

# STRATEGIC PROCUREMENT DEPARTMENT

## Procurement Guidance Document and Best Practices Manual



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### **Prepared By**

Miami-Dade County  
Strategic Procurement Department

Please contact us at [spdtraining@miamidade.gov](mailto:spdtraining@miamidade.gov) if you have any questions. Our website also provides valuable information and resources for staff, vendors and other governmental entities. Our web address is: <http://www.miamidade.gov/procurement>

## PREFACE

This Procurement Guidance Document and Best Practices Manual (Manual) consolidates Miami-Dade County (County) procurement policies, procedures, and guidelines. The Manual along with Federal and State guidelines, the procurement policies adopted by the County's Board of County Commissioners (Board), Implementing Orders (IO), Administrative Orders (AO), and the corresponding guidelines issued by the Strategic Procurement Department (SPD) Director are a guide to the County's procurement process for procurement staff, client department liaisons and project managers, governmental entities, and the South Florida vendor community. The Manual is further intended to serve as a living document and will be updated as public procurement continues to evolve. The Manual is divided into nine sections, which encompass the entire procurement cycle, and serve as a supplement to sound business acumen in public procurement and contracting.

## CHANGES TO THE PROCUREMENT MANUAL

Only the Board may make changes to the County's procurement policies. Only the SPD Director may make changes to the procedures and guidelines. Changes in Federal (particularly, changes to the Federal Regulations 2 CFR Part 200, Uniform Guidance, and to the Federal Transit Administration's FTA Circular 4220.1F and Master Agreement), State and/or local laws, and/or other governing regulations and best practices may require deletions, corrections, or additions to this Manual. Proposed deletions, corrections, or additions to the Manual should be sent to the Director for consideration. The Director will coordinate as necessary with the appropriate individuals or offices to incorporate the proposed deletions, corrections, or additions to the Manual.

This document is subject to all legal requirements contained in the applicable County Ordinances, Administrative/Implementing Orders, and Resolutions, as well as all applicable State Statutes and Federal Regulations. Where conflict exists between this document and these legal requirements, the authority shall prevail in the following order: Federal, State, and local. Also, where there appears to be a conflict between any of the Sections in the Manual, the order of precedence shall be:

1. Section 8 - Legislation, Policies and Directives
2. Section 6 - Miami-Dade Procurement Manual for Federally Funded Purchases
3. Section 5 – Miami-Dade Compliance to Federal Procurement Requirements
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# SECTION 1 PURPOSE AND SCOPE

- 1.1 Introduction to County Procurement.** Section 1 sets forth the general procurement policy guidance and requirements that govern and affect County procurement, programming/operational activities, legal sufficiency reviews, and the conduct of personnel engaged in those activities. It is the intent of the Manual to support procurement staff, County departments, governmental entities, and the vendor community in:
- a. Being fully aware of, and complying with, County procurement policies; and,
  - b. Effectively participating in the County's procurement process.
- 1.2 Procurement Responsibility and Authority.** *Sections 1.01 and 5.01 of the Home Rule Charter of Miami-Dade County, Section 2.8-1 of the Code of Miami-Dade County, Contracts and Purchases Generally, as well as I.O. 3-38 Master Procurement Implementing Order*, as amended, provide for the procurement of goods and services under full and open competition, unless it meets specific criteria and is determined not to be in the best interest of the County. Policies related to the acquisition of professional services governed by Florida Statute 287.055 are covered under a separate guide and are outside the scope of this document.
- 1.3 Procurement Regulations Background.** The County's Procurement Policies, as defined in this Section, establish the broad framework for its Procurement Procedures. The Procurement Guidelines are developed and implemented by the SPD Director.
- 1.4 References to Federal Regulations, State Statutes, and County Code.** References in the County's Procurement policies to all federal regulations, state statutes, County Code, circular, and/or other guidance, shall be deemed to include any revision, amendment, or replacement therein, effective after the date of the adoption of the Policy by the federal government, State, or Board.
- 1.5 Board of County Commissioners (Board).** The Board is responsible for approving procurement policies; deviations thereof; authorizing limited contracting authority to the County Mayor (Mayor) to initiate, award, renew and modify procurements; authorizing the Mayor to recommend competitive actions or other appropriate action to the Board; and further authorizing the Mayor to delegate limited contracting authority.
- 1.6 County Mayor.** The Mayor is responsible for authorizing the initiation, solicitation, evaluation, negotiation, award, renewal, and modification of procurements consistent with the Board's approved delegated authority; authorizing the further delegation of limited contracting to the SPD Director to initiate, award, renew and modify procurements; and further authorizing the delegation of non-competitive recommendation actions to the SPD Director.

- 1.7 **Strategic Procurement Director (SPD).** The SPD Director is responsible for authorizing the initiation, solicitation, evaluation, negotiation, award, renewal, and modification of solicitations consistent with the Mayor's approved delegated authority; for developing and issuing procurement guidelines and procedures to implement Board procurement policies; establishing a system to select, recommend, appoint, and delegate authority to the Director, and bringing the greatest value to the County through fairness, integrity, competition and community inclusion.
- 1.8 **Chief Procurement Officer.** The Chief Procurement Officer (CPO) serves as a full participatory member of the SPD Executive Leadership Team, and is responsible for fostering full and open competition and appointing and managing qualified procurement professionals that will carry out SPD's mission.
- 1.9 **County Attorney's Office.** The County Attorney's Office (CAO), in accordance with Section 2-8.4, Protest Procedures, of the Code of Miami-Dade County and I.O. 2-13, Guidelines and Procedures Regarding Legal Opinions with Respect to the County Competitive Processes, provides legal counsel and opinions regarding any County procurement process, to the Mayor, or Mayor's designee, to include to the SPD Director, Chief Procurement Officer, Procurement Contracting Officers and others involved in the competitive process; assigning a cognizant attorney for each applicable procurement, as applicable; ensuring consistency with all applicable laws and regulations, and rendering appropriate legal review at all applicable phases of a procurement.
- 1.10 **Guiding Principles and Values of County Procurement.**

**1.10.1 Accountability**

Being responsible to the County, our client departments, vendor community and residents for our actions and work product is essential to preserving the public trust and protecting the public interest.

- a. Apply sound business judgment;
- b. Be knowledgeable of and abide by all applicable laws and regulations;
- c. Be responsible stewards of County funds;
- d. Maximize competition to the greatest extent practicable;
- e. Promote effective, economic, and efficient acquisition; and
- f. Use procurement strategies to optimize value to the County and our customers.

**1.10.2 Ethics**

Acting in an ethical manner is essential to preserving the public's trust.

- a. Act and conduct business with honesty and integrity, avoiding even the appearance of impropriety;
- b. Maintain consistency in all processes and actions; and
- c. Abide by Section 2-11.1 of the Code of Miami-Dade County, Conflict of Interest and Code of Ethics, and the National Institute of Governmental Purchasing (NIGP) Code of Ethics



1.10.2.1 **Impartiality**

Unbiased decision making and actions are essential to fairness.

- a. Be open, fair, impartial, and non-discriminatory in all procurements; and
- b. Treat vendors equitably, and without imposing unnecessary constraints.

1.10.2.2 **Professionalism**

Maintain high standards of job performance and ethical behavior.

- a. Continually contribute value to the organization;
- b. Continually develop as a professional through education, mentorship, innovation, and partnerships; and
- c. Develop, support and promote the highest professional standards in all procurements.

1.10.2.3 **Service**

Always seek to assist our client departments.

- a. Be a resource and partner to our clients;
- b. Develop and maintain relationships with clients; and
- c. Maintain a customer service focus while meeting the needs of the County.

1.10.2.4 **Transparency**

Policies and procedures that are accessible and understandable to demonstrate the responsible use of public funds.

- a. Maintain current and complete policies, procedures and records; and
- b. Provide timely access to procurement policies, procedures and records.

1.11 **Competitive Process.** SPD serves as the central procurement agency for County government and is tasked with fostering full and open competition issuing solicitations and preparing contracts on behalf of most County departments. In this capacity, and pursuant to Implementing Order 3-38-Master Procurement and Administrative Order 3-39-Standard Process for Construction of Capital Improvements, Acquisition of Professional Services, Construction Contracting, Change Orders and Reporting, Strategic Procurement Department (SPD) shall conduct procurements using full and open competition consistent with the standards set forth herein and in the applicable federal regulations, state statutes and County code geared towards yielding best value. SPD's objective is to provide the County with goods and services in the most cost-effective manner, through procurement professionals trained to determine the appropriate acquisition method, assuring effective market research, enhancing contracting opportunities for small and disadvantaged business entities, scrutinizing

requests for non-competitive actions, and challenging specifications and scope of services to ensure no artificial barriers limit competition.

**1.12 Partially or Fully Federally Funded Acquisitions.** The Uniform Guidance prohibits solicitations that contain features that unduly restrict competition. In conducting procurements that use federal funds, SPD shall use procedures and methods conducive to full and open competition, include required federal forms and language in the solicitation, and take into account and give effect to competition requirements that are contained in any regulation, statute or guidance that applies to grant funds used in the procurement, including but not limited to the following, as applicable:

- a. Federal Transit Administration (“FTA”) enabling legislation, 49 U.S.C. § 5325(a) (FTA grant recipients to conduct all procurements financed under 49 U.S.C. Chapter 53 in a manner that provides full and open competition.
- b. FTA Circular 4220.1F (as may be amended and revised by the FTA)
- c. The U.S. Department of Transportation Federal Transit Administration Master Agreement
- d. Section 60-250.4, Section 60-250.5 and Section 60-741.4 of Title 41 of the United States Code, which addresses Affirmative Action requirements for disabled workers.
- e. The Contract Work Hours and Safety Standards Act of 1962, 40 U.S.C. 327, et seq., requiring that mechanics and laborers (including watchmen and guards) employed on federally assisted contracts be paid wages of not less than one and one-half times their basic wage rates for all hours worked in excess of forty hours in a work week.
- f. The Federal Fair Labor Standards Act, 29 U.S.C. s. 201, et seq., requiring that covered employees be paid at least the minimum prescribed wage, and that they be paid one and one-half times their basic wage rates for all hours worked in excess of the prescribed work-week.
- g. The Clean Air Act of 1955, as amended, 42 U.S.C. 7401-7671q and the Federal Water Pollution Control Act, 33 U.S.C. 1251-1387.
- h. The mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act, P.L. 94-163.
- i. Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.
- i. The Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)
- j. CFR pt. 180 and 2 CFR pt. 3000. The vendor shall verify that none of the vendor, its principals (defined at 2 CFR § 180.995), or its affiliates (defined at 2 CFR § 180.905) are excluded (defined at 2 CFR § 180.940) or disqualified (defined at 2 CFR § 180.935).
- k. All applicable requirements in 2 CFR, Part 200, 200.317-200.326 Procurement Standards.

- l. All applicable requirements in 2 CFR, Part 200, 200.333-200.337 Records Retention and Access.
- m. Pursuant to 2 CFR, Part 200.318(i) (1), SPD and client departments will maintain records sufficient to detail the history of partially or fully federally funded procurements. These records will include but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. Further, SPD and client departments will comply with all applicable requirements in 2 CFR, Part 200, 200.333-200.337 Records Retention and Access, incorporated hereby by reference.
- n. Pursuant to 2 CFR, Part 200.318(j) (1), the County may use a time and materials type contract for partially or fully federally funded acquisitions only after a determination has been made that no other contract type is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to the County is the sum of: the actual cost of materials; and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit. Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the County will assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls. A high degree of scrutiny is required from the County during performance in order to provide reasonable assurance that efficient methods and cost controls are used by the contractor.
- o. Procurement of recovered materials. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- p. Pursuant to FTA C4220.1F, IV, 2.b.(5)(b).1.2., the County may not use FTA assistance to make payments to a third-party contractor before the contractor has incurred the costs for which the payments would be attributable. Apart from advance payments that are customary, as discussed further, FTA does occasionally make exceptions to its advance payment prohibitions, if the recipient can provide sound business reasons for doing so and has obtained FTA's advance written concurrence. A recipient that seeks to use FTA assistance to support advance payments should contact the regional office administering its project to obtain FTA concurrence.

- Adequate Security for Advance Payments. FTA recognizes that advance payments may be needed for certain costs supported by sound business judgment. Adequate security for the advance payment is an essential precondition to FTA's concurrence in the use of FTA or local share funds.
- Customary Advance Payments. FTA recognizes that advance payments are typically required for, but are not limited to, public utility connections and services, rent, tuition, insurance premiums, subscriptions to publications, software licenses, construction mobilization costs, transportation, hotel reservations, and conference and convention registrations. Accordingly, the County may use FTA assistance to support or reimburse the costs of such acquisitions. FTA concurrence is required only when such advance payment or payments customarily required in the marketplace exceed \$100,000.

In summary, if there are sound business reasons justifying the advance payment and adequate security for the payment, FTA will generally concur in a written request for an exception.

- q. Pursuant to FTA C4220.1F, IV, 2.b.(5)(c), the County may use FTA assistance to support progress payments provided the County obtains adequate security for those payments and has sufficient written documentation to substantiate the work for which payment is requested. Progress payments are payments for contract work that has not been completed.

1. Adequate Security for Progress Payments. Adequate security for progress payments may include taking title or obtaining a letter of credit or taking equivalent measures to protect the recipient's financial interest in the progress payment. Adequate security should reflect the practical realities of different procurement scenarios and factual circumstances. FTA acknowledges the practical reality that taking title to work in progress may not be desirable in some circumstances. The recipient should always consider the costs associated with providing security (for example, the recipient may need to acquire bonds or letters of credit in the commercial marketplace) and the impact of those costs on the contract price, as well as the consequences of incomplete performance.

2. Adequate Documentation. Sufficient documentation is required to demonstrate completion of the amount of work for which progress payments are made.

3. Percentage of Completion Method. The Common Grant Rules requires that any progress payments for construction contracts be made on a percentage of completion method described therein. The recipient, however, may not make progress payments for other than construction contracts based on this percentage method.

- r. In accordance with FTA C4220.1F, VII,3.a, the County is charged with the responsibility of evaluating and resolving third party contract disputes. If the County intends to request FTA's permission to use Federal assistance to support payments to a third party contractor to settle a dispute, or intends to request increased Federal assistance for that purpose, the County's responsibilities are as follows:

- (1) Notify FTA. FTA expects the County to provide the following information in connection with third party contract disputes in which it is involved:

- (a) Subjects. A list of disputes involving third party contracts and potential third party contracts that:

- 1 Have a value exceeding \$100,000,
- 2 Involve a controversial matter, irrespective of amount, or 3 Involve a highly publicized matter, irrespective of amount.
- (b) Details. The following information about each dispute:
  - 1 A brief description of the dispute,
  - 2 The basis of disagreement, and
  - 3 If open, how far the dispute has proceeded, or
  - 4 If resolved, the agreement or decision reached, and 5 Whether an appeal has been taken or is likely to be taken.
- (c) When and Where. The County should provide this information:
  - 1 In its next quarterly Milestone Progress Report, and 2 At its next Project Management Oversight review, if any.
- (d) FTA Officials to Notify. FTA also encourages the recipient to keep its FTA project manager informed about disputes with which it is involved. In particular, the recipient should contact its project manager about any unusual activity.
- (2) Adequate Documentation. FTA expects the recipient to include adequate documentation in its project files of the facts, events, negotiations, applicable laws, and a legal evaluation of the likelihood of success in any potential litigation involving the dispute as may be needed to justify FTA's concurrence in any compromise or settlement, should FTA concurrence become necessary.
- (3) Audit. An audit can help the recipient demonstrate that any settlement costs, if incurred, are necessary, reasonable, adequately documented, and appropriate for FTA support. The recipient should consider conducting or obtaining a formal audit to substantiate each part of a large contract dispute before entering into a settlement. The audit should be conducted in accordance with "Generally Accepted Auditing Standards" as defined by the American Institute of Certified Public Accountants. FTA also encourages the recipient to undertake an audit or similar analysis before settlement of a small dispute.
- s. In accordance with FTA C4220.1F, VII, 4.a, the County is responsible for evaluating and resolving third party contract claims and litigation resulting from a contractor's violation, default, or breach of its third-party contracts with recipients of Federal assistance. The County is also responsible for resolving any claims and litigation the contractor may present against it. Due to FTA's financial interest in the settlement of third-party contract claims and litigation, and concerns about matters with significant policy consequences to the Federal Government, FTA expects the County to:
  - (1) Notify FTA. FTA expects the County to provide the following information in connection with third party contract claims and litigation with which it is involved.
    - (a) Subjects. A list of claims and litigation involving third party contracts and potential third-party contracts that: have a value exceeding \$100,000, involve a controversial matter (irrespective of amount), or involve a highly publicized matter (irrespective of amount).
    - (b) Details. The following information about each claim or lawsuit: a brief description of the claim or litigation, the basis of disagreement, and, if open, how far the claim or litigation has proceeded, or, if resolved, the decision or agreement reached, and whether an appeal has been or is likely to be taken.

- (c) When and Where. The County should provide this information in its next quarterly Milestone Progress Report, and at its next Project Management Oversight review, if any.
- (d) FTA Officials to Notify. FTA also encourages the recipient to keep its FTA project manager informed about claims and litigation with which it is involved. In particular, the recipient should contact its project manager about any unusual activity.
- (2) Legal Rights and Remedies. In resolving third party contract claims, FTA expects the recipient to take reasonable measures to pursue its rights and remedies available under law, including settlement, particularly if failure to do so would jeopardize the Federal interest in the project or cause the recipient to seek additional Federal assistance.

In accordance with FTA 49 CFR, § 663.31 – 663.33 Post-delivery audit requirements, a recipient purchasing revenue service rolling stock with FTA funds must ensure that a post-delivery audit under this part is complete before title to the rolling stock is transferred to the recipient. Accordingly, the client department will conduct post-delivery audits in accordance with the following: § 663.33 Description of post-delivery audit. A post-delivery audit under this part includes:

- (a) A post-delivery Buy America certification as described in § 663.35 of this part;
  - (b) A post-delivery purchaser's requirements certification as described in § 663.37 of this part; and
  - (c) When appropriate, a manufacturer's Federal Motor Vehicle Safety Standard self-certification information as described in § 663.41 or § 663.43 of this part.
- § 663.35 Post-delivery Buy America certification. For purposes of this part, a post-delivery Buy America certification is a certification that the recipient keeps on file that:
- (a) There is a letter from FTA which grants a waiver to the rolling stock received from the Buy America requirements under sections 165 (b)(1), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended; or
  - (b) The recipient is satisfied that the rolling stock received meets the requirements of section 165 (a) or (b)(3) of the Surface Transportation Assistance Act of 1982, as amended, after having reviewed itself or by means of an audit prepared by someone other than the manufacturer or its agent documentation provided by the manufacturer which lists:
    - (1) Components and subcomponent parts of the rolling stock identified by manufacturer of the parts, their country of origin and costs; and
    - (2) The actual location of the final assembly point for the rolling stock including a description of the activities which took place at the final assembly point and the cost of the final assembly.

§ 663.37 Post-delivery purchaser's requirements certification. For purposes of this part, a post-delivery purchaser's requirements certification is a certification that the recipient keeps on file that:

- (a) Except for procurements covered under paragraph (c) in this section, a resident inspector (other than an agent or employee of the manufacturer) was at the manufacturing site throughout the period of manufacture of the rolling

stock to be purchased and monitored and completed a report on the manufacture of such rolling stock. Such a report, at a minimum, shall:

- (1) Provide accurate records of all vehicle construction activities; and (2) Address how the construction and operation of the vehicles fulfills the contract specifications.
- (b) After reviewing the report required under paragraph (a) of this section, and visually inspecting and road testing the delivered vehicles, the vehicles meet the contract specifications.
- (c) For procurements of:
  - (1) Ten or fewer buses; or
  - (2) Procurements of twenty vehicles or fewer serving rural (other than urbanized) areas, or urbanized areas of 200,000 people or fewer; or
  - (3) Any number of primary manufacturer standard production and unmodified vans, after visually inspecting and road testing the vehicles, the vehicles meet the contract specifications. [56 FR 48395, Sept. 24, 1991, as amended at 71 FR 14118, Mar. 21, 2006] § 663.39 Post-delivery audit review.
- (a) If a recipient cannot complete a post-delivery audit because the recipient or its agent cannot certify Buy America compliance or that the rolling stock meets the purchaser's requirements specified in the contract, the rolling stock may be rejected and final acceptance by the recipient will not be required. The recipient may exercise any legal rights it has under the contract or at law.
- (b) This provision does not preclude the recipient and manufacturer from agreeing to a conditional acceptance of rolling stock pending manufacturer's correction of deviations within a reasonable period of time.

Section 6 Miami-Dade Procurement Manual for Federally Funded Purchases provides detailed guidance for federally funded acquisitions.

**1.13 Restrictions for Not Using Full and Open Competition in Procurement.** Under certain circumstances, it may be necessary to conduct a procurement using a method other than full and open competition. County procurement staff and client departments shall strictly comply with all legislation, guidelines, and restrictions regarding procurement conducted not using full and open competition, or when limiting or excluding sources of supply.

**1.14 Prohibition of Provisions within Solicitations that Unduly Restrict Competition.** SPD shall not include in a solicitation any feature that unduly restricts competition. Some of the situations considered to be restrictive of competition include, but are not limited to, the following:

- a. **Excessive Qualifications.** Imposing unreasonable, unnecessary, unclear, or unsupported vendor or product requirements.
- b. **Unnecessary Experience.** Imposing unnecessary, arbitrary, or unsupported vendor experience requirements.

- c. **Improper Vendor Prequalification Criteria.** Using prequalification criteria that conflict with the prequalification standards described in the County's Procurement policies.
- d. **Excessive Bonding.** Requiring bonding that exceeds industry standards or the requirements described in state or local law.
- e. **Brand Name Only.** Specifying only a "brand name" product without allowing "an equal" product or allowing "an equal" product without listing the salient characteristics that the "equal" product must meet to be acceptable.
- f. **Collusion.** Supporting or concealing noncompetitive pricing practices between firms or between affiliated companies. Questionable practices include, price fixing, or an unnatural pattern of awards that had the cumulative effect of apportioning work among a fixed group of bidders or proposers.
- g. **Arbitrary Action.** Taking any arbitrary action in the procurement process.
- h. **Excessively Detailed Specifications or Qualifications.** Development of specifications, qualifications, or evaluation criteria which unnecessarily favor a particular vendor.

1.15 **Legal Review by the County Attorney's Office (CAO).** The CAO shall be responsible for ensuring appropriate legal review at all appropriate steps of the procurement process, including approving the final draft of solicitations, as requested by the CPO; making all non-responsiveness determinations; and approving all agreements as to legal sufficiency. The CPO ensures that procurement personnel seek the involvement of the CAO at appropriate junctures.

1.16 **Use of Manual.** The CPO, shall create and maintain a manual (guidance document) to be used by County procurement personnel, and client department liaisons and project managers to ensure: procurement policies, procedures and processes are followed; all relevant considerations are taken into account in a procurement; and all components of the procurement files are assembled timely, and maintained in accordance with applicable federal, state, and/or local legislation.

1.17 **Procurement Training.** The CPO shall prepare and implement an annual training plan for ensuring that County procurement personnel, and client department liaisons and project managers understand and adhere to applicable procurement policies and procedures; and are fully trained to perform their duties with regard to County procurement.

1.18 **Dictionary.** This dictionary defines words and terms commonly used in these procedures and were drawn from the most authoritative sources available.



Term	Definition
<b>Accessing (<i>a.k.a. Piggybacking</i>)</b>	A form of intergovernmental cooperative purchasing which extends the pricing and terms of a contract entered into by one government agency to other agencies. Generally, a larger agency will competitively award a contract that will include language allowing other agencies to utilize the contract which may be to their advantage in terms of pricing, thereby gaining economies of scale that they normally would not receive if they competed on their own.
<b>Administrative Change</b>	Means a written unilateral contract change, that does not affect the substantive rights of the parties (e.g., changes of address for submittals of documents, correction of typographical errors, etc.), and does not require a Supplemental Agreement/Modification.

<b>Approval, Authorization, Concurrence, Waiver</b>	In accordance with FTA Circular 4220.1F, Approval, Authorization, Concurrence, Waiver means a deliberate written statement (transmitted in typewritten hard copy or in an electronic format or medium) of a Federal Government official authorized to permit the recipient to take or omit an action required by the Grant Agreement or Cooperative Agreement for the Project, Master Agreement, or the Circular, which action may not be taken or omitted without that permission. Except to the extent that FTA determines otherwise in writing, that approval, authorization, concurrence, or waiver permitting the performance or omission of a specific action does not constitute permission to perform or omit other similar actions. An oral permission or interpretation has no legal force, authority, or effect.
<b>Best Value</b>	Describes a procurement method in which the County reserves the right to select the most advantageous offer by evaluating and comparing factors in addition to cost or prices. In accordance with FTA Circular 4220.1F, Best Value describes a competitive, negotiated procurement process in which the recipient reserves the right to select the most advantageous offer by evaluating and comparing factors in addition to cost or price such that a recipient may acquire technical superiority even if it must pay a premium price. A “premium” is the difference between the price of the lowest priced proposal and the one that the recipient believes offers the best value. The term “best value” also means the expected outcome of an acquisition that, in the recipient’s estimation, provides the greatest overall benefit in response to its material requirements. To achieve best value in the context of acquisitions for public transportation purposes, the evaluation factors for a specific procurement should reflect the subject matter and the elements that are most important to the recipient. While FTA does not mandate any specific evaluation factors, the recipient must disclose those factors in its solicitation. Evaluation factors may include, but are not limited to, technical design, technical approach, length of delivery schedules, quality of proposed personnel, past performance, and management plan. This definition is intended neither to limit nor to dictate qualitative measures a recipient may employ, except that those qualitative measures must support the purposes of the Federal public transportation program.
<b>Bid Bond</b>	Means an insurance agreement, accompanied by a monetary commitment, by which a third party (surety) accepts liability and guarantees that a bidder will not withdraw its bid.
<b>Integrated Financial Resources Management System (INFORMS)</b>	Refers to the business process improvement system with simplification of data collection and business functions across departments.

