

**Board of County Commissioners
Leon County, Florida**

Purchasing Processes Workshop

**12:00 to 1:00 p.m.
Tuesday, September 11, 2007**

**Leon County Board of County Commissioners Chambers
Leon County Courthouse, 5th Floor**

This document distributed September 5, 2007

Board of County Commissioners

Workshop Request

Date of Meeting: September 11, 2007
Date Submitted: September 5, 2007
To: Honorable Chairman and Members of the Board
From: Parwez Alam, County Administrator
Alan Rosenzweig, Assistant County Administrator
Kim Dressel, Director of Management Services
Subject: Purchasing Workshop

Statement of Issue

At the June 26, 2007 meeting, during discussion on the agenda item for negotiating a contract for professional auditing services for Leon County, the Board directed staff to schedule a workshop to give a better understanding of Leon County's Purchasing/Procurement processes.

Background

Governmental purchasing impacts local, state and national economies through the expenditure of enormous amounts of dollars each year. Public purchasing is based upon several fundamentals:

- **Safeguarding public funds.** Purchasing staff are responsible for maintaining the integrity of spending public dollars.
- **Efficiency and effectiveness.** Proper purchasing policies and procedures will result in the four "R's" - getting the right product at the right price at the right time and in the right place, thereby allowing for efficiency and effectiveness in the operation of government programs.
- **Public Confidence.** The public must perceive and be confident that public purchasing is performed in an ethical and equitable manner.
- **Supplier Confidence.** Competition is the basis for securing the best in goods and services and requires the support of the supplier community. If suppliers feel that competing for government business is not worth the time, effort, or cost; or, if it is not fair and open, they will not compete.
- **Public Policy and Law.** Federal and state statutes require the adoption of ordinances and policies to ensure that goods and services are obtained through fair and open competition.

Legal Basis

The basic framework for Leon County purchasing is provided by several Florida statutes, Federal regulations, and the guidance of a long standing body of case law. Some of the major laws are:

- Chapter 287, Florida Statutes, Procurement of Personal Property and Services;
- Chapter 286, Florida Statutes, Public Business, Miscellaneous Provisions;
- Chapter 255, Florida Statutes, Public Property and Publicly Owned Buildings;
- Leon County Ordinance, Section 2-401 requires the development and adoption of a

- Purchasing and Minority Business Enterprise Policy (Attachment #1);
- Leon County Ordinance, Section 2-400 establishes the local preference requirements in the purchase of goods and services (Attachment #1); and
- Presidential Executive Order 11246, as amended, Equal Employment Opportunity and Affirmative Action Guidelines for Federal Contractors Regarding Race, Color, Gender, Religion and National Origin.

The above list is not complete. There are many other state statutes that contain references or requirements for public purchasing, such as one that calls for specifications to use lumber from the United States before wood products from other countries, or those that detail the licensing requirements for contractors or professions that affect the procurement of those licensed services.

Analysis

Authority and Thresholds

Section 4 of the Leon County Purchasing and Minority, Women, and Small Business Enterprise Policy (Policy) designates the Purchasing Director as the central purchasing officer of Leon County (Attachment #2). In Section 5 of the Policy the different purchasing categories and thresholds for each are stated:

Section 5 PURCHASING CATEGORIES; THRESHOLD AMOUNTS

- A. Petty Cash/Reimbursement (Section 5.01) Not to exceed \$100
- B. Field Purchase Order (Section 5.02) \$1 to \$500
- C. Small Purchase Procedures (Section 5.03) \$1 to \$1,000
Warehouse Operations (Section 5.031) \$1 to \$5,000
- D. Blanket Purchase Orders (Section 5.04)
 - Non-contractual basis..... \$1,000 to \$5,000
 - Contractual basis..... not to exceed \$100,000
- E. Field Quotes (Section 5.05) \$1,000 to \$5,000
- F. Purchasing Quotes (Section 5.06)..... \$5,001 to \$20,000
- G. Informal Bid Process (Section 5.07)..... \$20,001 to \$50,000
- H. Competitive Sealed Bids (Section 5.08)..... \$50,001 and above
- I. Competitive Sealed Proposals (Section 5.09)
 - Approved by County Administrator..... \$20,001 to \$50,000
 - Approved by the Board \$50,001 and above

The subsections which follow in Section 5 of the Policy further defines each purchasing category and

provides direction to staff on the methods to make purchases. Common to all of these methods is the requirement for staff to seek participation of certified minority and women business enterprises in each competitive purchase. Competition is encouraged on all smaller purchases and is required for any purchase in the aggregate of \$1,000 or more. As purchase dollar values rise, requirements move from telephone or catalog quotes to vendor provided written quotes, up to the informal bid threshold. The Purchasing and the Minority, Women, and Small Business Enterprise Divisions (MWSBE) are ready and available to assist other County staff in any of the smaller dollar level purchases and are directly involved in informal bids, formal sealed bids and requests for proposals. In addition to these routine purchasing methods, there are four other items that need to be addressed briefly: sole source purchases, emergency purchases, cooperative purchases, and the purchasing card.

Sole Source Purchases

Sole source purchases are very rare – 2 in calendar 2005, and one each in 2006 and thus far in 2007. They occur only when the Purchasing Director, after conducting a good faith review of available sources, certifies in writing that there is only one available source to the Director of Management Services, who may approve or deny the purchase. Any sole source purchase must meet all other statutory and policy requirements including approval within the authorized procurement limits identified in Section 5.0. When a purchase exceeds the threshold amount for Board approval, the item will be placed on the agenda for Board approval and certification that the vendor has been determined to be a sole source.

Emergency Purchases

In the case of emergencies, which require the immediate purchase of goods, equipment or services, the County Administrator, Purchasing Director, Group Director, or their designee may secure such goods or services without competitive bidding. In this event, all measures reasonably possible under the circumstances shall be taken to assure the maximum cost benefit to the County for the goods or services procured. All emergency purchases must be carefully documented and reviewed by the Purchasing Division. Emergency purchases that exceed the competitive sealed bid threshold must be ratified by the Board and those within the informal bid thresholds must be approved by the County Administrator after-the-fact.

Cooperative Purchases

Under the Policy, the Purchasing Director has the authority to join with other units of government in cooperative purchasing ventures when the best interest of the County would be served, and it is in accordance with the County and State laws. These include the respective state contracts (state term continuing supply contracts, SNAPS agreements [State Negotiated Agreement Price Schedules], agreements resulting from Invitations to Negotiate [ITN], or other such contracts authorized by statute for use by local governments) of the Florida Department of Management Services; purchasing cooperatives such as the US Communities (NACO) or HGAC Purchasing Cooperative; and authorized Federal Supply Schedules issued by the Federal General Services Administration. Such purchases are made without competitive bids if funding has been appropriated by the Board. The Policy requires that all Cooperative Purchasing be made through contracts awarded through full and open competition, including use of source selection methods equivalent to those required by the Policy. Each selection method shall clearly state the intention to include participation by other units of government as a requirement for use in cooperative purchasing.

