

ST. LUCIE COUNTY  
BOARD OF COUNTY COMMISSIONERS

PURCHASING POLICY MANUAL

Effective: October 20, 2015

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**AMENDING RESOLUTIONS AND ORDINANCES SINCE 1991**

1994: 94-34, 94-49, 94-66, 94-255

1997: 97-48, 97-131, 97-144, 97-178

1998: 98-25, 98-181

1999: 99-234

2001: 01-26, 01-102, 01-289, 01-300

2002: 02-8

2003: 03-253

2004: 04-66, 04-159, 04-189

2006: 06-183

2008: 08-032, 08-118, 08-122, 08-124, 08-191, 08-266

2009: 09-005, 09-352

2010: 10-067, 10-157

2014: 14-002

2015: 2015-8, 2015-194

## **SECTION 1 - MANUAL OVERVIEW**

### **1.1 PURPOSE**

The purpose of this Purchasing Policy Manual (Manual) is to provide clear direction to all County employees regarding the purchasing policies of St. Lucie County, Florida. The adoption of this Manual and the approval of any subsequent revisions by the Board of County Commissioners (Board) shall authorize the policies contained herein for official use in County business.

### **1.2 SCOPE**

The scope of this Manual includes all departments, offices and dependent taxing districts under the jurisdiction of the Board, as well as all purchasing transactions that are paid for directly from County funds under the control of the Board. The scope of this Manual shall not include payroll transactions relative to the Board.

### **1.3 DISTRIBUTION**

This Manual and related procedures will be available to all County employees and the general public through the County's intranet and internet sites.

### **1.4 IMPLEMENTATION**

- a. The County Administrator shall ensure that written procedures are maintained to implement and enforce the policies set forth in this Manual.
- b. The Finance Department, headed by the Finance Director, and under the authority of the Clerk to the Board, an independent Elected Officer, shall exercise dual authority over the County purchasing process for the purpose of implementing and enforcing these policies and related procedures on a countywide basis, as well as in the Finance Department for its role in the process.
- c. The County Administrator, in consultation with the Finance Director, is authorized to determine how to correct policy errors and violations when they occur. To the extent feasible, the error or violation should be corrected through implementation of the Manual policy.
- d. Violation of any of the policies in this Manual may be grounds for disciplinary action. In addition, a violation may result in the County's refusal to pay for any improperly ordered goods or services.
- e. As allowed by law, the Board shall have the authority, in specific cases determined to be exceptional, to waive or override the policies in this Manual and to direct a different handling of each such case.
- f. To the extent feasible, the Board expects purchases to be planned as part of the budget process.
- g. The Board recognizes that all purchases cannot be included in the budget or, when budgeted, the specific items and costs may not be known. However, employees shall not intentionally divide, underestimate or otherwise manipulate purchases to avoid the budget process, purchasing procedures and/or approval requirements.

### **1.5 REVISIONS**

This Manual is to serve as a permanent and up-to-date guide to County purchasing policies. As changes are approved by the Board, the County Administrator or designee shall be responsible for updating the Manual and implementing appropriate procedures. The County Administrator is authorized to correct typographical or scrivener's errors to ensure the Board's policy intent is clear.

## **SECTION 2 - GENERAL PURCHASING OVERVIEW**

### **2.1 ROLE OF THE FINANCE DEPARTMENT**

The role of the Finance Department, as an agent of the Clerk to the Board and an independent Elected Officer, is to serve as the Accountant and Treasurer to the Board. The Finance Department shall exercise dual authority over the County purchasing process and, specifically, for the following:

- a. Pre-auditing all payment requisitions, prior to disbursement, to determine accuracy, legality, and propriety, and to determine that appropriate policies and procedures have been followed.
- b. Rejecting any payment requisition for a purchase transaction in which the policies and procedures outlined in this Manual have not been followed.
- c. Disbursing funds for purchase transactions that are legal and proper, and in compliance with all appropriate policies and procedures.
- d. Recording all disbursements in the County's accounting records.

### **2.2 GOOD FAITH POLICY**

- a. A County employee acting in a private capacity shall not rent, lease, or sell any realty, goods, or services to the County. County Commissioners shall comply with Chapter 112, Part III, Florida Statutes and other applicable statutes and regulations related to conduct and disclosure. With regard to the receipt of any benefit or profit from any contract or purchase made by the County, the actions of the County Commissioners as well as any County employee having the authority to commit the expenditure of County funds through the issuance of a purchase order shall be governed by Chapter 112, Florida Statutes.
- b. No County employee shall solicit or accept anything of value to the employee including a gift, loan, reward, promise of future employment, favor, or service based on any understanding that the judgment of the employee would be influenced thereby.
- c. The County strives to maintain a strong and enduring relationship with vendors of proven ability. To accomplish this, purchasing activities will be conducted so that vendors will value County business and make an effort to meet our requirements on the basis of quality, service and price.
- d. The County will buy only from suppliers who have adequate financial strength, high ethical standards, and a record of adhering to specifications, maintaining shipping promises, and giving a full measure of service. New sources of supply shall be given due consideration as multiple sources of supply are necessary to ensure availability of materials.
- e. No purchase order or contract shall be knowingly issued when there is evidence of a conflict of interest. When a conflict may exist, but its existence is not clearly established, the County Administrator shall refer the matter to the County Attorney whose opinion shall be final in the absence of any specific action by the Board.

### **2.3 CONFLICT OF INTEREST**

- a. All contracts between the County and any vendor or consultant shall contain a conflict of interest clause as approved by the County Attorney.
- b. Any professional consultant that contracts with the County as to the feasibility of any County capital project shall not be eligible to participate in any future design work on that project that might become

necessary as a result of the consultant's advice. This policy shall be included in any request for proposals related to the feasibility of any County project. The Board may waive this policy by majority vote.

- c. In addition to the provisions of Section 2.3(a)(b), federal standards of conduct apply to all federally supported grant projects, including but not limited to:
  1. No elected official, employee, or agent of the County shall participate in selection or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent would be involved.
  2. Such a conflict would arise when the elected official, employee, or agent, any member of his or her immediate family, partner, or an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected or considered for award.
  3. The County's elected officials, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.
- d. Violations of the standards of conduct in this Manual may result in disciplinary action as set forth in Section 112.317, Florida Statutes, provided that such disciplinary action does not conflict with the jurisdiction of the State of Florida Commission on Ethics.

## 2.4 ENVIRONMENTALLY PREFERRED PURCHASING

- a. The County will seek to increase acquisition and utilization of environmentally preferred products and services, consistent with price, performance, availability and safety considerations. Environmentally preferred purchases are products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose.
- b. The County may consider paying a reasonable premium for environmentally preferred products and services.
- c. Environmentally preferred purchasing should be taken into account as early as possible in the planning and decision-making process. Environmentally preferred purchasing shall be considered in planning and design phases of new construction and renovation projects including energy conservation, green building technologies and Florida-friendly landscaping. The County will seek to increase the purchase and use of environmentally preferred office and cleaning supplies and electronic and computer equipment, including but not limited to the purchase or lease of duplex printers and copiers, consistent with price, performance, availability and safety considerations.
- d. Any vendor contracting with the County is required to purchase products or materials with recycled content when those products or materials are available at reasonable prices within a reasonable period of time unless the products or materials fail to meet reasonable performance standards. If the decision was made not to use recycled products, the vendor shall provide the County with a written statement indicating the basis for the decision.

## 2.5 VENDOR REFERENCE REQUEST

From time to time, the County receives requests for references regarding vendors, contractors, and professional services providers with whom the County does business. In the event an employee receives a request for a reference, the employee should refer the request to the County Administrator's designee for response.

## **SECTION 3 – CASH FUNDS**

### **3.1 PETTY CASH POLICY**

The administrative costs and staff time to purchase supplies and services of small monetary value through the usual purchasing procedures are often excessive in relation to the value of supplies and services received. In addition, there are vendors which do not accept purchasing cards. For these reasons, the Board has adopted a Petty Cash policy.

### **3.2 PETTY CASH PURCHASE AUTHORIZATION**

Petty cash purchases are authorized for minor purchases as determined by the County Administrator or designee. The County Administrator or designee or the Finance Director shall have the authority to disallow any purchase not made in accordance with such policies and procedures.

### **3.3 PETTY CASH FUNDS**

The establishment of a petty cash fund and the amount of such a fund for any County department, division or office must be authorized in writing by the County Administrator.

### **3.4 DISALLOWANCE OF PETTY CASH PURCHASES**

Any petty cash purchase not made in accordance with County purchasing policies and procedures may not be paid or reimbursed by the County. The employee may be required to reimburse the County for such purchase.

### **3.5 CHANGE FUNDS**

The County Administrator is authorized to establish change funds which are cash funds used to make change for customers paying fees, buying tickets, novelties, etc. Purchases shall not be made from change funds.

## **SECTION 4 - PURCHASING CARDS**

### **4.1 PURPOSE**

The County Administrator or designee shall determine who is issued a purchasing card and the limits of that card. Written procedures shall be established by the County Administrator to implement the following:

- a. Provide an efficient method of purchasing and paying for goods and services based on the user's card and per transaction limits;
- b. Ensure use of purchasing cards is cost-effective and takes advantage of available discounts;
- c. Reduce the use of purchase orders;
- d. Ensure that purchasing card purchases are in accordance with the County's ordinances, policies, and procedures;
- e. Ensure that the County bears no legal liability from inappropriate use of purchasing cards;
- f. Provide for disciplinary action if the purchasing cards are misused; and

- g. Ensure the purchasing card is used for County-authorized purchases only.

#### 4.2 CARDHOLDER USE OF PURCHASING CARD

- a. The purchasing card shall only be used by the employee whose name is embossed on the card. No other person is authorized to use the card. The cardholder is responsible and accountable for all transactions that occur on his/her card.
- b. The purchasing card shall not be used for any personal use and any such use will require immediate reimbursement and will result in disciplinary action, which may include dismissal.

#### 4.3 PURCHASING CARD REQUIREMENTS

- a. Prior to issuance of a purchasing card, the County Administrator or designee shall determine the single purchase limit and the 30-day purchase limit for the employee. The maximum limit shall be \$5,000 for a single purchase. Charges shall not be split to stay within the single purchase limit. Additional limitations may be imposed.
- b. When it is in the best interest of the County, the County Administrator or designee can override spending limits to authorize larger purchases.
- c. When in the best interest of the County, the County Administrator may authorize payment by credit card to take advantage of discounts.
- d. The Department Director or Division Manager shall review all employee purchasing card statements for compliance with County policies and procedures, sign statements indicating approval and ensure statements are processed in a timely manner. The County Administrator or designee shall review and approve all purchasing card statements for Department Directors or Administration staff. Statements approved by the Department Director or Division Manager which comply with purchasing card limits established by the County Administrator are not required to comply with signature authorization limits in Section 6.

#### 4.4 PROHIBITED USES OF PURCHASING CARDS

The following types of items shall not be purchased with a purchasing card, regardless of the dollar amount:

- a. Cash advances
- b. Alcohol or drugs
- c. Capital equipment (equipment over \$1,000) except as provided in 4.7.
- d. Entertainment, except when authorized in writing by the County Administrator
- e. Professional or contracted services that are related to an active County contract
- f. Clothing, except uniforms for participants in County programs
- g. Food or Recreation, except as approved in writing by the County Administrator for County programs
- h. Travel expenses such as hotels, automobile rental, and airline tickets, unless cardholder has a card specifically authorized by the County Administrator or designee for travel expenses.

- i. Any additional goods or services specifically restricted by the Department Director or the County Administrator.

#### 4.5 FAILURE TO ABIDE BY PURCHASING CARD POLICIES AND PROCEDURES

Failure to abide by the Manual policies and related procedures regarding purchasing cards may result in disciplinary action, up to and including termination. The employee may also be required to pay the County for inappropriate, unauthorized or undocumented purchases and the employee's purchasing card may be cancelled. If the cancellation of the purchasing card impacts the employee's ability to perform their essential job functions, appropriate personnel action may be taken.

#### 4.6 SALES AND USE TAXES

The County is exempt from paying any State of Florida sales and/or use tax, even if the purchase is made with the purchasing card. If the vendor charges sales tax, the cardholder must contact the vendor to obtain a credit equal to the sales tax.

#### 4.7 PURCHASING CARD DISASTER PLAN

The County Administrator or designee will ensure there are special high limit credit purchasing cards which will be issued during disaster type emergencies. The County Administrator will ensure these cards are physically secured and issued only under the direction of the County Administrator.

#### 4.8 SPECIAL PURCHASES

When in the best interest of the County, purchases may be made with a specifically designated purchasing card that will be in the name of the OMB Director.