<b>Bid Tracking System (BTS)</b>	Refers to the web-based, highly customized procurement reporting system. BTS captures and maintains details and operational functionalities that are not available in INFORMS.
<b>Bid Waiver (BW)</b>	The procurement of a good or service without formal competitive bidding.
<b>Board (a.k.a. BCC)</b>	Miami-Dade County's Board of County Commissioners is established and governed In accordance with the Home Rule Amendment, Article VIII, Section 11, State of Florida Constitution.
<b>Bidder</b>	Means one who submits a response to an ITB or ITQ
<b>Bilateral Contract Modification</b>	Means a written alteration in scope, specifications, delivery, period of performance, price, quantity or other provisions of the contract which is mutually agreed to by the contractor and the County; also referred to as a Supplemental Agreement / Modification.

<b>Brand Name</b>	Means a name of a product or service that is limited to the product or service produced or controlled by one private entity or by a closed group of private entities. Brand names may include trademarks, manufacturer names, or model names/numbers that are associated with only one manufacturer.
<b>Cardinal Change</b>	In accordance with FTA Circular 4220.1F, Cardinal Change means a major deviation from the original purpose of the work or the intended method of achievement, or a revision of contract work so extensive, significant, or cumulative that, in effect, the contractor is required to perform very different work from that described in the original contract. More specifically, in accordance with FTA Circular 4220.1F, V.7. b.(2) a cardinal change is a significant change in contract work (property or services) that causes a major deviation from the original purpose of the work or the intended method of achievement, or causes a revision of contract work so extensive, significant, or cumulative that, in effect, the contractor is required to perform very different work from that described in the original contract, is a cardinal change. Such practices are sometimes informally referred to as "tag-ons." A change within the scope of the contract (sometimes referred to as an "in-scope" change) is not a "tag-on" or cardinal change.
<b>Change Order</b>	In accordance with FTA Circular 42201F, Change Order means an order authorized by the recipient directing the contractor to make changes, In accordance with contract provisions for such changes, with or without the consent of the contractor.

<b>Client/User Department (a.k.a. User Agency/Procuring Entity/Programming Office)</b>	Refers to individual, department, or entity with whom procurement professionals consult and collaborate in procuring a desired or required good or service. The client may also be the end user.
<b>Collusion</b>	Means when two or more parties act together secretly to achieve a fraudulent or unlawful act. May manifest itself in the form of bid collusion when bidders secretly agree to unlawful practices regarding competitive bidding.
<b>Competitive Selection Committee (CSC) (a.k.a. Evaluation Committee)</b>	A committee appointed by the County Mayor to conduct evaluation of proposals, accept oral presentations, as necessary, and submit the results of the evaluation to the County Mayor or designee with its recommendation during the solicitation process for a specific product or service. Refer to Implementing Order 3-34 Formation and Performance of Selection Committees
<b>Cone of Silence</b>	Any communication regarding a particular solicitation between potential bidders/proposers on County solicitations, the County's professional staff and the Board of County Commissioners is limited and requires documentation of communications. Refer to Section 2.11(t) of the County Code.
<b>Confirmation Purchase (a.k.a. Unauthorized Procurement)</b>	Means the ratification of an unauthorized purchase by a user department that is not in compliance with the County's policies and procedures.
<b>Consumer Price Index (CPI)</b>	Refers to a measure of changes in the average price of consumer goods and services. A price index constructed monthly by the U.S. Bureau of Labor Statistics that provides a statistical measure of the average change in prices in a fixed market basket of goods and services. It is frequently called a cost-of-living index.
<b>Constructive Change</b>	In accordance with FTA Circular 42201F, Constructive Change means an act or omission by the recipient that, although not identified by a "change order," does in fact cause a change in the contract work.

<b>Contract</b>	<p>Means an agreement between parties with binding legal and moral force, usually exchanging goods or services for money or other consideration. The essential elements of a contract are an offer and an acceptance of that offer; the capacity of the parties to contract; consideration to support the contract; a mutual identity of consent; legality of purpose; and definiteness.</p> <p>In accordance with FTA Circular 42201F, Contract means a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the recipient to expenditure and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to) awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. 6301, <i>et seq.</i></p>
<b>Contract Administration</b>	Means the post-award administration of the contract to ensure compliance with the terms of the agreement by both the contractor and the client department. Typical contract administration activities are goal oriented, aimed at ensuring enforcement through such actions as: modification to the contract, evaluating performance and progress, negotiations and contract closeout.
<b>Contract Close Out</b>	Means the administrative process generally conducted by the Procurement Contracting Officer and the Project Manager, whereby it is established that the work under a contract has been completed and all required deliverables have been inspected and accepted.
<b>Contract File</b>	Means the file containing contract documentation, maintained by the Contracting Officer. It reflects the basis for acquisition and the award, the assignment of contract management and responsibilities, and any subsequent actions taken by the Contracting Officer.
<b>Contractor</b>	Refers to a business entity or individual that receives any award of a contract from the County.
<b>Cooperative Agreement</b>	In accordance with FTA Circular 42201F, Cooperative Agreement means an instrument by which FTA awards Federal assistance to a specific recipient to support a particular project in which FTA takes an active role or retains substantial control, as described in 31 U.S.C. Section 6305.

<b>Design Build Project</b>	In accordance with FTA Circular 42201F, Design-Build Project, as defined in 49 U.S.C. Section 5325(d)(1), means (1) a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build a public transportation system, or an operable segment of such system, that conforms to specific performance criteria; and (2) may include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment. Apart from the definition at 49 U.S.C. Section 5325(d)(1), a “design-build project” also means a construction project under which a recipient enters into a contract with a seller, firm, or consortium of firms both to design and construct a public transportation facility that is the subject of the project.
<b>Designated Purchase</b>	Means when a procurement through the use of formal sealed bids is not practicable, including, but not limited to: (i) sole source purchases, (ii) services where no competition exists such as public utility services, (iii) where purchases or rates are fixed by law or ordinance, (iv) unique professional or artistic services <u>not</u> governed by the Consultants’ Competitive Negotiations Act, section 287.055, Florida Statutes, (v) procurements of goods and services necessary to address an emergency, or where additional formal competition would not be practicable and (vi) solicitations where only a single proposer has responded to a competitive solicitation but such response contains material defects and the County still desires to enter into a contract with such proposer.
<b>Electronic Commerce (E-Commerce)</b>	In accordance with FTA Circular 42201F, Electronic Commerce (E-Commerce) consists of electronic techniques for accomplishing business transactions including electronic mail or messaging, World Wide Web internet technology, electronic bulletin boards, purchase cards, electronic funds transfer, electronic signatures, and electronic data interchange.
<b>Emergency Purchase (Declaration of)</b>	Means an unforeseen or unanticipated situation (i.e., natural disaster, epidemic, riot, equipment failure or destruction, or other reason determined by a Department Director) which creates an urgent and immediate need for goods or services when the protection of life, health, safety or welfare of the community or the preservation of public properties would not be possible using normal procurement procedures.
<b>FAA</b>	Means the Federal Aviation Administration of the United States which is an agency of the United States Department of Transportation with powers to regulate all aspects of civil aviation.
<b>FTA</b>	Means the Federal Transit Administration, an agency within the United States Department of Transportation.

<b>Force Account</b>	In accordance with FTA Circular 42201F, Force Account means the recipient's own labor forces and equipment, as discussed in the Circular in the context of performing project work.
<b>Grant</b>	In accordance with FTA Circular 42201F, Grant means the instrument by which FTA awards Federal assistance to a specific recipient to support a particular project in which FTA does not take an active role or retain substantial control, as described in 31 U.S.C. Section 6304.
<b>Invitation to/for Formal Bid (ITB/IFB)</b>	Means the competitive process used to solicit sealed bids for formal purchases of any amount. It is used when the required specifications are clearly and completely defined. Price is the basis for award.
<b>Invitation to Quote (ITQ)</b>	Shall refer to the solicitation of quotes from a Pool of Prequalified Vendors, small purchase order, or additional items on an established contract, for specific goods and/or services; and awarded based on lowest price, or other quantifiable criteria.
<b>Joint Venture</b>	An association of two or more individuals, partnerships, corporations or other business entity formed to carry out a specific business activity or project, with both sharing profits or losses, in which they combine their property, capital, efforts, skills, and knowledge in response to a solicitation. The association is limited in scope and duration.
<b>Joint Procurement</b>	In accordance with FTA Circular 42201F, Joint Procurement (sometimes informally referred to as "cooperative procurement") means a method of contracting in which two or more purchasers agree from the outset to use a single solicitation document and enter into a single contract with a vendor for delivery of property or services in a fixed quantity, even if expressed as a total minimum and total maximum. Unlike a State or local government purchasing schedule or contract, a joint procurement is not drafted for the purpose of accommodating the needs of other parties that may later choose to participate in the benefits of that contract. FTA recognizes that some will use the term "cooperative procurement" informally to refer to arrangements that the FTA designates as "joint procurement." FTA also recognizes that this may cause confusion with the very different arrangements for the U.S. General Services Administration's (GSA) "Cooperative Purchasing Program" and with similar State or local government purchasing programs that the State or local government might refer to as "cooperative."
<b>Legacy Procurement</b>	Means the procurement of goods and services where competition is unavailable, impractical or constrained as a result of the need to continue to operate an existing County system which may not be replaced without substantial expenditure.

<b>Licenses</b>	A legal instrument granting permission to do a particular thing, exercise a certain privilege, carry on a particular business, or pursue a certain occupation. When granted by an appropriate government body, licenses are permits allowing a person, firm, or corporation to pursue some occupation or business, subject to regulation.
<b>Liquidated Damages</b>	Damages, usually in the form of a monetary payment, agreed by the parties to a contract, which are due and payable by the party who breaches all or part of the contract. Liquidated Damages may be applied on a unit of time basis for as long as the breach is in effect, but not be imposed as an arbitrary penalty. The key to establishing liquidated damages is reasonableness.
<b>Local Government</b>	In accordance with FTA Circular 42201F, Local Government means a county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937) school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under state law), any other regional or interstate government entity, or any agency or instrumentality of a local government. This term does not include a local public institution of higher education.
<b>Market Research</b>	Refers to the process of collecting and analyzing information about capabilities within the market for a good or service to satisfy the County's needs. The results of market research are used to determine the most suitable approach to acquiring, distributing, and supporting goods and/or services.
<b>Master Agreement</b>	In accordance with FTA Circular 42201F, Master Agreement means the FTA document incorporated by reference and made part of FTA's standard grant agreements and cooperative agreements, that contains the standard terms and conditions governing the administration of a project supported with Federal assistance awarded by the FTA.
<b>Material Change</b>	Means a major variance, change, deviation or substitution taken to specifications by a bidder/proposer that provides a substantial advantage or benefit not enjoyed by others.
<b>Minor Irregularity</b>	A variation from the solicitation that does not affect the price or other material term of the contract or does not give a vendor an advantage or benefit not enjoyed by other vendors, or does not adversely impact the interest of the County.
<b>Modification</b>	In accordance with FTA Circular 42201F, Modification means any written change to the terms of a contract.
<b>National Institute of Governmental Purchasing (NIGP)</b>	A national, membership-based, non-profit organization providing support to professionals in the public sector procurement profession.



<b>Negotiation</b>	Means a procedure that includes the receipt of proposals, and permits discussion and bargaining between two or more parties seeking to reach a mutually satisfactory agreement among all.
<b>Non-Competitive Acquisition</b>	Means any procurement made without using the competitive bidding process. This occurs when competition is not available, is not practicable, or when it is determined to be in the best interest of the County.
<b>Performance Bond</b>	Means an instrument executed, subsequent to award, by the awarded bidder/proposer that protects the County from loss due to the bidder's/proposer's inability to complete the contract as agreed.
<b>Pool of Prequalified Vendors</b>	Shall refer to an established group of business entities determined by the County as meeting the minimum standards of business competence, financial ability, and specific goods and/or services requirements for placement on a Pool of Prequalified Vendors for the purchase of a specific commodity, commodity groups, or services, and who may participate in price or value competitions at the time of need.
<b>Procurement</b>	Refers to the sourcing activities, negotiation and strategic selection of goods and services that are usually of importance and at the core of any organization's corporate strategy. Procurement is the complete process or a cradle to grave approach.
<b>Procurement Contracting Manager (PCM)</b>	Means a public procurement managerial employee with the delegated authority to act for and on behalf of the County in certain areas.
<b>Procurement Contracting Officer (PCO)</b>	Means a public procurement professional employee responsible for acquisition and award activities, as well as post-award administration of the contract.
<b>Procurement File</b>	Means the file containing documentation which details the history of the procurement through award of the contract. It includes, at a minimum the rationale for the method of procurement, the selection of the contract type, the reasons for selection or rejection of the contractor, and the basis for the contract price.
<b>Project Administration (PA)</b>	Refers to the e-Procurement system developed by the County which provides for an electronic review and approval process for certain actions.
<b>Project Manager</b>	Means the County Mayor or the duly authorized representative designated to manage a project/program.
<b>Property</b>	In accordance with FTA Circular 42201F, Property, as used in the Circular, includes real property consisting of land and buildings, structures, or appurtenances on land, equipment, supplies, other expendable property, intellectual property, and intangible property
<b>Proposer</b>	Means the business entity/individual who submits a proposal in response to an RFP/RFQ.

Term	Definition
<b>Protest</b>	Means a written objection by an interested party to any of the following with the intention of receiving a remedial result.: (i) a solicitation or other request by the County for offers for a contract for the procurement of property or services; (ii) the cancellation of solicitation or other request; (iii) an award or proposed award of the contract; and (iv) a termination or cancellation of an award of the contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract.
<b>Public Private Partnership (P3)</b>	Means a contractual arrangement between the County and a Private Entity to design, build, finance, operate, and/or maintain public improvement by the Private Entity with the public improvement remaining in County Ownership and control or reverting to County control at the end of the contract term.
<b>Public Transportation</b>	In accordance with FTA Circular 42201F, Public Transportation means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include school bus, charter, sightseeing, or intercity bus transportation, or intercity passenger rail transportation provided by the entity described in 49 U.S.C. Chapter 243, AMTRAK, (or a successor to such entity).
<b>Purchasing</b>	The organized acquisition of goods and services on behalf of the buying entity.
<b>Recipient</b>	In accordance with FTA Circular 42201F, Recipient means the public or private entity to which FTA awards Federal assistance through a grant, cooperative agreement, or other agreement. The recipient is the entire legal entity even if only a particular component of the entity is designated in the document through which FTA has awarded the Federal assistance. The term “recipient” includes “grantee,” which is a “recipient” of Federal grant assistance. The term “recipient” also includes each member of a consortium, joint venture, team, or partnership awarded FTA assistance through a grant, cooperative agreement, or other agreement. For the purposes of the Circular, “recipient” also includes any subrecipient or subgrantee of the recipient. Furthermore, a recipient is responsible for assuring that each of its subrecipients complies with the applicable requirements and standards of this circular, and that each of its subrecipients is aware of the Federal statutory and regulatory requirements that apply to its actions as a subrecipient. Neither a third party contractor nor a third party subcontractor is a “recipient” for purposes of the Circular.

<b>Records Retention</b>	An established timetable for maintenance and destruction of purchasing records, based on administrative, historical, and legal requirements.
<b>Registered Vendor</b>	Refers to a business entity or individual that has completed the Miami-Dade County Business Entity Registration process via the County's online Vendor Portal and has satisfied all requirements to enter into a business agreement(s) with the County.
<b>Request for Information (RFI)</b>	Means a non-binding procurement method used to obtain comments, feedback, or reactions from potential vendors prior to issuing a solicitation. Generally, pricing or cost is not required. Feedback may include best practices, industry standards, licensing requirements, technology matters, etc.
<b>Request for Proposals (RFP)</b>	Means a committee-based procurement method used to solicit proposals from potential vendors for goods and services when the scope of work cannot be completely defined, but a specific solution is known. It includes a description of the desired results, criteria by which the proposals will be evaluated, and specifies the rating points for each criteria. Proposals are rated (i.e. scored) against the criteria; whereby price is usually not a primary evaluation factor. Provides for the negotiations of most terms, including price, prior to award.
<b>Request for Qualifications (RFQ)</b>	Means a committee-based procurement method used to solicit qualifications, obtain comments, feedback or reactions from potential vendors. It includes the scope of project, requirements to perform on the project and criteria against which the proposals will be judged. Generally, price or cost is not requested.
<b>Request to Qualify (RTQ)</b>	Means a non-binding procurement process used to obtain statements of the qualifications, willingness and capacity to supply specific goods and or services, experience, and/or past performance from vendors which are considered for the purpose of establishing a Pool of Prequalified Vendors (Pool) who may then be authorized to participate in future spot market competitions.
<b>Responsible Bidder/Proposer</b>	Means a business entity/individual who is fully capable to meet all the requirements of the solicitation. Must possess the full capability, including financial and technical, to perform as contractually required.
<b>Responsive Bidder/Proposer</b>	Means bidder's/proposer's unequivocal promise (as shown on the face of the response to the solicitation) to provide the items called for by the material terms of the solicitation. Its bid or proposal fully conforms in all material respects to the solicitation and all of its requirements, including all form and substance.

<b>Revenue Contract / Revenue Generating Contract</b>	Refers to contracts whose primary purpose is to generate revenue or to create business opportunities for the County. In accordance with FTA Circular 42201F, Revenue Contract means a contract in which the recipient or subrecipient provides access to public transportation assets for the primary purpose of either producing revenues in connection with a public transportation related activity, or creating business opportunities involving the use of FTA assisted property.
<b>Scope of Services/Scope of Work</b>	Means a written description of the client department's needs and desired outcomes for the procurement, and becomes the basis for any resulting solicitation. The scope/statement is drafted by the client department.
<b>Sole Source</b>	Means a procurement method where only one vendor possesses the unique ability or capability to meet the requirements of the solicitation, thereby creating an inability for competition.
<b>Specifications</b>	Means a precise written description of the physical characteristics, quality, or desired outcomes of a commodity or service to be procured, which a vendor must be able to produce or deliver to be considered for award of a contract.
<b>State or Local Government Purchasing Schedule or Purchasing Contract</b>	In accordance with FTA Circular 42201F, State or Local Government Purchasing Schedule or Purchasing Contract means an arrangement that a State or local government has established with multiple vendors in which those vendors agree to provide essentially an option to the State or local government, and its subordinate government entities and others it might include in its programs, to acquire specific property or services in the future at established prices. These arrangements are somewhat similar to the GSA's Cooperative Purchasing Program available for Federal Government use. If, at a later date, the State or local government permits others to use its schedules, the State or local government might seek the agreement of the vendor to provide the listed property or services to others with access to the schedules. In the alternative the State or local government establishing the schedules might permit the vendor to determine whether or not it wishes to provide others the same contractual arrangement it affords the State or local government that has established the schedules. FTA recognizes that some will use the term "cooperative" in reference to these State and local programs, possibly because they are somewhat similar to GSA's "Cooperative Purchasing Program." These programs are distinct from "Joint Procurement" as defined in the Circular.
<b>Third Party Contract</b>	In accordance with FTA Circular 42201F, Third Party Contract refers to a recipient's contract with a vendor or contractor, including procurement by purchase order or purchase by credit card, which is financed with Federal assistance awarded by FTA.

<b>Uniform Guidance</b>	Means U.S. Office of Management and Budget (OMB) regulatory guidance, “Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards,” 2 CFR part 200. The Uniform Guidance applies to all Federal grants.
<b>Unsolicited Proposal</b>	Refers to a private entity’s submission of an unsolicited proposal to the County at any time and must include: an initial application fee in an amount of \$25,000; and must be handled in accordance with Section 255.064, Florida Statutes Section 2-8.1(k) of the Code of Miami-Dade County. In accordance with FTA Circular 42201F, Unsolicited Proposal means a proposal that is: (1) Innovative and unique, (2) Independently originated and developed by the offeror, (3) Prepared without the recipient’s supervision, endorsement, direction, or direct involvement, (4) Sufficiently detailed that its benefits in support of the recipient’s mission and responsibilities are apparent, (5) Not an advance proposal for property or services that a recipient could acquire through competitive methods, and (6) Not an offer responding to a recipient’s previously published expression of need or request for proposals.
<b>Value Engineering</b>	In accordance with FTA Circular 42201F, Value Engineering means the systematic application of recognized techniques that identify the function of a product or service, establish a value for that function, and provide the necessary function reliably at the lowest overall cost. In all instances, the required function should be achieved at the lowest possible life-cycle cost consistent with requirements for performance, maintainability, safety, security, and aesthetics.
<b>Vendor</b>	Means a business entity or individual that provides goods and/or services.
<b>Vendor Compliance Check (a.k.a. Due Diligence)</b>	Refers to research and inquiry made into the performance, integrity and background of a business entity/individual prior to an award recommendation.
<b>Vendor Outreach, Compliance &amp; Support Services Section (VA)</b>	Refers to the centralized unit within SPD responsible for managing the vendor registration process and ensuring that firms are in compliance with the County’s regulations, licenses, and other requirements. This section is also responsible for the inventory management of the division’s capital equipment and office supplies, and document retention process. Members perform the quality assurance process for all procurement activities, coordinate public record requests, and conduct vendor outreach events. Members also work closely with Risk Management to ensure that vendors comply with insurance, bid and performance bond requirements.
<b>Work Order Proposal Request (WOPR)</b>	Means a solicitation issued to vendors in a prequalified pool that is evaluated and awarded based on best value rather than upon the lowest price.

## SECTION 2 INTEGRITY AND INTERNAL CONTROLS

**2.1 Code of Ethics and Standards of Conduct.** *Section 2-11.1 of the Code of Miami-Dade County* establishes the County's Standards of Conduct and defines its policy on conflicts of interest, gratuities, outside employment, post-County employment restrictions and related matters. It is enforced by the County's Commission on Ethics and Public Trust, and applies to all County personnel, as defined in the aforementioned code.

**2.1.1 No-Gift Policy.** Notwithstanding any exceptions to gifts and compensation listed in the Code of Ethics and Standards of Conduct, SPD maintains a strict **"no-gift policy."** As such, SPD employees shall not solicit, accept, or demand any form of personal compensation or gift from any contractor, contractor's staff, vendor, and/or any entity, as defined in the Code of Ethics, at any time, in the performance of their official duties.

**2.1.2 Financial Disclosure Form.** All procurement personnel must ensure that they complete and submit the Form 1 Statement of Financial Interests on an annual basis to satisfy their financial disclosure obligation in accordance with Florida Statute 112.3145.

**2.1.3 Cone of Silence.** Any violation of these standards may be cause for disciplinary action, including dismissal, if appropriate.

**2.2 National Institute of Governmental Purchasing (NIGP) Code of Ethics.** As a guiding rule, County procurement professionals shall abide by the National Institute of Governmental Purchasing (NIGP) Code of Ethics, as imparted below.

NIGP believes, and it is a condition of membership, that the following ethical principles should govern the conduct of every person employed by a public sector procurement or materials management organization.

Seeks or accepts a position as head (or employee) only when fully in accord with the professional principles applicable thereto and when confident of possessing the qualifications to serve under those principles to the advantage of the employing organization.

Believes in the dignity and worth of the service rendered by the organization, and the societal responsibilities assumed as a trusted public servant.

Is governed by the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and inspire the confidence of the organization and the public being served.

Believes that personal aggrandizement or personal profit obtained through misuse of public or personal relationships is dishonest and not tolerable.

Identifies and eliminates participation of any individual in operational situations where a conflict of interest may be involved.

Believes that members of the NIGP and its staff should at no time, or under any circumstances, accept directly or indirectly, gifts, gratuities, or other things of value from suppliers, which might influence or appear to influence purchasing decisions.

Keeps the governmental organization informed, through appropriate channels, on problems and progress of applicable operations by emphasizing the importance of the facts.

Resists encroachment on control of personnel in order to preserve integrity as a professional manager. Handles all personnel matters on a merit basis, and in compliance with applicable laws prohibiting discrimination in employment on the basis of politics, religion, color, national origin, disability, gender, age, pregnancy and other protected characteristics.

Seeks or dispenses no personal favors. Handles each administrative problem objectively and empathetically, without discrimination.

Subscribes to and supports the professional aims and objectives of the NIGP.

**2.3 Selection of Procurement Contracting Officers.** When selecting an individual to serve as a Procurement Contracting Officer, the CPO shall consider the following criteria:

- a. Complexity and dollar value of the procurement to be assigned;
- b. General experience, training, education, business acumen; judgment, character, and reputation;
- c. Experience in public contracting and administration, commercial purchasing, or related fields;
- d. Education or special training in business administration, law, accounting, engineering, or related fields;
- e. Knowledge of applicable procurement laws, rules, and procedures, including the provisions of applicable Federal laws and regulations, and these procedures;
- f. Specialized knowledge in particular contracting areas, such as information systems and technology, rail and bus equipment, and other specialties; and,
- g. Satisfactory completion of procurement training courses pursuant to the level of Contracting Officer authority and professional certification required.

**2.4 Accountability Standards of Procurement Contracting Officers.** Procurement Contracting Officers have wide latitude to exercise business judgment, and therefore with great autonomy, comes great responsibility. The following criteria will be utilized in the evaluation of SPD professional procurement and contracting staff to assure accountability for proper performance of their duties:

- a. Applies relevant rationale for the method of procurement.
- b. Uses full and open competition, except where valid exception applies.
- c. Creates a complete solicitation with appropriate clauses and evaluation criteria.
- d. Avoids unduly restrictive products or services descriptions.
- e. Assures that independent cost estimates have been performed prior to proposal submission.
- f. Assures the absence of an organizational conflict of interest.

- g. Works effectively with the client departments and County Attorney's Office.
- h. Performs appropriate cost/price analyses for contract awards and modifications.
- i. Submits award recommendations only for responsive and responsible contractors.
- j. Fully documents the procurement file.
- k. Avoids out-of-scope modifications.
- l. Performs cost/price analyses for modifications.

**2.5 Collaborative Procurement Management.** By and through this Manual, SPD hereby establishes a system of Collaborative Procurement Management pursuant to which all County personnel who participate in any way in the procurement process (i.e., Operations/Programming (*Client Department*), SPD, and CAO) are charged with working in a coordinated manner, each taking ownership of and being accountable for the success of the procurement process and of individual procurements, to accomplish the following:

- a. Facilitate efficient operations and avoid having procurement processes pose an impediment to getting the job done; and,
- b. Ensure that all procurements conducted by the County comply with applicable procurement laws and procedures.

In no instance shall County personnel fail to comply with applicable laws and procedures in order to facilitate operations. It is essential that all County personnel cooperate fully in procurement planning and in the implementation of individual procurements to provide for full compliance while at the same time maintaining efficient operations. Personnel from Client Department Operations/Programming, SPD and CAO shall maintain the checks and balances that underlie their respective roles and are essential to the effective functioning of a procurement system and compliance with applicable laws and procedures.