Purchasing Cards

The VISA purchasing cards are a tool to make purchases that in all manners must comply with the Policy and applicable statutes. It may be easiest to say that they are a way to pay for purchases made under the Policy, and not a purchasing category of their own.

Sealed Bids and Requests for Proposals

In order to discuss competitive "sealed" bids and proposals, one must have a clear definition of "Request for Proposals" (RFPs) and how they differ from "Invitations to Bid" (ITB). These are defined in the Policy as:

"Competitive Sealed Bidding" (Invitation to Bid) means a written solicitation for sealed competitive bids used for the procurement of a commodity, group of commodities, or services valued more than the threshold for this category. The ITB is used when the County is capable of specifically defining the scope of work for which a contractual service is required or when the County is capable of establishing precise specifications defining the actual commodity or group of commodities required.

"Competitive Sealed Proposals" (Request for Proposals or RFP) means a written solicitation for sealed proposals with the title, date and hour of public opening designated. The request for proposals may be used when the County is unable to specifically define the scope of work for which the commodity, group of commodities, or contractual service is required, and when the County is requesting that a qualified offeror propose a commodity, group of commodities, or contractual service to meet the specifications of the solicitation document.

In brief, ITBs are used for well defined products or services and based largely on price. The RFP is used when ingenuity, qualifications, experience, and expertise in a given area are of highest consideration in getting a product or service. In order to provide more distinction between these two procurement methods, some practical examples of the two are listed in the following chart.

BIDS	RFPs
Road Signs	Architectural Services
Janitorial Services	Engineering Services
Light and Heavy Equipment	Library Consulting Services
Commodities (auto parts, culvert, etc)	Computer Software Systems (Finance, GIS)
Construction Projects (road and building)	Legal Services

The processes for the two differ greatly. Common to both types of solicitations is the duty of the County to assure that all responses are from responsive, responsible offerors. A responsive offeror is one who has properly completed and submitted all required forms, documents, certifications, licensures, and meets the specifications and other such requirements of the solicitation. A responsible offeror is one who has the required qualifications, licensure, certification, financial capacity, staffing, equipment, experience, expertise, references, etc.

Bids are primarily price-based with the award made to the lowest responsive, responsible bidder. Typically, the bidder offering the lowest price on a product and/or service that meets or exceeds the

specifications required by the County is awarded the bid, such as the lowest price on a new motor grader or for a turn-key construction project. In some bid awards a value may be assigned to the bid price as well as other factors which determine if the bidder is responsible. For example, in janitorial bids, the bid price is the major factor weighted at 70% with responsibility factors such as references, past experience, and financial capacity making up the other 30% of the point total. This method helps to ensure that the potential contractor can, in fact, meet the services clearly defined and specified in the bid.

The Policy has two sections dealing with requests for proposals: Section 5.091, Professional Architectural, Engineering, Landscape Architectural, and Land Surveying Services, and Section 5.092, Other Competitive Sealed Proposals (Attachment #3). The first section parallels the Consultants' Competitive Negotiation Act (CCNA), Section 287.055, Florida Statutes, (Attachment #4) which details the requirements and process for acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services. The second section applies to requests for proposals for all other products or services.

Evaluation Criteria

County policy requires all evaluation criteria to be included in the RFP. The CCNA requires the state, counties, municipalities, and school boards to use qualifications-based competitive selection for the covered services and prohibits requesting compensation information until contract negotiation. The statute says of evaluation criteria: "In determining whether a firm is qualified, the agency shall consider such factors as the ability of professional personnel; whether a firm is a certified minority business enterprise; past performance; willingness to meet time and budget requirements; location; recent, current, and projected workloads of the firms; and the volume of work previously awarded to each firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms." The criteria contained in Leon County RFPs for the professional services in the CCNA are usually close to the following:

- F. Evaluation Criteria: Proposals will be evaluated and ranked on the basis of the following considerations:
 - 1. Past Performance
 - a) Quality & Completeness of the design(s) 10
 - b) Meets:
 - 1) budget 5
 - 2) schedule 5
 - 2. Qualifications of staff 10
 - 3. Technical competence in
 - a) In-house Staff 10
 - b) Consultants 5
 - 4. Current Workload of Firm 5
 - 5. General Experience of:
 - a) Staff assigned to project 5
 - b) Firm 5
 - c) Consultants 5
 - 6. Staff Experience in Design of Similar Projects 10
 - 7. Project Approach and Quality of Response to RFP 10

8.	References	10
9.	Minority Business Enterprise Participation	10
10.	Local Preference.....	5
Total		100

These numbers may be adjusted from RFP to RFP depending on the weighting deemed appropriate by staff for each of the criteria and specific requirements of the proposed project.

The evaluation criteria for other RFPs (non CCNA) is generally similar but is adjusted based upon the product or service sought. The County has not issued as many of these proposals as those under the requirements of the CCNA. Examples from over the years are: Lobbyist Services for Federal and State Legislative Programs; CDBG Housing Grant Administration Services; Development of Historic Exhibit for LeRoy Collins Library; and Professional Auditing Services.

All RFPs are presented to the Board for review and approval prior to issuance in accordance with the Policy. Likewise, all evaluations and recommendations for award and authorization to negotiate a final agreement are brought to the Board. The Board also gives authorization for the Chairman to execute the final agreement.

Evaluation Process for RFPs

By Policy, the County Administrator is to appoint all Evaluation Committees, which are to be composed of three or five members (RFP language regarding Evaluation Committees is in Attachment #3). On rare occasions, an Evaluation Committee is proposed for Board approval in the pre-release agenda item, such as the recent RFP for Professional Auditing Services, which allowed for a larger committee with representation from all Constitutional Officers and the Board. Recommendations for committee membership typically come from the project manager and are routed through the Purchasing Director to the County Administrator. Meetings of Evaluation Committees are required to be public meetings with notice of all meetings posted in the Purchasing Division Offices no less than 72 hours (excluding weekends and holidays) and all respondents to the solicitation notified by facsimile or telephone (Procedures are in Attachment #5). Minutes are taken of each meeting and all notes are made a part of the RFP file. Critical in this process is the attendance of all appointed committee members because an absence disqualifies that member's scoring in the total.

The initial meeting of the Evaluation Committee is structured so that the procedures and evaluation criteria are reviewed and each member receives a copy of each proposal received on time. After this meeting the members read and score the written proposals based upon the stated criteria. At the next Committee meeting, they select one or more firms for interview based on the responses of each proposer, or the Committee may determine that there is no need for interviews. The firms selected for interview are notified and the Committee then holds the interviews, giving opportunity for the proposers to present their qualifications and team members in person as well as answer questions from the Committee. The Committee members use the information gathered through the interviews to refine their final scores based upon the criteria and then compile them for the recommended order of preference to present to the Board.

If the Board approves the ranking as presented, staff negotiates with the first ranked firm for the proposed services at compensation which is fair, competitive, and reasonable for said services. Should staff be unable to negotiate a satisfactory contract, negotiations with the first ranked firm may be formally terminated. Staff then may undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm staff may terminate negotiations and then undertake negotiations with the third most qualified firm.