### **SECTION 5 - PURCHASING PROCESSES**

#### 5.1 COMPETITIVE PROCESS POLICY

Normally, major purchases of materials, supplies, equipment, and contracted services from vendors will be acquired through competitive processes, including but not limited to, informal and formal quotations, invitations to bid (ITB), requests for proposals (RFP) and requests for qualifications (RFQ) as outlined in this Manual or pursuant to State Contract as provided by Chapter 287, Florida Statutes. The only exceptions permitted to this policy are those authorized in this Manual or authorized by the Board of County Commissioners.

#### 5.2 EXEMPT PURCHASES

Certain purchases shall be exempt from the competitive processes as provided in this Manual:

- a. Purchases less than \$5,000;
- b. Intergovernmental purchases among County Departments;
- c. Governmental purchases of goods or services from or with other governmental agencies;
- d. The purchase of or payment for utility services, including but not limited to water and sewer, electric, telephone, internet, etc.;
- e. The purchase of items under State Contract, General Services Administration Contract pursuant to Chapter 287, Florida Statutes, once approved by the Board during the budgetary process;

- f. Purchases of computer hardware and software over \$50,000 shall be at the discretion of the Board of County Commissioners;
- g. Purchase of library books, educational and/or personnel tests, similar audio/visual materials, periodicals, printed library cards;
- h. Professional services (not related to CCNA), commodities or services purchased directly from a governmental or nonprofit agency provided no conflict of interest exists; and
- i. As allowed by law, direct purchase of goods by a contractor on behalf of the County for a County project.

### 5.3 LOCAL PREFERENCE

Except where otherwise provided by federal or state law or other funding source restrictions or as otherwise set forth in the purchasing policy, St. Lucie County shall give preference to local businesses in the following manner:

- a. "Local Business" defined: For purposes of this section, "local business" shall mean a business which meets all of the following criteria:
  - 1. Has had a fixed office or distribution point located in and having a street address within St. Lucie, Indian River or Martin County for at least one year immediately prior to the issuance of the request for competitive bids or request for proposals by the county. The fixed office or distribution point must be staffed. Post office boxes are not verifiable and shall not be used for the purpose of establishing a physical address; and
  - 2. Holds any business license required by St. Lucie County; and Is the principal offeror who is a single offeror; a business which is the prime contractor and not a subcontractor; or a partner or joint venturer submitting an offer in conjunction with other businesses.
- b. Certification. Any vendor claiming to be a local business as defined above, shall so certify in writing to the Purchasing Division. The certification shall provide all necessary information to meet the requirements of the definition of local business above. The purchasing agent shall not be required to verify the accuracy of any such certifications, and shall have the sole discretion to determine if a vendor meets the definition of a "local business."
- c. The bidder/proposer and all lower tiered subcontractors under the bidder/proposer must properly classify employees as employees rather than independent contractors and treat them accordingly for purposes of workers' compensation insurance coverage, unemployment taxes, social security taxes and income tax withholding.
- d. "Non-local business" means a bidder which is not a local business.
- e. Waiver of the application of local preference. The application of Local Preference to a purchase or contract for which the Board is the awarding authority may be waived upon approval of the Board.
- f. Comparison of qualifications. The preferences established herein in no way prohibit the right of the Board to compare quality of materials proposed for purchase and compare qualifications, character, responsibility and fitness of all persons, firms or corporations submitting bids. Further, the preferences established herein in no way prohibit the right of the Board from giving any further preference permitted by law instead of the preferences granted herein.

g. Local Preference – Invitations to Bid

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 who fails to submit sufficient documentation with their bid 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, St. Lucie County and its agencies and instrumentalities, will give preference to local businesses in the following manner:

1. Competitive bid (local price match option). Each formal competitive bid solicitation (i.e. sealed bids) shall clearly identify how the price order of the bids received will be evaluated and determined. When a qualified and responsive, non-local business submits the lowest price bid, and the bid submitted by one or more qualified and responsive local businesses is within 5% 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) offered by the overall lowest, qualified and responsive non-local bidder.
2. In such instances, staff shall first verify if the lowest non-local bidder and the lowest local bidder are in fact qualified and responsive bidders. Next, the Purchasing Division shall determine if the lowest local bidder meets the requirements of Section 287.087, Florida Statutes. If the lowest local bidder meets the requirements of 287.087, Florida Statutes, the Purchasing Division shall invite the lowest local bidder in writing to submit a matching offer to the Purchasing Division which shall be submitted in writing to the Purchasing Division within 5 business days thereafter.
3. If the lowest local bidder submits a written offer that does not fully match the lowest bid from the lowest non-local bidder tendered previously, the next lowest fully qualified local bidder will be given the opportunity to match if they are within 5%. This cycle shall be repeated until there are no remaining local bidders within 5%, then award shall be made to the non-local bidder. If the lowest local bidder does not respond, declines or is unable to match the lowest non-local bid price(s), then award will be made to the lowest overall qualified and responsive bidder. If the lowest local bidder does not meet the requirement of Section 287.087, Florida Statutes, and the lowest non-local bidder does, the lowest local bidder will be disqualified and the next lowest local bidder will be considered if they are within 5%, award will be made to the bidder that meets the requirements of the referenced state law. In the event a local bidder is awarded a contract pursuant to this section, all requests for change orders increasing the cost of the project must be approved by the Board.

h. Local Preference – Requests for Proposals (RFP)

In purchasing of, or letting of contracts for procurement of, personal property, materials, contractual services, and construction of improvements to real property or existing structures for which a request for proposals is developed with evaluation criteria, a local preference of the total score may be assigned for a local preference, as follows:

1. Local businesses which meet all of the criteria for a local business as set forth in this article shall be given a preference in the amount of five percent of the total score of the local business.
  2. Based upon analysis of the marketplace for each project, staff shall make a recommendation for or against inclusion of a local preference in the criteria for consideration by the Board as a part of the pre-publication process for each request for proposal or bid.
- i. Notice. Both bid documents and request for proposal documents shall include notice to vendors of the local preference policy.

- j. Reciprocity. In the event any other Florida county or municipality (“local government”) deemed appropriate by the Board, extends preferences to local businesses, St. Lucie County may enter into an interlocal 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. Vendors must also be authorized to do business in St. Lucie County. Vendors shall affirm in writing their compliance with the foregoing at the time of submitting their bid 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 St. Lucie County firms competing for its contracts.
- k. Limitations.
  - 1. The provisions of this policy shall apply only to procurements which are above the formal bid threshold as set forth in the St. Lucie County Purchasing Policies Manual.
  - 2. The provisions of this policy shall not apply where prohibited by federal or Florida law or where prohibited under the conditions of any grant.
  - 3. The provisions of this policy shall not apply to any purchase exempted from the provisions of the St. Lucie County Purchasing Policies Manual.
  - 4. The provisions of this policy shall not apply to contracts made under the Consultants Competitive Negotiation Act (CCNA), Section 287.055, Florida Statutes.
  - 5. The provisions of this policy shall not be applied to any procurement where the local nature of a business has been addressed through the scoring criteria.

#### 5.4 PUBLIC ENTITY CRIMES

- a. Pursuant to Section 287.133, Florida Statutes, the Board shall not accept any bid from, award any contract to, or transact any business in excess of \$25,000 with any person or affiliate on the Convicted Vendor List kept by the State of Florida Department of General Services for a period of thirty-six (36) months from the date that person or affiliate was placed on the Convicted Vendor List that unless that person or affiliate has been removed from the list pursuant to Section 287.133(3)(f), Florida Statutes.
- b. All Invitations to Bid, Requests for Proposals and Requests for Qualifications shall include provisions regarding public entity crimes in compliance with Section 287.111, Florida Statutes, as it may be amended, and as provided by the County Attorney.
- c. In the event that the Board was transacting business with a person at the time of the commission of a Public Entity Crime which resulted in that person being placed on the Convicted Vendor List, the Board shall not accept any bid from, award any contract to, or transact any business with any other person which under the same, or substantially the same, control as the person whose name appears on the Convicted Vendor List so long as that person's name appears on the Convicted Vendor List.
- d. For the purposes of this section, the following definitions shall apply:
  - 1. “Affiliate” means a predecessor or successor of a person convicted of a Public Entity Crime; or, an Entity under the control of any natural person who is active in the management of the Entity and who has been convicted of a Public Entity Crime. The term "Affiliate" includes those officers, directors, executives, partners, shareholders, employees, members and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who

has been convicted of a Public Entity Crime in Florida during the preceding thirty-six (36) months shall be considered an Affiliate.

2. "Convicted" or "Conviction" means a finding of guilt or a conviction of a Public Entity Crime, with or without an adjudication of guilt, in any Federal or State Trial Court of Record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.
  3. "Convicted Vendor List" means the list required to be kept by the State of Florida Department of Management Services.
  4. "Person" means any Natural Person or any Entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts let by the Board of County Commissioners or which otherwise transacts or applies to transact business with the Board of County Commissioners. The term "Person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an Entity.
  5. "Public Entity" means the State of Florida, any of its departments or agencies, or any political subdivision.
  6. "Public Entity Crime" means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any Public Entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid, proposal, reply or contract for goods or services, any lease for real property, or any contract for the construction or repair of a public building or public work, to be provided to any Public Entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
- e. Each Vendor shall be required to comply with the requirements of Section 287.133 Florida Statutes.
- f. The following statement, as it may be amended by the County Attorney, shall appear in all bid specifications and Requests for Proposals:

**PUBLIC ENTITY CRIMES:** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal or reply on a contract to provide any goods or services to the County, may not submit a bid, proposal, or reply on a contract with the County for the construction or repair of a public building or public work, may not submit bids, proposals or replies on leases of real property to the County, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with the County, and may not transact business with the County in excess of \$25,000 for a period of 36 months from the date of being placed on the convicted vendor list.

The County will not intentionally award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a (Section 274A(e) of the Immigration and Nationality Act ("INA")). The County shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the Recipient of the employment provisions contained in Section 274A(e) of the INA shall be grounds for unilateral cancellation of the Agreement by the County.

**5.5 PIGGYBACKING: PURCHASE OF GOODS, EQUIPMENT, AND CONTRACTUAL SERVICES FROM OTHER GOVERNMENTAL BIDS**

- a. In lieu of informal or formal quotations, or issuance of an Invitation to Bid, the County may piggyback off of contracts of other governments and agencies to procure goods and services if the following conditions are present:
  1. The bid documents and selection procedures used by the other government or agency are consistent with the County's purchasing regulations; and
  2. The vendor is willing to sign a County contract form (if applicable) as prepared by the County Attorney's Office; and
  3. The vendor is willing to offer to the County the same unit prices used in the original contract/bid; and
  4. The unit prices in the original contract(s) include every item that the County intends to purchase from the vendor.
- b. Piggybacking may not be used for the following types of agreements, unless first approved by the County Administrator:
  1. Construction services
  2. Professional services contracts
  3. Any good or service where the County would utilize a Request for Proposals or a Request for Qualifications.
- c. The County allows other governmental entities to piggyback off of its contracts.
- d. Approval of a bid waiver is not required to piggyback off contracts which meet the requirements of this section.

## **SECTION 6 – AUTHORIZATION LIMITS**

### **6.1 SIGNATURE AUTHORITY**

The signature authority for purchases of usual and ordinary goods and services, including but not limited to, requisitions, purchase orders, work authorizations, contracts and contract amendments, is listed below. Signature authority for work authorization amendments and change orders is indicated in Sections 17.2 and 18.1, respectively. With approval of the County Administrator, the signature authority may be delegated in writing on a temporary basis due to the absence of the authorized employee or a vacancy in the position or such other situations as necessary to ensure continuity of County operations. As determined by the County Administrator, purchase of goods and services that are not typical of or necessary for County operations and management and/or were not approved in the budget may require Board approval.

- a. \$500 or less – any authorized employee approved by the Department Director or County Administrator.
- b. \$5,000 or less – Division Manager or other Manager approved by the County Administrator
- c. \$15,000 or less – Department Director; the County Administrator may authorize up to \$20,000 for specific Department Directors.
- d. \$25,000 or less – Assistant County Administrator
- e. \$50,000 or less – County Administrator
- f. Contracts for more than \$50,000 will be presented to the Board for approval and executed by the Chair of the Board or the Vice-Chair in the Chair's absence. All contracts executed by the Board must be attested to by the Clerk of the Board or a Deputy Clerk as determined by the Clerk.

## 6.2 EXCEPTIONS

- a. The purchase of or payment for goods and services which have been specifically approved by the Board in the Department/Division budget or through an agenda item are not subject to signature authorization requirements. Procedures will be established by the County Administrator which ensure these transactions are processed in accordance with the Board approval. The procedures shall require the user Department Director and the OMB Director or designee to review and approve the purchase or payment documents.
- b. Payments for utility bills, including electric, water, sewer, phone, internet and related services and purchasing card statements are exempt from authorization limits and shall be processed in accordance with procedures established by the County Administrator. The procedures shall require Department Directors to review and approve payment of these bills.
- c. The Board or the County Administrator (up to \$50,000) may increase the signing authority of a director or other employee for purposes of a specific program or purposes. Such increase shall be approved in writing and specify the limitations of the signing authority.