## SECTION 3 ACQUISITION PLANNING AND METHODS

**3.1 Advanced Acquisition Planning.** Pursuant to *I.O. 3-38, Master Procurement Implementing Order*, a basic purpose of SPD is to maintain formal plans regarding procurements in advance of issuing the solicitations to ensure deliberate and coordinated decision-making in moving forward with procurement and related activities.

SPD will strategize procurements, evaluate alternatives, analyze current market conditions, develop educated forecasts, and consolidate or break out client departments' needs, to avoid unnecessary purchases and to establish the best purchasing approach and deliver the most economical purchase.

SPD will request to meet with all of its Client Departments on an annual basis, customarily within the first ninety (90) days from the commencement of each fiscal year (Oct. 1<sup>st</sup>), to discuss and develop plans for accomplishing the award of contracts to meet operational requirements for the coming year. Preparation of an advance procurement plan can begin with data already prepared for service and financial planning purposes.

Re-procurement activities will begin (18) months prior to the expiration of the existing contract or prequalified vendor listing, in accordance with **Resolution No. R-718-17**. These projects can be projected based on historical need and Countywide plans and projects. Procurement planning is the best opportunity to identify potential consolidation of procurements (e.g., several Client Departments requiring common materials or services at the same time).

Long-term procurement planning (i.e., planning more than 18 months in advance) is advisable for certain projects that will be of great significant or complexity, such as transit systems, land development agreements, and the acquisition of technology, including any software procurements that will represent a long-term commitment for the County. On such projects, SPD personnel should attend regular project meetings leading up to the procurement to develop an individual procurement plan. These individual plans would include a narrative of such issues as:

- a. Expected funding sources over the life of the project or program, including a description of funding sources that may be at risk and contingency plans should these funding sources not materialize.
- b. Relationship of the contract to be awarded to other contracts where interdependency exists, thereby creating a potential programming risk that needs to be planned for and mitigated, if possible.
- c. Whether a joint procurement with other agencies has been or should be considered in order to improve pricing and administrative efficiencies.

**3.1.1 Ensuring the Most Efficient and Economic FTA Funded Purchase** - Every solicitation issued by the Strategic Procurement Division strives to deliver the most efficient and economic purchase. The Federal Transit Administration has specific guidelines that must be followed for FTA funded purchases. FTA guidelines require that the County review

lease versus purchase alternatives for acquiring property and, if necessary, obtain an analysis to determine the more economical alternative to obtain best value. According to FTA guidelines, the County may use FTA capital assistance to finance the costs of leasing eligible property if leasing is more cost effective than full ownership. Before the County may lease an asset using FTA funds, the County department originating the purchase must make a written comparison of the cost of leasing the asset compared with the cost of purchasing or constructing the asset, in accordance with [49 CFR Part 639 Subpart C](#) (Capital Leases)" the County to Costs used in the comparison must be reasonable, based on realistic current market conditions, and based on the expected useful service life of the asset. Completion of the Lease vs. Purchase Analysis Form is required.

**3.1.2 Market Research.** Market surveying shall always be conducted by Client Department and SPD staff in anticipation of a County procurement, re-procurement, renewal option, and/or contract modification, and:

Should always begin with the intent to satisfy a legitimate County requirement or need, and should not be used to be exclusionary, restrictive, or favor any one vendor.

Refers to the collection and analysis of information about the capabilities within the market to satisfy County needs.

Identifies the attributes of existing products, processes or services that meet minimum requirements, or identifies the characteristics that a yet to be identified product, process or service, must possess.

Provides adequate information regarding existing products or services; qualified sources; industry trends; pricing; and how other entities are meeting the same or similar requirements.

Serves as the foundation for the development of specifications and/or scope of services, of an effective solicitation, and resultant successful contract that includes terms and conditions consistent with sound business practices and the County's procurement policies.

Failure to conduct thorough market research may result in requests for non-competitive procurement (i.e., sole source or bid waiver) that cannot be adequately justified.

Market Research for partially or fully federally funded acquisitions shall include:

- Using the Florida Department of Management Services, Office of Supplier Diversity Certified Vendor Directory to identify prospective vendors (prospective vendors shall not be limited to the Miami-Dade County area);
- Using the U.S. Department of Labor Surplus Area Firms Directory to identify prospective vendors;
- Using the services and assistance, as appropriate, of the U.S. Small Business Administration and the U.S. Department of Commerce's Minority Business Development Agency (MBDA);
- Documenting all efforts and findings from these sources; and,

- Preparing a list of prospective vendors obtained from these sources. For each vendor, the list should include the vendor name, contact information, and the vendor certifications (i.e., Florida Certified Minority, Woman, and Veteran Business Enterprise, and U.S. Small Business).

**3.1.3 Research Data Sources.** There are ample sources of information available, starting with SPD's database of registered vendors. By cross-referencing the NIGP commodity codes chosen by Miami-Dade County Registered Vendors, researchers may find firms with the ability to meet the requirements within the South Florida Vendor Community. Researchers may also contact subject matter experts within the County workforce, as well as review how other governmental agencies and/or private enterprises are procuring goods and services. Some data sources are:

- Miami-Dade County's Vendor Database  
INFORMS  
Miami-Dade County's Certified Small Businesses <https://mdcsbd.gob2g.com/>  
NIGP Website: [www.NIGP.org](http://www.NIGP.org)  
State of Florida  
[https://www.dms.myflorida.com/business\\_operations/state\\_purchasing/state\\_contracts\\_and\\_agreements](https://www.dms.myflorida.com/business_operations/state_purchasing/state_contracts_and_agreements)  
The Florida Department of Management Services Office of Supplier Diversity Certified Vendor Directory  
<https://osd.dms.myflorida.com/directories> The Florida Sheriffs Association  
Cooperative Purchasing Program: <https://www.flsheriffs.org/law-enforcement-programs/cooperative-purchasing-program>  
Sourcewell: <https://www.sourcewell-mn.gov/>
- The U.S. Department of Labor Surplus Area Firms Directory  
<https://www.doleta.gov/programs/lsa.cfm>
- The U.S. Small Business Administration <https://fivec.com/u-s-small-business-administration-south-florida-district-office-miami>
- U.S. Department of Commerce's Minority Business Development Agency (MBDA)  
<https://www.mbda.gov/>
- City of Miami <http://apps.miamigov.com/contracts/default.aspx>
- City of Miami Beach <http://www.miamibeachfl.gov/city-hall/procurement/contracts/>
- City of Ft. Lauderdale  
<http://www.fortlauderdale.gov/departments/finance/procurement-services/contract-documents-and-awards>
- Maricopa County, AZ <https://www.maricopa.gov/3916/County-Contracts>
- Local Beacon Council and Chambers of Commerce
- Miami-Dade County's Local Business Tax Receipt <https://www.miamidade.county-taxes.com/public>
- Internet Search Engines (i.e., Google, Bing, etc.)
- Publications and Trade Journals from Industry
- Marketing Organizations
- Professional Associations (American Veterinary Medical Association (AVMA), Steel Manufacturers Association, etc.)

Client Departments may also consult the Contracting Officer facilitating the procurement process to discuss the option of holding an industry day or issuing a Request for Information (RFI).

As a general rule, a minimum of three sources must be sought prior to beginning the acquisition process. However, the extent of market research may vary depending on factors such as urgency, the estimated dollar value, complexity, past experience and the amount of information already available.

**3.1.4 Specifications and Scope of Services (Scope).** As part of its advanced acquisition plan, and upon completing research, the Client Department's specifications and scope should proficiently describe, and practicably state in terms of performance/functional, design or technical characteristics, the goods and/or services necessary. This means that the minimum requirements must be clearly understood and defined by the Client Department. The specification shall include a clear and accurate description of the technical requirements for the material, product, or service to be procured. The scope shall establish the foundation of the procurement process and is a critical element in every phase of the procurement cycle. The scope should be prepared in a way that promotes full, fair and open competition, and includes requirements for inspection, testing, or preparation of the supplies, or delivery of services to include performance standard guarantees. In addition to becoming the portion of the contract that defines the delivery or performance requirement, the specifications and scope serve as the:

- a. Basis for the evaluation criteria in a competitive procurement, or the negotiations in a sole source procurement; and,
- b. Baseline by which progress and subsequent contract modifications are compared during contract performance and dispute resolution, if necessary.

When developing all specifications or scope, client department and SPD will adhere to the provisions established in Section 1.14. Prohibition of Provisions within Solicitations that Unduly Restrict Competition.

When developing specifications or scope for partially or fully federally funded acquisitions, the client department and SPD will:

- a. Divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises; and
- b. Establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.

When developing specifications or scope for FTA funded acquisitions, the client department will limit quantities to its actual needs. FTA limits Federal assistance to the amount necessary to support the quantity of property or extent of services the recipient needs at the time of acquisition. The County may not add quantities or options to contracts solely to allow assignments at a later date. FTA will not knowingly support the additional

cost of contract rights to property or services excess to the County's immediate needs, even though the recipient may assign its excess contract rights to others.

**3.1.5 Responsibility for Preparation and Submission of Procurement Requests.** The Client Department's Project Manager/Program Office is responsible for preparing the specification or scope and submitting it to SPD to initiate a procurement request. Specifications and scopes must **not** be developed by a vendor or their affiliate who has an economic interest in the outcome of the contract or project. For procurement of all enterprise-wide and departmental information technology and telecommunications systems and services, the approval of the Chief Information Officer/Information Technology Department Director or authorized designee must be obtained by the Client Department, prior to initiating a procurement request with SPD.

**3.1.6 Contracting Officer Review.** The Contracting Officer may render assistance to the Client Department/Project Manager/Program Office as they work towards development of the specifications or scope to ensure that requirements pertaining to general or special provisions are incorporated into the appropriate contract clauses. The Contracting Officer will also identify, and work towards addressing with the Client Department, any omissions, needs for clarification, or additional information in the specification or scope prior to the solicitation being issued. In addition, the Contracting Officer will review all aspects of information provided by the client department, including the following:

- a. **Equipment and Supplies Specifications.** Plans, drawings, specifications or purchase description for equipment and supplies procurements shall only include the requirements necessary to meet the minimum needs of the Client Department. These shall be free of restrictive features or limiting factors to the extent practicable to maximize competition. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase, but not for the purpose of circumventing acquisition authority. Design specifications shall describe how an item is to be made. Performance specifications shall, at a minimum, describe what the item must do and allow manufacturers to design the item within the specified parameters of form, fit and function. These documents must also include any special packaging or marking requirements. For equipment or supplies that have a limited shelf life, the marking requirements must include an expiration or "Use By" date prominently printed on the outside of the product's packaging. The plans, drawings, specifications, or purchase description must also include the procedure by which it will be determined that the requirements of the equipment or supplies have been met.
- b. **Scope of Services.** Service contracts should incorporate a scope of services whenever possible. The scope must define the minimum work required to be provided by the contractor under the contract. A work breakdown/phases approach may be used to organize complex procurements, such as information technology requirements. In these instances the work required of a contractor may be to develop hardware and/or software, services to complement off-the-shelf items being delivered, or services without delivery of any hardware. The breakdown/phases approach provides a product-oriented hierarchy composed of hardware, software services and data resulting from project development efforts to produce a complete system and relates all of the work elements to one another and the final product or system.

- c. **Brand Names.** Specifications and purchase description shall **not** be written to specify a particular product, brand name, or a particular feature of a single product to limit or preclude competition or consideration of alternate supplies of similar products, unless the feature or product is essential to the Client Department's operations and the products of alternate suppliers would not meet the minimum requirements for the item being procured, and there is a sole source justifying the brand name only. Where feasible, all acceptable brand name products should be referenced in the solicitation. Where brand name or equal is used, the purchase description must include all salient physical, functional, or other characteristics of the referenced product(s) which are essential to the Client Department. All prospective vendors may offer products other than the brand name if those products essentially meet the requirements of the Client Department in the same manner as the referenced brand named product(s).
- d. **Liquidated Damages.** The County may use liquidated damages if it is reasonably expected that a delay in contract completion, or scheduled deliveries, will result in damages to the County the County will suffer damages as a result of delayed contract completion. The rate of liquidated damages and standards must be calculated to reasonably reflect the County's costs should the standards not be met, and must be specified in the solicitation.

In accordance with FTA C4220.1F, IV, 2.b.(6)(b), FTA has determined that a recipient may use liquidated damages if the recipient reasonably expects to suffer damages through delayed contract completion, or if weight requirements are exceeded, and the extent or amount of such damages are uncertain and would be difficult or impossible to determine. The rate and measurement standards must be calculated to reasonably reflect the recipient's costs should the standards not be met and must be specified in the solicitation and contract. The assessment for damages is often established at a specific rate per day for each day beyond the contract's delivery date or performance period. A measurement other than a day or another period of time, however, may be established if that measurement is appropriate, such as weight requirements in a rolling stock purchase. The procurement file should include a record of the calculation and rationale for the amount of damages established. Any liquidated damages recovered must be credited to the project account involved unless FTA permits otherwise.

- 3.1.7 **Allocations or Expenditure Authority.** In determining the correct estimated quantities and corresponding accurate level of expenditure, Client Departments should consider prior spending and contract usage, budgets, any anticipated operational changes, and cost estimates. The cost estimate represents the County's best estimate of the most current price for the goods or services being procured.

As part of the advanced acquisition planning process, the Client Department/Project Manager/Program Office must provide a Client Department Director approved allocation request to the Contracting Officer with every procurement action request.

- 3.1.8 **Cost and Price Analysis.** Pursuant to CFR 200.323, Miami-Dade County must perform a cost or price analysis in connection with every partially or fully federally funded

procurement action in excess of the Simplified Acquisition Threshold, including contract modifications. As part of the acquisition planning process for all partially or fully federally funded procurements, Miami-Dade will use the guidelines in Section 6 Procurement Manual for Federally Funded Purchases, Chapter 14, Price and Cost Analysis.

**3.1.9 Contract Period of Performance Limitation for FTA Funded Purchases.** In accordance with FTA C4220.1F, IV, 2.e.(10), the following time limits shall be incorporated into all options on rolling stock contracts when using FTA funds: MAP-21 amended 49 U.S.C. Section 5325(e)(1) by adding subsections (A) and (B), retaining the five (5) year option for the procurement of buses, while extending the option for rail procurements to seven (7) years. Consequently:

(a) Buses. The County:

1. May enter into a multi-year contract to acquire buses or replacement parts, with an option not exceeding five years to buy additional buses or replacement parts, 49 U.S.C. Section 5325(e)(1)(A), but
2. May not exercise the option to acquire buses or replacement parts later than five years after the date of its original contract.

(b) Rail. The County:

1. May enter into a multi-year contract to acquire railcars or replacement parts, with an option not exceeding five years to buy additional railcars or replacement parts, 49 U.S.C. Section 5325(e)(1)(B), but
2. May not exercise the option to acquire railcars or replacement parts later than seven years after the date of its original contract.

FTA interprets these five and seven-year periods as covering the recipient's "material requirements" for rolling stock and replacement needs from the first day when the contract becomes effective to its "material requirements" at the end of the fifth or seventh year, as applicable. In the case of rolling stock, which frequently cannot be delivered expeditiously, FTA recognizes that a recipient's "material requirements" for rolling stock will necessarily precede its actual need to put that rolling stock to use in public transportation service. This means that the contract may not have options for more rolling stock and replacement parts than a recipient's material requirements for the applicable five or seven-year period. This does not mean the recipient must obtain delivery, acceptance, or even fabrication in five or seven years. Instead it means only that FTA limits a contract to purchasing no more than the recipient's material requirements for rolling stock or replacement parts for five or seven years based on the effective date of the contract.

**3.1.10 Options in FTA Funded Purchases.** In accordance with FTA C4220.1F, IV, 1.d, the County may include options to ensure the future availability of property or services, so long as the County is able to justify those options as needed for its public transportation or project purposes. An option is a unilateral right in a contract by which, for a specified time, a recipient may acquire additional equipment, supplies, or services than originally procured. An option may also extend the term of the contract. Chapter VI of this circular contains procedures for evaluating options.

**3.1.11 FTA Revenue Contracts.** In accordance with FTA C4220.1F, II,b(4), a revenue contract is a contract in which the recipient or subrecipient provides access to public transportation assets for the primary purpose of either producing revenues in connection with an activity related to public transportation, or creating business opportunities with the use of FTA assisted property. The County has broad latitude in determining the extent and type of competition appropriate for a particular revenue contract. Nevertheless, to ensure fair and equal access to FTA assisted property and to maximize revenue derived from such property, the County should conduct its revenue contracting as follows:

- (a) **Limited Contract Opportunities.** If there are several potential competitors for a limited opportunity (such as advertising space on the side of a bus), then the County will use a competitive process to permit interested parties an equal chance to obtain that limited opportunity.
- (b) **Open Contract Opportunities.** If, however, one party seeks access to a public transportation asset (such as a utility that might seek cable access in a subway system), and the County is willing and able to provide contracts or licenses to other parties similarly situated (since there is room for a substantial number of such cables without interfering with transit operations), then competition would not be necessary because the opportunity to obtain contracts or licenses is open to all similar parties.

In the case of joint development, as explained in FTA C4220.1F, II,b(5), FTA will work with the recipient to determine appropriate procedures, as necessary.

## **3.2 Acquisition Methods**

**3.2.1 Accessing Contracts from other Government Agencies and Not for Profit Organizations.** Accessing another entity's competed contract that meets the County standards for competition is considered a competitive award. This method is used when, after considering all options to obtaining the goods or services, accessing represents the best value for the County. If the market research shows that the accessible contract has the most favorable pricing, the contract is needed immediately and/or a bridge contract is needed for a short-term solution until a contract can be established, accessing may be the best solution. Accessing contracts helps to facilitate awards and can result in savings in cost, time and effort.

Before any awards can be made by accessing an existing contract, vendors shall comply with all County requirements, including but not limited to County Affidavits and vendor registration, prior to recommendation for award. When accessing another entity's contract, staff is to carefully review the terms and conditions of that contract, noting that vendors can provide services only in those categories in which they were awarded on the competitively solicited proposal/ bid.

In accordance with FTA C4220.1F, V, 7.a.(2), an FTA funds recipient may find that it has inadvertently acquired contract rights in excess of its needs. The recipient may assign those contract rights to other recipients if the original contract contains an assignability provision that permits the assignment of all or a portion of the specified deliverables under



the terms originally advertised, competed, evaluated, and awarded, or contains other appropriate assignment provisions. Some refer to this process as “piggybacking.”

FTA C4220.1F, V, 4. a. b. c., the following applies to State or Local Government Purchasing Schedules or Purchasing Contracts:

FTA uses the term “State or local government purchasing schedule” to mean an arrangement that a State or local government has established with several or many vendors in which those vendors agree to provide essentially an option to the State or local government, and its subordinate government entities, to acquire specific property or services in the future at established prices. These arrangements are somewhat similar to the General Services Administration’s (GSA) Cooperative Purchasing Program available for Federal Government use. If the State or local government wishes to permit others to use its schedules, the State or local government might seek the agreement of the vendor to provide the listed property or services to others with access to the schedules, or it may permit the vendor to determine whether it wishes to do so. **CAUTION:** The term “State or local government purchasing schedule” does not include intergovernmental purchasing schedules to be the type of State or local intergovernmental agreements. a. Use.

(1) Use Permitted. FTA’s policies are as follows:

(a) General. The Common Grant Rule for governmental recipients encourages recipients and subrecipients to enter into State and local intergovernmental agreements for procurements of property or services, and.

(b) State or Local Government Permission Required. If so permitted by State or local authorities, a non-governmental recipient may also use State and local sources of property and services. This is because 49 C.F.R. § 18.36(a) permits States to use their own policies and procedures they use for their own purchases, not because those schedules are “State intergovernmental agreements,” and

b. Use Restricted. Although the Common Grant Rule for government recipients, 49 C.F.R. § 18.36(b)(5), provides that “grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurements of common goods and services”:

(1) Prohibited. FTA does not authorize grantees to consider intergovernmental purchasing schedules to be the type of State or local intergovernmental agreement to which that Common Grant Rule is referring, but

(2) Permitted. FTA recognizes joint purchases to be the only type of intergovernmental agreement suitable for use by its grantees and subgrantees.

(c) All FTA and Federal Requirements Apply. When obtaining property or services in this manner, the County must ensure all Federal requirements, required clauses, and certifications (including Buy America) are properly followed and included, whether in the master intergovernmental contract or in the County's purchase document. One way of achieving compliance with FTA requirements is for all parties to agree to append the required Federal clauses in the purchase order or other document that effects the recipient’s procurement. When buying from these schedules, the County should obtain Buy America certification before entering into the purchase order. If the product to be purchased is Buy America compliant, there is no problem. If the product is not Buy America compliant, the County will need to obtain a waiver from FTA before proceeding.

**3.2.2 Purchasing Card Program.** The Purchasing Card (P-Card) Program provides County departments with an alternative method of purchasing and paying for goods and services when the item price does not exceed its delegated level of authority and the purchased item will be used for legitimate County business. The P-Card allows for such purchases to be processed without utilizing the County's standard small purchase order procedure, whenever a vendor, during the course of business, accepts the County P-Card as a form of payment. P-Cards shall be used for acquisitions by duly authorized County personnel, as detailed in the **A.O. 3-35, Purchasing Card Program** and the Finance Department Guidelines for the Use of Purchasing Cards. Departments should use small and/or local businesses (i.e., individual and/or family-owned local vendor) whenever possible. The dollar limitations for use of P-Card are generally as follows, but individual P-Cards have higher or lower limits:

Individual purchases shall not exceed \$1,000 per transaction

Monthly spending limit shall not exceed \$25,000 per card

**3.2.3 Small Purchase Order (SPO).** A Small Purchase Order is a procurement valued up to, and including, \$25,000, pursuant to **I.O. 3-38, Master Procurement Implementing Order**, which cannot be satisfied through the utilization of **A.O. 3-35, Purchasing Card Program**. These purchases are initiated by the Client Departments **only** when there is a need for goods or services which are not available from any other County source, including but not limited to professional services and capital equipment, for which the award can be determined by minimum requirements and low bid pricing.

There may be instances wherein a Client Department determines that a given small purchase would be better satisfied using best value or qualitative method, rather than lowest price, award criteria. In such cases, the Client Department will coordinate with SPD. Should SPD concur that a best value or qualitative method of acquisition is appropriate, then SPD will conduct an informal competitive action consistent with the requirements of this guideline section, and responsive to the specific requirements of the purchase.

**3.2.4 Invitation to Bid (ITB).** The County's preferred method of procuring goods and/or services valued at over \$25,000 is the formal ITB process. In order for the ITB process to be feasible, a complete, adequate, and realistic specification or purchase description must be available, two or more bidders are expected to be willing and able to compete effectively for the business; the procurement lends itself to a firm fixed price contract, and the selection of the awarded bidder can be made principally on the basis of price.

When the ITB process is used:

- the solicitations will be publicly advertised in the County's online sourcing system (INFORMS);
- the solicitations will include the most recent published version of the General Terms and Conditions – Section 1;
- bids will be solicited from an adequate number of known suppliers;
- sufficient response time will be given;
- the solicitations will include any specifications and pertinent attachments and will define the items or services required in order for the bidder to properly respond;
- all bidding will stop at the deadline time and date prescribed in the solicitation;

- all offers will be encrypted (sealed) until the deadline time and date prescribed in the solicitation has passed;
- a firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and,
- any or all bids may be rejected if there is a sound and documented reason. Reasons for rejection include: if prices are determined to be excessive, if changes in budget prevent the purchase, if all bidders are non-responsive or non-responsible, or if it is otherwise determined to be in the County's best interest to do so.

**3.2.5 Request to Qualify (RTQ) and Pool of Prequalified Vendors.** The RTQ is a non-binding procurement process used to obtain statements of the qualifications, willingness and capacity to supply specific goods and or services, experience, and/or past performance from vendors which are considered for the purpose of establishing a Pool of Prequalified Vendors (Pool) who may then be authorized to participate in future spot market competitions. Pools are groups of vendors who have met the qualifying requirements in solicitations issued for future contract awards, but all of the data needed to establish firm pricing for a specific product or specific service to be provided under the subsequent contract has not been established.

Pools require additional competitive action prior to award of a specific order to a specific vendor. Specific procedures (Roadmaps) for use of each Pool are developed by SPD. These procedures are structured to provide the competitive structure and documentation necessary to clearly support the award of a specific product or service to a specific vendor.

Pools are first established with the vendors that submitted their qualifications by the RTQ's opening date. However, most established County Pools allow for additional vendors to be added to the Pool at any time during the Pool term. Additional vendors may submit their qualifications to SPD by completing the RTQ's submittal package and, upon meeting the minimum qualifications specified in the original solicitation, may be added to the Pool. The solicitations that established these Pools shall be perpetually advertised in SPD's website to encourage additional vendor participation. A Pool cannot be used if it does not include enough qualified sources to provide maximum full and open competition.

The County has established some Pools for local vendors only, as well as some closed Pools (Pools that do not allow the addition of vendors during their term). These Pools shall not be used for federally funded purchases, or purchases made to prepare for potential emergency situations.

**3.2.6 Request for Proposals (RFP) and Request for Qualifications (RFQ).**

RFP's are used when the basis of award is an offer that represents best value (which includes the evaluation of criteria in addition to price), more than one source is expected to submit an offer, and either a fixed price or cost-reimbursement type contract is expected to be awarded.

RFQ's are used to obtain statements of qualifications from proposers when the scope of services cannot be, or has not been, completely established by the County, requiring specific qualifications in order to be considered for contract award.

When the RFP/RFQ process is used:

- the solicitations will be publicly advertised in the County's online bidding system (INFORMS);
- the evaluation criteria and its value to the award will be included in the solicitation document;
- the solicitation will include a clear method for selecting the proposer(s), based on an extensive evaluation, which may include such criteria as qualifications and experience of principals and staff; technical superiority; financial stability; experience and history of the firm; and references;
- proposals will be solicited from an adequate number of known suppliers;
- sufficient response time will be given;
- the solicitations will include any specifications and pertinent attachments and will define the items or services required, in order for the proposer to properly respond;
- all proposing will stop at deadline time and date prescribed in the solicitation
- all offers will be encrypted (sealed) until the deadline time and date prescribed in the solicitation has passed;
- all responsive and responsible proposals will be considered to the maximum extent practical; and,
- any or all proposals may be rejected if there is a sound and documented reason. Reasons for rejection include: if best offers are determined to be unreasonable, if changes in budget prevent the purchase, if all proposers are non-responsive or non-responsible, or if is otherwise determined to be in the County's best interest to do so.