Local Preference Ordinance

The Local Preference Ordinance was adopted March 26, 2002. At the Board retreat in December 2002, staff was directed to revisit the definition of "local business." After two agenda items and additional Board direction in 2003, revisions distinguishing businesses with their home office in Leon County and those headquartered elsewhere were adopted at the October 14, 2003 Board meeting. In July 2005 the Board adopted further revisions to include Gadsden, Jefferson and Wakulla Counties along with Leon County in the definition of the local economic area for preference purposes.

In the Ordinance, a local business is defined as one which has had a fixed point of business (street address) in one of the four counties for at least six months. There is also a distinction made between those with their "home office" located in the four county market area and those who have a business location in the area but their "home office" is elsewhere. This difference provides the basis for whether a local business receives a 5% or 3% preference.

1. For bidding and price based purchases, as a part of the low price determination the preference is:
 - 5% preference is given to local businesses with the home office in Gadsden, Jefferson, Wakulla or Leon County;
 - 3% preference is given to local businesses that have their home offices elsewhere.
2. For requests for proposals, the determination is done by Purchasing staff and provided to the Evaluation Committee:
 - five points (5%) are given to local businesses with the home office in Gadsden, Jefferson, Wakulla or Leon County;
 - three points (3%) are given to local businesses that have their home offices elsewhere.

Minority and Women Owned Business Enterprise (MWBE) Participation

Efforts to seek and enhance the participation of MWBEs in the provision of goods and services to Leon County are integral to all of the purchasing procedures. As noted previously, County employees making purchases are to identify and include MWBEs in the competitive process at every level. The MWSBE Division assists employees in identifying certified MWBE vendors as well as actively seeking certifiable new vendors. As a part of the small purchase process, Purchasing reviews all quotes to ensure that opportunity has been afforded to MWBEs in the competitive process.

All bids and RFPs contain detailed sections explaining the MWBE program and stating the aspirational targets established by the Board. The aspirational targets were determined as a result of the 2004 Disparity Study with a goal of achieving market parity for minority and women-owned businesses based upon the availability of each category in the four county market area. Vendor instructions in all solicitations require all vendors to respond or have their response determined as non-responsive. In the preparation of bids and RFPs, a Purchasing representative and an MWBE representative confer with the requesting office to review the specifications, project requirements, and MWBE availability in order to determine appropriate aspirational targets according to the categories established in the Policy. The vendor responses range from no participation to almost one hundred percent. The following chart contains the current targets.

Fiscal Year Race and Gender Conscious Targets												
Targets	Business Categories											
	Construction Prime Contractors		Construction Subcontractors		Professional Services Consultants		Professional Services Subconsultants		Other Services Vendors		Material & Supplies Vendors	
	MBE	WBE	MBE	WBE	MBE	WBE	MBE	WBE	MBE	WBE	MBE	WBE
Race/Gender Conscious (MBE & WBE)	5%	1%	3%	N/A	N/A	N/A	18%	9%	N/A	N/A	1%	N/A

For ITBs, as part of the bid response, vendors must list both MWBE and non-MWBE firms to be utilized as subcontractors or suppliers, the type of goods and/or services to be provided and the expected dollar volume. If a bidder has MWBE participation less than the aspirational targets, a good faith statement providing information on all efforts made to obtain participation is to be submitted. The MWBE Division then reviews the information submitted and provides an MWBE Analysis to the appropriate office preparing the agenda item for award recommendation. This Analysis is included in the agenda item to provide the Board information to use in the final award determination. Under the Policy, final award determination based upon the MWBE aspirational targets rests with the Board.

For RFPs, the same information is required of all vendors as part of their proposal. Again, an analysis is prepared by the MWSBE Division and provided to the RFP Evaluation Committee for use in scoring. As noted previously in the discussion of evaluation criteria, MWBE participation is usually ten percent (ten points) of the final scoring. For RFPs, the Board agenda item provides a recommendation of a ranking of the qualified proposals received for approval.

Small Business Enterprise Program

The Small Business Enterprise Program (SBE) provides for procurements to be reserved for certified small businesses when there are at least a minimum of three vendors in the specific procurement opportunity. At this point, there have not been any procurement reservations due to the still limited number of certified SBE vendors. With the current aggressive outreach and certification program for SBEs, it is anticipated that there will soon be such opportunities.

In order to do a reserved SBE procurement, a review of the specific procurement and the SBE vendor pool is made up by the MWSBE Director, the Purchasing Director, and the Project Manager to see if an opportunity exists. Should there be enough vendors, the opportunity would be offered to all such qualified SBE vendors for competitive procurement and award made among those vendors. These procurements are limited to the dollar values listed in the chart below.

Business Category	Estimated Procurement Value (Estimated Contract Cost)
Construction - Prime Contractor	\$100,000 or less
Professional Services	\$50,000 or less
Other Services	\$25,000 or less
Materials & Supplies	\$25,000 or less

Options

1. Accept this report.
2. Direct staff to prepare revisions to the Leon County Purchasing and Minority/Women and Small Business Enterprise Policy as desired by the Board.
3. Do not accept this report.
4. Board Direction.

Recommendation:

Option #1.

Attachments:

1. Leon County Code, Section 2-401, Purchasing and MWBE Policy, and, Section 2-400, Local Preference in Purchasing and Contracting
2. Leon County Purchasing and Minority/Women and Small Business Enterprise Policy, Section 4, Authority of Purchasing Director
3. Leon County Purchasing and Minority/Women and Small Business Enterprise Policy, Sections 5.091 and 5.092
4. Section 287.055, Florida Statutes, Acquisition of professional architectural, engineering, landscape architecture, or surveying and mapping services
5. Purchasing Bid/Request for Proposals Evaluation Committee Procedures

PA/AR/KD/KMR

ARTICLE IX. PURCHASING AND MINORITY/WOMEN BUSINESS ENTERPRISE PARTICIPATION PROGRAM POLICY

Sec. 2-401. Purchasing and MWBE policy.

A Purchasing and MWBE Policy and Procedures Manual shall be developed by the county to define the purchasing and MWBE requirements for Leon County; to outline the requirements and procedures that must be followed by the county in purchasing goods, products, and services; and to outline the procedures to be followed by the county to maintain a fair and equitable purchasing and MWBE policy. This Purchasing and MWBE Policy and Procedures Manual shall be separately approved and adopted by resolution of the Board of County Commissioners.

(Ord. No. 02-15, § I, 7-30-02)

Secs. 2-402--2-499. Reserved.

Sec. 2-400. Local preference in purchasing and contracting.

(a) *Preference in bidding.* 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 in which pricing is the major consideration, the authorized purchasing authority of Leon County may give a preference to local businesses in making such purchase or awarding such contract, as follows:

- (1) Individuals or firms which have a home office located within Leon, Gadsden, Wakulla, or Jefferson County, and 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 bid price.
- (2) Individuals or firms which do not have a home office located within Leon, Gadsden, Wakulla, or Jefferson County, and 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 three percent of the bid price.