## **SECTION 7 - PURCHASES OF \$50,000 OR LESS – FORMAL AND INFORMAL QUOTES**

### 7.1 QUOTATION THRESHOLDS

- a. Purchases of \$5,000 or less are exempt from Section 7 policies.
- b. Purchases of goods or services over \$5000 and up to and including \$15,000 normally will be acquired through informal quotations.
- c. Purchases of goods or services over \$15,000 up to and including \$50,000 normally will be acquired through formal quotations.
- d. If there is a sole source for an item \$50,000 or less, the requirement for formal/informal quotations may be waived by the County Administrator or designee based upon written justification.
- e. Competition is facilitated by utilizing a rotating schedule of vendors and obtaining at least three quotes. As often as feasible, local vendors should be utilized. The County Administrator or designee shall maintain an updated list of local vendors and the goods and services they provide.
- f. Utmost care must be taken to insure that vendors are given exactly the same information and that prices are not disclosed from one vendor to another.

### 7.2 INFORMAL QUOTATIONS

- a. Informal quotations are used for purchases of items or services more than \$5,000 and up to and including \$15,000 and may be obtained by telephone, in person or in writing. A rotating schedule of vendors should be utilized per 7.1(e).
- b. The most responsive, responsible bidder should be selected. For purposes of this section, the most responsive, responsible bidder shall be the bidder whose proposal is determined to be most advantageous to the County taking into consideration factors identified in the quote, such as

1. Price;
2. Capability, integrity and reliability of the bidder to assure good faith performance;
3. Environmentally preferred purchasing;
4. Completion and/or delivery date; and/or
5. Other relevant evaluation factors.

### 7.3 FORMAL QUOTATIONS

Formal quotations shall be used for purchases of items or services over \$15,000 and up to and including \$50,000 or when bidding requirements have been waived or exempted for items or services over \$50,000 as provided in this Manual.

- a. Formal quotations will be solicited in writing with proper specifications from at least three (3) vendors if feasible. Requests for formal quotations are not required to be advertised. A rotating schedule of vendors should be utilized per Section 7.1(e).
- b. If the specifications for a formal quotation are changed after the original notice to vendors, the requesting Department shall issue an addendum.
- c. The most responsive, responsible bidder should be selected. For purposes of this section, the most responsive, responsible bidder shall be the bidder whose proposal is determined to be most advantageous to the County taking into consideration factors identified in the quote, such as
  1. Price;
  2. Capability, integrity and reliability of the bidder to assure good faith performance;
  3. Environmentally preferred purchasing;
  4. Completion and/or delivery date; and
  5. Other relevant evaluation factors.
- d. For purchases over \$50,000, when bidding requirements have been waived and three formal quotations have been received, the County Administrator shall make the determination of the most responsive, responsible bidder.

## **SECTION 8 - PURCHASES GREATER THAN \$50,000 – INVITATIONS TO BID**

Except as provided elsewhere in the Manual, purchase of goods and services for more than \$50,000 shall be acquired through Invitations to Bid (ITB) which requires submission of formal sealed bids or under a State Contract, or Federal General Services Administration Contract pursuant to Chapter 287, Florida Statutes. Advertisements for ITBs must be approved by the County Administrator or designee.

### 8.1 BID WAIVER

Certain purchases for more than \$50,000 shall be acquired through quotations if there is a waiver of the requirement for formal sealed bids by the Board of County Commissioners.

- a. The waiver of formal sealed bids may be requested based on one of the following:
  1. If an emergency exists which would result in a direct loss to the County or imminent damage to public safety or health by requiring competitive bids due to the time loss inherent in the bidding procedures. In cases of emergency, the County Administrator may approve the bid waiver and submit the waiver request to the Board at the next scheduled meeting or a special meeting.
  2. If there is only a single source for the goods or service.
  3. If used items are available that would provide substantial savings over purchase of new items.
  4. If the request is for a service contract for the maintenance, repair, or servicing of existing facilities or equipment owned or leased by the County.

5. If quotations indicate that the item may be purchased for a price which is less than the price if purchased through State Contract as provided by Chapter 287, Florida Statutes.
  6. If the product is available from the State Department of Corrections Nonprofit Corporation for Correctional Work Programs organized under Chapter 946, Florida Statutes, as it may be amended.
  7. If no bids or only one bid is received in response to a request for formal sealed bids.
  8. If the Board determines that it is in the best interests of the County to do so.
- b. For construction contracts, only a(1), a(2) or a(7) above may justify a bid waiver request at a public hearing. All bid waiver requests for construction projects must be approved by the County Attorney's office to ensure compliance with FS 255.20 prior to scheduling the public hearing.

## 8.2 INVITATIONS TO BID

Invitations to Bid (ITB) are formal sealed bids and will normally be used for purchases of goods and services more than \$50,000.

- a. Except as stated herein, St. Lucie County follows the general criteria set forth in Section 287.057, Florida Statutes, for the acquisition of commodities (i.e., goods) and contractual services (i.e., construction contracts, maintenance and repair contracts).
- b. A public announcement of the ITB shall be made through a local newspaper for one day (required) and other approved media, including an agreement with an outside provider of such services. The announcement shall include a description of the project and/or goods required, and where interested bidders may apply for consideration. All bid information will be available on the internet.
- c. The ITB for construction contracts must include requirements for complying with the Apprenticeship Program requirements as provided in Section 18.
- d. As allowed by law, the ITB must include Local Preference criteria provided in Section 5 unless waived by the Board.
- e. If the specifications for an ITB are changed after the original advertising and mailing to vendors, the addendum procedure will be implemented. The addendum shall clearly point out any addition or change to the specifications. All prospective bidders who have received specifications are to be notified of the addendum by email or fax. The vendor is responsible to obtain and incorporate all addenda into their bid. No addendum shall be issued five (5) days prior to a bid opening without extending the bid opening date unless the change or clarification does not materially affect the bid.
- f. The bid shall be considered responsive if it answers all required information, contains any and all required bonds, and is duly signed by an authorized officer of the entity on behalf of the entity. Only complete bids shall be considered. Any incomplete bid shall be deemed as non-responsive.
- g. The Board reserves the right to:
  1. Waive any informalities or minor irregularities;
  2. Reject any and all bids which are incomplete, conditional, obscure, or which contain additions not allowed for in the bid;
  3. Cancel, accept or reject any and all bids in whole or in part with or without cause;
  4. Disqualify any and all bidders if there is any reason to believe that collusion or fraud exists among bidders; or
  5. Accept the bid which best serves the County.
- h. The bids will be received until the prescribed time and will be opened immediately thereafter. The following minimum criteria shall be considered in order of importance in evaluating bids.

1. Price;
  2. Compliance with ITB specifications, including delivery date, materials, processes, etc. Should the low bid be responsive but deviate from the specifications contained in the ITB, such deviation shall be reviewed for suitability to achieve the County's purpose; and
  3. Compliance with other Board purchasing policies such as the Local Preference policy and the Apprenticeship policy as applicable.
- j. The County Administrator or designee shall make a recommendation to the Board regarding the award of the ITB.

## **SECTION 9 - REQUEST FOR PROPOSALS**

A Request for Proposal (RFP) is a purchasing method that is utilized when a variety of relevant factors in addition to price will be evaluated. Advertisements for RFPs must be approved by the County Administrator or designee.

### **9.1 RFP CONTENTS**

- a. A public announcement of the RFP shall be made through a local newspaper for one day (required), and other approved media and shall include a description of the project, services and/or goods required, and where interested bidders may apply for consideration.
- b. The RFP shall include, but is not limited to, the following:
  1. Description of the scope of services requested. The description shall be sufficient to assure that all proposers have the same understanding of the requested services, material or product specifications, time schedule and expectations.
  2. Request for specific and general information on how the proposer will proceed with the project including written documentation of the proposer's expertise and ability to perform the requested service.
  3. Requirements for submission of concept plans or approaches, if applicable.
  4. The criteria upon which the proposal will be evaluated, including the Local Preference criteria as provided in Section 5 and the Apprenticeship requirement as provided in Section 18, as applicable.
  5. Specific instructions on how, when and where the proposals shall be submitted, including the date the proposal will be opened.
  6. Requirement that the proposal be submitted as a sealed package and contain all required information, documents and signatures.
  7. Statement that the Board reserves the right to reject all irregular proposals or to reject all proposals if it is deemed by the Board to be in the best interest of the County.

### **9.2 RFP AWARD**

- a. The County Administrator or designee shall approve the appointment of a selection committee which shall not be composed of more than 50% of members from the user department unless approved by the County Administrator in advance. If multiple departments will be utilizing the contract, no single department shall compose more than 50% of the committee members. The Board may exercise its option to appoint itself to serve as the selection committee.
- b. The County Administrator or designee shall make a recommendation to the Board regarding the award of the RFP if the cost is more than \$50,000.
- c. The Board reserves the right to:
  1. Waive any informalities or minor irregularities;

2. Reject any and all proposals which are incomplete, conditional, obscure, or which contain additions not allowed for in the proposal;
3. Cancel, accept or reject any and all proposals in whole or in part with or without cause;
4. Disqualify any and all proposers if there is any reason to believe that collusion or fraud exists among proposers; or
5. Accept the proposal which best serves the County.

## **SECTION 10 – REQUEST FOR QUALIFICATIONS**

A Request for Qualifications (RFQ) is a purchasing process utilized to select firms or businesses to provide goods, equipment, or services based on qualifications. This process is also required for selection of professional services specified in the Consultants Competitive Negotiation Act (CCNA), Section 287.055, Florida Statutes. Advertisements for RFQs must be approved by the County Administrator or designee.

### **10.1 RFQ CONTENT**

- a. A public announcement of the RFQ shall be made through a local newspaper for one day (required) and other approved media and shall include a description of the project, goods and/or services required, and where interested bidders may apply for consideration.
- b. The RFQ shall include, but is not limited to:
  1. A description of the scope of services requested. The description shall be sufficient to assure that all proposers have the same understanding of the requested services, time schedule and expectations.
  2. A request for specific and general information on how the proposer is qualified to perform the requested services, including examples of prior work and references.
  3. Requirements for submission of concept plans or approaches, if applicable.
  4. Criteria upon which the proposal will be evaluated, including the Local Preference criteria as provided in Section 5, as applicable.
  5. Specific instructions on how, when, and where the proposals shall be submitted including the date the proposal will be opened.
  6. Requirement that the proposal be submitted as a sealed package and include all required information, documents and signatures.
  7. Statement that the Board reserves the right to reject all irregular proposals or to reject all proposals if it is deemed by the Board to be in the best interest of the County.

### **10.2 RFQ AWARD**

- a. Responses to RFQs shall be evaluated by a selection committee appointed by the County Administrator or designee. The selection committee shall not be composed of more than 50% of members from the user department unless approved by the County Administrator in advance. If multiple departments will be utilizing the contract, no single department shall compose more than 50% of the committee members. The Board may exercise its option to appoint itself to serve as the selection committee.
- b. The County Administrator or designee shall make a recommendation to the Board regarding the award of the RFQ if the cost is more than \$50,000. Upon the selection of a short-list of qualified firms approved by the Board, and unless otherwise directed by the Board, staff may:
  1. Enter into scope of work and fee negotiations with the firm or firms determined to be qualified; or
  2. Issue Invitations to Bid or Requests for Proposals to short-listed firms.
- c. The Board reserves the right to:

1. Waive any informalities or minor irregularities;
  2. Reject any and all proposals which are incomplete, conditional, obscure, or which contain additions not allowed for in the proposal;
  3. Cancel, accept or reject any and all proposals in whole or in part with or without cause;
  4. Disqualify any and all proposers if there is any reason to believe that collusion or fraud exists among proposers; and/or
  5. Accept the proposal which best serves the County.
- d. Professional services regulated by CCNA may be acquired through RFQs provided that the requirements of Section 12 of this Manual are met.

