing a project kick-off/post-award meeting, if applicable, once a contract is approved;
- i. Managing contractor performance in accordance with the established terms and conditions;
- j. Managing, approving and documenting any changes (change orders, amendment, and work orders) to the Contract;
- k. Initiating and participating in termination, renewals, extensions, and amendments process to the contract;
- l. Working with the Procurement Division to ensure that up-to-date insurance certificates and bonds are on file;
- m. Implementing "Corrective Action" when the Contractor is not in contract compliance;
- n. Communicating contract deficiencies to the Procurement Contract Manager, Contractor, Administrative Division Director and appropriate County officials in a timely manner and in accordance with County procedures;
- o. Approving project reports and invoices for payment, unless that authority has been designated to another person; and
- p. Completing closeout and vendor performance evaluation(s).

2.1.2.1. The Contract Administrative Agent is not authorized to:

- a. Instruct the Contractor to start work before the Contract is fully executed and a purchase order has been issued;

- b. Change the scope of the Contract/Work Order without doing so through a formal amendment or change order;
- c. Direct the Contractor to perform work that is not specifically described and funded by the Contract/Work Order;
- d. Extend the term of the Contract/Work Order without an approved amendment or change order, unless otherwise approved in the agreement;
- e. Authorize the Contractor to incur any additional costs over the contract limit set by the Contract/Work Order, unless approved in accordance with the County's approved procedures; and
- f. Order or direct the Contractor to supply goods and services not specifically itemized in the Agreement through the required Change Order or Amendment.

2.2. Procurement Contract Manager.

The Procurement Services Division provides contract oversight to ensure that contracts and related documents presented for approval to the Collier County Board of County Commissioners and/or the County Manager or designee comply with applicable State and federal laws, and County policies and procedures. The Procurement Contract Manager is responsible for developing, implementing, distributing and revising the contract templates, contract manual, standard operating procedures, contract administration training and ancillary forms; coordinating the tracking of all County contracts; preparing contract amendments, extensions, renewals, assumption agreements, provides guidance on corrective action methods and terminations; assisting County offices with the interpretation and application of County, State, federal or other contract policies; coordinate with the County Attorney's Office, and offering training and technical assistance services.

2.3. Contract Planning.

The contract management process begins with the division providing to Procurement a clear and concise performance-based scope of work or contract specifications. Generally, a scope of work refers to services being provided, while contract specifications refer to items that are going to be received. In either case, the scope of work or contract specifications should be the road map for a successful contract management and administration. Planning for an effective contract administration process occurs prior to issuance of the solicitation or creating a contract.

At a minimum, the scope of work or contract specifications should:

- a. Establish the County's requirements;
- b. Provide a shared understanding of each party's responsibilities;
- c. Include specific terms to evaluate the performance of the contract;
- d. Form the basis for contract administration and management;
- e. Be clear, complete, concise and consistent, and written in plain English understandable to lay readers.

Efficient contract administration ensures that the contract requirements are satisfied, the goods and services are delivered in a timely manner, and the financial interests of the County are protected. Effective contract administration minimizes or eliminates problems and potential claims and disputes.

3. Contract Modifications.

Section Nineteen, subsection 3 dictates the requirements pertaining to modifications and amendments to Contracts, Work Orders, Change Order and Purchase Orders and the termination of contracts and is further outlined as follows:

Modifications and Amendments to Contracts, Work Orders, Change Order and Purchase Orders	
1. Contracts less than \$50,000 <i>(The limitations are cited in Section 1 above.)</i>	<ul style="list-style-type: none"> The County Manager or designee is authorized to approve new contracts or agreements and amendments, extensions, and renewals of such contracts or agreements unless otherwise specified by action of the Board of County Commissioners.
2. Emergency procurements	<ul style="list-style-type: none"> The \$50,000 limitation set forth above is waived in the event of an emergency procurement made pursuant to Section Eleven, subsection 8. of the Procurement Ordinance.
3. After-the-Fact-Procurement	<ul style="list-style-type: none"> Purchases not made in compliance with the County's Procurement Ordinance will be reported to the County Manager and Board on the Procurement Services Administrative Ratification Report.
4. Assignments of contracts	<ul style="list-style-type: none"> For all Board approved contracts, the Board of County Commissioners shall approve all assignments of contracts.

	<ul style="list-style-type: none"> The County Manager or designee is authorized to approve assignments of County Manager or designee approved contracts.
5. Termination of contracts	<ul style="list-style-type: none"> Notices that terminate a Board-approved purchase or contract in its entirety must be approved by the Board of County Commissioners prior to termination. Notices that terminate a County Manager, or Designee, approved purchase or contract in its entirety must be approved by the County Manager, or Designee, prior to termination.
6. Modifications that are more than ten percent (10%) of the <u>current</u> Board approved <u>aggregate</u> amount;	<ul style="list-style-type: none"> The modification is presented to the Board for approval by the requesting Division Contract Administrative Agent. Example: The Board approved a contract for a total contract value of \$200,000. Subsequently, Change Order #1 for \$10,000 was approved by the County Manager or designee. Staff is proposing to increase the contract by an additional \$20,000 in the form of Change Order #2. The change order will require approval by the Board, since the <u>cumulative</u> total of the two Change Orders is over 10%. The 10% threshold is applied to the current Board approved contract amount. See Exclusion below.
7. Modifications that are less than ten percent (10%) of <u>current</u> Board approved <u>aggregate</u> amount;	<ul style="list-style-type: none"> Modifications that are less than ten percent (10%) may be approved by the County Manager, or designee, and are presented to the Board on the Procurement Services Report for ratification approval. Example: The Board approved a contract for a total contract value of \$200,000. County Staff is proposing to increase the contract by \$10,000 in the form of Change Order #1. The County Manager or designee, may approve Change Order #1. See 3.1. Exclusions below.