**3.2.7 Non-Competitive Acquisition.** It is the County's policy to procure goods and services using full and open competition. However, a contract for goods or services may be awarded without a formal competitive solicitation process when a determination has been made that competition is not available, or it is determined to be in the best interest of the County. The purpose of this process is to complete acquisitions without formal competitive bidding. This method is used when, after considering all options to obtaining the goods or services, a non-competitive acquisition represents the best acquisition method for the County. A Client Department's Director or authorized designee is responsible for justifying the need to waive the competitive process. SPD is responsible for validating the justification through independent market research, and confirming the acquisition satisfies legislative requirements to waive the competitive bidding process. Justifications for non-competitive acquisitions may include significant savings or

avoidance of loss to the County, lack of competition, product standardization or compatibility, proprietary or distributorship rights, uniquely qualified vendor, etc.

Such non-competitive acquisitions include awards made through a Bid Waiver (BW), Sole Source (SS), or Legacy Purchase (LP) process. A BW process refers to an acquisition made without competitive bidding when deemed to be in the best interest of the County. The SS process is used when it has been determined through market research and/or other means that there is only one source of supply. The LP process is used when competition is unavailable, impractical or constrained as a result of the need to continue to operate an existing County system which may not be replaced without substantial expenditure.

Federal regulations define noncompetitive proposals as procurement through solicitation of a proposal from only one source. When an acquisition is partially or fully federally funded, this method may be used only when one or more of the following circumstances apply:

- The item is available only from a single source;
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the County; or, • After soliciting a number of sources, competition is determined inadequate.

Should a Client Department's request for a noncompetitive acquisition identify a federal funding source for the purchase, SPD will request a copy of the federal grant document from the Client Department for review. Should the grant document not be sufficient to verify the federal agency's authorization of the noncompetitive purchase, the Client Department must provide to SPD a written authorization for the noncompetitive acquisition from the granting federal agency.

In addition, a Cost Analysis or Price Analysis, in accordance with FTA C4220.1F, VI, 6.a., must be performed for all FTA funded non-competitive purchases. See Section 6: Procurement Manual For Federally Funded Procurements

**3.2.8 Emergency Purchase.** An Emergency Purchase is an unforeseen or unanticipated urgent and immediate need for goods and/or services where the protection of life, health, safety or welfare of the community or the preservation of public properties would not be possible using any other purchasing method.

Client Department Directors, or authorized designee, have the authority to declare an emergency and initiate an independent purchasing action, authorizing the procurement of goods and/or services necessary to mitigate the emergency without utilizing the competitive solicitation process, regardless of the expenditure amount, and in accordance with **I.O. 3-38, Master Procurement Implementing Order**. It is the Client Department's responsibility to properly document every Emergency and Disaster Emergency acquisition.

**3.2.9 Spot Market Competition.** A Spot Market Competition is an informal procurement used to secure pricing and terms for a Small Purchase Order or Pool. The County conducts Spot Market Competitions through the Invitation to Quote (ITQ) and the Work Order Proposal Request (WOPR) methods.

The ITQ method is used for lowest price awards, while award of a WOPR is based on best value.

Spot Market Competitions are conducted by SPD staff and Client Departments. All Spot Market Competitions must include:

- the County's Section 1 General Terms and Conditions, or the Section 1 FTA General Terms and Conditions (or its contents), if the purchase is FTA funded.
- the quantity (if applicable) and technical specifications/scope of services of the items to be purchased;
- the specific requirements and or criteria that the offerors must fulfill, and all other factors to be used in evaluating bids or proposals;
- terms, conditions and requirements of the contract; • the date and time when bids/proposals are due; and, • any additional submittal requirements.

**3.2.10 Direct Payment.** Certain purchases made by the County are considered appropriate for direct payment and are therefore excluded from the procurement processes set forth in these guidelines. In order to be eligible for direct payment, the item being purchased must not be available under an existing contract, and book purchases cannot exceed \$750.

The following items are authorized for direct payment and exempt from the application of the Procurement Policy:

Utilities	Mileage	Miscellaneous Refunds
Freight	Permits	Newspaper and Magazine Subscriptions
Tuition	Petty Cash	Newspaper and Magazine Advertising

Postage	Memberships	Commodity Purchases under \$100
Books	Films	Gasoline Credit Cards
Notary Fees	Tax Bills	Special Assessment Bills
Registration Fees	Software	Tax and Law Service Publications

## SECTION 4: SOLICITATION, EVALUATION, AND AWARD

### 4.1 Solicitation

**4.1.1 Preparation of solicitation documents.** SPD maintains templates to assist staff in the preparation of all solicitations. Standard solicitation packages contain:

- General Terms and Conditions. General Terms and Conditions include standard terms and conditions and legislative requirements that apply to all County contracts. These are included as Section 1 in ITB's and RTQ's, and in the Solicitation and Agreement sections in RFP's and RFQ's.
- General Terms and Conditions and Attachments for FTA Funded Acquisitions. These include standard terms and conditions and legislative requirements that apply to all County contracts, excluding provisions that are not applicable to FTA funded acquisitions and including provisions and requirements exclusive to FTA funded acquisitions. These are included as Section 1 in ITB's and RTQ's, and in the Solicitation and Agreement sections in RFP's and RFQ's, and as attachments and appendixes to the solicitation,

as appropriate. General Terms and Conditions for FTA Funded Acquisitions, must include the following provisions:

Buy America, in accordance with 49 U.S.C.5323(j) and 49 CFR Part 661  
Cargo Preference, in accordance with 46 U.S.C. § 55305 and 46 CFR Part 381

Fly America, in accordance with 49 U.S.C. § 40118 and 41 CFR 301-10.131 – 301-10.143

Breaches of Contract and Dispute Resolutions

Discrimination Prohibitions

Termination for Convenience and Default

Equal Employment Opportunity

Contract Work Hours and Safety Standards Act

Clean Air Act

Federal Water Pollution Control Act

Suspension and Debarment (Executive Orders 12549 and 12689)

Lobbying Restrictions (Re: 31 U.S.C. 1352)

Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962)

Rolling Stock Requirements

- Special Terms and Conditions. Special Terms and Conditions are terms and conditions that are specific to a purchase. Examples of Special Terms and Conditions are: the expected Contract or Pool Term, the Method of Award, Delivery Schedules, and Minimum Vendor Requirements. SPD maintains standard clauses that contain the basis of the language used in solicitations.
- Specifications and/or Scope of Services/Work. The Specifications and/or Scope provide a description of the needs and establish the parameters for desired outcomes for the procurement.
- Submittal Forms. Submittal Forms are the documents that must be returned to the County by vendors in order to participate in the procurement. They include Price Schedules and Proposer Information. Submittal Forms contain vendor certifications and commitments to the terms and conditions in the solicitation and to their offer.

**4.1.2 Future Solicitations.** SPD's website publishes drafts of all planned solicitations under Future Solicitations. The purpose is to gather information and comments from prospective bidders and revise solicitations, as appropriate, to increase participation, with emphasis on encouraging small business participation.

For partially or fully federally funded acquisitions staff must forward a notice of the Future Solicitation to the list of prospective vendors developed during Market Research.

**4.1.3 Solicitation Publishing.** In accordance with delegated authority, solicitations are approved by the Strategic Procurement Division Director or the Chief Procurement Officer prior to publication. Solicitations issued by SPD are finalized and published by staff in the INFORMS Sourcing Module.



- 4.1.4 **Advertisement.** County solicitations advertised in INFORMS are fully accessible to the public for a period of time appropriate to the procurement. In addition, SPD's website provides a link to advertised solicitations, and solicitation notices are automatically sent through INFORM Sourcing Module to prospective vendors identified by commodity codes. Participation is not limited to County registered vendors; however, Spot Market Competitions issued for the purpose of placing an order under an existing Pool are typically restricted to vendors in the Pool.

For partially or fully federally funded acquisitions:

- staff must forward a notice of the advertised solicitation to the list of prospective vendors developed during Market Research; and
- Spot Market Competitions issued for the purpose of placing an order under an existing Pool will not be restricted to vendors in the Pool.

- 4.1.5 **Pre-Bid/Pre-Proposal Conferences and Site Visits.** These conferences are scheduled when it is deemed advisable to allow potential vendors to consult with SPD staff and the Client Department(s) to ensure clarity of the required goods or services and, if applicable, to view the site where the work is to be completed. PreBid/Pre-Proposal Conferences and Site Visits are public meetings and, as such, are advertised in the County's calendar with sufficient notice to ensure that any interested party may attend. These conferences and/or site visits are documented with recordings, minutes, or both. Vendor attendance is often optional to the vendor's participation in the bid or proposal. Mandatory vendor attendance to conferences and/or site visits are rare, as these may serve to limit competition. The "Cone of Silence" (Re: Section 2-11.1(t) of the Code of Miami-Dade County) is not applicable during the Pre-Bid/Pre-Proposal conferences and site visits.

- 4.1.6 **Questions, Answers, and Addenda.** SPD requires prospective vendors to post all solicitation questions through INFORMS by a stipulated deadline. Such deadline permits all questions to be answered before vendors must submit an offer. All questions are answered in the form of an Addendum to the solicitation. Any and all changes to the solicitation (i.e. deadlines, changes to terms, conditions or scope, and clarifications) are issued through formal addenda to the solicitation.

- 4.1.7 **Opening of Bids and Proposals.** INFORMS receives and acknowledges all bids and proposals received for County solicitations. All bids and proposals received through INFORMS cannot be opened until the solicitation deadline has passed. The County considers bids and proposals to be publicly opened when such bids or proposals are decrypted by County staff.

- 4.2 **Evaluation.** Submittals will be examined after opening to determine vendors' responsibility, and responsiveness to requirements and other aspects of the solicitation.

- 4.2.1 **ITB's and ITQ's.** The responsive and responsible bidder(s) offering the lowest price will be recommended for award. SPD staff will prepare a Bid Tabulation (a.k.a. Tally) to summarize all responsive bidders with their unit and total extended prices, document bidders' compliance to requirements, apply appropriate Measures and Preferences, and note other information deemed appropriate by the Contracting Officer. Bid Tabulations are always verified to ensure accuracy.
- 4.2.2 **RFQ's/RFP's and WOPR's.** The responsive and responsible proposer(s) offering the best value to the County will be recommended for award. Proposals will be evaluated and ranked by a Selection Committee or Review Team, in accordance with the evaluation criteria established in the solicitation document.
- 4.2.3 **RTQ's.** Submittals for open Pools are not evaluated on the basis of responsiveness or responsibility. These submittals will be evaluated for compliance with the solicitation requirements and will be determined either complete or incomplete. An incomplete submittal may be completed by the vendor, and the vendor may be added to the Pool.
- 4.2.4 **Responsiveness** refers to a bidder's unequivocal promise, as shown on the face of its offer, to provide the items or services called for by the material terms of the solicitation. A responsive bid means one submitted at the correct time and place, in the correct form, containing all required information and signatures. A bid or proposal that deprives the County of the assurance that the contract will be entered into in accordance with its terms is generally not responsive. Such an omission is not curable, as a vendor submitting an incomplete or qualified bid or proposal could opt out of the process at its will, depriving the County of a valid offer and placing that vendor at a material advantage over other vendors who have made firm offers. Responsiveness is a legal determination based on the application of bid requirements and legal precedent. The County Attorney's Office makes all decisions regarding responsiveness.
- 4.2.5 **Responsibility** refers to whether the vendor can perform the scope of work as provided in the solicitation document. A responsible vendor is one who the County affirmatively determines has the ability, capability and skill to perform under the terms of the solicitation, can provide the materials or service within the time specified, and has a satisfactory record of integrity and business ethics.

At a minimum, a vendor responsibility review includes ascertaining that the vendor:

- is not a County debarred contractor;
- is not in arrears with its obligations to the County and therefore listed as a delinquent contractor;
- has no unresolved violations, as listed in the County's History of Violations Report;
- is not a County suspended contractor;
- is not a State of Florida Suspended Contractor;
- is not a State of Florida Convicted Contractor; and
- has no active exclusions, as indicated in the Federal System for Award Management (SAM).

In making an affirmative determination of whether the vendor has the capability to perform a contract, the County may consider factors including but not limited to the following:

- past performance of the vendor, its principals, affiliates, or supervisory personnel in the execution of prior County contracts;
- any information which the County may obtain relating to the performance of the vendor, its principals, affiliates, or supervisory personnel on contracts with third parties, including without limitation, contracts with other governmental entities;
- financial performance and capability, including without limitation, pending and unsatisfied claims;
- qualifications and past performance of the personnel who will have supervisory responsibility for the performance of the specific county contract;
- licensing, certifications and other permits, and
- any significant changes in the vendor's financial position or business organization.

In addition, Resolution R-63-14, adopted by the Board of County Commissioners (Board) on January 22, 2014, directed the Administration to require certain affidavits as part of the due diligence conducted by the County with respect to the responsibility of potential vendors and contractors prior to contract award. The resolution is applicable as a condition of award for any contract that exceeds \$1 million, or that is otherwise subject to Board approval.

In evaluating responsibility factors, the County will give priority to acts or legal proceedings occurring within the past five (5) years, and any violation or deficiency that is continuous or uncured. Additionally, the County may require at any time that the vendor submit documentary evidence and other proof necessary to fully evaluate any possible responsibility issues.

Only the SPD Director, or designee, will make responsibility determinations on behalf of the County.

**4.2.6 Irregularities and Informalities.** Each bid or proposal must meet all the requirements in the specific solicitation, unless waived as an irregularity or informality by the SPD Director, or designee. Affidavits and certifications mandated by Federal, State or County Code or other regulation can be waived only by provisions contained within the Code or other regulation, or by expressed written approval from the Federal, State or County entity.

**4.2.7 Measures and Preferences.** Pursuant to the County Code, contract measures for Small Business Enterprises (SBE), Local Certified Veteran Business Enterprises, and Preference to Local and Locally Headquartered Businesses are applicable to competitive solicitations, as permitted by the procurement's funding source. Measures and preferences are applied during the evaluation of bids and proposals

and may affect the outcome of the award. **These measures shall not be applied to partially or fully federally funded acquisitions.**

4.2.8 **Cost and Price Analysis.** Pursuant to CFR 200.323, Miami-Dade County must perform a cost or price analysis in connection with every partially or fully federally funded procurement action in excess of the Simplified Acquisition Threshold, including contract modifications. As part of the evaluation process for all partially or fully federally funded acquisitions, the County will use the guidelines in Section 6 Procurement Manual for Federally Funded Purchases, Chapter 14 Price and Cost Analysis.

4.2.9 **Evaluation of Options** for FTA Funded Purchases. Pursuant to FTA C4220.1F, VI, 7.b.(1), in awarding a contract that will include options, the County must evaluate bids or offers for any option quantities or periods contained in the solicitation if the County intends to exercise those options after the contract is awarded.

4.2.10 **Buy America Certificate of Compliance** required for FTA funded purchases. In accordance with CFR 661.6, Certification Requirements for Procurement of Steel or Manufactured Products, if steel, iron, or manufactured products (as defined in CFR 661.3 and CFR 661.5) are being procured, the appropriate certificate shall be completed and submitted by each bidder, or offeror, in accordance with the requirement contained in CFR 661.13(b). The bidder, or offeror, will certify that it will comply with the requirements of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 CFR part 661. Or, the bidder, or offeror will complete a Certificate of Non-Compliance with Buy America Requirements, certifying that it cannot comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 CFR 661.7.

4.2.11 **Pre-award audit requirements** for FTA Funded Purchases. In accordance with 49 CFR 663.21 – 663.27, a recipient purchasing revenue service rolling stock with FTA funds must ensure that a pre-award audit under this part is complete before the recipient enters into a formal contract for the purchase of such rolling stock. Accordingly, the client department must complete the following and forward all pertinent documentation to the Strategic Procurement Department, before an award recommendation can be made:

§ 663.23 Description of pre-award audit. A pre-award audit under this part includes:

- (a) A Buy America certification as described in § 663.25 of this part;
  - (b) A purchaser's requirements certification as described in § 663.27 of this part; and
  - (c) Where appropriate, a manufacturer's Federal Motor Vehicle Safety certification information as described in § 663.41 or § 663.43 of this part.
- 663.25 Pre-award Buy America certification. For purposes of this part, a pre-award Buy America certification is a certification that the recipient keeps on file that: (a) There is a letter from FTA which grants a waiver to the rolling stock to be purchased from the Buy America requirements under section

165(b)(1),(b)(2), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended; or (b) The recipient is satisfied that the rolling stock to be purchased meets the requirements of section 165(a) or (b)(3) of the Surface Transportation Assistance Act of 1982, as amended, after having reviewed itself or through an audit prepared by someone other than the manufacturer or its agent documentation provided by the manufacturer which lists:

- (1) Component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and
- (2) The location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.

663.27 Pre-award purchaser's requirements certification. For purposes of this part, a pre-award purchaser's requirements certification is a certification a recipient keeps on file that:

- (a) The rolling stock the recipient is contracting for is the same product described in the purchaser's solicitation specification; and
- (b) The proposed manufacturer is a responsible manufacturer with the capability to produce a vehicle that meets the recipient's specification set forth in the recipient's solicitation.

**4.3 Award.** Pursuant to Section 2-8.1 of the Miami-Dade County Code, Contracts and Purchases Generally, the Mayor, or Mayor's designee, has the authority to award competitive County contracts for goods and services costing \$1,000,000 or less. The Mayor has delegated this authority to the SPD Director, up to \$500,000, and the SPD Director has further delegated this authority to the CPO. Any contract that costs more than \$1,000,000 in the aggregate the requires Board of County Commissioners approval.

**4.3.1 Recommendation or Intent to Award or Reject.** All bidders and proposers that participated in a specific procurement will be notified of the County's intent to award or reject such procurement. This notification is accomplished by email or SPD website posting (for procurements valued at \$250,000 or less), or by an Award Recommendation or Intent to Award Letter.

Any recommendation for award of an FTA-funded solicitation with a value greater than \$500,000 must specify the amount of federal funds to be used as a percentage of the total cost of the contract per FTA Cir. 4220.1F, Section 14.

**4.3.2 Protest Procedures.** A recommendation for contract award or rejection of award may be protested by a Bidder or Proposer, in accordance with the procedures contained in Sections 2-8.3 and 2-8.4 of the Code of Miami-Dade County, as amended, and as established in Implementing Order No. 3-21.

For a recommendation for contract award or rejection of \$25,000 or less for the Miami-Dade Department Transportation and Public Works: Bidders may submit a

written protest to the Director of the Department of Transportation and Public Works (DTPW), 701 NW 1 Ct, Suite 1700, Miami, FL 33136, for any contract with a value of \$25,000 or less, with a copy to the Clerk of the Board, within 3 business days of the recommendation for award. No filing fee is required. The protest letter sent to the Director must indicate that a copy has been sent to the Clerk of the Board. The decision by DTPW shall be final. DTPW is responsible for disclosing all protests to the FTA and forwarding a copy of such disclosure to SPD for the file.

DTPW shall be responsible for maintaining a list of protests and appeals for FTA solicitations or contracts in excess of \$500,000. This list shall be included as part of the Department's annual or quarterly Milestone Progress Report.

For all Architectural/Engineering Consultant Selections funded in whole or in part by the Federal Transit Administration (FTA) or where it has been determined by the DTPW Director that FTA requirements apply, any proposer may submit a protest letter to the County Mayor, 111 N.W. 1 Street, 29<sup>th</sup> Floor, Miami, Florida 33128, with a copy to the Clerk of the Board, within 10 business days of County Mayor's filing.

**4.3.3 Contract Commencement.** A contract derived from an ITQ or ITB will commence on the first calendar day of the month succeeding approval of the contract by the Board, or designee, unless otherwise stipulated in the Purchase Order. A contract derived from an RFQ/RTQ or WOPR will commence on the date stipulated in the Contract Agreement, which must be after approval by the Board, or designee. A pool will be established on the first calendar day of the month succeeding approval by the Board, or designee, unless otherwise stipulated in the Blanket Purchase Order issued by the SPD.

**4.3.4 Contract Administration. (*Disputes, Breaches, Defaults and Litigation*)**

Miami-Dade County DTPW and SPD are responsible for contract administration and management, respectively. If a current or prospective legal matter that may affect the Federal Government emerges, the County shall promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region. The County includes a similar notification requirement in its Agreements and requires each Contractor to include an equivalent provision in its sub-agreements at every tier, for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.

## SECTION 5 MIAMI-DADE COUNTY's SUMMARY COMPLIANCE WITH FEDERAL PROCUREMENT REQUIREMENTS

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Prepared by the Strategic Procurement Department

## **5.1 Dictionary of Frequently Used Acronyms and Abbreviations**

### **Acronym or Abbreviation**

### **Meaning**

AO	Miami-Dade County Administrative Order
CFR	Code of Federal Regulations
CM-DC	Code of Miami-Dade County, Florida
FS	Florida Statute
FTA	Federal Transit Administration
GABPM	Procurement Guidance and Best Practices Manual
IO	Miami-Dade County Implementing Order
MFFP	Section 6. Miami-Dade Procurement Manual for Federally Funded Procurements, of the Procurement Guidance and Best Practices Manual
Par.	Paragraph
Reso.	Miami-Dade County Resolution
Sec.	Section

## **5.2 2 Part 200 Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards**

<b><u>Federal Requirement</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
200.316	Prohibition on Certain Telecommunications & Video Surveillance Services and Equipment	Procurement Guidance and Best Practices Manual (GABPM)



200.317 Procurements By States	<p>When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with §200.322</p> <p>Procurement of recovered <i>materials</i> and ensure that every purchase order or other contract includes any clauses required by section §200.326 Contract provisions. <u>All other non-Federal entities, including subrecipients of a state, will follow §§ 200.318 General procurement standards through 200.326 Contract provisions.</u></p>	Not Applicable (Miami-Dade County is a County government)
<b><u>200.318 General Procurement Standards</u></b>		
200.318(a)	The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part.	<p>Procurement Guidance and Best Practices Manual (GABPM)</p> <p>Code of Miami-Dade County, Florida (CM-DC), Sec. 2-8.1. – Contracts and Purchases, Generally</p> <p>Implementing Order (IO) 3-38 – Master Procurement Implementing Order</p>
200.318(b)	Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.	<p>GABPM Sec. 8 – Internal Procedures Manual</p> <p>CM-DC Sec. 10-38. – Debarment of Contractors from County Work</p>

**5.2 2 Part 200 Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards**

<b><u>Federal Requirement</u></b>	<b>Narrative</b>	<b>County Compliance</b>
200.318(c)(1)	The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.	<p>GABPM Sec. 1.10 Guiding Principles and Values of County Procurement and Sec. 2 Integrity and Control</p> <p>IO 3-38 Master Procurement Implementing Order (Ethics)</p> <p>CM-DC Sec. 2-11.1 Conflict of Interest &amp; Code of Ethics</p> <p>IO 3-34 Formation and Performance of Selection Committees</p> <p>IO 7-7 Policies and Procedures Establishing a Public Service Honor Code For Elected and Appointed County Officials and County Employees</p> <p>Reso. R-449-14 Commission Auditor to Conduct Background Checks on Members Serving on Evaluation Committees</p>

**5.2 2 Part 200 Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards**

<b><u>Federal Requirement</u></b>	<b>Narrative</b>	<b>County Compliance</b>
200.318(c)(2)	If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.	Not Applicable (Miami-Dade County is a County of the state of Florida)
200.318(d)	The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.	GABPM Sec. 3.1 Advanced Acquisition Planning
200.318(e)	To foster greater economy and efficiency, and in accordance with efforts to promote cost effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.	GABPM Sec. 3.2.1 Accessing Contracts from Other Government Agencies and Not for Profit Organizations  IO 3-38 (Accessing Contracts From Other Government Entities)

200.318(f)	The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.	Under consideration by SPD ( <a href="https://www.gsa.gov/acquisition">https://www.gsa.gov/acquisition</a> )
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<b>5.2 2 Part 200 Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards</b>		
<b><u>Federal Requirement</u></b>	<b>Narrative</b>	<b>County Compliance</b>
200.318(g)	The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.	The County will include value engineering clauses in Design Build contracts.
200.318(h)	The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also § 200.213 Suspension and debarment.	R-187-12 Due Diligence  FS-Sec. 287.133(2)(a) (Public Entity Crimes)  CM-DC Sec. 2-8.1.1 (Collusion)  CM-DC Sec. 2-8.4.1 (Fraud and Misrepresentation)  GABPM Sec. 4.2.5 Responsibility

200.318(i)	The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.	AO 7-24 Records Management Program  FS - Chapters 267 and 119  GABPM Sec. 1.12 (l) and (m) Partially or Fully Federally Funded Procurements  Sec. 1 General Terms and Conditions of County Contracts
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<b>5.2 2 Part 200 Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards</b>		
<b><u>Federal Requirement</u></b>	<b>Narrative</b>	<b>County Compliance</b>

200.318(j)	<p>(1) The non-Federal entity may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of:</p> <ul style="list-style-type: none"> <li>(i) The actual cost of materials; and</li> <li>(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.</li> </ul> <p>(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.</p>	<p>GABPM Sec. 1.12 (n) Partially or Fully Federally Funded Acquisitions</p> <p>Sec. 1 General Terms and Conditions of County Contracts</p>
200.318(k)	<p>The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues</p>	<p>CM-DC Sect. 2-8.4 Protest Procedures</p> <p>Sec. 1 General Terms and Conditions of County Contracts</p>

**5.2 2 Part 200 Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards**

<b><u>Federal Requirement</u></b>	<b>Narrative</b>	<b>County Compliance</b>
	include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.	