## **SECTION 11 – SPECIALTY CONSTRUCTION PROCUREMENTS**

When determined by the County Administrator to be in the best interest of the County, the following specialty construction procurements allowed by Florida law may be utilized:

1. Prequalification and Shortlisting
2. Continuing Contracts for Construction Projects
3. Design-Build
4. Construction Management

### **11.1 PREQUALIFICATION AND SHORTLISTING**

- a. The County may utilize a two-step process in selecting contractors for standard design-bid-build delivery, using either prequalification or shortlisting as an initial step to select a pool of bidding or proposing contractors that are, in the County's sole discretion, appropriately qualified to perform the proposed work.
1. Pre-qualification is a method of procurement where prospective bidders or proposers are initially evaluated on a pass-fail basis to determine whether they possess the requisite qualifications necessary to perform the work. **(Note:** Projects involving the construction or improvements of bridges, roads, streets, highways or railways and services incidental thereto, at a cost exceeding \$250,000, the County shall follow the special prequalification rules set forth in Section 255.20(1)(a) and (b) of the Florida Statutes).
  2. Shortlisting is a method of procurement where prospective bidders or proposers are initially evaluated, comparatively, to determine which bidders or proposers are the most qualified, in the County's sole discretion, to perform the work.
- b. The County shall follow the procedures set forth in Section 10 of this Policy Manual in issuing an RFQ to obtain Statements of Qualification from interested proposers. On receipt of Statements of Qualification, the County, through an appointed Selection Committee, shall evaluate the Statements as follows:
1. In the pre-qualification method, the Selection Committee shall render pass-fail determinations to arrive at a pool of contractors that meet all of the qualifications criteria set forth in the RFQ, and reject all contractors that fail to meet the qualifications criteria.
  2. In the shortlisting method, the Selection Committee shall comparatively evaluate proposers, in accordance with the qualifications criteria set forth in the RFQ, to arrive at a pool of the most highly qualified contractors eligible to bid or propose on the work.

3. The Selection Committee may require presentations or interviews as part of the evaluation process. The Selection Committee shall use best efforts to arrive at a shortlist or prequalification list of no less than three qualified contractors, if reasonably possible.
  4. Only those contractors that are prequalified or shortlisted shall be issued bid or proposal documents and be permitted to bid or propose on the work.
- c. Following the initial step of constituting a prequalification list or shortlist of eligible contractors, the County shall initiate the next step in the procurement process and final award as follows:
1. The County may request sealed bids in accordance with the ITB procedure set forth in Section 8 of this Policy Manual, to make award to the lowest, responsive bidder; or
  2. The County may request proposals in accordance with the RFP procedure set forth in Section 9 of this Policy Manual, where award shall be made to the most advantageous proposal based on the criteria and standards set forth in the proposal documents, which criteria may include price, schedules and technical or design aspects of the project, weighted as set forth in the proposal documents.

## 11.2 CONTINUING CONTRACTS FOR CONSTRUCTION PROJECTS

- a. Continuing contracts for construction projects (hereinafter "Continuing Contracts") are contracts with a Contractor, as defined by Section 255.103 of the Florida Statutes, for work during a defined period on construction projects described by type rather than specifically identified ("Continuing Contractor"). Continuing Contracts shall involve a base form contract for a period no greater than five (5) years, generally outlining the types of work or projects. Specific work awarded under a Continuing Contract shall be by work authorization or contract addendum.
- b. The estimated value of any construction work awarded by addendum or work authorization shall not exceed \$2 million, unless other exceptions under Section 255.20 of the Florida Statutes apply. The County shall competitively negotiate each such award for a contract sum that it determines is fair, competitive and reasonable. If the County selects a pool of Continuing Contractors, it may bid each work authorization or addendum among the pool, with an award being made to the lowest, responsive bidder.
- c. The County shall procure Continuing Contractors in accordance with Section 255.103 and 287.055 of the Florida Statutes, and the general Request for Qualifications Procedure set forth in Section 10 of this Policy Manual.
- d. Following the submission of Statements of Qualification, a Selection Committee appointed by the County Administrator shall shortlist no fewer than three (3) proposers, if reasonably possible, based on the following minimum criteria ("CCNA Factors"):
  1. Ability of construction personnel;
  2. Whether a firm is a certified minority business enterprise;
  3. Past performance (on County projects or comparable projects for others, and may include an assessment of claims history);
  4. Experience;

5. Willingness to meet time and budget requirements;
6. Location;
7. Recent, current and projected workloads; and
8. The volume of work previously awarded to proposer, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selecting the most highly qualified.

The Selection Committee shall conduct discussions with, and may require presentations by, the shortlisted proposers. Following discussions and presentations, the Selection Committee shall select in order of preference (i.e., a ranking) no fewer than three (3) proposers, if reasonably possible, deemed to be the most highly qualified to provide the advertised services.

### 11.3 DESIGN-BUILD

- a. Design-Build is an integrated project delivery method where architectural, engineering and construction services are awarded to a Design-Build Firm under a single contract procured in accordance with the requirements of the Consultants' Competitive Negotiation Act ("CCNA"), Section 287.055 of the Florida Statutes, and the requirements of this Policy Manual Section.
- b. A "Design-Build Firm", as defined by the CCNA, is a partnership, corporation, or other legal entity which:
  1. Is certified under Florida Statutes 489.119 to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or
  2. Is certified under the relevant provisions of Florida Statutes 471.023, 481.219, 481.319, to practice or offer to practice engineering, architecture, or landscape architecture, respectively.
- c. The County shall follow the Design-Build procedures in accordance with the CCNA to award Design-Build contracts, which include a qualifications-based selection procedure or a competitive proposal procedure, as set forth in Section 287.055 (9) of the Florida Statutes. The County Administrator will determine which procurement procedure will be used to award a Design-Build contract.
  1. If the County elects to use a qualifications based selection process for Design-Build Firms, it shall follow the procedures set forth in Section 10 of this Policy Manual and CCNA Sections 287.055 (3) – (5).
  2. If the County elects to use the competitive proposal process for the selection of Design-Build Firms, the County must comply with the minimum requirements of the CCNA, as follows:
    - i. A Design Criteria Professional, selected in accordance with the requirements of the CCNA, will prepare and seal a Design Criteria Package in order to furnish sufficient information to allow Design-Build Firms to prepare a Bid or Proposal for the Project. The Design Criteria Professional and their sub-consultants will not be eligible to provide design services under any Design-Build Contract executed pursuant to the Design Criteria Package.

- a. A “Design Criteria Professional” means a firm who holds a current certificate of registration under chapter 481 to practice architecture or landscape architecture or a firm who holds a current certificate as a registered engineer under chapter 471 to practice engineering and who is employed by or under contract to the agency for the providing of professional architect services, landscape architect services, or engineering services in connection with the preparation of the design criteria package.
  - b. A “Design Criteria Package” means concise, performance-oriented drawings or specifications of the public construction project. The purpose of the design criteria package is to furnish sufficient information to permit design-build firms to prepare a bid or a response to a request for proposal, or to permit an agency to enter into a negotiated design-build contract. The design criteria package must specify performance-based criteria for the public construction project, including the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, and parking requirements applicable to the project.
- ii. The Selection Committee shall initially qualify and shortlist no fewer than three Design-Build Firms, if reasonably possible, based on the qualifications, availability, and past work of the Design-Build Firms, including the partners or members thereof. The County may also specifically consider the Design-Build Firm’s past performance on County Projects, including whether the past Projects resulted in any litigation, whether the past Projects were completed on time, within budget, and without an unreasonable number or amount of claims and whether the Design-Build Firms timely paid its subcontractors and suppliers. The County may also consider whether:
- a. The Design-Build Firms have breached any contract with the County or any other public agency;
  - b. Whether liquidated damages have ever been assessed against the Design-Build Firms;
  - c. Whether the Design-Build Firms properly participated in any required mediation or dispute review board procedures; and
  - d. The overall satisfaction with the Design-Build Firm’s compliance with the contract requirements.
- iii. Only those Design-Build Firms shortlisted in accordance with the procedures set forth herein, shall be permitted to submit a bid or proposal for the Project.
- iv. Before soliciting bids or proposals for the Project, the County will establish the criteria, procedures and standards by which all bids or

proposals submitted by Design-Build Firms for the Project will be evaluated. These standards will include, but are not limited to, price, technical merit and design aspects, weighted for the proposed Project. Any bid or proposal submitted by a Design-Build Firm must meet the criteria specified in the Design Criteria Package.

- v. If the Design-Build evaluation is based on assignment of a "Numeric Score" based on a scoring of the evaluation criteria, the Selection Committee will determine the "Numeric Score" and recommend award to the qualified and responsive proposer with the lowest "adjusted score." The adjusted score will typically be the total price divided by the total numeric score, as defined in the bid or proposal documents.

#### 11.4 CONSTRUCTION MANAGEMENT

- a. Construction Management is a project delivery methodology whereby the County enters into a contract with a contractor to provide construction and pre-construction services for a project, including design and constructability reviews, scheduling and estimating. Construction Management may be on the preferred method of "at risk" where the contractor holds the trade contracts (i.e., subcontracts), or "at agency" where the County holds the trade contracts and the Construction Management firm is responsible for coordinating, supervising and managing the construction project. Any "at risk" Construction Management contract should be on a Guaranteed Maximum Price basis; any "at agency" Construction Management contract should be on a lump sum basis.
- b. Construction Management firms may be procured on a qualifications basis or through competitive proposals.
  - 1. If the County elects to use a qualifications based selection process for Construction Management firms, it shall follow the procedures set forth in Section 10 of this Policy Manual and the CCNA, Sections 287.055 (3) – (5).
    - A. The qualifications criteria for evaluation shall include, but not be limited to, the following:
      - a. The experience of the CM and its professional personnel;
      - b. The CM's project approach for preconstruction and construction;
      - c. Whether the CM is a certified minority business enterprise (and/or the proposed level of certified minority and/or small business enterprise participation);
      - d. Past performance;
      - e. Experience;
      - f. Willingness to meet time and budget;
      - g. Location
      - h. Recent, current and projected workloads; and
      - i. The volume of work previously awarded to each CM, with the object of effecting an equitable distribution of contracts among qualified contractors, provided such distribution does not violate the principle of selection of the most highly qualified CM.
    - B. The evaluation of past performance may include such factors as:

- 1) Whether past projects were completed on time, within budget, and without an unreasonable number or amount of claims;
  - 2) Whether the CM timely paid its subcontractors, subconsultants and suppliers;
  - 3) Whether the CM has breached any contract with the County or any other public agency, or has been termination for cause of convenience;
  - 4) The County's overall satisfaction with the CM's current and past compliance with its contractual requirements.
- C. The Selection Committee shall evaluate Statements of Qualification submitted by interested Construction Management firms to arrive at a shortlist of the most highly qualified CMs based on the evaluation criteria set forth in the proposal documents and this Policy Manual. The Selection Committee shall require interviews, and may require public presentations, from each CM on the shortlist, and thereafter prepare a recommended ranking, in order of preference, of no fewer than three CMs (where reasonably possible), deemed to be the most highly qualified to perform the advertised services.
- D. The County shall thereafter negotiate a contract with the top ranked firm at compensation that the County determines is fair, competitive and reasonable. Should the County not reach a contract with the top ranked firm, it shall terminate negotiations, and then proceed in order of ranking until a contract is reached or the County elects to terminate the procurement.
2. If the County elects to use a competitive proposal selection process for Construction Management firms, the County shall follow a two-step process, commencing with a qualifications-based shortlist following the procedures outlined in Section 1(A) above. The County shall thereafter issue a Request for Proposal to the shortlisted CMs, setting forth the criteria and procedures by which all proposals will be evaluated. These criteria may include but are not limited to, price components (such as preconstruction services fees, general conditions, profit/fee and insurance rates), schedule, technical design aspects, preconstruction services plan, project approach, and small and minority business participation goals. The basis of award, whether it be price-driven (i.e., bids) or based on scoring of all criteria, shall be set forth in the RFP.

## **SECTION 12 - RESOLUTION OF SOLICITATION AND PROPOSED AWARD PROTESTS**

### **12.1 RIGHT TO PROTEST**

Any actual or prospective bidder or offeror who believes he is aggrieved in connection with the solicitation or proposed award of a contract may file a written protest with the County Administrator or designee. The protest shall be submitted in writing within twenty-four (24) hours, not including Saturdays, Sundays or County closings, after such aggrieved person knows or should have known the facts giving rise to the alleged grievance.

### **12.2 RESOLUTION OF PROTESTS**

- a. The County Administrator or designee shall consult with the County Attorney concerning any protest involving the solicitation or prospective award of a contract bid. Following consultation with the County Attorney, the County Administrator or designee shall attempt to resolve the protest.

- b. If the protest is not resolved by mutual agreement, a written decision on the protest shall be issued by the County Administrator after consultation with the County Attorney. Copies of the written decision will be mailed to the protesting vendor and any other vendor requesting a copy. The written decision shall:
  1. State the reasons for the decision.
  2. Inform the protesting vendor of his right to administrative review.
- c. The protesting vendor may appeal the decision of the County Administrator to the Board by filing a written petition of appeal with the County Administrator within 24 hours of the date of the decision, not including Saturdays, Sundays and County closings.
- d. The Board of County Commissioners shall review the petition at a public meeting within thirty (30) calendar days from the date of filing the appeal. The protesting vendor and the vendor who was recommended for award by the selection committee shall be provided reasonable notice of the time, date, and place of the public meeting by certified mail, return receipt requested, and invited to attend.
- e. Testimony at the public meeting shall be limited to ten (10) minutes per side, unless an extension of time is granted by the Board. Copies of the decision of the Board shall be distributed to the protesting vendor and any other party intervening.