8. Time extensions of Board approved number of days	<ul style="list-style-type: none"> Time extensions of days are approved by the County Manager, or designee, and presented to the Board on the Procurement Services Report for approval. See 3.1. Exclusion below.
9. Authorization for the use of Board approved allowances and reallocation of funds between line items.	<ul style="list-style-type: none"> The modification is approved by the Procurement Services Division, without further Board approval, pursuant to Section Nineteen, subsection 3.c. of the Procurement Ordinance.
10. Material Changes in Scope of Board-approved contracts	<ul style="list-style-type: none"> Board approval is required, if the change meets the material Variance/Material Deviation definition.
11. Material Changes in Scope of non-Board approved contracts	<ul style="list-style-type: none"> County Manager, or Designee, approval is required, if the change meets the material deviation definition and the total contract value does not exceed the threshold established in the Section Three, subsections 3, of the Procurement Ordinance. Material Variance/Material Deviation is a major variance, change, deviation, or substitution to a specification proposed by a bidder/offeror that gives the bidder/offeror a substantial advantage or benefit not enjoyed by all other bidder/offerors or that gives the procuring party something significantly different from what was specified in the solicitation.

3.1. Exclusions. Section Nineteen, subsection 3.e. of the Procurement Ordinance excludes the following contracts from the above reporting process: term contracts, fixed-fee contracts, or blanket purchase orders where the County desires to procure commodities and/or services on an as needed basis without having to obligate itself to a total contract amount. Rather, such purchases shall be based on fixed unit prices or other predetermined pricing methods and shall be limited in quantity by the amount of funds appropriated in the budget of the operating Division(s). Such purchases shall be subject to all other provisions of the Procurement Ordinance.

Application Example: An original contract was approved by the Board for as-needed services without an associated total contract value, only contingent upon the funds being allocated in the Board approved budget. A proposed Amendment to add an additional line item that is within the original scope of the services, may be approved by the Contractor and County Manager or designee, without Board approval.

3.2. Amendments.

A contract amendment is used to make modifications to the agreement between the County and the Contractor. All contract amendments must be in writing and approved by all appropriate parties. The Contract Administrative Agent will complete the Amendment Request Form and submit to Procurement Contract Manager. The form is available in the Procurement Services Division SharePoint.

3.3. Change Orders.

The Contract Administrative Agent may issue a Change Order and submit to the Procurement Operations for approval. The Change Order must comply with the terms of the contract. The change order form is available in the Procurement Services Division SharePoint web site.

3.4. Contract Terminations.

In the event the Contract Administrative Agent believes that it is no longer in the County's interests to remain under contract with a Contractor, the Contract Administrative Agent may consider terminating the contract for convenience or cause, as authorized in the contract and Procurement Ordinance, as amended.

3.4.1. Board Approved Contracts: Notices that terminate in its entirety a Board-approved purchase or contract must be approved by the Board of County Commissioners prior to termination

3.4.2. County Manager or Designee's Approved Contracts: Notices that terminate in its entirety a County Manager, or Designee, approved purchase or contract must be approved by the County Manager, or Designee, prior to termination.

4. Contract Extension.

Contract extensions for Board-approved contracts for commodities or non-construction services are only permitted as authorized in the original contract and the Procurement Ordinance, as amended.

4.1. Board Approved Contracts: The Procurement Services Director may authorize the extension for a period not to exceed six (6) months (cumulatively) be subject to the same terms and

conditions set forth in the contract, **if the extension period is provided for in the original contract.** Any extension that exceeds six months (cumulatively) shall be approved by the Board of County Commissioners.

4.2. County Manager or Designee's Approved Contracts: The Procurement Services Director may authorize the extension for a period not to exceed six (6) months (cumulatively) subject to the same terms and conditions set forth in the contract if 1) the extension period is provided for in the contract, and 2) the extension will not increase the contract value in excessive of \$50,000, per fiscal year.

5. Contract Renewal.

The Procurement Services Director shall authorize and execute renewals of contracts for commodities and/or services subject to the following conditions:

- a. That the Contractor has performed in a satisfactory manner and that the Procurement Services Director has received a request to renew from the Contractor or Project Manager verifying the Contractor's satisfactory performance.
- b. That the Board-approved contract pursuant to SECTION ELEVEN Paragraph 14 of the County Procurement Ordinance, provided for a renewal and is renewed subject to the terms and conditions set forth in the initial contract. Cost and term modifications are addressed in the original solicitation document and/or resultant contract.
- c. That the renewal is done for a set period of time identified in the solicitation document and/or contract, commencing at the end of the contract period.
- d. That a contract under the formal competitive threshold with multiple renewal year option terms may be approved annually by the Procurement Services Director.

Proposed renewals that fail to meet one or more of the conditions set forth herein will require the approval of the Board of County Commissioners.

6. Contract Approval.

All contracts for commodities and services exceeding SECTION ELEVEN Paragraph 14 of the County Procurement Ordinance, Formal Competitive Threshold, shall be authorized by the Board of County Commissioners. Once approved, subsequent purchase orders referencing those Board approved contracts may be issued by the Procurement Services Director.