The maximum cost differential shall not exceed \$20,000.00. Total bid price shall include the base bid and all alternatives or options to the base bids which are part of the bid and being recommended for award by the appropriate authority.

(b) *Preference in requests for proposals.* 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) Individuals or firms which have a home office located within Leon, Gadsden, Wakulla, or Jefferson County, and 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.

(2) Individuals or firms which do not have a home office located within Leon, Gadsden, Wakulla, or Jefferson County, and 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 three percent.

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-approval agenda item for each request for proposal.

(c) *Notice.* Both bid documents and request for proposal documents shall include notice to vendors of the local preference policy.

(d) *Local business definition.* For purposes of this section, "local business" shall mean a business which:

(1) Has had a fixed office or distribution point located in and having a street address within Leon, Gadsden, Wakulla, or Jefferson County for at least six months immediately prior to the issuance of the request for competitive bids or request for proposals by the county; and

(2) Holds any business license required by Leon County, and, if applicable, the City of Tallahassee; and

(3) 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.

(e) *Certification.* Any vendor claiming to be a local business as defined by subsection 2-400(d) above, shall so certify in writing to the purchasing division. The certification shall provide all necessary information to meet the requirements of subsection 2-400(d) 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."

(Ord. No. 02-02, § 1, 3-26-02; Ord. No. 03-32, § 1, 10-14-03; Ord. No. 05-21, § 1, 7-12-05)

declared such by the Board of County Commissioners for reasons acceptable to it.

- 50. "Specification" means any description of the physical or functional characteristics of the nature of a material, supply, service, construction, or equipment item. It may include a description of any requirement for inspection, testing, recycled or degradable materials content, or preparing a material, supply, service, construction, or equipment item for delivery.
- 51. "Supplier" means a person or firm who engages in the selling of materials and supplies to contractors, subcontractors, and/or manufacturers for the purpose of constructing, repairing, altering, remodeling, adding to or subtracting from or improving any building, structure or property through a direct contract/agreement on behalf of the general contractor.
- 52. "Tangible Personal Property" is defined as property which has an original acquisition cost of \$750 or more; is not consumed in use and has a useful life of one year or more after initial acquisition; is not fixed in place and not an integral part of a structure or facility; and is not an integral part or component of another piece of equipment.
- 53. "Term Contract" means indefinite quantity contract whereby a contractor(s) agrees to furnish an item or items during a prescribed period of time (such as 3, 6, 9, 12 months or a specific date). The specified period of time or date completes such contract.
- 54. "Tie (Identical) Bid" is when two or more bids are equal with respect to price and it appears that the quality and service offered by the vendors are otherwise comparable.

*** Section 4 AUTHORITY OF PURCHASING DIRECTOR**

- A. The Purchasing Director shall serve as the central purchasing officer of Leon County.
- B. The Purchasing Director shall develop and administer operational procedures governing the internal functions of the Division of Purchasing.
- C. Except as otherwise specifically provided in this policy, the Purchasing Director, or his/her designee, shall, in accordance with regulations promulgated by the Board of County Commissioners:
 - 1. Purchase or supervise the purchase of all supplies, services, materials, equipment, and construction services defined within the scope of this policy.
 - 2. Operate a central warehouse for the purchasing, in bulk, of items which may be more economically bought and distributed than when purchased on an individual basis; and to provide facilities for storage of critically needed supplies.
- D. Upon the prior approval of the Leon County Director of Management Services, the Purchasing Director may delegate authority to designee(s) as allowed by law or rule.
- E. The Purchasing Director shall assist the Minority Business Enterprise Coordinator, implement, monitor, and enforce the County's Minority Business Enterprise program policy.

*** Section 5 PURCHASING CATEGORIES; THRESHOLD AMOUNTS**

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- C. Small Purchase Procedures (Section 5.03)\$1 to \$1,000
Warehouse Operations Section 5.031).....\$1 to \$5,000
- D. Blanket Purchase Orders (Section 5.04)
non-contractual basis\$1,000 to \$5,000
contractual basis not to exceed \$100,000
- E. Field Quotes (Section 5.05)\$1,000 to \$5,000

3. Failure to perform according to contract provisions.
 4. Conviction in a court of law of any criminal offense in connection with the conduct of business.
 5. Clear and convincing evidence of a violation of any federal or state anti-trust law based on the submission of bids or proposals, or the awarding of contracts.
 - 6.) Clear and convincing evidence that the vendor has attempted to give a Board employee a gratuity of any kind for the purpose of influencing a recommendation or decision in connection with any part of the Board's purchasing activity.
 7. Failure to execute a Public Entity Crimes Statement as required by Florida Statutes Chapter 287.133(3)(a).
 8. Other reasons deemed appropriate by the Board of County Commissioners.
- L. No bids received. If no competitive bids or proposals for commodity or services purchases are received, the Purchasing Director may negotiate on the best terms and conditions. Award will be made by the Board.
- M. Local preference. In purchasing goods or services where pricing is the major consideration, the authorized purchasing authority of Leon County may give a preference to local businesses in an amount of five percent (5%) of the bid price for purchases under \$250,000, and two percent (2%) of the bid price for purchases \$250,000 and above. The maximum cost differential shall not exceed \$20,000. Total bid price shall include the base bid and all alternatives or options to the base bids which are part of the bid and being recommended for award by the appropriate authority. (Reference Article IX, Section 2-400, Chapter 2 of the Code of Laws of Leon County, Florida)

Section 5.09 COMPETITIVE SEALED PROPOSALS

* **Section 5.091 PROFESSIONAL ARCHITECTURAL, ENGINEERING, LANDSCAPE ARCHITECTURAL, AND LAND SURVEYING SERVICES**

- A. Public Announcement. It is the policy of the County to publicly announce all requirements for professional architectural, engineering, landscape architectural, and land surveying services and to negotiate such contracts on the basis of demonstrated competence and qualifications at fair and reasonable prices. In the procurement of such services, the Purchasing Director may require firms to submit a statement of qualifications, performance data and other related information for the performance of professional services.
1. Scope of Project Requirements. Prior to submission of the request for proposals for professional services as an agenda item for approval by the Board, the using agency or agencies for which the professional services are requested shall submit to the Purchasing Director written project requirements indicating the nature and scope of the professional services needed by the using agency or agencies, including but not limited to the following:
 - a) the general purpose of the service or study;
 - b) the objectives of the study or service;
 - c) estimated period of time needed for the service or the study;
 - d) the estimated cost of the service or study (where permissible by law);
 - e) whether the proposed study or service would or would not duplicate any prior or existing study or service;
 - f) list of current contracts or prior services or studies which are related to the proposed study or service; and
 - g) the desired qualifications, listed in order of importance, of the person or firm applicable to the scope and nature of the services requested.