### 12.3 STAY OF PROCUREMENT DURING PROTESTS

In the event of a timely protest, the County shall not proceed further with the solicitation or award of the contract pending resolution of the protest or determination by the Board of County Commissioners that award of the contract must be made without further delay in order to protect the substantial interests of the County.

## **SECTION 13 - PROFESSIONAL AND OTHER SERVICES**

### 13.1 COMPETITIVE NEGOTIATIONS POLICY

Because price differences may only be a minor consideration compared to the quality of the professional's work, professional services are exempted from the County's quotation, Invitation to Bid or Request for Proposal policies. Instead, professional services will be acquired through competitive negotiations. The Professional Services procedure described below also insures that the County complies with Section 287.055, Florida Statutes, known as the Consultant's Competitive Negotiation Act (CCNA).

### 13.2 PROFESSIONAL SERVICES DEFINITION

A Professional Service is assistance obtained in support of County operations from a consultant in a professional field. Services in the following fields are considered Professional Services:

- a. Medical Services - medicine, psychiatry, dental, hospital, and other health professionals.
- b. Legal Services - attorneys, including bond counsel, title insurance and services, and other legal professionals or experts.
- c. Financial Services - rating and underwriting, financial advisor, investment related or other financial services.
- d. Appraisal Services - real and personal property appraisers.
- e. Audit and Accounting Services - auditors and accountants.

- f. Consultants - Planning, Management or Scientific Consultants.
- g. Professional Services Regulated by the CCNA, as may be amended from time to time, including those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the State of Florida, or those Professional Services performed by any architect, professional engineer, landscape architect, or registered surveyor or mapper in connection with his or her employment or practice.

### 13.3 AUTHORIZATION TO OBTAIN PROFESSIONAL SERVICES

- a. Legal Services - All requests for outside legal services shall be approved by the County Attorney within the amount budgeted for professional legal services by the Board.
- b. Auditor Services - All requests for Auditor Services will be referred to the Auditor Selection Committee established pursuant to Section 11.45, Florida Statutes, and as amended from time to time. Negotiations for such services shall be conducted as described therein.
- c. Financial Services - All requests for financial services to include rating and underwriting, financial advisor, investment related and other financial services shall be approved by the Board.
- d. Authorization for obtaining the services listed below shall be approved by the County Administrator. The County Administrator is authorized to execute all professional services contracts listed below, for a total fee of \$50,000 or less. When the total fee is expected to exceed \$50,000, the County Administrator may require the user Department requesting the services to prepare an RFQ, RFP, utilize an existing continuing contract or seek Board approval of the recommended vendor(s).
  - 1. Appraisal Services - real and personal property appraisers
  - 2. Consultants - Planning, Management or Scientific Consultants
  - 3. Medical Services – medicine, psychiatry, dental, hospital, and other health professionals.
- e. Authorization for requests for all CCNA professional services must be reviewed and approved by the County Administrator. Selection of firms to provide these services must follow Section 287.055, Florida Statutes, known as the Consultant’s Competitive Negotiation Act (CCNA) and selection policy listed below.

### 13.4 CCNA PROFESSIONAL SERVICES

CCNA professional services shall be selected through the Request for Qualifications process. Per Florida Statutes, a continuing contract work authorization for CCNA professional services may be utilized if the total fee for a planning or study activity is \$200,000 or less or if the basic construction costs are not expected to exceed \$2,000,000.

- a. The RFQ shall be consistent with the requirements in Section 10 of this Manual.
- b. In addition, a statement that the proposer shall not include proposed compensation as part of the proposal or that proposed compensation shall be provided in a separate sealed package. Such proposals for compensation will only be considered during competitive negotiations.

### 13.5 COMMUNITY DEVELOPMENT BLOCK GRANT (“CDBG”) PROFESSIONAL SERVICES PROCUREMENT PROCEDURE

The County shall adhere to federal regulations governing Community Development Block Grant (“CDBG”) funds, when obtaining professional services for CDBG.

### 13.6 OTHER SERVICES - SPECIALIST, VENDOR AND SPEAKER AGREEMENTS

- a. The County Administrator is authorized to enter into agreements for other services through specialist, speaker, event vendor and exhibitor agreements. The form of the agreement shall be approved by the County Attorney. Limitations regarding signature authority apply to these agreements.
- b. Excluding services covered by the CCNA, specialist agreements may be utilized for projects or services that require a level of skill or knowledge that cannot be readily obtained through temporary hiring and/or funding of a permanent position is not required or feasible. Examples include project managers, grant writers, event planning or provision of recreational programs.
- c. Specialists are considered independent contractors. However, background screening will be conducted in accordance with County policy.
- d. Speaker agreements may be utilized for presentations to the general public, County-sponsored special events and related activities. Background screening is not required if staff will be present at all times and presentations are limited to a specific event or program.
- e. Vendor and exhibitor agreements may be utilized for County-sponsored events. Background screening is not required if staff will be present at all times and services are limited to a specific event or program.

#### **SECTION 14 - MINORITY BUSINESS PARTICIPATION**

All contractors are encouraged to assist Florida's small and minority businesses in doing business with the Board. Each contractor in assisting small and minority businesses will help to expand and develop the small and minority business sector of St. Lucie County.

##### **14.1 DEFINITIONS**

- a. "Certified Minority Business Enterprise" means a business enterprise which has been certified by the State of Florida Department of Management Services as a minority business enterprise in accordance with the provisions of the "Small and Minority Business Assistance Act of 1985".
- b. "Minority Business Enterprise" means any small business concern which is organized to engage in commercial transactions, which is domiciled in Florida, and which is at least fifty-one percent (51%) owned by minority persons, and whose management and daily operations are controlled by such persons. A minority business enterprise may primarily involve the practice of a profession.
- c. "Minority Person" means a lawful permanent resident of Florida who is:
  - 1. A Black American - a person having origins in any of the Black racial groups in Africa.
  - 2. A Hispanic-American - a person of Spanish or Portuguese culture, with origins in Mexico, South America, Central America, or the Caribbean, regardless of race.
  - 3. An Asian American - a person having origins in any of the original people of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Island, including the Hawaiian Islands prior to 1778.
  - 4. A Native American - a person who having origins in any of the Indian Tribes of North America prior to 1835.
  - 5. An American woman.
- d. "Small Business" means an independently owned and operated business concern which employs fifty (50) or fewer full-time employees, and which has a net worth of not more than one million dollars (\$1,000,000). As applicable to sole proprietorships, the one million dollars (\$1,000,000) net worth requirement shall include both personal and business investments.

## 14.2 COUNTY SELECTION PROCEDURES

- a. The County shall make a good faith effort to provide interested minority business enterprises or minority persons with adequate information about the plans, specifications and requirements of contracts or the availability of jobs;
- b. The County shall make a good faith effort to effectively use services and resources of available minority community organizations, minority contractors' groups, local, state, and federal minority business assistance officers, and other organizations that provide assistance in the recruitment and placement of minority business enterprises or minority persons; and
- c. The County shall make a good faith effort to provide written notice to a reasonable number of minority business enterprises that their interest in contracting with the County is being solicited in sufficient time to allow the minority business enterprises to participate effectively.

## 14.3 MINORITY BUSINESS ENTERPRISE (MBE) DIRECTORY

The Minority Business Enterprise (MBE) Directory for the County shall be the vendors list of certified minority business enterprises prepared and maintained by the State of Florida Department of Management Services pursuant to Section 287.0943, Florida Statutes. In addition, any business which the Small Business Administration has identified as an 8(a) firm shall be eligible for listing in the Directory. The purpose of this Directory is to enable the County's prime contractors to identify and utilize minority business enterprises.

## **SECTION 15 - VENDOR PERFORMANCE EVALUATIONS AND DEBARMENT**

### 15.1 VENDOR EVALUATIONS

- a. The County Administrator shall provide written procedures for evaluation of vendor performance. Such evaluations shall be performed within 30 days of close out of the project by the project manager and Director or Manager of the user department. Evaluations shall be mandatory for all construction projects that are equal to or greater than \$250,000 and for all contracts issued through RFPs or RFQs. At the Department Director's discretion, vendor evaluations may be completed at any time, regardless of amount, to document excellent or poor performance.
- b. The vendor shall be provided a copy of the evaluation and may submit a written statement concerning the evaluation. The procedures shall also provide a process whereby the vendor may enter into an agreement with the County Administrator or designee for an opportunity to improve performance on future County projects.
- c. Prior evaluations will be provided to selection committees or user departments when considering vendor/contractor performance for purposes of awarding a contract, bid or quote.

### 15.2 DEBARMENT

For the purposes of this policy, debarment means that a vendor is prohibited from submitting quotations, bids or proposals to perform work for St. Lucie County.

- a. Cause for Debarment. The causes for Debarment include:
  1. Entry of a plea of guilty, no contest or nolo contendere to or 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 performance of such contract.

2. Entry of a plea of guilty, no contest or nolo contendere or conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, or receiving stolen property, or any other offense indicating lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a County contractor.
3. Entry of a plea of guilty, no contest or nolo contendere or conviction under state or federal anti-trust statutes arising out of submission of bids or proposals.
4. Violation of any contract provision or as set forth below and which is regarded by the County Administrator as cause for Debarment, including but not limited to:
  - i. Failure without good cause to perform in accordance with specifications or within the time limits provided in the contract;
  - ii. A record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts within the previous three (3) years; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for Debarment;
  - iii. Refusal to enter into a contract with the County by failing to provide bonds, insurance, or other required certificates within the time periods as specified in bid/RFP response;
  - iv. Falsification of records related to contract performance, costs, payments or required documentation;
  - v. Refusal to accept a purchase order, agreement or contract, or to perform thereon, provided such order was issued timely and in conformance with the offer received;
  - vi. Presence of principals or corporate officers in the business or concern who were principals within another business at the time when the other business was suspended within the last three (3) years under the provisions of this section;
  - vii. Violation of the ethical standards set forth in state law;
  - viii. Providing anything of value, including but not limited to, a gift, loan, reward, promise of future employment, favor or service to any employee to influence the award of contract or purchase of items from a contract;
  - ix. Failure to timely pay subcontractors and vendors; and/or
  - x. Any other cause the County Administrator determines to be so serious and compelling as to affect the credibility as a County vendor, including debarment by another government entity for any cause listed in this section.
- b. The period of Debarment shall be for a period of no less than one (1) and no more than three (3) years unless modified by the Board.
- c. The County Administrator or designee shall notify the vendor of the intent to debar and the basis for the decision. Unless extended by the County Administrator in writing, the vendor shall have ten (10) calendar days from the date of the notice to provide the County Administrator with a response and reasons why the debarment should not proceed.
- d. Within thirty (30) calendar days from the date of the response, the County Administrator shall render a final decision on the debarment of the vendor after consultation with the County Attorney. Nothing in this procedure shall preclude the County Administrator or designee from meeting with the vendor regarding the debarment.

- e. An aggrieved party may appeal the decision of the County Administrator to the Board. Such appeal shall be a hearing de novo. An appeal shall be filed within thirty (30) days of the execution of the written decision by the County Administrator.
- f. The Board's decision to debar a person or business shall be final and conclusive unless a timely appeal of the Board's decision is filed pursuant to the Florida Rules of Appellate Procedure.
- g. Reinstatement. A person or corporation may be reinstated to do business with the County under the following conditions:
  - 1. Discovery of new and material evidence not previously available.
  - 2. Dismissal of indictment or reversal of condition.
  - 3. Bona fide change in ownership or management sufficient to justify a finding of present responsibility
- h. The request for reinstatement shall be forwarded in writing to the County Administrator or designee. The County Administrator shall render the decision in writing within thirty (30) days from the receipt of the request for reinstatement.
- i. An appeal of the County Administrator's decision shall be filed within thirty (30) days of the execution of the written decision by the County Administrator. The Board's decision to reinstate or not reinstate a person or business shall be final and conclusive, unless a timely appeal of the Board's decision is filed pursuant to the Florida Rules of Appellate Procedure. The decision of the County Administrator may be appealed to the Board.
- j. In calculating the number of days for purposes of this section, Saturdays, Sundays and County closings shall not be included.

**SECTION 16 - PROCUREMENT PROCEDURES FOR STATE OR  
FEDERALLY FUNDED GRANT PROGRAMS**

**16.1 APPLICATIONS**

The County Administrator shall approve all applications for state, federal and other grants after confirming that matching funds, if required, are available and reserved. The County's ability to fund any ongoing costs of a potential grant, including personnel, operating and maintenance, shall be considered as early as possible in the application process but no later than prior to acceptance of an award.

**16.2 ACCEPTANCE**

Upon notice of grant award, the County Administrator or designee shall submit the grant to the Board for acceptance and for approval of the associated budget resolution if required. Confirmation of the availability of matching funds and the County's ability to fund maintenance, operational and other ongoing costs (if any) shall be provided to the Board.