Contracts below the formal competitive threshold, shall be subject to the review and approval by the County Attorney staff and signed by the Procurement Services Director. Purchase orders may be issued by the Procurement Services Director.

No contractor may begin compensable work without an approved purchase order for and Notice to Proceed (if applicable).

7. Work Orders.

7.1. The Contract Administrative Agent must comply with the terms of an approved continuing or fixed fee agreement, which authorizes a contractor or consultant to perform a specific task within the broader scope of the master agreement. Nothing in the work order shall conflict with the terms and conditions of the fixed fee contract, and all work performed must fall within the scope and term of the underlying agreement.

7.2. Work Assignments. Work Assignments through the Professional Service Library are administered by the Procurement Division under the protocol of the Procurement Manual, Section 11a. Procurement Method. The Contract Administrative Agent will comply with the rotation process established in the contract and in the Procurement Manual, Section 11a. Procurement Method.

7.3. Work Directives. A written directive issued to a contractor in instances where the parties cannot agree on price and/or costs associated with work arising from differing, unforeseen or emergency site conditions and the work in question is part of the “critical path” of the contract schedule.

7.3.1. The Contract Administrative Agent will issue a written work directive as a temporary instrument in limited instances where a formal, immediate unilateral authorization to the Contractor is required to keep the project moving forward. Generally, the use of work directive changes shall be limited to construction services agreements and specifically work

items defined to be on the critical path of the contract schedule. A written directive is issued by the Contract Administrative Agent to a Contractor in instances where unforeseen or emergency site conditions or other circumstances that create a condition whereby the critical path of the project would be adversely affected if the work cannot move forward timely.

7.3.2. The Contract Administrative Agent shall process a Change Order resulting from the issuance of a Work Directive within **ten (10) business days** and in accordance with the requirements of Procurement Ordinance.

7.3.3. The Contract Administrative Agent may issue a verbal Work Directive only in extraordinary emergencies which shall be followed up with a written Work Directive within **five (5) business days**. The written document serves to ensure that the contractor is acknowledging the action that is being taken in the Work Directive and that they agree upon a price. Regardless of the impact, the Contract Administrative Agent shall negotiate a change order with the Contractor in follow-up to the work directive change.

7.4. Allowance.

If the Contract Administrative Agent desires to use the allowance provided in the existing approved contract, the Contract Administrative Agent will process a change order. If the Contract Administrative Agent desires to reallocate funds between line items of the existing contract the Contract Administrative Agent will prepare a Change Order that identifies the affected line items, its current dollar values and the revised dollar amounts. The Procurement Services Director is authorized per the Procurement Ordinance, as amended, Section Nineteen, Contract Administration, subsection 3.c., to approve the reallocation of funds between line items without further Board approval.

8. Consent to Assignments of Contract.

For all approved contracts, the Board of County Commissioners shall approve all assignments of contracts requested by the predecessor contracting party.

9. Authority Limitation and Delegation; Promulgation of Procedures:

The Procurement Services Director may delegate to one or more Procurement Services Division employees any or all aspects of the authority vested in the Procurement Services Director.

All authority to execute documents that is vested pursuant to this Section, in the Procurement Services Director or any other person shall be subject to the limits of any applicable federal, state or other law.

10. Payments to Contractors, Vendors and Consultants:

Prior to the execution of a formal contract subject to the Procurement Ordinance and this Manual, the Procurement Services Director shall establish a formal payment schedule and payment terms within the agreement. Such terms and conditions shall be consistent with the requirements of all applicable laws and the formal solicitation documents.

10.1. After contract award, the County shall pay Contractors for the services rendered in accordance with the terms and conditions set forth in the Contract, in an amount not to exceed that authorized by each Purchase Order, contingent upon an appropriation by the Collier County Board of County Commissioners. The County shall promptly notify Contractors if the necessary appropriation is not made. **No Contractor shall begin compensable work without an issued purchase order for the project.**

10.2. Retainage.

In accordance with F.S. § 218.735(8), the Procurement Services Director may establish, subject to Board approval, procedures to reduce to 5% the amount of retainage withheld from each subsequent progress payment issued to a contractor where applicable. The Procurement Services Director may establish, in writing, a schedule(s) to further reduce the percentage of cumulative retainage held throughout the course of the project schedule where warranted and according to law. Recommendation to reduce the percentage of cumulative retainage shall be subject to the following:

- a. That the term "cumulative retainage" is defined to mean "the dollar total of the funds retained from all payments issued under the contract divided by the gross dollar total of all monthly pay requests (or the total of all payment amounts deemed allowable by the project manager, whichever is less)".

- b. That any decision to reduce retainage shall be formally communicated in a letter to the Contractor's representative and that the letter affirmatively states that the Contractor has performed the contract work in a satisfactory manner.
- c. That the cumulative retainage not be adjusted until at least 50% of the work has been completed and payment has been issued.
- d. That the Procurement Services Director's letter expressly sets forth the percentage of cumulative retainage to be held for the remaining pay requests.

11. The Procurement Services Director may authorize the partial release or payment of contract retainage to the contractor prior to final completion of all project work provided that:

- a. The contractor has performed in a satisfactory manner to date as verified in writing by the Project Manager.
- b. The total aggregate work under the agreement is at least 50% completed and accepted (i.e.; payments equaling at least 50% of the contract amount less retainage have been issued).
- c. The retainage dollar amount to be released is based upon and consistent with the prevailing percentage of cumulative retainage being held at the time that the retainage is released.