2. **Review of Project Requirements.** The Purchasing Director or his/her designee shall review the scope of project requirements and, if revisions of project requirements are warranted to best meet the needs of the County, copies of the revised project requirements shall be submitted to the user department for consideration prior to public distribution of the project requirements.
 3. **Distribution of Project Requirements.** The Purchasing Director shall distribute the written project requirements to all persons on the mailing list who have indicated an interest in being considered for the performance of such professional services and to any other additional persons as the Purchasing Director or using agency deems desirable. The project requirements shall be accompanied by an invitation to such persons to submit an indication of interest in performing the required services, and by notification of the date and time when such indications of interest are due. Public notice shall be as provided in Section 5.08 (C).
 4. **Resolicitation.** If the County receives indications of interest from less than three persons, the Purchasing Director may resolicit indications of interest from all persons previously solicited and from such additional persons as may seem advisable. However, if after reasonable efforts have determined that there exists little or no likelihood of additional responses, the Purchasing Director may proceed to consider those persons responding to the solicitation or resolicitation.
 5. **Modification Prohibition.** After the publicized submission time and date, indications of interest shall not be modified or allowed to be modified in any manner except for correction of clerical errors or other similar minor irregularities as may be allowed by the Selection Committee (defined in Section 5.091B) prior to making its selection of those best qualified to be formally interviewed.
 6. **Reuse of Existing Plans.** There shall be no public notice requirements or utilization of the selection process as provided in this section for projects in which the County is able to reuse existing plans from a prior project. However, public notice of any plans which are intended to be reused at some future time shall contain a statement which provides that the plans are subject to reuse.
 7. **Local preference.** When the County uses a request for proposals to procure goods or services, the request is developed with evaluation criteria by which a vendor is selected. As part of the evaluation criteria, a local preference of not more than five percent (5%) of the total score shall be assigned for a local preference for local businesses. (Reference Article IX, Section 2-400, Chapter 2 of the Code of Laws of Leon County, Florida)
 8. **Exemptions.** This section shall not apply to a professional service contract for a project where the basic construction cost is estimated by the agency to be less than the threshold amount provided in s. 287.055, Florida Statutes, or for a planning or study activity when the fee for professional services is estimated by the agency to be less than the threshold amount provided in s. 287.055, Florida Statutes, or in cases of valid public emergency so certified by the County Administrator. This section shall not apply to any requirement for professional services if a continuing contract is in effect and a determination is made to utilize the continuing contract to obtain such services.
- B. **Selection Committee Membership and Evaluation.** Depending on the expected complexity and expense of the professional services to be contracted, the County Administrator or his/her designee shall determine whether a three member or five member selection committee will best serve the needs of the County.
1. **Three Member Committee Composition.** Membership of a three-member selection committee shall be appointed by the County Administrator or his/her designee.
 2. **Five Member Committee Composition.** Membership of a five member selection committee shall be appointed by the County Administrator or his/her designee.
 3. **Public Meetings.** In accordance with Florida Statute 286.011, all Selection Committee meetings subsequent to the opening of the solicitation are to be public meetings. The Chairperson shall be responsible to provide the Purchasing Division with all meeting information (date, time, location, and reason for meeting) no less than 96 hours in advance of any scheduled meeting, excluding

holidays and weekends. The Purchasing Division will provide reasonable notice of all meetings, no less than seventy-two (72) hours notice, excluding holidays and weekends, by posting a Notice of Evaluation Committee Meeting on the public notice bulletin board in the Division offices and by giving notice of the meeting to the County Public Information Office and all respondents to the solicitation by facsimile or telephone. The Purchasing Director shall develop and implement *Selection Committee procedures to ensure compliance with public meeting requirements.*

4. Selection Committee Evaluation. Only written responses of statements of qualifications, performance data, and other data received in the purchasing office by the publicized submission time and date shall be evaluated. Only those respondents who are determined to be best qualified based upon the evaluation of written responses and selected for formal interview may submit additional data. From among those persons evidencing, by timely submission of written responses, an interest in performing the services the Selection Committee shall:
 - a) prepare an alphabetical list of those persons determined by the Selection Committee to be qualified, interested and available; and
 - b) designate no less than three persons on the alphabetical list considered by the Selection Committee to be best qualified to perform the work required.
 5. Short listing. The best qualified respondents shall be based upon the Selection Committee's ability to differentiate qualifications applicable to the scope and nature of the services to be performed. The Selection Committee shall determine qualifications, interest and availability by reviewing the written responses that express an interest in performing the services, and by conducting formal interviews of no less than three selected respondents that are determined to be best qualified based upon the evaluation of written responses. The determinations may be based upon, but not limited to, the following considerations:
 - a) competence, including technical education and training, experience in the kind of project to be undertaken, availability of adequate personnel, equipment and facilities, the extent of repeat business of the persons, and where applicable, the relationship of construction cost estimates by the person to actual costs on previous projects;
 - b) current work load;
 - c) financial responsibility;
 - d) ability to observe and advise whether plans and specifications are being complied with, where applicable;
 - e) record of professional accomplishments;
 - f) proximity to the project involved, if applicable;
 - g) record of performance;
 - h) ability to design an approach and work plan to meet the project requirements, where applicable; and
 6. Interviews and Board Approval. After conducting the formal interviews, the Selection Committee shall list those respondents interviewed in order of preference based upon the considerations listed in subsection (4) above. The respondents so listed shall be considered to be the most qualified and shall be listed in order of preference starting at the top of the list. The list of best qualified persons shall be forwarded to the Board for approval prior to beginning contract negotiations. Negotiation sequence shall be based on the order of preference.
- C. Negotiation Staff. Contract negotiations shall be conducted by the Purchasing Director or designee(s) or by a Negotiation Committee.
1. Negotiation Committee Membership. Membership of the three member Negotiation Committee shall consist of:
 - a) the Purchasing Director, or the designee of the Purchasing Director who shall chair the committee,
 - b) the head of the primary using department or agency, or his/her designee,
 - c) the County Attorney or designee.

2. Negotiation. The Negotiator(s) shall negotiate a contract with the firm considered to be the most qualified to provide the services at compensation and upon terms which the Negotiator(s) determines to be fair and reasonable to the County. In making this decision, the Negotiator(s) shall take into account the estimated value, the scope, the complexity, and the professional nature of the services to be rendered. Should the Negotiator(s) be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, negotiations with that firm shall be formally terminated. The Negotiator(s) shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the Negotiator(s) shall formally terminate negotiations, and shall then undertake negotiations with the third most qualified firm. Should the Negotiator(s) be unable to negotiate a satisfactory contract with any of the selected firms, the Selection Committee shall select additional firms in order of their competence and qualifications, and the Negotiator(s) shall continue negotiations in accordance with this Section until an agreement is reached or until a determination has been made not to contract for such services.
3. Continuing Contracts. Nothing in this section (5.091) shall be construed to prohibit continuing contracts for professional services between a firm and the County.