**16.3 PROCUREMENT**

The Board recognizes that certain procurement requirements for state or federally funded grant programs may, from time to time, conflict with standard St. Lucie County policies. The County Administrator, therefore, is authorized to modify County procurement policies in order to comply with procurement requirements for state or federally funded grant programs.

All Procurement funded by Community Development Block Grants shall follow the Procurement Policies and Procedures for Community Development Block Grant Programs and Projects included as Attachment A of the St. Lucie County Purchasing Manual.

## **SECTION 17 – CONTRACT PROCEDURE**

### **17.1 CONTRACT REQUIREMENTS**

For purchasing purposes, a contract is a formal written agreement between the Board and a selected vendor, consultant, or contractor for a particular purchase.

- a. A contract is required for:
  1. Professional services as described in Section 13
  2. All construction projects as described in Section 19
  3. Purchase, sale or lease of County-owned property or purchase, sale or lease of property by the County. Unless otherwise required by the County Attorney, the approved Facility Use Agreement is the acceptable form for short-term use of County facilities.
  4. All services which are to be performed on property owned or controlled by St. Lucie County or performed on behalf of the County on property not owned by the County.
- b. Unless required by the County Administrator or County Attorney, a purchase order shall serve as the contract for services of \$25,000 or less.
- c. A contract may be required for any other particular purchase, if deemed necessary by the County Administrator, the County Attorney, or the Board.
- d. A contract may be entered into if required by the vendor.
- e. Unless specifically required by the Board, County Administrator, or County Attorney, purchases of goods or equipment which do not include any associated services, such as installation, do not require a contract apart from the purchase order.
- f. Upon approval by the County Attorney, liquidated/delay damages may be incorporated into Professional Services contracts.

### **17.2 CONTRACT PREPARATION**

Unless prepared by the vendor, or as provided for below, all required contracts will be prepared under the direction of the County Attorney. If a contract is prepared by the vendor, the contract must be submitted to the County Attorney for review and approval. The County's Risk Manager should be consulted to insure that the proper insurance requirements are included in the contract documents.

- a. Service contracts of \$25,000 or less
  1. Unless otherwise required by the County Attorney or the County Administrator, a purchase order for services shall serve as the contract between the County and the vendor for services costing \$25,000 or less. At a minimum, all purchase orders must contain the following terms and conditions as they may be amended by the County Attorney.
    - i. A statement in conspicuous print which provides that the purchase order is subject to all of the terms and conditions and that the vendor, by acceptance of the purchase order, agrees to be bound by and abide by all of the terms and conditions of the purchase order.
    - ii. A condition that provides a warranty by the vendor.
    - iii. A condition that the vendor agrees to indemnify the County for any liability arising out of the service provided under the purchase order and a condition that the vendor will maintain insurance sufficient to protect the interests of the County. The amounts and types of

insurance shall be provided by the County Risk Manager. No work shall be performed under the purchase order until the vendor has provided proof of insurance to the County.

### **17.3 CONTRACT AMENDMENTS**

- a. If it becomes necessary to amend the terms of the contract, a formal, written contract amendment must be prepared.
- b. The County Administrator is authorized to approve contract, grant or other agreement amendments up to a cumulative total of \$50,000 or less following written confirmation by the user department that additional funds are available.
- c. The County Administrator is authorized to approve contract, grant or agreement amendments for time extensions.

## **SECTION 18 - CONTINUING CONTRACTS AND WORK AUTHORIZATIONS**

### **18.1 CONTINUING CONTRACTS**

- a. Per Florida Statute 287.055, continuing contracts may be utilized for professional services in which construction will not exceed \$2,000,000 and for studies which will not exceed \$200,000 or when it is for work of a specified nature as set forth in the continuing contract.
- b. Requests for Qualifications or Requests for Proposals for continuing services contracts shall be reissued every three to five years unless waived by the Board.

### **18.2 WORK AUTHORIZATIONS**

- a. Work authorizations shall be required for all continuing services contracts as determined by specific contract language. All work authorizations shall be approved and signed by the appropriate signing authority.
- b. All work authorizations for more than \$50,000 will be prepared under the direction of the County Attorney and approved and executed by the Board.

### **18.3 AMENDMENTS TO WORK AUTHORIZATIONS**

- a. If it becomes necessary to amend the terms of the work authorization, a formal, written amendment must be prepared. The County Administrator may approve amendments to work authorizations for a cumulative total of \$50,000 or less.
- b. The County Administrator may also approve time extension amendments to work authorizations.

## **SECTION 19 - CONSTRUCTION CONTRACTS**

### **19.1 CONSTRUCTION CONTRACTS AND AMENDMENTS**

- a. Construction contracts shall comply with all Board policies for contracts with additional appropriate conditions as approved by the County Attorney. Per F.S. 255.20, construction contracts are to be utilized when a public entity contracts to construct or improve a public building, structure or other public construction works.
- b. Change orders are utilized to amend construction contracts when only time and/or price is involved. All other amendments to construction contracts must be accomplished through a contract amendment

and approved by the original signing authority. For purposes of contract amendments, scope of work for construction contracts generally is defined to include any work that is required to construct the project.

- c. Construction contracts will be awarded only to a contractor who is certified or licensed by the County and/or State, as appropriate, and has provided proof of insurance in amounts satisfactory to the County.
- d. Except as provided in (e), the County Administrator is authorized to approve change orders or contract amendments up to a cumulative total of \$50,000.
- e. Construction contracts may include a project contingency up to 10% of the contract amount. Use of funds from the project contingency shall be approved by the County Administrator or designee. When the cumulative total of change orders or contract amendments exceeds the contract contingency, additional change orders or contract amendments, other than time extensions, must be approved by the Board.
- f. The County Administrator is authorized to approve time extensions.
- g. In case of emergency and/or when a delay will result in potential work stoppage or additional costs to the County as a result of the delay, the Director may seek approval from the County Administrator to proceed with the work. If Board approval of the change order or contract amendment is required, it may be processed after-the-fact at the next available Board meeting.

## 19.2 APPRENTICESHIP PROGRAM REQUIREMENTS

Contractors shall be required to comply with the County's Apprenticeship Program, as follows:

- a. On County-funded construction projects which exceed \$300,000, twenty percent (20%) of laborers working in a specialty for which there are apprentice programs registered with the County shall be apprentices. Such apprentices shall be students in certified State of Florida Pre-Apprenticeship/Apprenticeship Programs which are located in St. Lucie, Martin, Indian River or Okeechobee Counties and which are registered with the County.
- b. A County-registered apprenticeship program is one which has registered with the County and provided the required documentation, including but not limited to, proof of certification as an apprenticeship program with the State of Florida and proof of having educational facilities physically located in St. Lucie, Martin, Indian River or Okeechobee Counties.
- c. Unless the apprenticeship requirement is waived by the County, the failure of the Contractor to demonstrate compliance with this requirement shall result in the Contractor's bid being deemed nonresponsive.
- d. The apprentice requirement may be waived or modified with the recommendation of the County Administrator, and appeal to the Board of County Commissioners:
  - 1. Upon request of the contractor, if the contractor can demonstrate that the required apprentices are not available despite a good faith effort on the contractor's part; or
  - 2. Upon request of the contractor, if the contractor demonstrates that the available apprentices are not sufficient to meet the required 20% and the contractor commits to utilizing a specific percentage of apprentices who are available; or
  - 3. if the County determines it is in the best interests of the County to waive such requirement based on potential savings of money and time or grant requirements.

- e. The agreed upon percentage and type of apprentices will be included as a requirement of the construction contract. Failure to meet the terms of the apprenticeship requirement may result in the contractor being found in breach of the contract and subject to possible monetary sanctions.

### 19.3 BONDING AND INSURANCE REQUIREMENTS

#### Public Construction Bond

- a. Section 255.05, Florida Statutes, provides that any person entering into a formal contract with the Board for the construction or repair of any public building or public work shall be required to execute the usual Penal Bond with good and sufficient sureties. Section 255.05, Florida Statutes, further provides that the Board, in its discretion, may exempt any person entering into a contract that is for \$200,000 or less from executing the usual penal bonds for construction and repair on public buildings and public work.
- b. The Board has determined to not require a public construction bond for projects under \$100,000 unless deemed necessary by the County Administrator or designee. Requests for waiver of the bond requirements from \$100,000 up to \$200,000 shall be reviewed and approved by the County Administrator on a case-by-case basis.

#### General Insurance Requirements

- a. The contractor shall be required to purchase and maintain such insurance as will protect him or her from claims set forth below that may arise out of or resulting from the contractor's operations under the contract, whether such operations be by the contractor or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable for:
  - 1. Claims under Workers' or Workmen's Compensation, Disability Benefit, and other similar employee benefit acts;
  - 2. Claims for damages because of bodily injury, occupational sickness or disease, or death of the contractor's employees;
  - 3. Claims for damages because of bodily injury, sickness or disease, or death of any person other than the contractor's employees;
  - 4. Claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the contractor, or (2) by any other person;
  - 5. Claims for damages, other than to the work itself, because of injury to or destruction of tangible property, including loss of use resulting there from; and;
  - 6. Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.
- b. The insurance required shall be written for not less than any limit of liability specified in the contract documents, or required by law, whichever is greater. The insurance required shall include contractual liability insurance applicable to the contractor's obligations.
- c. The contractor shall purchase and maintain property insurance upon the entire work at the site to the full insurable value (replacement cost). This insurance shall include the interest of the County, the contractor, subcontractors and sub subcontractors in the work and shall be insured following the Basic Causes of Loss form and shall include "all risk" insurance for physical loss and damage including, without duplication of coverage, theft, vandalism, and malicious mischief. If the County is damaged by failure of the contractor to purchase or maintain such insurance and to so notify the County, then the contractor shall bear all reasonable costs properly attributable thereto. If not covered under the all risk insurance or otherwise provided in the contract documents, the contractor shall

effect and maintain similar property insurance on portions of the work stored off the site or in transit when such portions of the work are to be included in an application for payment.

- d. The contractor shall file with the County certificates of insurance acceptable to the County prior to commencing the work. If the contract exceeds \$50,000, the certificate shall name St. Lucie County, its officers and employees as additional insureds with respect to the work performed under the contract. These certificates shall contain a provision that coverages afforded under the policies will not be canceled until at least thirty (30) days prior written notice has been given to the County.

#### **19.4 RETAINAGE FOR CONSTRUCTION CONTRACTS**

- a. Retainage for construction contracts shall be governed by F.S. 218.70, known as the Local Government Prompt Payment Act, as it may be amended, which contains specific language regarding the timing and conditions under which retainage must be released.
- b. The term "50% completion" shall be defined in each contract.

#### **19.5 CLOSE OUT OF CONSTRUCTION CONTRACTS**

- a. Construction contract projects other than public roads will be closed out after a Certificate of Occupancy has been issued (if applicable), certification by an architect or engineer that construction has been completed in accordance with the construction plans and specifications and acceptance by the County project manager. At the discretion of the project manager, the contractor may be required to provide a consent of surety before any progress payment, including the final payment.
- b. Construction contracts for public road projects shall be considered complete upon acceptance by the Board and certification by an engineer that construction has been completed in accordance with construction plans and specifications. Such acceptance shall provide for release of construction retainage. At the discretion of the project manager, the contractor may be required to provide a consent of surety before any progress payment, including the final payment.
- c. Final payment and release of retainage shall not occur until close out has been completed and all liens have been released.

### **SECTION 20 - EMERGENCY PURCHASES**

#### **20.1 EMERGENCY PURCHASE POLICY**

Although competitive bidding is desirable for most purchases, when an Emergency arises, the normal procedure is too time consuming. For this reason, the County has adopted an Emergency Purchases Procedure.

#### **20.2 DEFINITION OF AN EMERGENCY**

For purchasing purposes, an Emergency is defined as: an unforeseen situation involving a breakdown of County service and an urgent need to restore that service to avoid serious and adverse consequences affecting the life, health, welfare, or property of the citizens of St. Lucie County.

#### **20.3 EMERGENCY PURCHASE AUTHORIZATION**

Emergency Purchases are authorized when there is an Emergency, and there is an immediate need for items or services to deal with the Emergency.

- a. In an Emergency situation, the County Administrator may authorize an Emergency Purchase and waive any bid requirement.
- b. If the Emergency occurs at night, on weekends, or on holidays, the Department Director may initiate independent action as provided below.

#### 20.4 EMERGENCY PURCHASE OVER AUTHORIZATION LIMIT

The Department Director must attempt to obtain the authorization of the County Administrator or designee for emergency purchases which exceed the Director's authorization limit.