12. Contract Disputes.

In the event of conflicts or inconsistencies between this section or the dispute resolution language contained in the contract, the Collier County Procurement Ordinance shall be given precedence.

12.1. Payment Disputes. Should a Contractor payment dispute arise, the parties shall follow the process outlined in the Procurement Ordinance at Section Sixteen, subsection 5. Vendor Payment Dispute Resolution Process.

12.2. For all other contract disputes follow the process established in the corresponding contract.

13. Monitoring of Contract Performance and Deliverables.

Monitoring of contract performance is a key function of efficient contract administration. It is essential to ensure that the Contractor is performing all duties in accordance with the Contract and the appropriate County staff members are aware of any developing problems or issues.

During the life of the Contract, the Contract Administrative Agent should communicate regularly with the Contractor, monitoring whether the goods and services required of the Contract are being provided in accordance with the Contract, and working to resolve any issues promptly. Whenever possible, the parties should seek to resolve disputes informally by direct discussion.

It is essential for the Contract Administrative Agent to apply the Twelve Key Metrics that have been developed to assist in this effort and become part of any County/Contractor contract relationship.

Twelve Key Metrics:

1. Customer Service - Provides excellent customer service to both the county staff and the public.
2. Contract Deliverables - Supplies the goods and services outlined in the agreement.
3. A Delivery Schedule - Maintains the agreed schedule and avoids delays.
4. Quality - Provides the highest level of quality of goods and services.
5. Billing and Invoicing - Submits detailed and accurate invoices matching the work performed.
6. Project Management - Consistently demonstrates the ability to stay on top of their process.
7. Subcontractor Management - Maintains a professional relationship with subcontractors.
8. Equipment and Resources - Provides the best available equipment to perform the work.
9. Materials Management - Demonstrates “best practice” in handling and storage.
10. Cost Control - Holds and manages cost to avoid exceeding budget projections.
11. Maintaining Technical Requirements - Monitors quality control of the products and process.
12. Safety Standards - Ensures staff is trained and properly equipped to perform the work safely.

The Contract Administrative Agent should complete a Corrective Action Report when a Contractor is failing to meet any of the above Twelve Key Metrics and upload it in the County's Vendor Evaluation database. The Corrective Action Report form is available from the Procurement Division SharePoint web site.

14. Contract Closeout.

A contract is closed when all work described in the project scope is completed, when all contract dollars have been expended, or when the Contract is terminated.

The Contract Administrative Agent is responsible for closeout activities, including but not limited to:

- Validating all deliverables and services have been delivered and accepted;
- Verifying all projects reports have been received and accepted;
- Confirming any claims and performance issues have been resolved and liquidated damages have been properly assessed for non-performance/non-compliance;
- Validating Substantial and Final Completion; Final Payment Checklist; Substantial Completion; Warranty forms have been processed, if applicable;
- Acceptance of a Contractor Transition Plan, outlining in detail the transfer of property to the County, project knowledge and training to be conducted with the appropriate County representatives, etc., if applicable;
- Disposal of any County surplus property, in accordance with the County's policies and procedures;
- Completing a Contractor Performance Evaluation through the County's SIRE system;
- Conducting a debriefing with Contractor.

20. PERFORMANCE AND PAYMENT BONDS

A contractor or vendor shall provide a surety bond from a surety company to guarantee full and faithful performance of a contract obligation and the payment of labor and material expended pursuant to a contract whenever, and in such amounts, as required by statute or otherwise as deemed necessary by the Procurement Services Division Director. An irrevocable letter of credit from a financial institution operating within the State of Florida (or other alternative forms of surety as permitted under Florida law) may be sufficient in place of the performance bond if so provided for in

the bid and contract documents. All such bonds or letters of credit shall be approved as to form by the County Attorney, and held by the Clerk's Board Minutes and Records Department.

20.1. Construction Contracts Bonds. Fla. Stat. §255.05, requires that County construction or repairs of public building projects valued at \$200,000 require a performance and payment bond. The Contractor is required to provide the Procurement Services Division with a certified bond prior to Board of County Commissioner approval. The Procurement Services Division will include the certified bond with the contract to be presented to the Board for approval.

All other Contract Bonds, as required, must be provided prior to any Board approval of a contract. The bond will be included as part of the Purchase Order requisition.

20.2. Insurance.

Evidence of insurance is required of contractors to protect County assets, County employees and the public from losses for property damage, bodily injury, loss of use, business interruption and financial loss.

The amount of insurance coverage required for each contract will be specified by the County's Risk Management Division. Insurance certificates will be required and reviewed by Risk prior to the approval of any contract. During the life of the contract, the Contractor is required to maintain all the specified insurance requirements.

21. UNAUTHORIZED PURCHASES

All purchases made shall be consistent and in compliance with the Procurement Ordinance. Any purchase or contract made contrary to the provisions hereof and contrary to Florida law shall not be approved and the County shall not be bound thereby.

County employees and officers are expected to ensure they do not make a purchase of commodities or services or execute a contract for commodities or services in conflict with the Procurement Ordinance.

When a purchase transaction is found to be not in conformance with the Procurement Ordinance or Procurement Manual, the Procurement Services Director will consider the facts pertaining to the transaction, and in consultation with the Operating Division Director, will determine whether it is in the best interests of the County to proceed with the purchase. If a determination is made to proceed with the purchase, the purchase will be evaluated based on purchasing thresholds. The Procurement Services Director may approve the purchase if the value is less than the Formal Competitive Threshold. If the purchase value exceeds the formal competitive threshold, the Operating Division Director will create an Executive Summary for final Board review and approval.