**5.2 2 Part 200 Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards**

<b>Federal Requirement</b>	<b>Narrative</b>	<b>County Compliance</b>
200.319(a)	<p>All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:</p> <ul style="list-style-type: none"> <li>(1) Placing unreasonable requirements on firms in order for them to qualify to do business;</li> <li>(2) Requiring unnecessary experience and excessive bonding;</li> <li>(3) Noncompetitive pricing practices between firms or between affiliated companies;</li> <li>(4) Noncompetitive contracts to consultants that are on retainer contracts;</li> <li>(5) Organizational conflicts of interest;</li> <li>(6) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and</li> <li>(7) Any arbitrary action in the procurement process.</li> </ul>	<p>CM-DC Sec. 2-8.1</p> <p>IO 3-38 Master Procurement Implementing Order</p> <p>AO 3-39 Standard Process For Construction Of Capital Improvements, Acquisition Of Professional Services, Construction Contracting, Change Orders And Reporting</p> <p>GABPM Sec. 1.11 Competitive Process, Sec. 1.12 Partially or Fully Federally Funded Acquisitions, Sec. 1.13 Restrictions on Procurement Not Using Full and Open Competition, and Sect. 1.14 Prohibition of Provisions within Solicitations that Unduly Restrict Competition</p>



**5.2 2 Part 200 Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards**

<b><u>Federal Requirement</u></b>	<b>Narrative</b>	<b>County Compliance</b>
200.319(b)	The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.	SPD has revised procedures and solicitation documents to ensure that geographical preferences, and User Access Program (UAP) and Inspector General (IG) fees are not applied to federally funded purchases.
200.319(b)	The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:	

**5.2 2 Part 200 Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards**

<b>Federal Requirement</b>	<b>Narrative</b>	<b>County Compliance</b>
200.319(c)(1)	Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and	GABPM Sec. 1.14 Prohibition of Provisions within Solicitations that Unduly Restrict Competition, Sec. 3.1.3 Specifications and Scope of Services, and Sect. 3.1.5 Contracting Officer Review
200.319(c)(2)	Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.	GABPM Sec. 3.1.3 Specifications and Scope of Services
200.319(d)	The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.	GABPM Sec. 3.2.5 Request to Qualify (RTQ) and Pool of Prequalified Vendors, and Sec. 4.1.4 Advertisement

200.320	Methods of Procurement To Be Followed. The non-Federal entity must use one of the following methods of procurement.	
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<b>5.2 2 Part 200 Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards</b>		
<b><u>Federal Requirement</u></b>	<b>Narrative</b>	<b>County Compliance</b>
(a)	Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$10,000 (or \$2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act). To the extent practicable, the non-Federal entity must distribute micro purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the nonfederal entity considers the price to be reasonable.	IO 3-38 (Purchasing Card, Small Purchase Orders)  GABPM Sec. 3.2.2 Purchasing Card and 3.2.3 Small Purchase Order
(b)	Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.	IO 3-38 (Purchasing Card, Small Purchase Orders)  GABPM Sec. 3.2.2 Purchasing Card and 3.2.3 Small Purchase Order

(c)	<p>Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c){l} of this section below apply.</p> <p>(1) In order for sealed bidding to be feasible, the following conditions should be present:</p> <p>(i) A complete, adequate, and realistic specification or purchase description is available; Two or more responsible bidders are willing and able to compete effectively for the business; and</p> <p>(iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.</p> <p>If sealed bids are used, the following requirements apply:</p> <p>(i) The invitation for bids will be publicly advertised and bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids;</p> <p>(ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;</p> <p>(iii) All bids will be publicly opened at the time and place prescribed in the invitation for bids;</p> <p>(iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors</p>	<p>GABPM Sec. 1.11, 3.2.4 Invitation to Bid, Sect.4.1, and 4.1.7 Opening of Bids and Proposals</p> <p>Sec. 1 General Terms and Conditions of County Contracts</p>
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**5.2 2 Part 200 Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards**

<b><u>Federal Requirement</u></b>	<b>Narrative</b>	<b>County Compliance</b>
	such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and Any or all bids may be rejected if there is a sound documented reason	
(d)	Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply: 1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical; (2) Proposals must be solicited from an adequate number of qualified sources; (3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients; (4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and	GABPM Sec. 3.2.6 Request for Proposal (RFP) and Request for Qualifications (RFQ)  Standard Terms and Conditions for RFP's and RFQ's

**5.2 2 Part 200 Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards**

<b>Federal Requirement</b>	<b>Narrative</b>	<b>County Compliance</b>
(d)(5)	The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.	AO 3-39 Standard Process For Construction Of Capital Improvements, Acquisition Of Professional Services, Construction Contracting, Change Orders And Reporting  CM-DC 2-8.1 and 2-10.4  FS - Sec. 287.055
(e)	Reserved	
(f)	(f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply: (1) The item is available only from a single source; (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation; (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or after solicitation of a number of sources, competition is determined inadequate.	CM-DC Sect. 2-8.1 (b)  IO 3-38 (Emergency Purchases, Noncompetitive (Sole Source) Purchases, and Justification for Bid Waivers and Sole Source Acquisitions)  GABPM Sec. 3.2.7 Non-Competitive Acquisition  3.2.8 Emergency Purchase

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<b><u>Federal</u> Requirement</b>	<b>Narrative</b>	<b>County Compliance</b>
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200.321	<p>(g) Contracting With Small And Minority Businesses, Women's Business Enterprises, And Labor Surplus Area Firms</p> <p>(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.</p> <p>Affirmative steps must include:</p> <p>(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;</p> <p>(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;</p> <p>(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;</p> <p>(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;</p> <p>(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) above.</p>	<p>GABPM Sec.: 3.1.1 Market Research, Sec. 3.1.3 Specifications and Scope of Services, Sec. 4.1.2 Future Solicitations, and Sec. 4.1.4 Advertisement</p> <p>Sec. 1 General Terms and Conditions of County Contracts</p>
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<b><u>Federal Requirement</u></b>	<b>Narrative</b>	<b>County Compliance</b>
200.322	<p>Procurement of recovered materials. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.</p>	<p>GABPM Sec. 1.12 Partially or Fully Federally Funded Procurements</p> <p>Sec. 1 General Terms and Conditions of County Contracts</p>

**5.2 2 Part 200 Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards**

<b>Federal Requirement</b>	<b>Narrative</b>	<b>County Compliance</b>
.	<p><b>Contract Cost And Price</b></p> <p>(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the nonfederal entity must make independent estimates before receiving bids or proposals. (b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work. (c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E - Cost Principles. The nonfederal entity may reference its own cost principles that comply with the Federal cost principles.</p>	<p>GABPM Sec. 6 MFFP, Chapter 14 Price and Cost Analysis</p> <p>GABPM Sec. 4.4 Cost and Price Analysis</p>
(d)	The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.	Not applicable (SPD does not procure construction contracts)

200.324	<p>Federal Awarding Agency Or Pass-Through Entity Review</p> <p>(a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non- Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.</p> <p>(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:</p> <p>(1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this Part;</p> <p>(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;</p> <p>(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;</p> <p>(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid</p>	SPD will make any document available, upon request, to the State of Florida.
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**5.2 2 Part 200 Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards**

<b><u>Federal Requirement</u></b>	<b>Narrative</b>	<b>County Compliance</b>
	<p>procurement; or</p> <p>(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.</p> <p>(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this Part.</p>	

**5.2 2 Part 200 Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards**

<b><u>Federal Requirement</u></b>	<b>Narrative</b>	<b>County Compliance</b>
200.325	<p><b>Bonding Requirements</b></p> <p>For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows: (a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified. (b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract. (c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.</p>	For Design Build Projects: FS 287.0935

<b>5.2 2 Part 200 Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards</b>		
<b><u>Federal Requirement</u></b>	<b>Narrative</b>	<b>County Compliance</b>
200.326	Contract Provisions The non-Federal entity's contracts must contain the applicable provisions described in Appendix II Contract Provisions for non-Federal Entity Contracts Under Federal Awards.	
Appendix II to Part 200	In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.	
(A)	Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.	Sec. 1 General Terms and Conditions of County Contracts, Par. 1.25 Termination for Default
(B)	All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.	Sec. 1 General Terms and Conditions of County Contracts, Par. 1.24 Termination for Convenience

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<b><u>Federal Requirement</u></b>	<b>Narrative</b>	<b>County Compliance</b>
(C)	<p>Equal Employment Opportunity. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. Part 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 C.F.R. part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”</p>	<p>Sec. 1 General Terms and Conditions of County Contracts, Par. 1.13 Laws and Regulations</p>

(D)	<p>Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by nonfederal entities must include a provision for compliance with the Davis- Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The nonfederal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti- Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 C.F.R. Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non- Federal entity must report all suspected or</p>	<p>Not applicable (SPD does not procure construction contracts)</p>
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**5.2 2 Part 200 Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards**

<b><u>Federal Requirement</u></b>	<b>Narrative</b>	<b>County Compliance</b>
	reported violations to the Federal awarding agency.	
(E)	<p>Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the nonfederal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.</p>	Sec. 1 General Terms and Conditions of County Contracts, Par. 1.54B

**5.2 2 Part 200 Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards**

<b>Federal Requirement</b>	<b>Narrative</b>	<b>County Compliance</b>
(F)	Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 C.F.R. Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.	Sec. 1 General Terms and Conditions of County Contracts, Par. 1.54K
(G)	Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended— Contracts and subgrants of amounts in excess of \$250,000 must contain a provision that requires the nonfederal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).	Sec. 1 General Terms and Conditions of County Contracts, Par. 1.54D

(H)	Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).	Sec. 1 General Terms and Conditions of County Contracts, Par. 1.54E
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<b>5.2 2 Part 200 Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards</b>		
<b><u>Federal Requirement</u></b>	<b>Narrative</b>	<b>County Compliance</b>
(I)	Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 C.F.R. 180.220) must not be made to parties listed on the government- wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. 180 that implement Executive Orders 12549 (3 C.F.R. Part 1986 Comp., p. 189) and 12689 (3 C.F.R. Part 1989 Comp., p. 235), “Debarment and Suspension.” The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.	Sec. 1 General Terms and Conditions of County Contracts, Par. 1.54H

(J)	Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.	Sec. 1 General Terms and Conditions of County Contracts, Par. 1.54G
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5.2 2 Part 200 Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards		
<u>Federal</u> Requirement	Narrative	County Compliance

	<p><b>(f)</b> Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).</p> <p><b>(1)</b> If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.</p> <p><b>(2)</b> If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.</p>	
200.334	<p>Requests for transfer of records. The Federal awarding agency must request transfer of certain records to its custody from the non- Federal entity when it determines that the records possess long-term retention value.</p> <p>However, in order to avoid duplicate recordkeeping, the Federal awarding agency may make arrangements for the non-Federal entity to retain any records that are continuously needed for joint use.</p>	<p>GABPM Sec. 1.12 (l) and (m) Partially or Fully Federally Funded Acquisitions</p> <p>Sec. 1 General Terms and Conditions of County Contracts</p>

**5.2 2 Part 200 Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards**

<b><u>Federal Requirement</u></b>	<b>Narrative</b>	<b>County Compliance</b>
200.335	Methods for collection, transmission and storage of information. In accordance with the May 2013 Executive Order on Making Open and Machine Readable the New Default for Government Information, the Federal awarding agency and the non- Federal entity should, whenever practicable, collect, transmit, and store Federal award- related information in open and machine readable formats rather than in closed formats or on paper. The Federal awarding agency or pass-through entity must always provide or accept paper versions of Federal award-related information to and from the nonfederal entity upon request. If paper copies are submitted, the Federal awarding agency or passthrough entity must not require more than an original and two copies. When original records are electronic and cannot be altered, there is no need to create and retain paper copies. When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided that they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable.	GABPM Sec. 1.12 (l) and (m) Partially or Fully Federally Funded Acquisitions  Sec. 1 General Terms and Conditions of County Contracts

**5.2 2 Part 200 Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards**

<b><u>Federal Requirement</u></b>	<b>Narrative</b>	<b>County Compliance</b>
200.336	<p>Access to records. (a) Records of non-Federal entities. The Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the non-Federal entity's personnel for the purpose of interview and discussion related to such documents.(b) Only under extraordinary and rare circumstances would such access include review of the true name of victims of a crime. Routine monitoring cannot be considered extraordinary and rare circumstances that would necessitate access to this information. When access to the true name of victims of a crime is necessary, appropriate steps to protect this sensitive information must be taken by both the non-Federal entity and the Federal awarding agency. Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by the head of the Federal awarding agency or delegate.(c) <i>Expiration of right of access.</i> The rights of access in this section are not limited to the required retention period but last as long as the records are retained. Federal awarding agencies and passthrough entities must not impose any other access requirements upon non-Federal entities.</p>	<p>GABPM Sec. 1.12 (l) and (m) Partially or Fully Federally Funded Acquisitions</p> <p>Sec. 1 General Terms and Conditions of County Contracts</p>

**5.2 2 Part 200 Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards**

<b><u>Federal Requirement</u></b>	<b>Narrative</b>	<b>County Compliance</b>
200.337	<p>Restrictions on public access to records. No Federal awarding agency may place restrictions on the non-Federal entity that limit public access to the records of the non- Federal entity pertinent to a Federal award, except for protected personally identifiable information (PII) or when the Federal awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) or controlled unclassified information pursuant to Executive Order 13556 if the records had belonged to the Federal awarding agency. The Freedom of Information Act (5 U.S.C. 552) (FOIA) does not apply to those records that remain under a non-Federal entity's control except as required under § 200.315 Intangible property. Unless required by Federal, state, or local statute, non-Federal entities are not required to permit public access to their records. The non-Federal entity's records provided to a Federal agency generally will be subject to FOIA and applicable exemptions.</p>	<p>GABPM Sec. 1.12 (l) and (m) Partially or Fully Federally Funded Acquisitions</p> <p>Sec. 1 General Terms and Conditions of County Contracts</p>



### 5.3 2 CFR 1201 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

<b><u>Federal Requirement</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
1201.1	What does this part do? Except as otherwise provided in this part, the Department of Transportation adopts the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200). This part supersedes and repeals the requirements of the Department of Transportation Common Rules (49 CFR part 18—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and 49 CFR part 19—Uniform Administrative Requirements—Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations), except that grants and cooperative agreements executed prior to December 26, 2014 shall continue to be subject to 49 CFR parts 18 and 19 as in effect on the date of such grants or agreements. New parts with terminology specific to the Department of Transportation follow.	See Section 5.2 (Part 200 Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) of this manual

#### 5.4 U.S. Department of Transportation Federal Transit Administration Circular 4220.1F

<u>Federal Guidance</u>	<u>Narrative</u>	<u>County Compliance</u>
<u>Excerpts</u>	<p>Chapter I. 1.PURPOSE. This circular provides contracting guidance for recipients of Federal assistance awarded by the Federal Transit Administration (FTA) when using that Federal assistance to finance its procurements (third party contracts). This revision incorporates the new procurement provisions of the Moving Ahead for Progress in the 21st Century Act (MAP 21), Pub. L., 112-141, July 2012, and includes the most current available guidance for the Federal public transportation program as of the date of publication. Chapter I. 6.(f). Master Agreement. From the inception of its electronic award system in Fiscal Year 1995, FTA has incorporated by reference and made part of each FTA grant and FTA cooperative agreement a Master Agreement that FTA issues annually. Along with the standard terms and conditions governing an FTA assisted project, the most recent FTA Master Agreement, typically issued at the beginning of each Federal fiscal year, contains references to substantially all FTA and other cross- cutting Federal laws and regulations that may apply to a federally assisted project. Several of these Federal requirements must be included in third party contracts to the lowest tier necessary, and others will have a direct or indirect effect on the recipient's third party contracts, and therefore should be included in those third party contracts.</p> <p><b><u>Chapter II. 1.</u></b> Because this circular is guidance, FTA is willing to consider methods of compliance with Federal laws and regulations other than those described therein. If a recipient identifies an alternative method for complying with an applicable Federal statute and regulation, it may contact FTA before employing that method to ensure that FTA agrees with the alternative proposed. While FTA's prior concurrence is not required, FTA reserves the right to decline to participate in the costs of third party procurements that fail to comply with Federal laws, regulations, or the terms of the recipient's underlying grant or cooperative agreement.</p>	

**5.4 U.S. Department of Transportation Federal Transit Administration Circular 4220.1F**

<b><u>Federal Guidance</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
IV, 1.e	Lease versus Purchase. To obtain the best value, the recipient should review lease versus purchase alternatives for acquiring property and, if necessary, should obtain an analysis to determine the more economical alternative. The recipient may use FTA capital assistance to finance the costs of leasing eligible property if leasing is more cost effective than full ownership. Before the recipient may lease an asset, FTA regulations, "Capital Leases," 49 CFR Part 639, Subpart C, require the recipient to make a written comparison of the cost of leasing the asset compared with the cost of purchasing or constructing the asset. Costs used in the comparison must be reasonable, based on realistic current market conditions, and based on the expected useful service life of the asset.	GABPM Sec.3.1.1 Ensuring the Most Efficient and Economic FTA Funded Purchase

#### 5.4 U.S. Department of Transportation Federal Transit Administration Circular 4220.1F

<u>Federal Guidance</u>	<u>Narrative</u>	<u>County Compliance</u>
III, 3.a.	<p>Written Procurement Procedures. The Common Grant Rule for non-governmental recipients requires the recipient to have written procurement procedures, and by implication, the Common Grant Rule for governmental recipients requires written procurement procedures as a condition of self- certification. The recipient's procurement procedures are expected to address: (1) Solicitations. The following standards apply to solicitations: (a) Clear Descriptions. A clear and accurate description of the technical requirements for the material, product, or service to be procured is required (discussed further in Chapter VI of this circular).</p> <p>(b) Nonrestrictive Specifications. In competitive procurements, the description may not contain features that unduly restrict competition. Notably, FTA may not finance procurements that use exclusionary or discriminatory specifications (discussed further in Chapter VI of this circular).</p> <p>(c) Quality Requirements. A description may include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, describe minimum essential characteristics and standards to which the property or services must conform if it is to satisfy the recipient's intended use (discussed further in Chapter VI of this circular).</p> <p>(d) Preference for Performance Specifications. The Common Grant Rule for governmental recipients advises the recipient that "detailed product specifications should be avoided if at all possible." The Common Grant Rule for non-governmental recipients advises the recipient to describe technical requirements in terms of "functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards" (discussed further in Chapter VI of this circular). (e) Brand Name or Equal. When it is impractical or uneconomical to write a clear and accurate description of the technical requirements of the property or services to be acquired, a "brand name or equal" description may be used to define the performance or other salient characteristics of the property or services sought. The specific features or salient characteristics of the named brand which must be met by offerors of "an equal" proposal must be clearly stated (discussed further in Chapter VI of this circular).</p>	GABPM

**5.4 U.S. Department of Transportation Federal Transit Administration Circular  
4220.1F**

<b><u>Federal Guidance</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
	<p>The Common Grant Rule for non-governmental recipients further requires (and governmental recipients should have) written procurement procedures that address:</p> <p>(2) Necessity. The recipient's need for the property or services (discussed further in Chapter VI of this circular).</p> <p>(3) Lease versus Purchase. The use of lease or purchase alternatives to achieve an economical and practical procurement (discussed further in Chapter IV of this circular).</p> <p>(4) Metric Usage. The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement (discussed further in Chapter IV of this circular).</p> <p>(5) Environmental and Energy Efficiency Preferences. A preference, to the extent practicable and economically feasible, for products and services that conserve natural resources, protect the environment, and are energy efficient (discussed further in Chapter IV of this circular).</p> <p>The recipient's procurement procedures should also address the following matters:</p> <p>(6) Procurement Methods. What procurement methods may be used (discussed further in Chapter VI of this circular).</p> <p>(7) Legal Restrictions. Any Federal, State, or local restrictions on the recipient's acquisitions (discussed further in Chapter IV of this circular).</p> <p>(8) Third Party Contract Provisions. The specific third party contract provisions required for each third party contract including requirements that each third party contractor extend those provisions to its subcontractors to the extent required (discussed further in Chapter IV of this circular).</p> <p>(9) Sources. The availability and use of various sources of property and services (discussed further in Chapter V of this circular).</p> <p>(10) Resolution of Third Party Contracting Issues. Procedures to resolve third party contracting issues (discussed further in Chapter VII of this circular).</p>	

**5.4 U.S. Department of Transportation Federal Transit Administration Circular 4220.1F**

<b><u>Federal Guidance</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
IV. 2.(a)(4)	<p><u>Section 26.49 (a)(4) FTA recipients are required to submit within 30 days of making an award, the name of the successful bidder, and the total dollar value of the contract in the manner prescribed in the grant agreement. Program will be updated when the goal calculation is updated.</u></p> <p>Transit vehicle manufacturer means any manufacturer whose primary business purpose is to manufacture vehicles specifically built for public mass transportation. Such vehicles include, but are not limited to: buses, rail cars, trolleys, ferries, and vehicles manufactured specifically for paratransit purposes. Producers of vehicles that receive post-production alterations or retrofitting to be used for public transportation purposes (e.g., so called cutaway vehicles, vans customized for service to people with disabilities) are also considered transit vehicle manufacturers. Businesses that manufacture, mass produce, or distribute vehicles solely for personal use and for sale “off the lot” are not considered transit vehicle manufacturers.</p>	

<b>5.4 U.S. Department of Transportation Federal Transit Administration Circular 4220.1F</b>		
<b><u>Federal Guidance</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>

IV, 2.e.(10)	<p>Time Limits for Options on Rolling Stock Contracts. MAP-21 amended 49 U.S.C. Section 5325(e)(1) by adding subsections (A) and (B), retaining the five (5) year option for the procurement of buses, while extending the option for rail procurements to seven (7) years. Consequently: (a) Buses. A recipient:</p> <ol style="list-style-type: none"> <li>1 May enter into a multi-year contract to acquire buses or replacement parts, with an option not exceeding five(5) years to buy additional buses or replacement parts, 49 U.S.C. Section 5325(e)(1)(A), but</li> <li>2 May not exercise the option to acquire buses or replacement parts later than five (5) years after the date of its original contract.</li> </ol> <p>(b) Rail. A recipient:</p> <ol style="list-style-type: none"> <li>1 May enter into a multi-year contract to acquire railcars or replacement parts, with an option not exceeding five(5) years to buy additional railcars or replacement parts, 49 U.S.C. Section 5325(e)(1)(B), but</li> <li>2 May not exercise the option to acquire railcars or replacement parts later than seven (7) years after the date of its original contract.</li> </ol> <p>FTA interprets these five and seven-year periods as covering the recipient's "material requirements" for rolling stock and replacement needs from the first day when the contract becomes effective to its "material requirements" at the end of the fifth or seventh year, as applicable. In the case of rolling stock, which frequently cannot be delivered expeditiously, FTA recognizes that a recipient's "material requirements" for rolling stock will necessarily precede its actual need to put that rolling stock to use in public transportation service. This means that the contract may not have options for more rolling stock and replacement parts than a recipient's material requirements for the applicable five or seven-year period. This does not mean the recipient must obtain delivery, acceptance, or even fabrication in five or seven years. Instead it means only that FTA limits a contract to purchasing no more than the recipient's material requirements for rolling stock or replacement parts for five or seven years based on the effective date of the contract.</p>	<p>GABPM Sec.3.1.9 Contract Period of Performance Limitation for FTA Funded Purchases</p>
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**5.4 U.S. Department of Transportation Federal Transit Administration Circular  
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<b><u>Federal Guidance</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
VI, 3.c.(2)(g)	Rejection of Bids. Any or all bids may be rejected if there is a sound, documented business reason.	GABPM Sec. 3.2.4 Invitation to Bid (ITB), and Sec. 4.3.1 Recommendation or Intent to Award or Reject
VI, 6.a.	Cost Analysis and Price Analysis. The Common Grant Rules requires the recipient to perform a cost analysis or price analysis in connection with every procurement action, including contract modifications. The method and degree of analysis depends on the facts and circumstances surrounding each procurement, but as a starting point, the recipient must make independent estimates before receiving bids or proposals. a. Cost Analysis. The recipient must obtain a cost analysis when a price analysis will not provide sufficient information to determine the reasonableness of the contract cost. The recipient must obtain a cost analysis when the offeror submits elements (that is, labor hours, overhead, materials, and so forth) of the estimated cost, (such as professional consulting and A&E contracts, and so forth). The recipient is also expected to obtain a cost analysis when price competition is inadequate, when only a sole source is available, even if the procurement is a contract modification, or in the event of a change order. The recipient, however, need not obtain a cost analysis if it can justify price reasonableness of the proposed contract based on a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. (1) Federal Cost Principles. Federal cost principles contain many requirements about the allowability and allocability of costs.	GABPM Sec. 3.2.7 Non-Competitive Acquisition

	<p>(2) Profit. FTA expects the recipient to negotiate profit as a separate element of the cost for each contract in which there has been no price competition, and in all acquisitions in which the recipient performs or acquires a cost analysis. To establish a fair and reasonable profit, the recipient needs to consider the complexity of the work to be performed, the risk undertaken by the contractor, the contractor's investment, the amount of subcontracting, the quality of the contractor's record of past performance, and industry profit rates in the surrounding geographical area for similar work.</p> <p>b. Price Analysis. If the recipient determines that competition was adequate, a price analysis, rather than a cost analysis, is required to determine the reasonableness of the proposed contract price. As discussed previously in subsection 3.a of this Chapter, the price analysis for micro-purchases may be limited. Similarly, the recipient may use an abbreviated price analysis for small purchases in most cases. One method to record this price analysis is through the use of a preprinted form on which a contracting officer (or other responsible person) can annotate a finding of fair and reasonable pricing and check off the most common reasons why this would be so, such as catalog or market prices offered in substantial quantities to the general public, regulated prices (for example, for many utilities purchases), or a comparison with recent prices for similar goods and services.</p> <p>c. Guidance on Cost and Price Analysis. FTA recognizes that some recipients may have difficulty obtaining the information necessary to conduct a proper cost or price analysis. Although neither FTA nor DOT may change the Common Grant Rules' requirements for cost or price analysis, FTA continues to seek a fair, practical solution to this problem consistent with the flexibility provided to Federal contracting officers under the FAR. The recipient may use the following resources as guidance in preparing cost or price analyses:</p> <p>(1) FTA's "Best Practices Procurement Manual," Chapter 5, (2) The National Transit Institute Course, "Cost or Price Analysis and Risk Assessment," (3) Pricing Guide for FTA Grantees, FTA Web Site: <a href="http://www.fta.dot.gov/documents/Helpline_Price_Guide.doc">http://www.fta.dot.gov/documents/Helpline_Price_Guide.doc</a>, (4) FAR Part 31, Contract Cost Principles and Procedures, and (5) Defense Contract Audit Agency Audit Manual. See, the DCAA Web site: <a href="http://www.dcaa.mil">http://www.dcaa.mil</a>.</p>	
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<b>5.4 U.S. Department of Transportation Federal Transit Administration Circular 4220.1F</b>		
<b><u>Federal Guidance</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
	Note, however, that the requirements of FAR Part 31 and the Defense Contract Audit Agency Audit Manual may differ from restrictions applicable to an FTA recipient. Each FTA recipient must comply with those Federal laws and regulations directly applicable to it.	
VI, 7.b.(1)	Options. In awarding the contract that will include options, the following standards apply: (1) Evaluation Required. In general, FTA expects the recipient to evaluate bids or offers for any option quantities or periods contained in a solicitation if it intends to exercise those options after the contract is awarded.	GABPM Sec. 4.2.9 Evaluation of Options
IV, 1.d.	Options. The recipient's contracts may include options to ensure the future availability of property or services, so long as the recipient is able to justify those options as needed for its public transportation or project purposes. An option is a unilateral right in a contract by which, for a specified time, a recipient may acquire additional equipment, supplies, or services than originally procured. An option may also extend the term of the contract. Chapter VI of this circular contains procedures for evaluating options.	GABPM Sec. 3.1.10 Options in FTA Funded Purchases