- a. After attempting to obtain authorization from the County Administrator or designee, the Department Director may make the purchases of the needed items or services.
- b. If the Department Director was unable to obtain prior authorization, the Department Director will obtain from the County Administrator or designee "after the fact" approval of the purchase on the next working day.
- c. If the emergency purchase exceeds the County Administrator's authorization limit, the County Administrator will request "after the fact" approval from the Board of County Commissioners at its next regular scheduled meeting.

### **SECTION 21 - TRAVEL AND EDUCATIONAL EXPENSES**

#### 21.1 TRAVEL AND EDUCATIONAL REIMBURSEMENTS

- a. When County officials or employees spend their personal resources for travel or education, which is in the course of County business or in support of a County purpose, such officials and employees may be reimbursed for such expenses from County funds.
- b. Employees using personal vehicles for County business and travel are liable for accidents while driving to and from work or for any use not related to County business. Proof of liability insurance must be provided to utilize personal vehicles for County business and travel.

#### 21.2 LOCAL TRAVEL AUTHORIZATION

When authorized by the Department Director, County employees may, for County business, utilize County vehicles or their personal vehicles and incur personal expenses for travel within St. Lucie County or to Indian River, Martin and Okeechobee Counties.

- a. To the extent feasible, County fleet vehicles should be utilized for local travel.
- b. The allowable reimbursement for local travel will be the approved mileage rate for miles traveled and other actual travel-related expenses for tolls, parking fees, transit fares, and phone calls.
- c. Employees who can document travel of 250 miles or more per month on a regular basis, may be eligible for a fixed monthly reimbursement at the discretion of the County Administrator. The allowable reimbursement for such travel will be limited to the fixed monthly allowance approved by the County Administrator.

#### 21.3 OUT OF AREA TRAVEL AUTHORIZATION

- a. When it is necessary for a County employee to travel out of the local area (as defined in Section 20.2) for County business, such travel must be approved in advance by the County Administrator or

designee. Travel approval may be obtained after the departure date when such travel was required as a result of an emergency or unforeseen circumstance or change in plans. In such cases, the County Administrator or designee must provide verbal approval prior to departure.

- b. To the extent feasible, county fleet vehicles should be utilized for travel. All private charters must be authorized in advance by the County Administrator.
- c. The allowable reimbursement for out of area travel will be the approved mileage rate for miles actually traveled when utilizing a personal vehicle, common carrier fares, automobile rental, tolls, taxi or transit fares, parking fees, private charters, lodging, meals, phone and other required communication charges, and conference fees and materials.

#### **21.4 EDUCATION AND TRAINING EXPENSES AUTHORIZATION**

- a. When properly authorized in advance by the County Administrator or designee, educational expenses or reimbursements for outside training for County employees may be paid from County funds as available.
- b. For authorization and expense purposes, outside training shall be classified into two (2) categories:
  - 1. Education and Training Expenses - for outside training when an employee is specifically authorized and paid for attending such training.
  - 2. Tuition Assistance - for outside training when an employee optionally pursues an education, certification or training goal on his or her own time that will benefit the County.
- c. For approved educational or training expenses, upon proper authorization, the County will assume an obligation to pay associated costs including but not limited to regular pay, registration, materials and travel.
- d. With proper prior authorization, the County will assume an obligation under its Employee Tuition Refund Program as described in the Employee Manual.

### **SECTION 22 - MISCELLANEOUS OBLIGATIONS**

#### **22.1 MISCELLANEOUS TRANSACTIONS**

It is recognized that there are certain transactions which are unique in nature, and therefore, cannot be handled through processes described in the Manual. These transactions shall be referred to as miscellaneous obligations, including but not limited to those listed below. Procedures for these transactions will be established by the County Administrator, in coordination with the Finance Director and the County Attorney:

- a. The acquisition of real property, such as land, easements, rights-of-way, existing buildings, or improvements, resulting from negotiations and approved by the Board.
- b. The payment of court-ordered fines and judgments, resulting from litigation, to which the County is a party.
- c. The payment of fines to state and federal agencies which the County Attorney and County Administrator have determined to be the responsibility of the County.
- d. Any exceptional disbursement as authorized by the Board of County Commissioners.

- e. The payment of court-ordered fees, resulting from the judicial process, processed by the Clerk of the Court, and recorded against the budget for fees. For such fees, the County is only the public taxing agency responsible for supporting the judicial system.
- f. Cash transfers and investment transactions for fiscal management purposes, processed through the Finance Department, and against general ledger accounts.
- g. The payment of accrued or current liabilities already charged against the budget, approved by OMB, processed through the Finance Department, and recorded against general ledger accounts.
- h. Debt service payments approved by OMB, processed by the Finance Department and charged against budgetary accounts.
- i. Refunds of current or prior year revenues charged against budgetary accounts.
- j. Grant disbursements to federal, state, or local government agencies, or to private groups or agencies.
- k. Disbursements to County Officers of funds budgeted for their requisition and use.
- l. Inter-fund or interdepartmental transfers or reimbursements within or among County Departments.
- m. Aid disbursements for JPTA participants, housing and rental subsidies, hospital indigent payments or other welfare and medical assistance.
- n. Payments for insurance including, but not limited to, liability, property, medical and workers compensation insurance or payments from any loss fund established for such purpose.
- o. Payments for utilities, advertising, toll charges and postage.

## **SECTION 23 - CAPITAL ASSETS**

### **23.1 COUNTY OWNED PERSONAL PROPERTY**

Any equipment not incorporated into a facility, purchased with an individual value of \$1000 or more (or as established by Rule of the Chief Financial Officer, Rule 69I-73.002) and having a projected useful life of one (1) year or more, is considered Tangible Personal Property. All land, buildings, and improvements are considered real property. Both Tangible Personal Property and real property are considered capital assets.

### **23.2 ACQUISITION OF CAPITAL ASSETS**

- a. The County Administrator or designee should include the purchase of capital assets during the annual budget preparation.
- b. If the capital asset increases in cost after budget approval by the Board, the County Administrator or designee shall have the authority to approve the purchase, if funds are available, up to \$50,000.
- c. Requests for capital assets not included in the budget process must be approved by the County Administrator. The requesting Department Director must provide a justification and identify available funding in the department budget. If approved by the County Administrator, proposed purchase of capital assets greater than \$50,000 must be approved by the Board.

- d. A physical inventory of all Tangible Personal Property will be conducted and updated annually, and surplus property disposed of in accordance with current state laws. Real property will be inventoried as outlined in procedures established by the Finance Department.
- e. Donated property with a value of \$1,000 or more, based on its current market value, will be included in the requirements of this section.

### 23.3 DISPOSITION OF CAPITAL ASSETS

The disposition of capital assets shall be in accordance with Section 274.06, Florida Statutes. The County Administrator may transfer assets that have been declared surplus to a local nonprofit organization or governmental entity without competitive bidding.

### 23.4 HARDWARE/SOFTWARE

The County Administrator or designee is responsible for all County computer and telephone equipment, software, computer security, data and voice circuits, and has final decision making authority over all computer-related purchases in accordance with signature authority.

**Attachment A**



**St. Lucie County Board of County Commissioners**  
**Procurement Policies and Procedures**  
**for**  
**Community Development Block Grant**  
**Programs and Projects**

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## **I. GENERAL POLICY**

### **A. APPLICABILITY**

These procurement policies establish procedures and guidelines that shall be used for the purchase or procurement of personal property, supplies, equipment, and services for CDBG and other federally funded grants and awards.

All procurement shall be accomplished in compliance with applicable state and federal law. The purpose of these procedures is to facilitate the determination of the most efficient and economical means of securing commodities and services without sacrificing necessary control and good purchasing practice.

### **B. PROCUREMENT LAW AND REGULATIONS**

Laws relative to the procurement process, in general, may be found in Chapter 287, Fla. Statutes. The provisions of these procurement procedures shall not be construed to conflict with or supersede the requirements of S. 287.055, Fla. Statutes, 24 Code of Federal Regulations (CFR) Section 85.36, or any other applicable state or federal laws or regulations. Future state or federal regulations applicable to procurement under the CDBG Program shall supersede and/or supplement this policy.

## **II. PROCUREMENT STANDARDS**

### **A. GENERAL STANDARDS**

Except as otherwise provided by law, procurement awards shall be made only on the basis of requirements and evaluation factors that are directly related to the price, quantity, or quality of the commodities or services or the ability of the prospective supplier or contractor to perform under the agreement.

Procurement procedures prohibit the dividing of the procurement of a good or service into a number of smaller groups in order to avoid the more stringent requirements of a higher dollar. In addition, the use of cost plus percentage of construction cost methods is prohibited. The sub grantee shall follow the provision of 24 C.F.R. S. 85.36(e); the sub grantee take all necessary affirmative steps to assure that minority firms, women's business enterprises and labor surplus area firms are offered the opportunity to participate to the maximum practicable extent shall be adhered to.

### **B. COMPETITION**

All procurement transactions will be conducted in a manner providing full and open competition consistent with standards of Section 85.36 of the C.F.R. Some of the situations considered to be restrictive of competition include but are not limited to:

1. placing unreasonable requirements on firms in order for them to qualify to do business;
2. requiring unnecessary experience and excessive bonding;
3. noncompetitive pricing practices between firms or between affiliated companies;
4. noncompetitive awards to consultants that are on retainer contracts;
5. organizational conflicts of interest;
6. specifying only a "brand name" product instead of allowing "an equal" product to be offered, and;
7. any arbitrary action in the procurement process.

The inability to obtain more than one bid, price quote or proposal shall not prohibit the approval of a purchase if other prospective vendors or contractors have been given adequate notice of the procurement and an opportunity to participate, and have declined to submit bids, proposals or price quotes. The County may accept one bid as long as it has met all CDBG procurement requirements and procedures. The declaration to submit need not be in writing.

The use of a cost plus percentage of cost and percentage of construction cost methods is prohibited in all CDBG procurement.

### **III. PROCUREMENT ADMINISTRATION**

#### **A. EFFICIENCY REVIEW**

The Community Services Director, other authorized representative or employee who approves each purchase shall review the proposed procurement to avoid unnecessary or duplicative items. In order to obtain a more economical, efficient or effective purchase, consideration shall be given to:

1. breaking out or consolidating purchases,
2. lease versus purchase alternatives,
3. interlocal agreements for purchases or use of common goods,
4. use of federal or state surplus property,
5. value engineering reviews, and
6. use of state or federal contracts for materials and/or services.

#### **B. PERFORMANCE REVIEW**

Contracts shall specify a contract manager, appointed by the local governing body, to ensure that the contractor performs in accordance with the terms, conditions and specifications of their contract or purchase order.

#### **C. RECORDS**

Appropriate arrangements shall be made for the generation and maintenance of all files, records, and documentation necessary to evidence the compliance with all requirements as delineated in this document. All procurement shall comply with good purchasing practices and with applicable local, state and federal regulations, in a manner consistent with this document. A complete set of records shall be maintained by the entity responsible for the procurement for a minimum of 3 years.

#### **D. WRITTEN AGREEMENTS**

Any formally bid procurement of commodities or services shall be evidenced by a written solicitation embodying all provisions and conditions of the procurement. This requirement for written documentation may be met through preparation of a letter on municipality or vendor letterhead, signed by the vendor and appropriate elected and/or appointed official, stating such conditions and terms as price, number of units of purchase (e.g., ea., cs., bx., etc.) or product, delivery date, or when service is to begin, point of delivery, specifications, etc. Any price quotes, warranties, guaranties, certifications or contracts shall be attached and filed.

## E. AUTHORIZATIONS

Purchase orders or contracts shall be issued for all purchases and must be signed by either the Board of County Commissioners, the Director of Management and Budget or the Department Director approving the purchase. The local governing body must authorize all purchases in excess of \$50,000.

## IV. PROCUREMENT CLASSIFICATIONS

The following classifications are established:

PROCUREMENT CLASS	PROCUREMENT RANGE	DESCRIPTION	PROCUREMENT METHOD
1.	\$ 1- 5,000	simple procurement	price checks/ simple purchase
2.	\$5,001-50,000	intermediate procurement	informal competition, written quotes
3.	\$ Over 50,000	formal procurement	formal competition (bids or proposals)/ contract

### A. SIMPLE PROCUREMENT (NOT MORE THAN \$5,000)

Procurement is accomplished through simple purchase. Simple procurement procedures are those relatively simple and informal procurement methods that are sound and appropriate for a procurement of supplies or other property, or services.

A reasonable and adequate number of price checks or quotes should be made by phone, personal inspection, and discussions with vendors, etc., to ensure the highest quality product or service is obtained for the least cost to the procuring entity.

### B. INTERMEDIATE PROCUREMENT (\$5,001-\$25,000)

Procurement is accomplished by obtaining three written price quotes, when possible or through informal negotiation if the item or service is expected to cost less than \$25,000. If the actual cost exceeds \$25,000, then the procurement must go to formal procurement, as outlined in Section D below. Files shall contain documentation of competition. No advertising is required but all procurement shall be evidenced by a written agreement embodying all provisions and conditions of the procurement. This requirement for written agreement may be met through preparation of a letter on municipality or vendor letterhead, signed by the vendor or appropriate elected and/or appointed official or representative, stating such conditions and terms as price, number of units or purchase (e.g., ea., cs., bx., etc.) or product, delivery date or when service is to begin, point of delivery, specifications, etc. Any price quotes warranties, guaranties, certifications or contracts shall be attached and filed.