*** Section 5.092 OTHER COMPETITIVE SEALED PROPOSALS**

- A. Conditions for Use. When the Director of Purchasing determines that the use of competitive sealed bidding is either not practical or not advantageous to the County, a contract may be entered into by the use of competitive sealed proposals.
- B. Consultant's Competitive Negotiation Act. Professional services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered land surveying, as defined under the Consultant's Competitive Negotiation Act (Section 287.055, Florida Statutes), shall be secured under the provisions of Section 5.091.
- C. Board Approval. Proposals anticipated to exceed the threshold established in Section 5 for Competitive Sealed Proposals shall be approved by the Board of County Commissioners prior to solicitation.
- D. Public Notice. Adequate public notice of the Request for Proposals shall be given in the same manner as provided in subsection 5.08C of this policy for competitive sealed bidding.
- E. Evaluation Factors. The Request for Proposals shall state the relative importance of criteria outlined in the scope of services, fee proposal, and other evaluation criteria as suggested in section 5.091B(4)).
- F. Proposal Cancellation or Postponement. The Director of Purchasing may, prior to a proposal opening, elect to cancel or postpone the date and/or time for proposal opening or submission.
- G. Revisions and Discussions with Responsible Offerors. Discussions may be conducted with responsible offerors who submit proposals determined to be qualified of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining the best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.
- H. Award. Award shall be made to the lowest responsible offeror whose proposal is determined in writing to be the most advantageous to Leon County, taking into consideration the evaluation factors set forth in the Request for Proposals. No other factors or criteria shall be used in the evaluation criteria that is not included in the Request for Proposal.
- I. Local preference. When the County uses a request for proposals to procure goods or services, the request is developed with evaluation criteria by which a vendor is selected. As part of the evaluation criteria, a local preference of not more than five percent (5%) of the total score shall be assigned for a local preference for local businesses. (Reference Article IX, Section 2-400, Chapter 2 of the Code of Laws of Leon County, Florida)

The 2007 Florida Statutes

Title XIX
PUBLIC
BUSINESS

Chapter 287
PROCUREMENT OF PERSONAL PROPERTY AND
SERVICES

View Entire
Chapter

287.055 Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties.--

(1) SHORT TITLE.--This section shall be known as the "Consultants' Competitive Negotiation Act."

(2) DEFINITIONS.--For purposes of this section:

(a) "Professional services" means 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, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.

(b) "Agency" means the state, a state agency, a municipality, a political subdivision, a school district, or a school board. The term "agency" does not extend to a nongovernmental developer that contributes public facilities to a political subdivision under s. 380.06 or ss. 163.3220-163.3243.

(c) "Firm" means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice architecture, engineering, or surveying and mapping in the state.

(d) "Compensation" means the amount paid by the agency for professional services regardless of whether stated as compensation or stated as hourly rates, overhead rates, or other figures or formulas from which compensation can be calculated.

(e) "Agency official" means any elected or appointed officeholder, employee, consultant, person in the category of other personal service or any other person receiving compensation from the state, a state agency, municipality, or political subdivision, a school district or a school board.

(f) "Project" means that fixed capital outlay study or planning activity described in the public notice of the state or a state agency under paragraph (3)(a). A project may include:

1. A grouping of minor construction, rehabilitation, or renovation activities.
2. A grouping of substantially similar construction, rehabilitation, or renovation activities.

(g) A "continuing contract" is a contract for professional services entered into in accordance with all the procedures of this act between an agency and a firm whereby the firm provides professional services to the agency for projects in which construction costs do not exceed \$1 million, for study activity when the fee for such professional service does not exceed \$50,000, or for work of a specified nature as outlined in the contract required by the agency, with no time limitation except that the contract must provide a termination clause. Firms providing professional services under continuing contracts shall not be required to bid against one another.

(h) A "design-build firm" means a partnership, corporation, or other legal entity that:

1. Is certified under s. 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 s. 471.023 to practice or to offer to practice engineering; certified under s. 481.219 to practice or to offer to practice architecture; or certified under s. 481.319 to practice or to offer to practice landscape architecture.

(i) A "design-build contract" means a single contract with a design-build firm for the design and construction of a public construction project.

(j) 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 an agency's 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.

(k) 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.

(l) "Negotiate" or any form of that word means to conduct legitimate, arms length discussions and conferences to reach an agreement on a term or price. For purposes of this section, the term does not include presentation of flat-fee schedules with no alternatives or discussion.

(3) PUBLIC ANNOUNCEMENT AND QUALIFICATION PROCEDURES.--

(a)1. Each agency shall publicly announce, in a uniform and consistent manner, each occasion when professional services must be purchased for a project the basic construction cost of which is estimated by the agency to exceed the threshold amount provided in s. 287.017 for CATEGORY FIVE or for a planning or study activity when the fee for professional services exceeds the threshold amount provided in s. 287.017 for CATEGORY TWO, except in cases of valid public emergencies certified by the agency head. The public notice must include a general description of the project and must indicate how interested consultants may apply for consideration.

2. Each agency shall provide a good faith estimate in determining whether the proposed activity meets the threshold amounts referred to in this paragraph.

(b) Each agency shall encourage firms engaged in the lawful practice of their professions that desire to provide professional services to the agency to submit annually statements of qualifications and performance data.

(c) Any firm or individual desiring to provide professional services to the agency must first be certified by the agency as qualified pursuant to law and the regulations of the agency. The agency must find that the firm or individual to be employed is fully qualified to render the required service. Among the factors to be considered in making this finding are the capabilities, adequacy of

personnel, past record, and experience of the firm or individual.

(d) Each agency shall evaluate professional services, including capabilities, adequacy of personnel, past record, experience, whether the firm is a certified minority business enterprise as defined by the Florida Small and Minority Business Assistance Act, and other factors determined by the agency to be applicable to its particular requirements. When securing professional services, an agency must endeavor to meet the minority business enterprise procurement goals under s. 287.09451.

(e) The public must not be excluded from the proceedings under this section.

(4) COMPETITIVE SELECTION.--

(a) For each proposed project, the agency shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with, and may require public presentations by, no fewer than three firms regarding their qualifications, approach to the project, and ability to furnish the required services.

(b) The agency shall select in order of preference no fewer than three firms deemed to be the most highly qualified to perform the required services. In determining whether a firm is qualified, the agency shall consider such factors as the ability of professional personnel; whether a firm is a certified minority business enterprise; past performance; willingness to meet time and budget requirements; location; recent, current, and projected workloads of the firms; and the volume of work previously awarded to each firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms. The agency may request, accept, and consider proposals for the compensation to be paid under the contract only during competitive negotiations under subsection (5).

(c) This subsection does not apply to a professional service contract for a project the basic construction cost of which is estimated by the agency to be not in excess of the threshold amount provided in s. 287.017 for CATEGORY FIVE or for a planning or study activity when the fee for professional services is not in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO. However, if, in using another procurement process, the majority of the compensation proposed by firms is in excess of the appropriate threshold amount, the agency shall reject all proposals and reinitiate the procurement pursuant to this subsection.

(d) Nothing in this act shall be construed to prohibit a continuing contract between a firm and an agency.