Should work be authorized or purchases made not in conformance with County Policy, an After-the-Fact Procurement Form is required. This includes purchases made in advance of a Purchase Order, when a Purchase Order is required to authorize such activity, and purchases made under an expired contract, or for goods and services not covered by the current contract or purchase order.

All such "After the Fact Procurements" will be reported to the County Manager.

All employees making purchases not in conformance with the Procurement Ordinance and Procurement Manual are subject to the provisions of CMA 5311.1 - 2 Standards of Conduct, and the Ethical Standards outlined in Section 7 of this Manual. Failure or refusal to abide by the administrative procedures or business operations procedures contained within the Procurement Ordinance and the Procurement Manual subject the employee to the Human Resources Practices and Procedures which may lead to disciplinary action up to and including discharge.

22. PROHIBITION AGAINST SUBDIVISION

No contract or purchase shall be subdivided to avoid seeking the proper approval from the designated authority, or to avoid the requirements of this Procurement Ordinance or of Federal or State law.

23. PROTESTS

The purpose of this section is to accommodate legitimate protests concerning formal competitive solicitations and recommended contract awards prior to award of a contract by the Board of County Commissioners.

1. Any respondent to an IFB, ITN, RFP, IFQ or RPS who alleges to be aggrieved in connection with the solicitation or award of a contract, (hereafter referred to as "the protesting party") may protest to the Procurement Services Director, who shall serve as the sole recipient of any and all notices of intent to protest and all formal protests.

2. With respect to a protest of the terms, conditions and specifications contained in a solicitation, including any provisions governing the methods for evaluation of bids, proposals or replies, awarding contracts, reserving rights for further negotiation or modifying or amending any contract, the protesting party shall file a notice of intent to protest within three (3) days, excluding weekends and County holidays, after the first publication, whether by posting or formal advertisement of the solicitation. The formal written protest shall be filed within five (5) days of the date the notice of intent is filed. Formal protests of the terms, conditions and specifications shall contain all of the information required for the Procurement Services Director, to render a decision on the formal protest and determine whether postponement of the bid opening or proposal/response closing time is appropriate. The Procurement Services Director's decision shall be considered final and conclusive unless the protesting party files an appeal of the Procurement Services Director's decision.

3. Any actual bidder or respondent who desires to protest a recommended contract award shall submit a notice of intent to protest to the Procurement Services Director within three (3) calendar days, excluding weekends and County holidays, from the date of the initial posting of the Notice of Recommended Award.

4. All formal protests with respect to a recommended contract award shall be submitted in writing to the Procurement Services Director for a decision. Said protests shall be submitted within five (5) calendar days, excluding weekends and County holidays, from the date that the notice of intent to protest is received by the Procurement Services Director, and accompanied by the fee, as set forth below. The protesting party must have standing as defined by established Florida case law to maintain a protest.

The formal protest shall contain, but not be limited to the following information:

- a. Name and address of County Agency affected and the solicitation number and title.
- b. The name and address of the protesting party.

- c. A statement of disputed issues of material fact. If there are no disputed material facts, the written letter must so indicate.
- d. A concise statement of the ultimate facts alleged and of any relevant rules, regulations, statutes, and constitutional provisions entitling the protesting party to relief.
- e. The protesting party's entitled demand for the relief.
- f. Such other information as the protesting party deems to be material to the issue.

The formal protest shall contain all arguments, facts or data supporting and advancing the protestor's position. Under no circumstances shall the protestor have the right to amend, supplement or modify its formal protest after the filing thereof. Nothing herein shall preclude the County's authority to request additional information from the protesting party or other bidders or proposers in conjunction with the review and rendering of decisions on the protest, including any subsequent appeal.

5. In the event of a timely protest of contract award consistent with the requirements of this section, the Procurement Services Director shall not proceed further with the award of the contract until all appropriate administrative remedies as delineated under this section have been exhausted or until the Board of County Commissioners makes a determination on the record that the award of a contract without delay is in the best interests of the County. During this process, the protesting party shall limit their communications with the County to the Office of the County Attorney, and neither the protesting party, their agents or their representatives shall have any private contact or discussions with individual County Commissioners, the County Manager, other County employees, or any independent hearing officer (where applicable) regarding the protest except such communications as may be required or permitted during a hearing, if applicable, or a meeting of the County Commission wherein the solicitation or award is to be considered.

6. The Procurement Services Director shall review the merits of each timely protest and in consultation with the Contract Manager and other appropriate County staff, issue a decision stating the reasons for the decision and the protesting party's rights of appeal under this section. Said decision shall be in writing and mailed or otherwise furnished to the protesting party. The decision of the Procurement Services Director shall be final and conclusive unless the protesting party delivers a subsequent written notice of appeal to the County Manager

within three (3) calendar days, excluding weekends and County holidays from the date of receipt of the decision. In filing a written objection to the Procurement Services Director's decision, the protestor shall not introduce new arguments or alter in any other way their protest submission. An appeal of the Procurement Services Director's decision shall be limited to a review of the grounds set forth in the formal protest, and no new grounds or arguments will be introduced or considered.