<b>5.4 U.S. Department of Transportation Federal Transit Administration Circular 4220.1F</b>		
<b><u>Federal Guidance</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
IV, 2.b.(5)(b).1 .2	1 Use of FTA Assistance Prohibited. The recipient may not use FTA assistance to make payments to a third party contractor before the contractor has incurred the costs for which the payments would be attributable. 2 Exceptions for Sound Business Reasons. Apart from advance payments that are customary, as discussed further,	GABPM Sec. 1.12. p Partially or Fully Federally Funded

	<p>FTA does occasionally make exceptions to its advance payment prohibitions, if the recipient can provide sound business reasons for doing so and has obtained FTA's advance written concurrence. A recipient that seeks to use FTA assistance to support advance payments should contact the regional office administering its project to obtain FTA concurrence.</p> <p>a Adequate Security for Advance Payments. FTA recognizes that advance payments may be needed for certain costs supported by sound business judgment. Adequate security for the advance payment is an essential pre-condition to FTA's concurrence in the use of FTA or local share funds.</p> <p>b Customary Advance Payments. FTA recognizes that advance payments are typically required for, but are not limited to, public utility connections and services, rent, tuition, insurance premiums, subscriptions to publications, software licenses, construction mobilization costs, transportation, hotel reservations, and conference and convention registrations. Accordingly, the recipient may use FTA assistance to support or reimburse the costs of such acquisitions. FTA concurrence is required only when such advance payment or payments customarily required in the marketplace exceed \$100,000. In summary, if there are sound business reasons justifying the advance payment and adequate security for the payment, FTA will generally concur in a written request for an exception.</p>	Acquisitions
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**5.4 U.S. Department of Transportation Federal Transit Administration Circular 4220.1F**

<b><u>Federal Guidance</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
IV, 2.b.(5)(c)	<p>Progress Payments. Progress payments are payments for contract work that has not been completed. The recipient may use FTA assistance to support progress payments provided the recipient obtains adequate security for those payments and has sufficient written documentation to substantiate the work for which payment is requested.</p> <p>1 Adequate Security for Progress Payments. Adequate security for progress payments may include taking title or obtaining a letter of credit or taking equivalent measures to protect the recipient's financial interest in the progress payment. Adequate security should reflect the practical realities of different procurement scenarios and factual circumstances. FTA acknowledges the practical reality that taking title to work in progress may not be desirable in some circumstances. The recipient should always consider the costs associated with providing security (for example, the recipient may need to acquire bonds or letters of credit in the commercial marketplace) and the impact of those costs on the contract price, as well as the consequences of incomplete performance.</p> <p>2 Adequate Documentation. Sufficient documentation is required to demonstrate completion of the amount of work for which progress payments are made.</p> <p>3 Percentage of Completion Method. The Common Grant Rules requires that any progress payments for construction contracts be made on a percentage of completion method described therein. The recipient, however, may not make progress payments for other than construction contracts based on this percentage method.</p>	GABPM Sec. 1.12. q Partially or Fully Federally Funded Acquisitions

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<b><u>Federal Guidance</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
VI, 2.c.(2)(c)	<p>Time and Materials—Restricted. The Common Grant Rule for governmental recipients permits the use of time and material contracts only:</p> <p>1 When to Use. After determining that no other contract type is suitable; and</p> <p>2 Firm Ceiling Price. If the contract specifies a ceiling price that the contractor may not exceed except at its own risk. FTA strongly encourages non-governmental recipients to use similar procedures.</p>	<p>GABPM Sec. 1.12 (n) Partially or Fully Federally Funded Acquisitions</p> <p>Sec. 1 General Terms and Conditions of County Contracts</p>
IV, 2.b.(6)(b)1	<p>Liquidated Damages. FTA has determined that a recipient may use liquidated damages if the recipient reasonably expects to suffer damages through delayed contract completion, or if weight requirements are exceeded, and the extent or amount of such damages are uncertain and would be difficult or impossible to determine. The rate and measurement standards must be calculated to reasonably reflect the recipient's costs should the standards not be met, and must be specified in the solicitation and contract. The assessment for damages is often established at a specific rate per day for each day beyond the contract's delivery date or performance period. A measurement other than a day or another period of time, however, may be established if that measurement is appropriate, such as weight requirements in a rolling stock purchase. The procurement file should include a record of the calculation and rationale for the amount of damages established. Any liquidated damages recovered must be credited to the project account involved unless FTA permits otherwise. We also refer you to Chapter V, paragraph 5(a)(1) for a discussion of how liquidated damages can be used to encourage settlements.</p>	<p>GABPM Sec. 3.1.6 d. Liquidated Damages</p>

**5.4 U.S. Department of Transportation Federal Transit Administration Circular  
4220.1F**

<b><u>Federal Guidance</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
V, 7.a.(2)	<p>Assignment of Contract Rights. FTA expects the recipient to limit its procurements to the amount of property and services required to meet its reasonably expected needs without adding excess capacity simply for the purpose of assigning contract rights to others at a later date. FTA expects the recipient to be able to justify the quantities it procures. Having written statements of its anticipated material requirements in the recipient's contract files may prove helpful.</p> <p>For example, if the supplies or services were solicited, competed, and awarded through the use of an indefinite-delivery-indefinite-quantity (IDIQ) contract, the solicitation and also the contract award are expected to contain both a minimum and maximum quantity that represent the recipient's reasonably foreseeable needs. The establishment of State or local government purchasing schedules intended to be available for future use as discussed in section 4 of this Chapter, however, are not usually financed with FTA assistance. FTA assistance would be used to acquire property or services listed on such a contract only to the extent needed for public transportation purposes.</p> <p>Nevertheless, a recipient may find that it has inadvertently acquired contract rights in excess of its needs. The recipient may assign those contract rights to other recipients if the original contract contains an assignability provision that permits the assignment of all or a portion of the specified deliverables under the terms originally advertised, competed, evaluated, and awarded, or contains other appropriate assignment provisions. Some refer to this process as "piggybacking."</p>	GABPM Sec. 3.2.1 Accessing Contracts from other Government Agencies and Not for Profit Organizations

#### **5.4 U.S. Department of Transportation Federal Transit Administration Circular 4220.1F**

<b><u>Federal Guidance</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
VI, 3.f.(3)	<p>Qualifications-Based Procurement Procedures. The following procedures apply to qualifications-based procurements:</p> <p>(a) Qualifications. Unlike other two-step procurement procedures in which price is an evaluation factor, an offeror's qualifications are evaluated to determine contract award.</p> <p>(b) Price. Price is excluded as an evaluation factor.</p> <p>(c) Most Qualified. Negotiations are first conducted with only the most qualified offeror.</p> <p>(d) Next Most Qualified. Only after failing to agree on a fair and reasonable price may negotiations be conducted with the next most qualified offeror. Then, if necessary, negotiations</p>	AO 3-39 Standard Process For Construction Of Capital Improvements, Acquisition Of Professional Services, Construction Contracting,

	<p>with successive offerors in descending order may be conducted until contract award can be made to the offeror whose price the recipient believes is fair and reasonable. (e) Effect of State Laws. To the extent that a State has, before August 10, 2005, adopted by law, an equivalent State qualifications-based-procurement requirement for acquiring architectural, engineering, and design services, State procedures, rather than Federal "Brooks Act" procedures (40 U.S.C. Sections 1101 through 1104), may be used.</p>	<p>Change Orders And Reporting</p> <p>CM-DC 2-8.1 and 2-10.4</p> <p>FS - Sec. 287.055</p>
IV,2.i.(1)(a)	<p>(a) Bid Guarantee. Both FTA and the Common Grant Rules generally require each bidder to provide a bid guarantee equivalent to 5 percent of its bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid to ensure that the bidder will honor its bid upon acceptance.</p>	<p>SPD does not procure construction contracts. See FS Sections 255.05 and 287.0935 for bond and bond insurer requirements applicable to construction components of Design Build and Goods and Services projects.</p>



**5.4 U.S. Department of Transportation Federal Transit Administration Circular 4220.1F**

<b><u>Federal Guidance</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
IV, 2.i.(1)(b)	(b) Performance Bond. Both FTA and the Common Grant Rules generally require the third-party contractor to obtain a performance bond for 100 percent of the contract price. A “performance bond” is obtained to ensure completion of the obligations under the third party contract.	SPD does not procure construction contracts. See FS Sections 255.05 and 287.0935 for bond and bond insurer requirements applicable to construction components of Design Build and Goods and Services projects
IV, 2.i.(1)(c)	<p>(c) Payment Bond. The Common Grant Rules generally require the third-party contractor to obtain a standard payment bond for 100 percent of the contract price. A “payment bond” is obtained to ensure that the contractor will pay all people supplying labor and material for the third-party contract as required by law. FTA, however, has determined that payment bonds in the following amounts are adequate to protect FTA’s interest and will accept a local bonding policy that meets the following minimums:</p> <ol style="list-style-type: none"> <li>1 Less Than \$1 Million. Fifty percent of the contract price if the contract price is not more than \$1 million,</li> <li>2 More Than \$1 Million but Less Than \$5 Million. Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million, or</li> <li>3 More Than \$5 Million. Two and one half million dollars if the contract price is more than \$5 million.</li> </ol>	SPD does not procure construction contracts. See FS Sections 255.05 and 287.0935 for bond and bond insurer requirements applicable to construction components of Design Build and Goods and Services projects

**5.4 U.S. Department of Transportation Federal Transit Administration**  
**Circular 4220.1F**

<b><u>Federal Guidance</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
IV, 2. a.(2)(b)	General Services Administration (GSA) Excluded Parties List System. Even though the recipient may collect a debarment and suspension certification from the prospective third-party contractor or include a clause in the third party contract requiring disclosure, FTA strongly recommends that the recipient check the Excluded Parties List System (EPLS). Now a part of the System for Awards Management (SAM), the EPLS is an electronic, web-based system that identifies those parties excluded from receiving Federal contracts, certain subcontracts, and certain types of Federal financial and non- financial assistance and benefits. The EPLS keeps its user community aware of administrative and statutory exclusions across the entire government, and individuals barred from entering the United States. Go to <a href="http://www.sam.gov">www.sam.gov</a> and the Extracts and Data Access area and click on the Public Data Access box to find the individual firm, individual or vessel you may seek.	GABPM Sec. 4.2.5 Responsibility  CM-DC Sec. 10-38. – Debarment of contractors from County work.

VII,3.a.	<p>(a) The Recipient's Role and Responsibilities. The Common Grant Rules charges the recipient with responsibility for evaluating and resolving third party contract disputes. If the recipient intends to request FTA's permission to use Federal assistance to support payments to a third-party contractor to settle a dispute, or intends to request increased Federal assistance for that purpose, the recipient's responsibilities are as follows:</p> <p>(1) Notify FTA. FTA expects the recipient to provide the following information in connection with third party contract disputes in which it is involved: (a) Subjects. A list of disputes involving third party contracts and potential third-party contracts that:</p> <ol style="list-style-type: none"> <li>1 Have a value exceeding \$100,000,</li> <li>2 Involve a controversial matter, irrespective of amount, or</li> <li>3 Involve a highly publicized matter, irrespective of amount.</li> </ol> <p>(b) Details. The following information about each dispute:</p> <ol style="list-style-type: none"> <li>1 A brief description of the dispute,</li> <li>2 The basis of disagreement, and</li> <li>3 If open, how far the dispute has proceeded, or</li> <li>4 If resolved, the agreement or decision reached, and</li> <li>5 Whether an appeal has been taken or is likely to be taken.</li> </ol> <p>(c) When and Where. The recipient should provide this information:</p> <ol style="list-style-type: none"> <li>1 In its next quarterly Milestone Progress Report, and</li> <li>2 At its next Project Management Oversight review, if any.</li> </ol> <p>Small recipients may report less frequently if no disputes are outstanding.</p> <p>(d) FTA Officials to Notify. FTA also encourages the recipient to keep its FTA project manager informed about disputes with which it is involved. In particular, the recipient should contact its project manager about any unusual activity.</p> <p>(2) Adequate Documentation. FTA expects the recipient to include adequate documentation in its project files of the facts, events, negotiations, applicable laws, and a legal evaluation of the likelihood of success in any potential litigation involving the dispute as may be needed to justify FTA's concurrence in any compromise or settlement, should FTA concurrence become necessary.</p> <p>(3) Audit. An audit can help the recipient demonstrate that any settlement costs, if incurred, are necessary, reasonable, adequately documented, and appropriate for FTA support. The recipient should consider conducting or obtaining a formal audit to substantiate each part of a large contract dispute before entering into a settlement. The audit should be conducted in accordance with "Generally Accepted Auditing</p>	GABPM Sec. 1.12.r. Partially or Fully Federally Funded Acquisitions
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5.4 U.S. Department of Transportation Federal Transit Administration Circular 4220.1F		
<u>Federal Guidance</u>	<u>Narrative</u>	<u>County Compliance</u>
	Standards” as defined by the American Institute of Certified Public Accountants. FTA also encourages the recipient to undertake an audit or similar analysis before settlement of a small dispute.	

5.4 U.S. Department of Transportation Federal Transit Administration Circular 4220.1F		
<u>Federal Guidance</u>	<u>Narrative</u>	<u>County Compliance</u>
VII, 4.a	The Recipient’s Role and Responsibilities. The Common Grant Rules charge the recipient with responsibility for evaluating and resolving third party contract claims and litigation resulting from a contractor’s violation, default, or breach of its third-party contracts with recipients of Federal assistance. The recipient is also responsible for resolving any	GABPM Sec. 1.12.s. Partially or Fully Federally Funded

	<p>claims and litigation the contractor may present against it. Due to FTA's financial interest in the settlement of third party contract claims and litigation, and concerns about matters with significant policy consequences to the Federal Government, FTA expects the recipient to: (1) Notify FTA. FTA expects the recipient to provide the following information in connection with third party contract claims and litigation with which it is involved. (a) Subjects. A list of claims and litigation involving third party contracts and potential third-party contracts that: 1 Have a value exceeding \$100,000, 2 Involve a controversial matter, irrespective of amount, or 3 Involve a highly publicized matter, irrespective of amount. (b) Details. The following information about each claim or lawsuit: 1 A brief description of the claim or litigation, 2 The basis of disagreement, and 3 If open, how far the claim or litigation has proceeded, and 5 If resolved, the decision or agreement reached, and 5 Whether an appeal has been or is likely to be taken. (c) When and Where. The recipient should provide this information: 1 In its next quarterly Milestone Progress Report, and 2 At its next Project Management Oversight review, if any. Small recipients may report less frequently if no claims or litigation is outstanding. (d) FTA Officials to Notify. FTA also encourages the recipient to keep its FTA project manager informed about claims and litigation with which it is involved. In particular, the recipient should contact its project manager about any unusual activity. (2) Legal Rights and Remedies. In resolving third party contract claims, FTA expects the recipient to take reasonable measures to pursue its rights and remedies available under law, including settlement, particularly if failure to do so would jeopardize the Federal interest in the project or cause the recipient to seek additional Federal assistance.</p>	Acquisitions
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5.4 U.S. Department of Transportation Federal Transit Administration Circular 4220.1F		
<u>Federal Guidance</u>	<u>Narrative</u>	<u>County Compliance</u>
IV, 2. b (6) (b) 4	Termination. Termination for cause and termination for convenience provisions must be included in contracts exceeding \$10,000.	Sec. 1 FTA General Terms and Conditions of County Contracts

5.4 U.S. Department of Transportation Federal Transit Administration Circular 4220.1F		
<u>Federal Guidance</u>	<u>Narrative</u>	<u>County Compliance</u>
2.h.(1); (2) (a)	<p>Architectural Engineering (A&amp;E) and Related Services— Special Requirements. Federal laws and regulations impose the following requirements on A&amp;E and related procurements:</p> <p>(1) Qualifications-Based Requirements. For projects related to or leading to construction, an FTA recipient must use the qualifications-based procurement procedures of 40 U.S.C. Chapter 11 (“Brooks Act” procedures) when contracting for A&amp;E services and other services described in 49 U.S.C. Section 5325(b), which include program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, or related services.</p> <p>(2) Relation to Construction. The nature of the services to be performed and its relationship to construction, not the nature of the prospective contractor, determines whether qualifications based procurement procedures may be used.</p> <p>(a) Purpose of Services. FTA has long administered the requirement for using qualifications-based procurement procedures for selection of contractors that perform A&amp;E services, generally associated with the construction, alteration, or repair of real property. FTA interprets 49 U.S.C. Section 5325(b) to authorize the use of qualifications-based procurement procedures only for those services that directly support or are directly connected or related to construction, alteration, or repair of real property. FTA’s interpretation of 49 U.S.C. Section 5325(b) is consistent with typical Federal policies implementing the “Brooks Act,” 40 U.S.C. Section 1102, which limits qualifications-based procurement procedures to research, planning, development, design, construction, alteration, or repair of real property. Thus, if services, such as program management, feasibility studies, or mapping, are not directly in support of, directly connected to, or directly related to, or lead to construction, alteration, or repair of real property, then the recipient may not use qualifications-based procurement procedures to select the contractor that will perform those services.</p>	<p>AO 3-39 Standard Process For Construction Of Capital Improvement s, Acquisition Of Professional Services, Construction Contracting, Change Orders And Reporting</p> <p>CM-DC 2-8.1 and 2-10.4</p> <p>FS - Sec. 287.055</p>

5.4 U.S. Department of Transportation Federal Transit Administration Circular 4220.1F		
<u>Federal Guidance</u>	<u>Narrative</u>	<u>County Compliance</u>
VI, 3.g.	Design-Bid-Build. The design-bid-build procurement method requires separate contracts for design services and for	SPD does not use the

	construction. (1) Design Services. For design services, the recipient must use qualifications-based procurement procedures, in compliance with applicable Federal, State and local law and regulations. (2) Construction. Because the recipient may not use qualifications-based procurement procedures for the actual construction, alteration or repair of real property, the recipient generally must use competitive procedures for the construction. These may include sealed bidding or competitive negotiation procurement methods, as appropriate.	Design-Bid-Build Method
<b>5.4 U.S. Department of Transportation Federal Transit Administration Circular 4220.1F</b>		
<b><u>Federal Guidance</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
VI, 3.h.	Design-Build. The design-build procurement method consists of contracting for design and construction simultaneously with contract award to a single contractor, consortium, joint venture, team, or partnership that will be responsible for both the project's design and construction. FTA's enabling legislation expressly authorizes the use of FTA capital assistance to support design-build projects "after the recipient complies with Government requirements," 49 U.S.C. Section 5325(d)(2). (1) Procurement Method Determined by Value. First, the recipient must separate the various contract activities to be undertaken and classify them as design or construction, and then calculate the estimated total value of each. Because both design and construction are included in a single procurement, the FTA expects the recipient to use the procurement method appropriate for the services having the greatest cost, even though other necessary services would not typically be procured by that method. (a) Construction Predominant. The construction costs of a design-build project are usually predominant so that the recipient would be expected to use competitive negotiations or sealed bids for the	AO 3-39 Standard Process For Construction Of Capital Improvements, Acquisition Of Professional Services, Construction Contracting, Change Orders And Reporting  CM-DC 2-8.1 and 2-10.4

	<p>entire procurement rather than the qualification-based “Brooks Act” procurement procedures. Specifically, when construction costs will be predominant, unless FTA determines otherwise in writing, an FTA recipient may not use qualifications-based procurement procedures to acquire architectural engineering, program management, construction management, feasibility studies, preliminary engineering, design, architectural and engineering, surveying, mapping, or related A&amp;E services unless required by State law adopted before August 10, 2005.</p> <p>(b) Design Services Predominant. In the less usual circumstance in which the cost of most work to be performed will consist of costs for architectural and engineering, program management, construction management, feasibility studies, preliminary engineering, design, architectural engineering, surveying, mapping, or related A&amp;E services, FTA expects the recipient to use qualifications-based procurement procedures based on the “Brooks Act,” 40 U.S.C. Sections 1101 through 1104, as described in subsection 3.e of this Chapter.</p>	FS - Sec. 287.055
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<b>5.4 U.S. Department of Transportation Federal Transit Administration Circular 4220.1F</b>		
<b><u>Federal Guidance</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
V,7. b.(2)	<p>Cardinal Changes. A significant change in contract work (property or services) that causes a major deviation from the original purpose of the work or the intended method of achievement, or causes a revision of contract work so extensive, significant, or cumulative that, in effect, the contractor is required to perform very different work from that described in the original contract, is a cardinal change. Such practices are sometimes informally referred to as “tag-ons.” A change within the scope of the contract (sometimes referred to as an “in-scope” change) is not a “tag-on” or cardinal change.</p>	GABPM Sec. 1.18 Dictionary (Cardinal Changes)



II,b(4)	<p>Revenue Contracts. A revenue contract is a contract in which the recipient or subrecipient provides access to public transportation assets for the primary purpose of either producing revenues in connection with an activity related to public transportation, or creating business opportunities with the use of FTA assisted property. The recipient has broad latitude in determining the extent and type of competition appropriate for a particular revenue contract. Nevertheless, to ensure fair and equal access to FTA assisted property and to maximize revenue derived from such property, the recipient should conduct its revenue contracting as follows: (a) Limited Contract Opportunities. If there are several potential competitors for a limited opportunity (such as advertising space on the side of a bus), then the recipient should use a competitive process to permit interested parties an equal chance to obtain that limited opportunity.</p> <p>(b) Open Contract Opportunities. If, however, one party seeks access to a public transportation asset (such as a utility that might seek cable access in a subway system), and the recipient is willing and able to provide contracts or licenses to other parties similarly situated (since there is room for a substantial number of such cables without interfering with transit operations), then competition would not be necessary because the opportunity to obtain contracts or licenses is open to all similar parties.</p> <p>In the case of joint development, as explained below, FTA will work with the recipient to determine appropriate procedures, as necessary.</p>	GABPM Sec. 3.1.11 FTA Revenue Contracts
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V, 4. a. b. c.	<p>State or Local Government Purchasing Schedules or Purchasing Contracts. FTA uses the term “State or local government purchasing schedule” to mean an arrangement that a State or local government has established with several or many vendors in which those vendors agree to provide essentially an option to the State or local government, and its subordinate government entities, to acquire specific property or services in the future at established prices. These arrangements are somewhat similar to the General Services Administration’s (GSA) Cooperative Purchasing Program available for Federal Government use. If the State or local government wishes to permit others to use its schedules, the State or local government might seek the agreement of the vendor to provide the listed property or services to others with access to the schedules, or it may permit the vendor to determine whether or not it wishes to do so. <b>CAUTION:</b> The term “State or local government purchasing schedule” does not include intergovernmental purchasing schedules to be the type of State or local intergovernmental agreements.</p> <p>a. Use.</p> <p>(1) Use Permitted. FTA’s policies are as follows:</p> <p>(a) General. The Common Grant Rule for governmental recipients encourages recipients and subrecipients to enter into State and local intergovernmental agreements for procurements of property or services, and.</p> <p>(b) State or Local Government Permission Required. If so permitted by State or local authorities, a non-governmental recipient may also use State and local sources of property and services. This is because 49 C.F.R. § 18.36(a) permits States to use their own policies and procedures they use for their own purchases, not because those schedules are “State intergovernmental agreements,” and</p> <p>b. Use Restricted. Although the Common Grant Rule for government recipients, 49 C.F.R. § 18.36(b)(5), provides that “grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurements of common goods and services”:</p> <p>(1) Prohibited. FTA does not authorize grantees to consider intergovernmental purchasing schedules to be the type of State or local intergovernmental agreement to which that Common Grant Rule is referring.</p> <p>(2) Permitted. FTA recognizes joint purchases to be the only type of intergovernmental agreement suitable for use by its grantees and subgrantees.</p> <p>c. All FTA and Federal Requirements Apply.</p>	GABPM Sec. 3.2.1 Accessing Contracts from other Government Agencies and Not for Profit Organizations
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**5.4 U.S. Department of Transportation Federal Transit Administration Circular  
4220.1F**

<b><u>Federal Guidance</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
	<p>all Federal requirements, required clauses, and certifications (including Buy America) are properly followed and included, whether in the master intergovernmental contract or in the recipient's purchase document. One way of achieving compliance with FTA requirements is for all parties to agree to append the required Federal clauses in the purchase order or other document that effects the recipient's procurement. When buying from these schedules, the recipient should obtain Buy America certification before entering into the purchase order. If the product to be purchased is Buy America compliant, there is no problem. If the product is not Buy America compliant, the recipient will need to obtain a waiver from FTA before proceeding.</p>	
I, z.	<p>Recipient means the public or private entity to which FTA awards Federal assistance through a grant, cooperative agreement, or other agreement. The recipient is the entire legal entity even if only a particular component of the entity is designated in the document through which FTA has awarded Federal assistance. The term "recipient" includes "grantee," which is a "recipient" of Federal grant assistance. The term "recipient" also includes each member of a consortium, joint venture, team, or partnership awarded FTA assistance through a grant, cooperative agreement, or other agreement.</p> <p>For the purposes of this circular, "recipient" also includes any subrecipient or subgrantee of the recipient. Furthermore, a recipient is responsible for assuring that each of its subrecipients complies with the applicable requirements and standards of this circular, and that each of its subrecipients is aware of the Federal statutory and regulatory requirements that apply to its actions as a subrecipient. Neither a third-party contractor nor a third party subcontractor is a "recipient" for purposes of this circular.</p>	<p>Not Applicable. Miami-Dade County has no subrecipients</p>