(5) COMPETITIVE NEGOTIATION.--

(a) The agency shall negotiate a contract with the most qualified firm for professional services at compensation which the agency determines is 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. For any lump-sum or cost-plus-a-fixed-fee professional service contract over the threshold amount provided in s. 287.017 for CATEGORY FOUR, the agency shall require the firm receiving the award to execute a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any professional service contract under which such a certificate is required must contain a provision that the original contract price and any additions thereto will be adjusted to exclude any significant sums by which the agency determines the contract price was increased due to inaccurate, incomplete,

or noncurrent wage rates and other factual unit costs. All such contract adjustments must be made within 1 year following the end of the contract.

(b) Should the agency be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price the agency determines to be fair, competitive, and reasonable, negotiations with that firm must be formally terminated. The agency shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the agency must terminate negotiations. The agency shall then undertake negotiations with the third most qualified firm.

(c) Should the agency be unable to negotiate a satisfactory contract with any of the selected firms, the agency shall select additional firms in the order of their competence and qualification and continue negotiations in accordance with this subsection until an agreement is reached.

(6) PROHIBITION AGAINST CONTINGENT FEES.--

(a) Each contract entered into by the agency for professional services must contain a prohibition against contingent fees as follows: "The architect (or registered surveyor and mapper, or professional engineer, as applicable) warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the architect (or registered surveyor and mapper, or professional engineer, as applicable) to solicit or secure this agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the architect (or registered surveyor and mapper or professional engineer, as applicable) any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this agreement." For the breach or violation of this provision, the agency shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

(b) Any individual, corporation, partnership, firm, or company, other than a bona fide employee working solely for an architect, professional engineer, or registered land surveyor and mapper, who offers, agrees, or contracts to solicit or secure agency contracts for professional services for any other individual, company, corporation, partnership, or firm and to be paid, or is paid, any fee, commission, percentage, gift, or other consideration contingent upon, or resulting from, the award or the making of a contract for professional services shall, upon conviction in a competent court of this state, be found guilty of a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083.

(c) Any architect, professional engineer, or registered surveyor and mapper, or any group, association, company, corporation, firm, or partnership thereof, who offers to pay, or pays, any fee, commission, percentage, gift, or other consideration contingent upon, or resulting from, the award or making of any agency contract for professional services shall, upon conviction in a state court of competent authority, be found guilty of a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083.

(d) Any agency official who offers to solicit or secure, or solicits or secures, a contract for professional services and to be paid, or is paid, any fee, commission, percentage, gift, or other consideration contingent upon the award or making of such a contract for professional services between the agency and any individual person, company, firm, partnership, or corporation shall, upon conviction by a court of competent authority, be found guilty of a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083.

(7) AUTHORITY OF DEPARTMENT OF MANAGEMENT SERVICES.--Notwithstanding any other provision of this section, the Department of Management Services shall be the agency of state government

which is solely and exclusively authorized and empowered to administer and perform the functions described in subsections (3), (4), and (5) respecting all projects for which the funds necessary to complete same are appropriated to the Department of Management Services, irrespective of whether such projects are intended for the use and benefit of the Department of Management Services or any other agency of government. However, nothing herein shall be construed to be in derogation of any authority conferred on the Department of Management Services by other express provisions of law. Additionally, any agency of government may, with the approval of the Department of Management Services, delegate to the Department of Management Services authority to administer and perform the functions described in subsections (3), (4), and (5). Under the terms of the delegation, the agency may reserve its right to accept or reject a proposed contract.

(8) STATE ASSISTANCE TO LOCAL AGENCIES.--On any professional service contract for which the fee is over \$25,000, the Department of Transportation or the Department of Management Services shall provide, upon request by a municipality, political subdivision, school board, or school district, and upon reimbursement of the costs involved, assistance in selecting consultants and in negotiating consultant contracts.

(9) APPLICABILITY TO DESIGN-BUILD CONTRACTS.--

(a) Except as provided in this subsection, this section is not applicable to the procurement of design-build contracts by any agency, and the agency must award design-build contracts in accordance with the procurement laws, rules, and ordinances applicable to the agency.

(b) The design criteria package must be prepared and sealed by a design criteria professional employed by or retained by the agency. If the agency elects to enter into a professional services contract for the preparation of the design criteria package, then the design criteria professional must be selected and contracted with under the requirements of subsections (4) and (5). A design criteria professional who has been selected to prepare the design criteria package is not eligible to render services under a design-build contract executed pursuant to the design criteria package.

(c) Except as otherwise provided in s. 337.11(7), the Department of Management Services shall adopt rules for the award of design-build contracts to be followed by state agencies. Each other agency must adopt rules or ordinances for the award of design-build contracts. Municipalities, political subdivisions, school districts, and school boards shall award design-build contracts by the use of a competitive proposal selection process as described in this subsection, or by the use of a qualifications-based selection process pursuant to subsections (3), (4), and (5) for entering into a contract whereby the selected firm will, subsequent to competitive negotiations, establish a guaranteed maximum price and guaranteed completion date. If the procuring agency elects the option of qualifications-based selection, during the selection of the design-build firm the procuring agency shall employ or retain a licensed design professional appropriate to the project to serve as the agency's representative. Procedures for the use of a competitive proposal selection process must include as a minimum the following:

1. The preparation of a design criteria package for the design and construction of the public construction project.
2. The qualification and selection of no fewer than three design-build firms as the most qualified, based on the qualifications, availability, and past work of the firms, including the partners or members thereof.
3. The criteria, procedures, and standards for the evaluation of design-build contract proposals or bids, based on price, technical, and design aspects of the public construction project, weighted for

the project.

4. The solicitation of competitive proposals, pursuant to a design criteria package, from those qualified design-build firms and the evaluation of the responses or bids submitted by those firms based on the evaluation criteria and procedures established prior to the solicitation of competitive proposals.

5. For consultation with the employed or retained design criteria professional concerning the evaluation of the responses or bids submitted by the design-build firms, the supervision or approval by the agency of the detailed working drawings of the project; and for evaluation of the compliance of the project construction with the design criteria package by the design criteria professional.

6. In the case of public emergencies, for the agency head to declare an emergency and authorize negotiations with the best qualified design-build firm available at that time.

(10) REUSE OF EXISTING PLANS.--Notwithstanding any other provision of this section, there shall be no public notice requirement or utilization of the selection process as provided in this section for projects in which the agency is able to reuse existing plans from a prior project of the agency, or, in the case of a board as defined in s. 1013.01, a prior project of that or any other board. Except for plans of a board as defined in s. 1013.01, public notice for any plans that are intended to be reused at some future time must contain a statement that provides that the plans are subject to reuse in accordance with the provisions of this subsection.