7. In the event of a subsequent appeal pursuant to section 6 above, the County Manager shall determine whether to appoint an independent Hearing Officer to review the formal protest and the Procurement Services Director's decision. The Hearing Officer's review shall be limited to the grounds set forth in the formal protest. The protesting party shall have the burden of proof. The Hearing Officer shall consider the formal protest, the Procurement Services Director's decision, and supporting documents and evidence presented at the hearing. In any hearing, irrelevant, immaterial or unduly repetitious evidence shall be excluded. All other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible whether or not such evidence would be admissible in a trial in the courts of Florida. The Hearing Officer may grant the motion of any person having standing under Florida law to intervene in the proceedings. Persons or parties shall have the right to be represented by counsel in the proceedings, to call witnesses, and present evidence; provided, however, that the Hearing Officer shall not have the right to compel attendance of witnesses or to permit or compel any discovery.

The Hearing Officer will have a maximum of 60 days to schedule and conduct a hearing into the matter and issue a recommended finding of fact and an opinion in writing to the County Manager or designee for submission to the Board of County Commissioners. Should the Hearing Officer find in favor of the County, the protesting party shall pay, in full, the costs of the Hearing Officer. If the Hearing Officer's recommended decision is in favor of the protesting party, then the County will assume this cost.

The County Manager's discretion as to whether to appoint a Hearing Officer shall in no way afford the protestor the right to demand such an appointment or hearing. The decision of a Hearing Officer on a protesting party's appeal shall be submitted to the Board for its consideration as part of a final award decision. Nothing herein shall be construed as creating a right of judicial review of the Hearing Officer's decision, nor shall such decision be binding upon the Board. Additionally, nothing herein shall be construed as limiting the Board's right to reject any and all bids or proposals.

8. Decisions of the Procurement Services Director and Hearing Officer (where applicable) will be provided to the protestor prior to the award recommendation being presented to the Board of County Commissioners. Neither the County Manager's decision nor the Hearing Officer's recommended decision shall be construed as an award recommendation triggering additional rights of protest pursuant to this policy. Notwithstanding anything set forth herein to the contrary, the Board of County Commissioners shall retain the authority to make the final award decision.

9. Failure to file a formal protest within the time and manner prescribed by this policy shall constitute a waiver of the right to protest by any protesting party as defined by subsection "A" of this policy.

10. As a condition of filing a formal protest to the Procurement Services Director, the protesting party shall submit a non-refundable filing fee for the purpose of defraying the costs of administering the protest. The filing fee shall be submitted with the formal protest. Failure to pay the filing fee shall result in the denial of the protest. The amount of the filing fee shall be as follows:

Estimated Contract Amount	Filing Fee
\$250,000.00 or less	\$500.00
\$250,000.01 to \$500,000.00	\$1,000.00
\$500,000.01 to \$5 million	\$3,000.00
\$5 million or more	\$5,000.00

This fee may be modified by Resolution of the Board of County Commissioners.

24. CONTRACT CLAIMS

All actual or prospective claims arising against the County from contractors, vendors or any other party in direct privity with the County to provide goods or services shall first be directly addressed by the parties' administrative representatives in a manner consistent with the agreement between the parties.

For any prospective or actual claims or disputes arising under any contract entered into by the County, the Procurement Services Division Director must determine the facts of the dispute. All contract claims should follow the County's Vendor Payment Dispute Resolution Process outlined in SECTION SIXTEEN of the County Procurement Ordinance.

25. INSPECTION AND TESTING

The Procurement Services Division Director or Designee shall inspect, or supervise the inspection of, or cause to be inspected, all deliveries of commodities or services to determine their conformance with the specifications set forth in an order or contract.

1. Inspection by Operating Department: The Procurement Services Division Director shall authorize operating departments to inspect, prior to use, all deliveries made to such operating departments under rules and regulations which the Procurement Services Director shall prescribe.

2. Testing: The Procurement Services Division Director shall have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with specifications. In the performance of such tests, the Procurement Services Division Director shall have the authority to make use of laboratory facilities of any Agency of the County or of any contracted outside laboratory.

26. PURCHASING CARD PROGRAM (Also refer to CMA #5808)

The Procurement Services Division Director shall be responsible for the overall management and operation of the County's purchasing card program in conformance with the Collier County Administrative Practices and Procedures Manual. For the purpose of this Procurement Manual, a purchasing card is a credit card officially assigned to specific employees under the purview of the Board of County Commissioners' agency for the purpose of transacting small and/or strategic purchases. The Procurement Services Division Director shall be authorized to assign cards to employees for these purchases. The Procurement Services Division Director shall be responsible for establishing the following dollar limits for each assigned card:

1. Single Transaction Limit: Not to exceed \$1,000.00 per card unless otherwise authorized by the Procurement Services Division Director.

2. Monthly Spending Limit: Not to exceed \$10,000.00 per card unless otherwise authorized by the Procurement Services Division Director.

3. Strategic Purchases: The Procurement Services Division Director may utilize (or delegate the authority to other Agency staff to utilize) a purchasing card to place orders that exceed the limits set forth under this section in instances where one or more of the following is true:

- a. The purchase is to address a valid public emergency; or
- b. The County will earn revenue through card program rebates; or
- c. A vendor is requiring the County to order by purchasing card.

4. Sales Tax Compliance: Pursuant to F.S. § 212.08(6), County purchases transacted with vendors within the State of Florida are exempt from the State sales and use tax. In such instances, it is the responsibility of the cardholder to provide the vendor with the appropriate tax exemption information when the card is presented to the vendor. In the event that the cardholder fails to provide the vendor with the appropriate tax exemption information when the card is presented the cardholder may be responsible for payment of the tax.