## 5.5 U.S. Department of Transportation Federal Transit Administration Master Agreement

<u>Federal Requirement</u>	<u>Narrative</u>	<u>County Compliance</u>
<p>This FTA Master Agreement contains the standard terms and conditions that apply to the Underlying Agreement with the Recipient, which Underlying Agreement may take the form of an:</p> <ol style="list-style-type: none"> <li>1. FTA Grant Agreement, including an FTA Grant Agreement for an award of federal assistance under the Tribal Transit Program,</li> <li>2. FTA Cooperative Agreement, or</li> <li>3. FTA Transportation Infrastructure Finance Innovation Act (TIFIA) Loan, Loan Guarantee, Line of Credit, Master Credit Agreement, or State Infrastructure Bank (SIB) Cooperative Agreement.</li> </ol>		
Section 15	<p>Preference for United States Products and Services.</p> <p>Except as the Federal Government determines otherwise in writing, the Recipient agrees to comply with FTA's U.S. domestic preference requirements and follow federal guidance, including:</p> <ol style="list-style-type: none"> <li>a. Buy America. The domestic preference procurement requirements of 49 U.S.C. § 5323(j), and FTA regulations, "Buy America Requirements," 49 C.F.R. part 661, to the extent consistent with 49 U.S.C. § 5323(j),</li> <li>b. Cargo Preference—Use of United States-Flag Vessels. The shipping requirements of 46 U.S.C. § 55305, and U.S. Maritime Administration regulations, "Cargo Preference – U.S.-Flag Vessels," 46 C.F.R. part 381, and</li> <li>c. Fly America. The air transportation requirements of Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. General Services Administration (U.S. GSA) regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 – 301-10.143.</li> </ol>	GABPM Sec. 4.1.1 Preparation of solicitation documents

<b>Section 16. Procurement</b>		
<b>5.5 U.S. Department of Transportation Federal Transit Administration Master Agreement</b>		
<b><u>Federal Requirement</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
a.	<p>Federal Laws, Regulations, Requirements, and Guidance. The Recipient agrees:</p> <p>(1) To comply with the requirements of 49 U.S.C. chapter 53 and other applicable federal laws, regulations, and requirements in effect now or later that affect its third-party procurements,</p> <p>(2) To comply with the applicable U.S. DOT Common Rules, and</p> <p>(3) To follow the most recent edition and any revisions of FTA Circular 4220.1, "Third Party Contracting Guidance," to the extent consistent with applicable federal laws, regulations, requirements, and guidance.</p>	

## 5.5 U.S. Department of Transportation Federal Transit Administration Master Agreement

<b><u>Federal Requirement</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
b.	Full and Open Competition. The Recipient agrees to conduct all its third-party procurements using full and open competition as provided in 49 U.S.C. § 5325(a), and as determined by FTA.	<p>CM-DC Sec. 2-8.1</p> <p>IO 3-38 Master Procurement Implementing Order</p> <p>AO 3-39 Standard Process For Construction Of Capital Improvements, Acquisition Of Professional Services, Construction Contracting, Change Orders And Reporting</p> <p>GABPM Sec. 1.11 Competitive Process, Sec. 1.12 Partially or Fully Federally Funded Acquisitions, Sec. 1.13 Restrictions on Procurement Not Using Full and Open Competition, and Sect. 1.14 Prohibition of Provisions within Solicitations that Unduly Restrict Competition</p>
c.	Exclusionary or Discriminatory Specifications. The Recipient agrees that it will not use any federal assistance under 49 U.S.C. chapter 53 for any procurement based on exclusionary or discriminatory specifications, as provided in 49 U.S.C. § 5325(h), unless authorized by other applicable federal laws, regulations, or requirements.	AO 3-23 Anti-discrimination in Contracting, Procurement, Bonding, and Financial Services Activities

## 5.5 U.S. Department of Transportation Federal Transit Administration Master Agreement

<b><u>Federal Requirement</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
d. (1)	Required Clauses in Third Party Contracts. In addition to other applicable provisions of federal law, regulations, requirements, and guidance, all third-party contracts made by the Recipient under the Federal award must contain provisions covering the following, as applicable: (1) Simplified Acquisition Threshold. Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. § 1908, must address administrative contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.	GABPM Sec. 4.1.1 Preparation of solicitation documents
d. (2)	Termination. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-federal entity including the manner by which it will be effected and the basis for settlement.	GABPM Sec. 4.1.1 Preparation of solicitation documents

## 5.5 U.S. Department of Transportation Federal Transit Administration Master Agreement

<b><u>Federal Requirement</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
d. (3)	<p>Equal Employment Opportunity. Except as otherwise provided under 41 C.F.R. part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. part 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 601.4(b), in accordance with Executive Order No. 11246, “Equal Employment Opportunity,” 42 U.S.C. § 2000e note (30 <i>Fed. Reg.</i> 12319, 12935, 3 C.F.R. 1964–1965 Comp., p. 339), as amended by Executive Order No. 11375, “Amending Executive Order No. 11246 Relating to Equal Employment Opportunity,” (32 <i>Fed. Reg.</i> 14,303) and implementing regulations at 41 C.F.R. part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”</p>	GABPM Sec. 4.1.1 Preparation of solicitation documents
d. (4)	Davis-Bacon Act, as amended (40 U.S.C. §§ 3141 – 3148).	Not applicable



## 5.5 U.S. Department of Transportation Federal Transit Administration Master Agreement

<b><u>Federal Requirement</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
d. (5)	Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701 – 3708). Where applicable, all contracts awarded by the non- federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. part 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer based on a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.	GABPM Sec. 4.1.1 Preparation of solicitation documents

## 5.5 U.S. Department of Transportation Federal Transit Administration Master Agreement

<b><u>Federal Requirement</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
d. (6)	Rights to Inventions Made Under a Contract or Agreement. If the federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 C.F.R. part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.	
d. (7)	Clean Air Act (42 U.S.C. §§ 7401 – 7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 – 1388), as amended. Contracts and subgrants of amounts in excess of \$250,000 must contain a provision that requires the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401 – 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251 – 1388). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).	GABPM Sec. 4.1.1 Preparation of solicitation documents

## 5.5 U.S. Department of Transportation Federal Transit Administration Master Agreement

<b><u>Federal Requirement</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
d. (8)	Debarment and Suspension (Executive Orders 12549 and 12689). A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. 180 that implement Executive Orders 12549 (31 U.S.C. § 6101 note, 51 <i>Fed. Reg.</i> 6370,) and 12689 (31 U.S.C. § 6101 note, 54 <i>Fed. Reg.</i> 34131), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.	GABPM Sec. 4.1.1 Preparation of solicitation documents
d. (9)	Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.	GABPM Sec. 4.1.1 Preparation of solicitation documents

## 5.5 U.S. Department of Transportation Federal Transit Administration Master Agreement

<b><u>Federal Requirement</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
d. (10)	Solid Wastes. A Recipient that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.	GABPM Sec. 4.1.1 Preparation of solicitation documents
e.	Geographic Restrictions. The Recipient agrees that it will not use any state or local geographic preference, except as permitted by federal law, regulation, requirement, or guidance.	SPD has revised procedures and solicitation documents to ensure that geographical preferences, and User Access Program (UAP) and Inspector General (IG) fees are not applied to federally funded purchases.
f.	In-State Bus Dealer Restrictions. The Recipient agrees that any state law requiring buses to be purchased through in-state dealers will not apply to purchases of vehicles supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53, as provided in 49 U.S.C. § 5325(i).	Not applicable

## 5.5 U.S. Department of Transportation Federal Transit Administration Master Agreement

<b><u>Federal Requirement</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
g.	Organizational Conflict of Interest. The Recipient agrees that it will not enter into a procurement that involves a real or apparent organizational conflict of interest.	<p>GABPM Sec. 1.10 Guiding Principles and Values of County Procurement and Sec. 2 Integrity and Control</p> <p>IO 3-38 Master Procurement Implementing Order (Ethics)</p> <p>CM-DC Sec. 2-11.1 Conflict of Interest &amp; Code of Ethics</p> <p>IO 3-34 Formation and Performance of Selection Committees</p> <p>IO 7-7 Policies and Procedures Establishing a Public Service Honor Code For Elected and Appointed County Officials and County Employees</p> <p>Reso. R-449-14 Commission Auditor to Conduct Background Checks on Members Serving on Evaluation Committees</p>

## 5.5 U.S. Department of Transportation Federal Transit Administration Master Agreement

<b><u>Federal Requirement</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
h.	Project Labor Agreements. As a condition of a third party contract award, the Recipient may require the Third-Party Contractor or Subcontractor to have an affiliation with a labor organization, such as a Project Labor Agreement, consistent with Executive Order No. 13502, "Use of Project Labor Agreements for Federal Construction Projects," February 6, 2009 (74 <i>Fed. Reg.</i> 6985).	To be considered, as appropriate
i.	Force Account. The Recipient agrees that FTA may determine the extent to which Federal assistance may be used to participate in force account costs.	Agreed
j.	FTA Technical Review. The Recipient agrees that FTA may review and approve the Recipient's technical specifications and requirements to the extent FTA believes necessary to ensure proper administration of the Underlying Agreement.	Agreed
k.	Relationship of the Award to Third-Party Contract Approval. The Recipient agrees that the terms of the Underlying Agreement do not, by themselves, constitute approval of any non-competitive third-party contract associated with the Award, unless FTA indicates otherwise in writing.	Agreed
l.	National Intelligent Transportation Systems Architecture and Standards. The Recipient agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture requirements of 23 U.S.C. § 517(d), unless it obtains an exemption from those requirements, and to follow FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 <i>Fed. Reg.</i> 1455, January 8, 2001, and all other applicable federal guidance.	

## 5.5 U.S. Department of Transportation Federal Transit Administration Master Agreement

<b><u>Federal Requirement</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
m.	Rolling Stock. The Recipient agrees that any procurement for rolling stock will comply with 49 U.S.C. § 5325 (Contract Requirements), 49 U.S.C. § 5323(j) (Buy America Requirements), 49 U.S.C. § 5323(m) (Pre-Award and Post Delivery Requirements), and 49 U.S.C. § 5318(e) (Bus Testing Requirements), and their implementing regulations.	GABPM Sec. 4.1.1 Preparation of solicitation documents
n.	<p>Bonding. The Recipient agrees to comply with the following bonding requirements and restrictions as provided in federal regulations and guidance:</p> <p>(1) Construction. As provided in federal regulations and modified by FTA guidance, for each Project or related activities implementing the Underlying Agreement that involves construction, it will provide bid guarantee bonds, contract performance bonds, and payment bonds.</p> <p>(2) Activities Not Involving Construction. For each Project or related activities implementing the Underlying Agreement not involving construction, the Recipient will not impose excessive bonding and will follow FTA guidance.</p>	<p>(1) Not applicable</p> <p>(2) AO 3-23 Anti-discrimination in Contracting, Procurement, Bonding, and Financial Services Activities.</p> <p>GABPM, Sec. 1.14 Prohibition of Provisions within Solicitations that Unduly Restrict Competition</p>
o.	Architectural Engineering and Related Services. When procuring architectural engineering or related services supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53 or provided in any other law requiring the Award to be administered under 49 U.S.C. chapter 53, the Recipient agrees to comply and assures that each of its Subrecipients will comply with 49 U.S.C. § 5325(b).	
p.	Design-Build Projects. As provided in 49 U.S.C. § 5325(d), the Recipient may use a design-build procurement to carry out its Design Build Project, provided that it complies with applicable federal laws, regulations, and requirements, and follows federal guidance.	

<b>5.5 U.S. Department of Transportation Federal Transit Administration Master Agreement</b>		
<b><u>Federal Requirement</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
q.	Award to Other than the Lowest Bidder. As permitted under 49 U.S.C. § 5325(c), the Recipient may award a third-party contract to other than the lowest bidder, if that award furthers an objective (for example, improved long-term operating efficiency and lower long-term costs) consistent with the purposes of 49 U.S.C. chapter 53 and any implementing federal regulations, requirements, or guidance that FTA may issue.	The County will consider awarding contracts based on long-term operating efficiency and lower long-term costs, as permitted herein
r.	Award to Responsible Third-Party Contractors. The Recipient agrees to award third party contracts only to contractors able to carry out the procurement successfully, as provided in 49 U.S.C. § 5325(j), and before awarding a third party contract, it will consider the proposed contractor's integrity, compliance with public policy, past performance, and financial and technical resources.	R-187-12 Due Diligence  FS-Sec. 287.133(2)(a) (Public Entity Crimes)  CM-DC Sec. 2-8.1.1 (Collusion)  CM-DC Sec. 2-8.4.1 (Fraud and Misrepresentation)  GABPM Sec. 4.2.5 Responsibility



s.	<p>Access to Third Party Contract Records. The Recipient agrees to require, and assures that each of its Subrecipients will require, its Third-Party Contractors at each tier to provide:</p> <p>(1) The U.S. Secretary of Transportation and the Comptroller General of the United States, the state, or their duly authorized representatives, access to all third-party contract records (at any tier) as required under 49 U.S.C. § 5325(g), and</p> <p>(2) Sufficient access to all third-party contract records (at any tier) as needed for compliance with applicable federal laws, regulations, and requirements or to assure proper management of Underlying Agreement as determined by FTA.</p>	<p>GABPM Sec. 1.12 (l) and (m) Partially or Fully Federally Funded Acquisitions</p> <p>Sec. 1 FTA General Terms and Conditions of County Contracts</p>
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#### 5.5 U.S. Department of Transportation Federal Transit Administration Master Agreement

<u>Federal Requirement</u>	<u>Narrative</u>	<u>County Compliance</u>
t.	<p>Electronic and Information Technology. The Recipient agrees that reports or information it provides to or on behalf of the Federal Government will use electronic or information technology that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794d, and U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194.</p>	
u.	<p>Veterans Preference. As provided in 49 U.S.C. § 5325(k), to the extent practicable, the Recipient agrees and assures that each of its Subrecipients:</p> <p>(1) Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a third-party contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53, and (2) Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.</p>	

v.	Acquisition by Lease. The Recipient agrees that if it intends to acquire Project property through a lease it will comply, as applicable, with 49 U.S.C. chapter 53 and section 3019 of the FAST Act, and FTA regulations, "Capital Leases," 49 C.F.R. part 639, to the extent those regulations are consistent with federal laws.	
<b>5.5 U.S. Department of Transportation Federal Transit Administration Master Agreement</b>		
<b><u>Federal Requirement</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
w.	Bid Protests. The Recipient agrees to provide FTA, as part of the annual or quarterly Milestone Progress Report, with a list of all bid protests and appeals for solicitations or contracts in excess of \$500,000. The Recipient also should be mindful of the requirement in Section 39, Disputes, that the Recipient must promptly notify the FTA Chief Counsel, or FTA Regional Counsel for the Region in which the Recipient is located, of significant current or prospective legal matters that may affect the Federal Government.	GABPM Sec. 4.3.2 Protest Procedures

<b>5.5 U.S. Department of Transportation Federal Transit Administration Master Agreement</b>		
<b><u>Federal Requirement</u></b>	<b><u>Narrative</u></b>	<b><u>County Compliance</u></b>
Section 39 Disputes, Breaches, Defaults and Litigation	<p>(b) Notification to FTA; Flow-Down Requirement. If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third-Party Agreements and must require each Third Party Participant to include an equivalent provision in its sub agreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.</p> <p>(1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.</p> <p>(2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements. (3) The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C.</p>	GABPM Sec. 4.3.4 Contract Administration

	<p>§ 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct involving FY2020 Contractors Manual – Procurement 9-49 federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third-Party Participant of the Recipient. It also applies to subcontractors at any tier.</p> <p>Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.</p>	
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## 5.7 49 CFR 663 Pre-Award and Post-delivery Audits of Rolling Stock Purchases

<u><b>Federal Requirement</b></u>	<u><b>Narrative</b></u>	<u><b>County Compliance</b></u>
663.21 – 663.27	<p><b>Pre-award audit requirements.</b>  A recipient purchasing revenue service rolling stock with FTA funds must ensure that a preaward audit under this part is complete before the recipient enters into a formal contract for the purchase of such rolling stock.</p> <p><b>§ 663.23 Description of pre-award audit.</b>  A pre-award audit under this part includes— (a) A Buy America certification as described in § 663.25 of this part;  (b) A purchaser's requirements certification as described in § 663.27 of this part; and  (c) Where appropriate, a manufacturer's Federal Motor Vehicle Safety certification information as described in § 663.41 or § 663.43 of this part.</p> <p><b>663.25 Pre-award Buy America certification.</b>  For purposes of this part, a pre-award Buy America certification is a certification that the recipient keeps on file that—  (a) There is a letter from FTA which grants a waiver to the rolling stock to be purchased from the Buy America requirements under section 165(b)(1),(b)(2), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended; or  (b) The recipient is satisfied that the rolling stock to be purchased meets the requirements of section 165(a) or (b)(3) of the Surface Transportation Assistance Act of 1982, as amended, after having reviewed itself or through an audit prepared by someone other than the manufacturer or its agent documentation provided by the manufacturer which lists—  (1) Component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and  (2) The location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.</p> <p><b>663.27 Pre-award purchaser's requirements certification.</b>  For purposes of this part, a pre-award purchaser's requirements certification is a certification a recipient keeps on file that—</p>	GABPM Sec.4.2.11 Pre-award audit requirements

	<p>(a) The rolling stock the recipient is contracting for is the same product.</p> <p>(b) The proposed manufacturer is a responsible manufacturer with the capability to produce a vehicle that meets the recipient's specification set forth in the recipient's solicitation.</p>	
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663.31 – 663.39	<p><b>Subpart C—Post-Delivery Audits § 663.31 Post-delivery audit requirements.</b>  A recipient purchasing revenue service rolling stock with FTA funds must ensure that a postdelivery audit under this part is complete before title to the rolling stock is transferred to the recipient.</p> <p><b>§ 663.33 Description of post-delivery audit.</b>  A post-delivery audit under this part includes—</p> <ul style="list-style-type: none"> <li>(a) A post-delivery Buy America certification as described in § 663.35 of this part;</li> <li>(b) A post-delivery purchaser's requirements certification as described in § 663.37 of this part; and</li> <li>(c) When appropriate, a Manufacturer's Federal Motor Vehicle Safety Standard self-certification information as described in § 663.41 or § 663.43 of this part.</li> </ul> <p><b>§ 663.35 Post-delivery Buy America certification.</b>  For purposes of this part, a post-delivery Buy America certification is a certification that the recipient keeps on file that—</p> <ul style="list-style-type: none"> <li>(a) There is a letter from FTA which grants a waiver to the rolling stock received from the Buy America requirements under sections 165 (b)(1), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended; or</li> <li>(b) The recipient is satisfied that the rolling stock received meets the requirements of section 165 (a) or (b)(3) of the Surface Transportation Assistance Act of 1982, as amended, after having reviewed itself or by means of an audit prepared by someone other than the manufacturer or its agent documentation provided by the manufacturer which lists— <ul style="list-style-type: none"> <li>(1) Components and subcomponent parts of the rolling stock identified by manufacturer of the parts, their country of origin and costs; and</li> <li>(2) The actual location of the final assembly point for the rolling stock including a description of the activities which took place at the final assembly point and the cost of the final assembly.</li> </ul> </li> </ul> <p><b>§ 663.37 Post-delivery purchaser's requirements certification.</b>  For purposes of this part, a post-delivery purchaser's requirements certification is a certification that the recipient keeps on file that—</p>	GABPM Sec. 1.12 Partially or Fully Federally Funded Acquisitions
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	<p>(a) Except for procurements covered under paragraph in this section, a resident inspector (other than an agent or employee of the manufacturer) was at the manufacturing site throughout the period of manufacture of the rolling stock to be purchased and monitored and completed a report on the manufacture of such rolling stock.</p>	
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**5.7 49 CFR 663 Pre-Award and Post-delivery Audits of Rolling Stock Purchases**

Federal Requirement	Narrative	County Compliance
	<p>(1) Provide accurate records of all vehicle construction activities; and</p> <p>(2) Address how the construction and operation of the vehicles fulfills the contract specifications.</p> <p>(b) After reviewing the report required under paragraph (a) of this section, and visually inspecting and road testing the delivered vehicles, the vehicles meet the contract specifications.</p> <p>(c) For procurements of:</p> <p>(1) Ten or fewer buses; or</p> <p>(2) Procurements of twenty vehicles or fewer serving rural (other than urbanized) areas, or urbanized areas of 200,000 people or fewer; or (3) Any number of primary manufacturer standard production and unmodified vans, after visually inspecting and road testing the vehicles, the vehicles meet the contract specifications. [56 FR 48395, Sept. 24, 1991, as amended at 71 FR 14118, Mar. 21, 2006]</p> <p><b>§ 663.39 Post-delivery audit review.</b></p> <p>(a) If a recipient cannot complete a post-delivery audit because the recipient or its agent cannot certify Buy America compliance or that the rolling stock meets the purchaser's requirements specified in the contract, the rolling stock may be rejected and final acceptance by the recipient will not be</p>	

	<p>required. The recipient may exercise any legal rights it has under the contract or at law. (b) This provision does not preclude the recipient and manufacturer from agreeing to a conditional acceptance of rolling stock pending manufacturer's correction of deviations within a reasonable period of time.</p>	

## SECTION 6 MIAMI-DADE PROCUREMENT MANUAL FOR FEDERALLY FUNDED PURCHASES

Miami-Dade County has revised the U.S. Department of Justice guide for use as a procurement manual for federally funded acquisitions.



## **Procurement Manual For Federally Funded Procurements**

## Introduction

This document was derived from the U.S. Department of Justice (DOJ), Guide to Procurements under DOJ grants and Cooperative Agreements, intended for use by non-Federal entities (that is, recipients and subrecipients). Miami-Dade County has adopted and revised the DOJ guide for use as a procurement manual for federally funded procurements. As used throughout this document, the term guide and procurement manual are interchangeable, and the term “non-Federal entity(ies)” means Miami-Dade County or County, when federal assistance is used or expected for federally funded procurements.

This guide is based on the Procurement Standards set out at [2 C.F.R. Sections 200.317 through 200.326](#) and given regulatory effect by way of [2 C.F.R. Part 2800](#), *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards by the Department of Justice* (hereafter, the “Part 200 Uniform Requirements”).

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## Chapter 1

### General Principles

This “Guide to Procurements” is intended to be used by States and other non-Federal entities.

All non-Federal entities should be aware that any disbursement of Federal program funds to another party may cast that party as either a subrecipient or a contractor. For guidance on subrecipient and contractor determinations, see [2 C.F.R. § 200.330](#). This guide deals with procurement (i.e. contracts) under grants and not with subawards to subrecipients. Under the Part 200 Uniform Requirements, a contractor is an entity that receives a contract, which is defined as a legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award ([2 C.F.R. § 200.22](#), [2 C.F.R. § 200.23](#)). A subaward in contrast is an award provided by a Non-Federal entity to a subrecipient so that the subrecipient can carry out a part of the Federal award ([2 C.F.R. § 200.92](#)). Whether the agreement is a subaward or a contract will be determined by the substance of the relationship, regardless of whether the parties consider the agreement to be a contract.

When conducting procurements under Federal grant and cooperative agreement awards, a Non-Federal entity must establish and maintain written procurement policies and procedures that reflect any applicable State, tribal, or local laws and regulations. These procurements must also conform to applicable Federal law, including the Part 200 Uniform Requirements.

Finally, those engaged in construction activities funded under federal grants and cooperative agreements should be aware that special rules may apply to their activities. See [2 C.F.R. § 200.325](#).

## Chapter 2

### Evolution of a Requirement

A grant or cooperative agreement application may incorporate the prospective non-Federal entity contracting parts of a project, such as when equipment or materials are required in order to carry out the project funded under the Federal award.

The preliminary decision to contract is based upon the prospective recipient's best knowledge of the project requirements. Front-end logistical planning is necessary to conclude how best to meet the requirement. Dollar estimates for contracting efforts should be determined first, and then later included in the grant application.

The non-Federal entity should consider the most economical approach to the acquisition, including whether a procurement contract is the best option for meeting a project requirement.

Multiple options may be available, depending on the goods and services required. Each should be considered in light of the Part 200 Uniform Requirements' emphasis upon greater economy, efficiency, and avoiding any duplication of effort. [200 C.F.R. § 200.318\(d\)](#).

No.	Question	Yes	No
1.	Is it more economical to lease the requirement rather than purchase it? (Check grant documents, does it state purchase or lease?)  If the answer is "Yes", consider leasing rather than purchasing. See <a href="#">Chapter 18</a> "Other Considerations" of this guide.		
2.	Is the requirement for common or shared goods or services?  If the answer is "Yes", consider using a State or local intergovernmental agreement, or an inter-entity agreement. Can an existing County contract be federalized?		



3.	<p>Does the requirement allow for used equipment or property as opposed to new?</p> <p>If the answer is “Yes”, consider using Federal excess or surplus property.</p>		
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## Chapter 3

### Acquisition Planning/Developing the Procurement Package

If competitive sealed bidding is to be used, the contract is to be awarded on a fixed-price basis to the lowest responsible and responsive bidder. The invitation for bids should include a complete, clear, accurate, and realistic specification or purchase description (including any necessary design specifications).

If a negotiated procurement (Request for Proposal – RFP) approach is to be used to obtain the goods or services, the solicitation’s Statement of Work (SOW) should incorporate a clear and accurate description of the technical requirements. The RFP also must identify all evaluation factors and their relative importance (evaluation criteria).

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used instead. The solicitation must clearly state any specific features of any named brand that offerors must address in an offer in order to meet requirements under the procurement. [2 C.F.R. § 200.319\(c\)\(1\)](#).

The checklist below lists the types of documents that should be completely developed before the procurement action begins.

#### **Pre-Procurement Documentation Requirements:**

- Requisition (from user department).

- Market Research document (from user department).

- SOW (negotiated procurement) or Invitation for Bids (competitive, sealed bidding) (include design specifications, if applicable) (from user department).

- Evaluation Criteria (negotiated procurement).

- Justification for noncompetitive procurement (sole source contracting). See [Chapter 10](#) - Procurement by Noncompetitive Proposals (from user department).

- All concurrences that may be required.