## C. FORMAL PROCUREMENT (REQUIRED OVER \$25,000)

Formal Procurement includes the acquisition of commodities or securing services that are expected to cost \$25,000 or more, and requires formal advertising and submission of competitive sealed bids, sealed proposals, or competitive negotiation.

Sealed bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsive bidder who conforms to or exceeds all material requirements, terms and conditions of the invitation for bids, and presents the lowest reasonable price that meets requirements and needs.

Sealed Bidding shall be used unless the Board of County Commissioners certifies in writing that sealed bidding is not practicable or advantageous, in which case procurement shall be based on sealed proposals, or on competitive negotiation when required by Florida Statutes.

The technique of competitive negotiation is normally conducted with more than one source submitting a proposal for services with either a fixed-price or cost-reimbursement type contract awarded. It is generally used when conditions are not appropriate for the use of sealed bids or proposals indicating fees. Florida Statutes shall determine the manner in which such negotiations are performed and the types of contractual services, which are to be procured in this manner.

Any contract in excess of \$100,000 will require a performance bond and must adhere to all Section 3 regulations.

Noncompetitive negotiation shall be used when other types of procurement are infeasible (see Section VI).

## V. SOLICITATION AND AWARD

### A. INVITATIONS FOR BIDS

1. The invitation to bid is used when the procuring entity is capable of defining the scope of work for which a contractual service is required or when the procuring entity is capable of establishing precise specifications defining the actual commodity or group of commodities required.
2. Invitation to bid shall be a written solicitation for sealed competitive bids with the title, date, and hour of the public bid opening designated and which specifically defines the commodity, group of commodities, or services for which bids are sought. It includes instructions describing all conditions for bidding and shall be distributed (or available) to all prospective bidders simultaneously.
3. Sealed bids are required to be received at a specified place not later than a specified time and date. Failure to comply with any instructions pertinent to the delivery of such bids may result in their being rejected.

### B. REQUEST FOR PROPOSALS (RFP)

A request for proposals (RFP) shall be a written solicitation for sealed proposals with the title, date, and hour of the public opening designated. The request for proposals is used when (a) the procuring entity is incapable of specifically defining the scope of work for which the commodity, group of commodities, or contractual service is required and when it requests that a qualified offeror propose a commodity, group of commodities, or contractual service to meet the specifications of the solicitation document, or (b) when quality of performance is to be the primary factor for selection. With respect to competitive negotiations, the offeror shall negotiate a contract with the most qualified firm for professional services at compensation which the agency determines are

fair, competitive, and reasonable. In making such determination, the agency shall conduct a detailed analysis of the cost of the professional services required in addition to considering their scope and complexity and shall refer to the provisions of S. 287.055, Fla. Statutes (1989).

A request for proposals includes, but is not limited to, general information, applicable laws and rules, functional or general specifications, statement of work, proposal instructions, and evaluation criteria. Requests for proposals shall state the relative importance of price and any other evaluation criteria.

### C. ADVERTISING

The advertisement must be written in a clear, concise manner and in a way, which would invite competitive bidding. The advertisement shall contain at least the following minimum information:

1. time, date and location for receiving and opening bids or proposals (the date shall not be less than five (5) days after the final advertisement is published),
2. general description of the commodity or item being requested,
3. where and how detailed specifications and bid forms (if applicable) may be obtained,
4. terms and conditions of the contract to be awarded,
5. criteria for selection of the vendor or contractor, including the relative weight to be given to the different factors, (See Appendix A).

The solicitation of competitive bids or proposals for any project to cost more than \$200,000 shall be publicly advertised at least once in a newspaper of general circulation in the county where the project is located at least 21 days prior to the established bid opening and at least 5 days prior to any scheduled pre-bid conference. For projects costing more than \$500,000 shall be publicly advertised at least once in a newspaper of general circulation in the county at least 30 days prior to the established bid opening and at least 5 days prior to any scheduled pre-bid conference. The advertisement shall be published in at least one daily newspaper of general circulation in a nearby federal Office of Management and Budget (OMB) designated metropolitan statistical area (MSA).

If the location, date, or time of the bid opening changes, written notice of the change must be given, as soon as practicable after the change is made, to all persons who are registered to receive any addenda to the plans and specifications.

For those bids under the above amounts, any procurement which requires public notice in a newspaper based on the local CDBG procurement policy shall be published in a daily newspaper of general circulation in a nearby federal Office of Management and Budget (OMB) designated metropolitan statistical area (MSA). Alternatively, the county may substitute such notice with any solicitation procedure which generates at least three responsible and responsive bids or proposals which can be considered. Such procedure shall allow at least 12 days for receipt of the proposals or bids.

Public notice should also include solicitation of minority owned business enterprise and women owned business enterprise (MBE/WBE) contractors.

Sealed bids or sealed proposals will be received at any time during normal working hours prior to the time and date as specified. Each proposal shall be annotated with the time and date received. The bids or proposals shall be placed in the applicable file and publicly opened and read at the time designated for the bid opening.

## D. EVALUATION

The contract shall be awarded to the lowest responsible and responsive bidder or proposer whose bid or proposal most completely meets the requirements and criteria set forth in the invitation for bids or request for proposals.

The term "responsible bidder or proposer" refers to the capability of a vendor or contractor to perform fully all aspects of the contract. Financial capability, integrity, and reliability of the bidder or proposer, all of which tend to ensure good faith performance, shall be a criteria in evaluation of responsiveness.

The term "responsive bidder or proposer" means a bidder who has submitted a bid or proposal, which materially conforms to all provisions of the specifications and the invitation to bid or request for proposal.

Evaluation criteria and requirements for bids set forth in the invitation for bids shall be used to determine the most responsible and responsive bidder. Award shall be made to the responsible individual firm whose proposal is considered most advantageous to the program, with price and other factors considered.

In procuring services for grant administration, evaluations of vendors or service suppliers shall include a proven track record and sound reputation; adequate financial strength; high ethical standards; and a record of adhering to specifications, of maintaining shipping or service delivery schedules, and of giving a full measure of service. Consideration may also include the prospective contractor's records of past performance under CDBG grants. This factor is not meant to exclude consideration of new firms, but rather, to include past performance and experience as a potential criterion.

All bidders will be notified that they were or were not selected for award of contract as soon as possible following the evaluation and decision process.

## E. MULTIPLE SERVICE AWARDS

Vendors or service suppliers will be considered for multiple sources of supply or multiple services when it can be demonstrated that such vendors or services suppliers either are sole sources of the services or are the responsive proposer whose proposal is determined in writing as a result of a competitive process to be the most advantageous to local government.

For each service listed in S. 290.047(5), Fla. Statutes (1989), when included in a multiple service contract, written determination of the need for a multiple service contract and the supporting documentation shall be maintained on file with the sub-grantee.

1. Any Request for Proposal which includes more than one service shall provide the following:

- a. Proposals may be submitted for one or more of the services
- b. Qualifications and proposals shall be separately stated for each service;
- c. The evaluation of the proposals shall be separated for each service.

2. A written evaluation, such as a ranking sheet or narrative, shall be prepared for each proposal, ranking or comparing each proposal to the criteria in the published Request for Proposals.

3. A separate professional services contract must be procured and executed between the local government and any professional services consultant for each CDBG sub grant. Each advertisement for procurement of CDBG professional services, except for application preparation, must identify either the CDBG funding cycle by federal fiscal year of the CDBG sub grant number. In the absence of any identifier, the

procurement will be presumed to be for the CDBG funding cycle closest to the publication date of the advertisement or, if there is no advertisement, the date of receipt for proposals.

4. Each professional services contract must identify the CDBG sub grant number to which it is applicable.

## **VI. EXCEPTIONS**

The non-competitive negotiation method of procurement is solicitation of a proposal from only one source; or after solicitation of a number of sources (documented), competition is determined inadequate (Refer to 24 C.F.R. S. 85.36 (d)(4). It may be used only:

1. When procurement or award of contract is infeasible under simple or intermediate procurement or through formal (sealed bid) competition; and

2. Under one of the following circumstances:

a. The item is available only from a single source; or

b. Public exigency or emergency exists such that the urgency for the requirement will not permit a delay incident to competitive bidding; or

c. In the case where grant funds are being used, the federal or state (whichever is more stringent) grantor agency authorizes non-competitive negotiations; or

d. After solicitation of a number of sources, competition is determined inadequate; or

e. The contract item is available under a State of Florida Contract.

3. Department of Economic Opportunity (DEO) must provide written approval prior to the recipient awarding any contract exceeding \$25,000 procures as a result of inadequate competition, a sole source, or a non-competitive procurement. For contracts below \$25,000 the recipient's files must document the justification for the procurement which complies with 24. CFR s. 85.36 (b) (4); and a cost analysis be performed verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of cost and profits.

Emergency purchases over \$15,000 and up to \$25,000 shall be authorized by the County Administrator or designated alternate when, based on his/her decision, the delay incurred by following the normal procurement requirements would be detrimental to the best interests of the community. Emergency purchases over \$25,000 shall be authorized by the Board of County Commissioners.

## **VII. AFFIRMATIVE ACTION/EQUAL OPPORTUNITY**

The County is committed to eliminating discrimination based upon race, color, sex, national origin, familial status, age, or physical handicap. In grant programs, the County will comply with requirements of Section 3 (Use of the project area), Equal Employment Opportunity on Federally Assisted Construction Contracts, and Executive Order 11625 (Minority Business). Notice of the policy will be placed in plain sight on the job location for the benefits of interested parties and all contractors and subcontractors so notified. Equal Opportunity posters will be displayed as required.

The procuring entity will encourage the employment of local residents, especially those who have low-to-moderate income and those who are female and/or of a minority racial/ethnic classification.

In accordance with the 1989 State Fair Housing Act (Fla. Statutes S. 760.20), the municipality and any contractors hired with CDBG funds shall not discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, national origin, sex, handicap, familial status, age, or religion. (See Section X on Protests for complaint procedures).

The County will encourage and adhere to all federal requirements including, but not limited to:

1. Equal Employment Opportunity requirements
2. Copeland "anti-Kickback" Act;
3. Davis Bacon
4. Contract Work House and Safety Act;
5. Americans with Disabilities Act;
6. Other requirements set forth in any CDBG contract

## **VIII. CONTRACTS**

All contracts procured with state or federal funds shall contain applicable provisions as required by Fla. Statutes (specifically S.287.058), Florida administrative rule, federal law, regulation or executive order. Provisions shall include, but not be limited to, such requirements as bonding, equal employment opportunity, contract termination, record retention, public access to records, reporting, remedies for breach, conflict of interest, labor standards compliance, pre- and post-audit requirements, and compliance with environmental laws. In addition administrative, contractual, or legal remedies where contractors violate or breach contract terms, and provide for sanctions and penalties as may be appropriate. Termination for cause and for convenience by the grantee or sub grantees including the manner by which it will be affected and the basis for settlement (All contracts in excess of \$10,000).

## **IX. CODE OF CONDUCT**

No employee, officer or agent of the procuring entity shall participate in the selection, award or procurement of an application, administration, engineering or construction contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when (a) the employee, officer or agent, (b) any member of his immediate family, (c) his or her partner, or (d) an organization which employs, or is about to employ, any of the above, will receive a financial or other direct benefit of CDBG funds from the contract award. In any of these cases, the employee, officer or agent will abstain from voting on the award.

Officers, employees and agents of the procuring entity will neither solicit gratuities, favor or anything of monetary value, nor accept any unsolicited gratuity, favor or gift valued above \$25, from contractors or potential contractors, or parties to sub agreements.

Violation of this policy shall be subject to penalties, sanctions or other disciplinary action as permitted by state or local law. Upon conviction in a State Court of competent authority, a violator may be found guilty of a first-degree misdemeanor, punishable as provided in Fla. Statutes S.775.082 or S.775.083.

## **X. PROTESTS**

Objection to procurement shall be issued, in writing, to the Purchasing Division within five (5) working days of purchase or selection to purchase under contract. A response shall be issued to the objecting party within five (5) working days. An objection shall be considered valid only if it discloses a violation of this policy. The County will notify the granting agency of all protests received.

For employment discrimination, contact:

The U.S. Equal Employment Opportunity Commission  
2401 E. Street, N.W.  
Washington, D.C., 20507  
1-800-872-3362

For housing discrimination, contact:

Florida Commission on Human Relations  
325 John Knox Road, Bldg. F, Suite 240  
Tallahassee, Florida 32303  
1-800-342-8170