It is not cost effective or in the public interest to require a cardholder to seek a credit for sales tax collected when the total sale does not exceed \$300. In the event that the total sale exceeds \$300, the cardholder's Director is responsible to ensure the tax is returned to the County for the purchase.

In all such instances, the Procurement Services Division Director shall ensure that the purchase has been approved subject to all other provisions of this policy. All fixed assets purchased using a purchasing card shall be properly reported to the Fixed Assets Section of the Clerk of Courts Finance Division so that it can be properly recorded.

27. CONFLICT OF INTEREST

The procurement of goods and services shall comply with all applicable state, local and federal laws concerning ethics and conflict of interest. Refer to section 7 of this manual titled "Ethical Standards".

28. DEBARMENT AND SUSPENSION

The County Manager may suspend and/or debar vendors, contractors, consultants and other interested and affected persons from active participation in obtaining County contracts upon approval of the Board. The purpose of any such action shall be to protect the County's interests and the integrity of the County's contracting process. The suspension and debarment processes shall be

considered to be separate from and in addition to the award evaluation and vendor performance evaluation processes.

1. Definition of Terms: For the purposes of this section, the following terms have been defined as follows:

- a. Affiliate refers to associated business entities or individuals that control or could control the contractor or are controlled by the contractor or could be controlled by the contractor.
- b. Civil Judgment refers to a judgment or finding of a civil offense by any court of competent jurisdiction.
- c. Contractor means any individual or legal entity that:
 - (1) Directly or indirectly (e.g.; through an affiliate), submits offers for or is awarded, or reasonably may be expected to submit offers for or be awarded, a County contract for construction or for procurement of commodities and services, including professional services; or
 - (2) Conducts business, or reasonably may be expected to conduct business, with the County as an agent, surety, representative or subcontractor of another contractor.
- d. Conviction means a judgment or conviction of a criminal offense, felony or misdemeanor, by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
- e. Debarment means action taken by the County to exclude a contractor from County contracting and County-approved subcontracting for a reasonable, specified period as provided herein.
- f. Preponderance of the Evidence means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.
- g. Subcontractor: Any individual or legal entity that offers or agrees to provide commodities or services to a party deemed to be a contractor under this section.

- h. Suspension refers to action taken by the County Manager to temporarily disqualify a contractor from County contracting or County-approved subcontracting pending action of the Board.

2. Suspension: The Procurement Services Division Director shall recommend to the County Manager the suspension of a contractor, subcontractor or person from consideration for award of contracts if there appears to be a reasonable basis for debarment as set forth herein. If a suspension precedes a debarment, the suspension period shall be considered in determining the debarment period. The suspension period shall not exceed six (6) months without the approval of the Board of County Commissioners.

3. Debarment:

- a. Causes for Debarment: The prospective causes for debarment include one or more of the following:
 - (1) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.
 - (2) Conviction under state or federal law of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously and directly affects responsibility as a contractor.
 - (3) Conviction under state or federal antitrust laws arising out of the submission of bids, proposals or other competitive offers.
 - (4) Violation(s) of County contract(s) provisions, which is (are) deemed to be serious and to warrant debarment, including the failure, without good cause, to perform in accordance with the terms, conditions, specifications, scope, schedule or any other provisions of the contract(s).
 - (5) Refusal to provide bonds, insurance or other required coverage and certifications thereof within a reasonable time period.

- (6) Refusal to accept a purchase order, agreement or contract, or perform accordingly provided such order was issued timely and in conformance with the solicitation and offer received.
- (7) Presence of principals or corporate officers in the business of concern, who were principals within another business at the time when the other business was suspended or debarred within the last three (3) years under the provisions of this section.
- (8) Violation of the ethical standards set forth under applicable state or county laws.
- (9) Debarment of the contractor by another public agency.
- (10) Submitting false invoices or invoices that mislead, misrepresent the true costs incurred or falsely identify either a source of material or a provider of a service.
- (11) Any other cause deemed to be so serious and compelling as to materially affect the qualifications or integrity of the contractor.

b. Procedure:

- (1) The county department/division requesting the suspension or debarment action shall submit to the Procurement Services Division Director a written complaint setting forth the reason(s) for seeking debarment.
- (2) The Procurement Services Division Director shall review the complaint, verify whether it is compliant with the provision of this Procurement Ordinance, direct any appropriate changes and, if warranted, forward the complaint to the contractor.
- (3) The contractor shall review the complaint and shall provide a written response (with supporting documentation) to each allegation. The response shall be provided to the Procurement Services Division Director within ten (10) business days of receipt of the notice of allegations. In the event that the contractor fails to respond to the complaint within the prescribed time period, the complaint, as forwarded to the contractor, shall become an effective suspension or debarment decision without further appeal.
- (4) In the event that the contractor files a timely and complete response to the complaint and the suspension or debarment action is based upon a

conviction, judgment or other event(s) where there is no significant dispute over material facts, the Procurement Services Division Director shall determine the period of debarment on the basis of the undisputed material information set forth or referenced in the complaint, the contractor's reply and the parameters set forth in this section. In the event that the Contractor objects to the Procurement Services Division Director's recommendation, the Contractor shall have a maximum of three (3) business days to file an appeal of the debarment decision with the Procurement Services Division Director. The appeal will be forwarded to and considered by the County Manager, who will review the record compiled by the initiating department/division and the contractor. Should the County Manager overturn the Procurement Services Division Director's decision; the County Manager shall formally cite the reasons for doing so.