(11) CONSTRUCTION OF LAW.--Nothing in the amendment of this section by chapter 75-281, Laws of Florida, is intended to supersede the provisions of ss. 1013.45 and 1013.46:

History.--ss. 1, 2, 3, 4, 5, 6, 7, 8, ch. 73-19; ss. 1, 2, 3, ch. 75-281; s. 1, ch. 77-174; s. 1, ch. 77-199; s. 10, ch. 84-321; ss. 23, 32, ch. 85-104; s. 57, ch. 85-349; s. 6, ch. 86-204; s. 1, ch. 88-108; s. 1, ch. 89-158; s. 16, ch. 90-268; s. 15, ch. 91-137; s. 7, ch. 91-162; s. 250, ch. 92-279; s. 55, ch. 92-326; s. 1, ch. 93-95; s. 114, ch. 94-119; s. 10, ch. 94-322; s. 868, ch. 95-148; s. 2, ch. 95-410; s. 45, ch. 96-399; s. 38, ch. 97-100; s. 1, ch. 97-296; s. 80, ch. 98-279; s. 55, ch. 2001-61; s. 63, ch. 2002-20; s. 944, ch. 2002-387; s. 1, ch. 2005-224; s. 19, ch. 2007-157; s. 3, ch. 2007-159.

Purchasing, Minority, Women, and Small Business Enterprise Policy
Policy No. 96-1

2. Review of Project Requirements. The Purchasing Director or his/her designee shall review the scope of project requirements and, if revisions of project requirements are warranted to best meet the needs of the County, copies of the revised project requirements shall be submitted to the user department for consideration prior to public distribution of the project requirements.
3. Distribution of Project Requirements. The Purchasing Director shall distribute the written project requirements to all persons on the mailing list who have indicated an interest in being considered for the performance of such professional services and to any other additional persons as the Purchasing Director or using agency deems desirable. The project requirements shall be accompanied by an invitation to such persons to submit an indication of interest in performing the required services, and by notification of the date and time when such indications of interest are due. Public notice shall be as provided in Section 5.08 (C).
4. Resolicitation. If the County receives indications of interest from less than three persons, the Purchasing Director may resolicit indications of interest from all persons previously solicited and from such additional persons as may seem advisable. However, if after reasonable efforts have determined that there exists little or no likelihood of additional responses, the Purchasing Director may proceed to consider those persons responding to the solicitation or resolicitation.
5. Modification Prohibition. After the publicized submission time and date, indications of interest shall not be modified or allowed to be modified in any manner except for correction of clerical errors or other similar minor irregularities as may be allowed by the Selection Committee (defined in Section 5.091B) prior to making its selection of those best qualified to be formally interviewed.
6. Reuse of Existing Plans. There shall be no public notice requirements or utilization of the selection process as provided in this section for projects in which the County is able to reuse existing plans from a prior project. However, public notice of any plans which are intended to be reused at some future time shall contain a statement which provides that the plans are subject to reuse.
7. Local preference. When the County uses a request for proposals to procure goods or services, the request is developed with evaluation criteria by which a vendor is selected. As part of the evaluation criteria, a local preference of not more than five percent (5%) of the total score shall be assigned for a local preference for local businesses. (Reference Article IX, Section 2-400, Chapter 2 of the Code of Laws of Leon County, Florida)
8. Exemptions. This section shall not apply to a professional service contract for a project where the basic construction cost is estimated by the agency to be less than the threshold amount provided in s. 287.055, Florida Statutes, or for a planning or study activity when the fee for professional services is estimated by the agency to be less than the threshold amount provided in s. 287.055, Florida Statutes, or in cases of valid public emergency so certified by the County Administrator. This section shall not apply to any requirement for professional services if a continuing contract is in effect and a determination is made to utilize the continuing contract to obtain such services.



B. Selection Committee Membership and Evaluation. Depending on the expected complexity and expense of the professional services to be contracted, the County Administrator or his/her designee shall determine whether a three member or five member selection committee will best serve the needs of the County.

1. Three Member Committee Composition. Membership of a three-member selection committee shall be appointed by the County Administrator or his/her designee.
2. Five Member Committee Composition. Membership of a five member selection committee shall be appointed by the County Administrator or his/her designee.
3. Public Meetings. In accordance with Florida Statute 286.011, all Selection Committee meetings subsequent to the opening of the solicitation are to be public meetings. The Chairperson shall be responsible to provide the Purchasing Division with all meeting information (date, time, location, and reason for meeting) no less than 96 hours in advance of any scheduled meeting, excluding

holidays and weekends. The Purchasing Division will provide reasonable notice of all meetings, no less than seventy-two (72) hours notice, excluding holidays and weekends, by posting a Notice of Evaluation Committee Meeting on the public notice bulletin board in the Division offices and by giving notice of the meeting to the County Public Information Office and all respondents to the solicitation by facsimile or telephone. The Purchasing Director shall develop and implement *Selection Committee procedures to ensure compliance with public meeting requirements.*

4. Selection Committee Evaluation. Only written responses of statements of qualifications, performance data, and other data received in the purchasing office by the publicized submission time and date shall be evaluated. Only those respondents who are determined to be best qualified based upon the evaluation of written responses and selected for formal interview may submit additional data. From among those persons evidencing, by timely submission of written responses, an interest in performing the services the Selection Committee shall:
 - a) prepare an alphabetical list of those persons determined by the Selection Committee to be qualified, interested and available; and
 - b) designate no less than three persons on the alphabetical list considered by the Selection Committee to be best qualified to perform the work required.
 5. Short listing. The best qualified respondents shall be based upon the Selection Committee's ability to differentiate qualifications applicable to the scope and nature of the services to be performed. The Selection Committee shall determine qualifications, interest and availability by reviewing the written responses that express an interest in performing the services, and by conducting formal interviews of no less than three selected respondents that are determined to be best qualified based upon the evaluation of written responses. The determinations may be based upon, but not limited to, the following considerations:
 - a) competence, including technical education and training, experience in the kind of project to be undertaken, availability of adequate personnel, equipment and facilities, the extent of repeat business of the persons, and where applicable, the relationship of construction cost estimates by the person to actual costs on previous projects;
 - b) current work load;
 - c) financial responsibility;
 - d) ability to observe and advise whether plans and specifications are being complied with, where applicable;
 - e) record of professional accomplishments;
 - f) proximity to the project involved, if applicable;
 - g) record of performance;
 - h) ability to design an approach and work plan to meet the project requirements, where applicable; and
 6. Interviews and Board Approval. After conducting the formal interviews, the Selection Committee shall list those respondents interviewed in order of preference based upon the considerations listed in subsection (4) above. The respondents so listed shall be considered to be the most qualified and shall be listed in order of preference starting at the top of the list. The list of best qualified persons shall be forwarded to the Board for approval prior to beginning contract negotiations. Negotiation sequence shall be based on the order of preference.
- C. Negotiation Staff. Contract negotiations shall be conducted by the Purchasing Director or designee(s) or by a Negotiation Committee.
1. Negotiation Committee Membership. Membership of the three member Negotiation Committee shall consist of:
 - a) the Purchasing Director, or the designee of the Purchasing Director who shall chair the committee,
 - b) the head of the primary using department or agency, or his/her designee,
 - c) the County Attorney or designee.