- (5) In the event that the contractor files a timely and complete reply to the complaint and where the facts are in dispute, the Procurement Services Division Director will convene a committee (hereinafter referred to as "the committee") consisting of at least three individuals who will review the complaint and the contractor's reply. The County Manager shall formally appoint the committee, which will generally consist of county employees, none of whom shall be a member of the department/division initiating the complaint. At the discretion of the County Manager, a member from private industry with a particular area of relevant expertise may be appointed to the committee, provided that this member is not a direct or indirect competitor of the firm in question. The Office of the County Attorney shall appoint a representative to attend the committee's review of the findings. The representative shall not be considered a voting member of the committee, but shall be available to provide legal counsel to the committee as necessary. All members appointed to serve on the debarment committee shall disclose, to the Procurement Services Director any actual or prospective conflicts of interest at the time of appointment or at the time in which the member becomes aware of the actual or prospective conflict.

- (6) The Procurement Services Division Director shall chair the committee and serve as the Procurement Department's representative to the committee. The Procurement Services Director shall preside over and facilitate the deliberations of the committee as a non-voting member and serve as the County's liaison to the Contractor. All voting committee members are prohibited from having any communication regarding the issue outside the committee deliberations with any of the parties involved in the specific suspension or debarment or their representatives until after the committee decision has been issued or, in the event of an appeal of that decision by the contractor, until the conclusion of the appeal process. All committee deliberations are subject to F.S. § 286.011.
- (7) Where the material facts are in dispute, the committee shall evaluate the evidence, judge the credibility of witnesses and base its decision upon the preponderance of the evidence. Should the contractor fail to appear at the hearing, the contractor shall be presumed to be non-responsive and shall be subject to suspension or debarment. The committee decision shall be by a majority vote of those voting members in attendance. The committee shall be the sole trier of fact. In the event that the committee decides to impose a debarment, the decision will formally include, but not be strictly limited to the following information:
- (i) The specific reasons for the action;
 - (ii) The scope of the debarment; and
 - (iii) The period of debarment, including the effective and expiration dates.
- The committee's decision shall be issued in writing within 20 business days of the conclusion of the hearing unless the committee extends this period for good cause.
- (8) The Procurement Services Director shall forward the committee's decision to the contractor and affiliates involved. Should the contractor object to the committee's decision, the contractor shall have a maximum of three (3) business days to file an appeal of the decision with the Procurement Services Director. The appeal will be forwarded to and considered by the County Manager, who will review the record compiled

by the initiating department, the contractor and the committee. Should the County Manager overturn the committee's decision; the County Manager shall formally cite the reasons for doing so.

Final recommendation for debarment shall be approved by the Board.

c. Debarment Period:

- (1) The committee shall recommend the period of debarment. The debarment period shall be commensurate with the severity of the cause(s) and approved by the Board.
- (2) The committee (having the same or different composition) may recommend to the Board a reduction in the debarment period upon a written request from the contractor to do so, based on one or more of the following reasons:
 - (i) Newly discovered material evidence;
 - (ii) A reversal of the conviction, civil judgment or other action upon which the debarment was based;
 - (iii) Bona fide change in ownership or management;
 - (iv) Elimination of other causes for which the debarment was imposed; or
 - (v) Other reasons that the committee might deem appropriate.

The contractor's request shall be submitted to the Procurement Services Director in writing and shall be based on one or more of the aforementioned reasons.

3. The decision of the Board regarding a reduction of the debarment period is final and not subject to appeal.

d. The Effects of Debarment:

- (1) Debarred contractors are excluded from receiving County contracts. Departments shall not solicit offers from, award contracts to, or consent to subcontractors with debarred contractors. Debarred contractors are excluded from conducting business with the County as agents, representatives, subcontractors or partners of other contractors.
- (2) The Procurement Services Division shall maintain a list of firms placed under a Suspended or Debarred category and shall make that list known as a public record.

- (3) Divisions may not renew or otherwise extend the duration of current contracts with debarred contractors in place at the time of the debarment unless the Board determines that it is in the best interests of the County to allow the contractor to continue or finish the work within an additional, limited period of time.
 - (4) When a debarred contractor is proposed as a subcontractor for any subcontract subject to County approval, the department shall not consent to subcontracts with such contractors.
 - (5) The County shall not be responsible for any increases in contract costs or other expenses incurred by a contractor as a result of rejection of proposed subcontractors, provided that the subcontractor was debarred prior to the submission of the applicable bid or proposal offer.
- e. The Scope of Debarment: Debarment applies to all officers, Directors, Managers, principals, Procurement Services Directors, partners, qualifiers, divisions or other organizational elements of the debarred contractor, unless the debarment decision is limited by its terms to specific divisions, organizational elements or commodity/services. The committee's decision includes any existing affiliates of the contractor if they are specifically named and are given written notice of the proposed debarment and an opportunity to respond. Future affiliates of the contractor are subject to the pre-existing terms of the committee's decision.

29. WAIVER OF ORDINANCE

The Board of County Commissioners shall have the authority to waive any and all Procurement Ordinance provisions within lawful guidelines and upon formal Board action.

30. CONFLICT AND SEVERABILITY

In the event this Manual conflicts with any other ordinance of Collier County or other applicable law, the more restrictive shall apply. If any phrase or portion of the Manual is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining

portion.

END