## Contracting Planning Procedures Checklist

No.	Question	Yes	No
1.	Are grant or cooperative agreement funds available to fund the proposed procurement? Obtain copy of grant from user dept.		
2.	Has market research been conducted by user department and documented to determine if there are contractors available to satisfy the requirement?		
3.	Have divisions of labor been identified regarding contractual obligations for administrative, technical, and overall project responsibility?		
4.	What type of procurement method has been chosen (see Chapter 4)?  Micro-purchases  Small Purchases  Competitive Sealed Bidding  Competitive Proposal (Negotiated Procurement)  Procurement by Noncompetitive Proposals		
5.	Has the SOW been developed by user department if required (or, the Invitation for Bids, if competitive sealed bidding is to be used)?		
6.	If the contract is to be competitively negotiated, have Evaluation Criteria been developed?		
7.	If the contract is to be negotiated on a sole source basis, has a Sole Source Justification been prepared? (See <a href="#">Chapter 10</a> )		

## Chapter 4

### Methods of Procurement

Details on the following methods of procurement are found in the chapters indicated below:

- Shared Services and Other Agreements between Agencies (Entities) ([Chapter 6](#))
- Small Purchases (and Micro-Purchases) ([Chapter 7](#))
- Competitive Sealed Bidding ([Chapter 8](#))
- Competitive Proposal (Negotiated Procurement) ([Chapter 9](#))
- Procurement by Noncompetitive Proposals ([Chapter 10](#))

As mentioned earlier in [Chapter 2](#) (“Evolution of a Requirement”), multiple options may be available to obtain goods or services. As an example, if the product or service is available from another government agency or department, it may be appropriate to enter into a state, local, or tribal intergovernmental (or intra-governmental) or inter-entity agreement. Such agreements, under appropriate circumstances, may provide more economical, cost-effective, and efficient ways to obtain or use common or shared goods or services. If acquisition planning and research indicate that a procurement contract is the most cost-effective approach to meeting a particular requirement, then the procuring entity needs to apply its procurement procedures and policies – and the Procurement Standards in the Part 200 Uniform Requirements – to help identify the appropriate procurement method and its requirements.

For purchases below the Simplified Acquisition Threshold, procurement by micro-purchase or by small purchase procedures may be used.

Where the contract value costs more than the Simplified Acquisition threshold, the main types of procurement are procurement by competitive proposals (Competitive Negotiation) and procurement by sealed bid (Competitive Sealed Bidding). The sealed bid method is the preferred method for procuring construction if the following conditions apply:

- A complete, adequate, and realistic specification or purchase description is available;
- More than one responsible bidder is willing and able to compete effectively, and
- The procurement lends itself to a firm fixed price contract and the selection of contractor can be made principally on the basis of price.

Procurement by competitive proposals is generally used when conditions are not appropriate for the use of sealed bids.

Procurement by Noncompetitive Proposal is used in limited circumstances, see [Chapter 10](#).

## Chapter 5

### Competition

***All procurement transactions must be conducted in a manner that provides for full and open competition, consistent with the procurement standards.<sup>1</sup>***

All non-Federal entities should have written procedures for procurement transactions. These procedures must ensure that all solicitations incorporate clear and accurate descriptions of the technical requirements for the goods or services being procured. This description should not, however, in competitive solicitations, unduly restrict competition.

In order to preserve full and open competition, contractors that develop or draft statements of work, requirements, specifications, or invitations for bids or requests for proposals must be excluded from competing for those procurements. Further, undue restrictions on full and open competition must be avoided, such as:

- Making unreasonable requirements in order to qualify for competition;
- Requiring unnecessary experience or excessive bonding;
- Engaging in noncompetitive practices between firms or in noncompetitive contracts with consultants on retainer;
- Organizational conflicts of interest;
- Specifying a “brand name” product without provision for an equivalent product to be offered (and without performance requirements or features being clearly described in procurement documents – salient characteristics), or
- Any arbitrary action in the procurement process.

The SOW (or Invitation for Bids) itself should encourage such full and open competition. Bidders’ lists or market research can be used to help determine whether there will be a sufficient number of prospective offerors or bidders for a full and open competition to take place. Procurement Management’s Future Solicitation should be used in all instances.

Recommendations and prohibitions regarding how to make these competitions as full and open as possible are examined in detail at [2 CFR § 200.319](#).

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<sup>1</sup> Part 200 Uniform Requirements [2 CFR § 200.319](#).

Some organizations choose to maintain a prequalified bidders list, i.e., a list of prospective bidders who are prequalified as to material, equipment, or services. However, if not administered properly, this prequalification may run counter to the goal of full and open competition. Accordingly, prequalified bidders lists may be used only if they are current and include enough qualified sources to ensure adequate competition. If a pattern of “no response” is indicated for one or more bidders, organizations should consider whether removal of such bidder(s) from a bidders list may be justifiable and appropriate. Also, maintaining these lists by functional category may make them easier to use and maintain. If bidders’ lists are used, prospective bidders must not be precluded from becoming qualified during the solicitation period.<sup>2</sup>

Local preference laws/ordinances have always required special attention by the grantor agency when there are Federal dollars involved. Therefore, the non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except where expressly encouraged by applicable Federal law.<sup>3</sup> Likewise, User Access Program and Inspector General (IG) fees are not allowed, although the IG clause is required.

### Competition Checklist

No.	Question	Yes	No
1.	Does the SOW (or Invitation for Bids) contain attributes conducive to a full and open competition?  If the answer is “No,” the restrictive parts should be rewritten.		
2.	Has the bidders list or a market research been reviewed to determine availability of competitive contractors?  If the answer is “No,” a review should be done to determine the availability of competitive contractors in the market place.		
3.	Has an “advertising” strategy been developed to allow prospective bidders ample time to request a copy of the invitation for bids and respond accordingly?  If the answer is “No,” ample time for advertising should be factored in, when determining the forecasted award date.		

## Chapter 6

### Shared Services and Other Agreements between Agencies (Entities)

***(May normally apply to state, tribal, or local governments)***

In certain instances, one way to satisfy a requirement is to meet the requirement through the transfer of funds from one unit of an organization to another, or through an agreement between or among governments (or entities) to share – or use common – goods or services. These approaches may help foster greater efficiency and economy. See [2 C.F.R. § 200.318\(e\)](#). Such approaches to obtain goods or services may be possible where, for example:

- Another part of the government (or organization) has the in-house capability or has a contract vehicle already in place that may be available to satisfy the requirement; or
- Another State, tribal, or local government has an existing contractor currently performing an activity, such as supplying a good or service, and that contractor would be capable (and available consistent with any applicable rules and contract terms) of satisfying the requirement; or
- Two or more neighboring jurisdictions may enter into an agreement (and may transfer or pool funds or share infrastructure) to share certain services or resources and take advantage of economies of scale.

The use of shared or common services arrangements or other agreements between or among agencies may offer certain advantages. For example, valuable procurement lead-time (or costs) may be saved. In addition, the preparation of a SOW, as well as the requirements for invitations for bids or requests for proposals, may become unnecessary under certain circumstances.

### Shared Services/Other Agreements Checklist

No.	Question	Yes	No
1.	<p>Is there already a contractor under contract elsewhere within your jurisdiction (such as with another agency or department), or with another jurisdiction, that may be capable of and available to provide goods or services that may satisfy your agency's requirement?</p> <p>If the answer is "Yes," use of an existing contract with the contractor may be considered, assuming that any applicable rules and the existing contract's terms would allow your agency to use it to meet your requirement.</p>		

No.	Question	Yes	No
2.	<p>Is there an opportunity to share or use common goods or services with a neighboring jurisdiction or organization to meet your agency's needs?</p> <p>If the answer is "Yes", an intergovernmental (or intra-governmental) or inter-entity agreement may be explored in order to help satisfy your agency's requirement.</p>		



## Chapter 7

### Small Purchases (and Micro-Purchases)

*Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold [(currently set at \$250,000)].<sup>4</sup> However, the County will follow dollar thresholds established in the County's Procurement Guidelines – follow link below.*

<http://intra.miamidade.gov/procurement/library/procurement-guidelines.pdf>

*Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (currently set at \$10,000).<sup>5</sup>*

This method is an important part of the logistics support function. Simplified procedures to cut down procurement lead time for day-to-day support items should be used. Simplified procedures may include the following:

1. **Telephone or Electronic Solicitations (normally for local vendors).** Price quotes are received by telephone or electronically. Where the purchase is anticipated to exceed the micro-purchase threshold, at least three (3) vendors should be solicited and price, availability, delivery, etc., should be requested. The purchase order is then *TIP: Non-Federal entities must* awarded to the vendor quoting the lowest *follow their own dollar threshold* price, including consideration of all other *policy limitations if they do not* factors. Supporting documentation must be *exceed Federal thresholds.* maintained in the purchase order file and include the date contacted, vendors \_\_\_\_\_ contacted, and quoted amounts and quantities.
2. **Unadvertised Written Quotations.** This procedure applies to more complex low dollar items when a quote in writing is desirable. Purchase Order Award is made to the vendor quoting the lowest price and meeting the technical requirements. Where the purchase is anticipated to exceed the micro-purchase threshold, quotations should be sought from at least three (3) vendors. Supporting documentation must be maintained that is similar to that for telephone solicitations. Refer to County Ordinance 17-94, link below:  
<http://www.miamidade.gov/govaction/matter.asp?matter=172928&file=false&fileAnalysis=false&yearFolder=Y2017>
3. **Blanket Purchase Agreements and Credit Cards.** Blanket Purchase Agreements (BPAs) may be described as a "Charge Account" that a procuring entity with frequent recurring requirements establishes with qualified sources of supply. Depending upon threshold

limits established under non-Federal entity procurement rules, purchase cards (or, credit cards) may sometimes be used for these transactions. Non-Federal entities should have documented procedures that include control limits, authorized users and approving officials. Orders are placed against the BPA and the agreed-to-discount is included on the resulting invoice. Normally, billings are made by the vendor on a monthly basis. Caution should be taken to ensure discipline in assigning authority to purchase, including through the use of purchase cards. Orders should be placed to satisfy only legitimate requirements.

4. **Imprest Fund (Petty Cash Fund).** Paying cash for small dollar purchases is a viable way to accommodate small dollar requirements. There is only one overriding prerequisite for successful operation of the fund: Strict Dollar Accountability. Only designated personnel should be given safe access and combination numbers. Any change in designated personnel should require a change in the safe combination. Cash advances may be made and reconciled with a paid invoice at the completion of the purchase. Documented policy and procedures are needed including approving officials and periodic audits of the fund.

Micro-purchases (defined at [2 C.F.R. § 200.67](#)) may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable. To the extent practicable, micro-purchases should be distributed equitably among qualified suppliers.

When seeking to use either small purchase or micro-purchase methods, procuring agencies must avoid the intentional “splitting” of purchases or transactions to circumvent the dollar threshold limitations. Periodic internal review of buying patterns that focuses on repetitive transactions would be a good approach to address this potential issue. A repetitive buying pattern for a good or service without auditable evidence of a strong business case or programmatic reason to support the awarding of multiple contracts under small- or micro-purchase thresholds at frequent intervals may indicate that inappropriate purchase splitting has occurred.

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<sup>4</sup> [2 C.F.R. § 200.320\(b\)](#). The Simplified Acquisition Threshold is set by the Federal Acquisition Regulation (FAR). The FAR currently sets the Simplified Acquisition Threshold at \$250,000, though it is periodically adjusted for inflation in accordance with 41 U.S.C. § 1908. See [2 C.F.R. § 200.88](#).

<sup>5</sup> [2 C.F.R. § 200.320\(a\)](#). The Part 200 Uniform Requirements defines “Micro-purchase” at [2 C.F.R. § 200.67](#). The Micro-purchase threshold is set by the FAR. The FAR currently sets the Micro-purchase threshold at \$10,000 subject to certain exceptions. [48 C.F.R. § 2.101](#).

## Small Purchases Checklist

No.	Question	Yes	No
1.	<p>Is the estimated cost of the requirement at or below the established simplified acquisition threshold?</p> <p>If the answer is “Yes,” a purchase order may be used.</p>		
2.	<p>Are there available local vendors that may logistically satisfy the requirement?</p> <p>If the answer is “No,” consider additional lead-time required to solicit vendors outside the local area.</p>		
3.	<p>May the requirement be satisfied by an existing “Blanket” purchase agreement?</p> <p>If the answer is “Yes,” use the existing Blanket Purchase Agreement.</p> <p>If the answer is “No,” conduct a solicitation in accordance with Non-Federal entity procedures.</p>		
4.	<p>Has the requirement been “split” to be below the mandatory purchase agreement monetary level? (Order splitting, an unallowable practice, is reducing an order below the small purchase threshold to avoid a more complex procurement method.)</p> <p>If the answer is “Yes,” another method must be used.</p>		

## Chapter 8

### Competitive Sealed Bidding

***Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price.<sup>6</sup>***

Competitive Sealed Bidding is the preferred method for procurement and is properly used when the following conditions exist:

1. The requirement can be described and is finite and specific in detail, i.e., no unknowns or no contingencies. The contract will be awarded to the
  - a. **lowest** (fixed price) (where specified in bidding documents certain factors such as discounts, transportation costs, and life cycle costs must be considered in determining which bid is lowest),
  - b. **responsive** (the bid meets all the requirements of the invitation for bids, including design specifications), **and**
  - c. **responsible bidder** (the contractor has the capability in all respects, including technical and financial).
2. There are two or more contractors that could satisfy the requirement and are willing and able to compete for the contract.
3. There is enough time available to issue the invitation for bids, conduct a public bid opening, and award a firm fixed-price contract to the lowest responsive and responsible bidder.

If sealed bids are used, bids must be solicited to an adequate number of known suppliers, providing them with a sufficient amount of time to respond. Under the sealed bidding method of procurement, it is not necessary to conduct discussions with bidders in order to obtain the greatest value for the procuring agency, as the award is to be made to the lowest responsive and responsible bidder. For local and tribal governments, the invitation for bids must be publicly advertised.

However, if a procurement could be of the type that it may need to involve negotiation with vendors or discussions in order for the procuring agency to obtain the best value based on the requirement, it may be the case that competitive sealed bidding is not the right approach and the competitive proposals procurement method should be used instead.

## Competitive Sealed Bidding Checklist

No.	Question	Yes	No
1.	<p>Is it possible to describe the requirement in exact terms (e.g., design specifications) so the contractor can make a fixed price bid?</p> <p>(Note: If a contractor must provide a deliverable for a fixed price where “unknowns” are involved, contingency dollars usually are included in the price. Then, if these contingencies do not generate or occur, the material/service may be overpriced.)</p> <p>If the answer is “Yes,” an Invitation for Bid (IFB) may be effectively used and the award can be made to the lowest bidder that is responsive and responsible.</p>		
2.	<p>Can it be expected that “advertising” will result in two or more responses to the solicitation?</p> <p>If the answer is “Yes,” consider use of an IFB.</p>		

## Chapter 9

### Competitive Proposals (Negotiated Procurement)

***Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids.***<sup>7</sup> Procedures involve the following:

1. Develop a Statement of Work (SOW) listing essential requirements to accomplish the contract. For instance, in the case of a desired service, the SOW should spell out the particular problem to be solved including any essential requirement, without needlessly mandating the approach the contractor must take unless required by law. The SOW should be written in a straightforward manner, and, as a minimum, should contain the following:
  - a. Background providing necessary introductory information or evolution of the requirement.
  - b. Objectives/scope of work detailing broad parameters that are essential to effectively satisfy the requirement. (Note: Do not needlessly mandate how the contractor should satisfy the objectives of the contract. Performance measures must be used to ensure the quality of the outputs/outcomes.)
  - c. A list of tasks with accompanying deliverables, organized in a logical sequence.
  - d. A delivery schedule in increments as required to satisfy the requirement. The schedule may include performance bonuses for early completion and penalties for late delivery.
  - e. Acceptance and approval procedures should be indicated.
  - f. Other coverage as may be required:
    - i. References, licensing, and professional certifications (do not limit to number of references or years of experience).
    - ii. Non-Federal entity furnished items.
    - iii. Packing and shipping.
    - iv. Any other points that require coverage.
2. Develop the Request for Proposals (RFP) to identify all evaluation factors and their relative importance.

<sup>7</sup> [2 C.F.R. § 200.320\(d\)](#).

3. The RFP normally will contain the following:
  - a. Letter of Transmittal (or local standard form) providing certain relevant details concerning the requirement.
  - b. A delivery schedule to be included in the definitive contract, including all necessary administrative details.
  - c. The SOW (see no. 1 on the previous page).
  - d. Required special and mandatory clauses (Reference: Contract Provisions, [Chapter 11](#)).
  - e. Any special instructions to offerors to assist in developing the offer.
  - f. A listing of evaluation criteria to be used by the non-Federal entity in the evaluation of the offers received. Percentage weights may be assessed each criterion or the order of importance of each indicated criterion may be shown.
  - g. Any other information that may be required for the offerors to completely understand the contents and intent of the Request for Proposals.
  - h. A due date and time frame for receipt of all proposals.
4. The RFP must be solicited to an adequate number of qualified sources. Any timely *TIP: Clauses for bonuses for early response to the RFP must be considered to completion and penalties for late the maximum extent practicable. delivery may be developed if they*
5. Evaluation of the proposals received must *are in the public interest. Clauses may be added to the contract to be accomplished in accordance with cover these points. Also a prior* written Non-Federal entity procedures. *approval key-personnel clause* Each proposal must be scored based upon *may be needed for personal* the evaluation criteria contained in the *services to ensure that qualified* RFP. Evaluation criteria must not be *individuals are employed.* changed after receipt of offers.
6. Contracts must be awarded to the responsible firm whose proposal is the most advantageous to the program, with price and any other evaluation criteria considered.
7. When a procurement involves conducting negotiations, negotiations must be conducted with those offerors submitting the most promising proposals (those most highly rated in terms of technical factors and other evaluation criteria) in accordance with the determination of a procurement official (e.g., a contracting officer) designated by the non-Federal entity for that purpose. Issues (unforeseen requirements) raised during the

negotiation phase by one respondent may be communicated to all remaining offerors, so that all may respond to the issue during the best and final phase of the negotiations.

### Competitive Proposals Checklist

No.	Question	Yes	No
1.	Is it necessary to resolve technical questions/unknowns by negotiations with the successful contractor?  If the answer is “Yes,” this requirement is a candidate for the competitive proposal process.		
2.	Is it necessary to develop a Statement of Work, instead of a Design Specification spelling out specifically what is needed?  If the answer is “Yes,” competitive proposals should be used.		
3.	Use County’s procurement procedures and checklist		



## Chapter 10

### Procurement by Noncompetitive Proposals (Sole Source Contracting)

***Procurement by noncompetitive proposals is procurement through the solicitation of a proposal from only one source and may be used only under specified circumstances.<sup>8</sup>***

As indicated in [Chapter 5](#) (“Competition”), non-Federal entities must provide for full and open competition, consistent with the procurement standards. However, there are certain circumstances that may call for other than full and open competition. These circumstances may result in “sole source” contracting.

The Part 200 Uniform Requirements is quite clear regarding the necessity to have full and open competition to satisfy non-Federal entity procurement requirements. Procurement through the solicitation of a proposal from only one source may be used **only if** one or more of the following circumstances apply:

1. The item or service is available only from a single source.
2. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
3. The Federal awarding agency or pass- *TIP: Prior written approval is* through entity expressly authorizes *required for all proposed sole* noncompetitive proposals in response to a *source contracts over the* written request from the non-Federal entity. *Simplified Acquisition*
4. After solicitation of a number of sources, *Threshold (currently \$250,000).* competition is determined inadequate.

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In any event, documentation reflecting actions taken and the position of the non-Federal entity is extremely important in order to establish an audit trail.

The following page contains a sample format for requesting prior approval to award sole source contract.

## Justification for Non-Competitive Procurement

### Sample Format

Paragraph	Content
1	A brief description of the program and the product or service being procured, to include the expected procurement amount.

2	<p>Explanation of why it is necessary to contract non-competitively that provides a justification based on at least one of the four circumstances previously listed in this chapter (also see <a href="#">2 C.F.R. § 200.320(f)</a>). This explanation must demonstrate how the proposed contractor's unique qualifications or the nature of the procurement necessitate the use of a noncompetitive approach given the circumstance(s) cited.</p> <ul style="list-style-type: none"> <li>• If the product or service to be procured is available from only a single source or from only one supplier with unique capabilities, the justification should clearly demonstrate why this is so and how these circumstances are relevant given the nature of the acquisition.</li> <li>• A justification based on public exigency or emergency should explain the nature of the public exigency or emergency, including why procurement other than through noncompetitive proposals would cause unacceptable delay in addressing the public exigency or emergency. (Failure to plan does not justify noncompetitive procurement based on public exigency or emergency.)</li> <li>• If competition among multiple sources was determined to be inadequate, the justification should provide a detailed summary of any prior solicitations (including the number of sources solicited) and explain why competition was determined inadequate.</li> </ul>
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Paragraph	Content
3	A description of and the results of any market survey or research conducted to help determine whether a full and open competition consistent with applicable law could be conducted (or, if no market survey or research was conducted, explain why not).

- 4 Statement of when contractual coverage is required and, if dates are not met, what impact it will have on the program (for example, how long it would take another contractor to reach the same level of competence). Make sure to include the financial impact in dollars.
- 5 Description of and the results of any organizational conflict of interest review conducted (or, if no organizational conflict of interest review was conducted, explain why not.).
- 6 Any other points necessary for the justification.
- 7 Determination that the proposed noncompetitive procurement action is in the best interest of the DOJ awarding agency (or pass-through entity, as applicable).

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## Chapter 11

### Contract Provisions

The Part 200 Uniform Requirements require that non-Federal entities' contracts contain the applicable provisions described in Appendix II to Part 200 —["Contract Provisions for Non-Federal Entity Contracts Under Federal Awards."](#)<sup>9</sup> Non-Federal entities may develop language suited to accommodate a specific contractual situation, providing such clauses are consistent with the procurement standards and other applicable law. Non-Federal entities should be aware that they bear full responsibility for the settlement of all contractual and administrative issues arising out of their procurements, and that the Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the proper authority in the applicable jurisdiction.<sup>10</sup> A discussion of a few of these provisions is set forth below:

1. Contracts in excess of the simplified acquisition threshold (currently set at \$150,000) must address administrative, contractual, or legal remedies in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

*Reference: Part 200 Appendix II(A).*

2. **Termination.** Any contract over \$10,000 must address termination for cause and termination for convenience by the non-Federal entity, including the manner by which it will be effected and the basis for settlement.

- a. **Termination for Convenience.** Contract is terminated due to reasons known to the non-Federal entity, i.e., program changes, changes in state-of-the-art equipment or technology, insufficient funding, etc. This type of termination is utilized when the contractor is not in violation of the contract terms and conditions.
- b. **Termination for Cause.** Contract is terminated due to actions by the contractor, i.e., failure to perform, financial difficulty, slipped schedules, etc. In certain instances, termination settlement may include reprocurement costs to be paid by the contractor.

Termination settlements shall be accommodated by negotiations carefully planned in order to achieve an equitable resolution. *Reference: Part 200 Appendix II(B).*

3. **Construction.** Contracts awarded for construction have special requirements and clauses. If you have a grant allowing construction costs, please read the associated solicitation, award documents, and special conditions carefully. Regular contact with your program manager is very important. Construction contracts must include all relevant clauses found in Appendix II to Part 200, including Part 200 Appendix II(C) (Equal Employment Opportunity), (D) (Davis-Bacon Act), and (E) (Contract Work Hours and Safety Standards).

4. **Rights to Inventions Made Under a Contract or Agreement.** Any discovery or invention that arises during the course of the contract shall be reported to the non-Federal entity. This clause should require the contractor to disclose promptly inventions to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and [Title 37 C.F.R. § 401](#).

If the Federal award meets the definition of "funding agreement" under 37 C.F.R. §.401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of [Title 37 C.F.R. § 401](#), "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency. *Reference: Part 200 Appendix II(F)*

Terms and conditions contained in grant or cooperative agreement award documentation also may contain provisions regarding patents and intellectual property, specifically including requirements or special instructions, that may require that non-Federal entities include specific contract provisions (as applicable) in procurement contracts entered into under DOJ grant or cooperative agreement awards.

5. **Debarment and Suspension.** A contract award meeting the definition in [2 C.F.R. § 180.220](#) must not be made to parties listed on the System for Award Management (SAM) Exclusion lists. The debarment and suspension certification requires that agencies establish and implement procedures to ensure that Federal assistance is not awarded to entities that are prohibited from receiving Federal funds. Those procedures should include a review of information in SAM regarding exclusion status. (See OMB guidance at [2 C.F.R. § 180](#) implementing Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235 and DOJ regulations at 2 CFR Part 2867 adopting and supplementing subparts A through I of 2 CFR Part 180), "Debarment and Suspension.").

*Reference: Part 200 Appendix II(H)*

6. **Clean Air and Water.** Contracts (and subrecipients) exceeding \$150,000.00, must contain a provision requiring the contractor (or subrecipients) to agree to comply with all requirements of the Clean Air Act ([42 U.S.C. 7401 et seq.](#)), and the Clean Water Act [Federal Water Pollution Control Act] as amended ([33 U.S.C. 1251-1387](#)). Violations must be reported to the Federal Awarding Agency and the Regional Office of the Environmental Protection Agency (EPA).

*Reference: Part 200 Appendix II(G)*

7. **Byrd Anti-Lobbying Amendment** ([31 U.S.C. 1352](#)). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. *Reference: Part 200 Appendix II(I)*

8. **Procurement of recovered materials.** A non-Federal entity that is a state agency or agency of a political subdivision of a state must include a provision requiring contractors to comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. Per Section 6002, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000, these non-Federal entities and their contractors must procure only items, designated in guidelines of the EPA at [40 C.F.R. § 247](#), containing the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. These non-Federal entities and their contractors must procure solid waste management services so that energy and resource recovery are maximized, and they must establish an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

*Reference: Part 200 Appendix II(J), [2 C.F.R. § 200.322](#).*



## Chapter 12

### Contract Type Selection

*The following is a list of various contract types. Contract Type can refer both to the overall structure of a contract (e.g. task or delivery order) and the pricing structure of a contract (fixed price vs. cost reimbursement). Determining which contract type to use is important to ensure cost-effectiveness and performance.*

#### **Pricing Structure:**

*The non-Federal entity must perform a cost or price analysis in connection with every procurement action (including modifications) in excess of the Simplified Acquisition Threshold. The exact method and degree of analysis will vary depending on the exact circumstances and facts of a particular procurement situation, but the non-Federal entity must, as a starting point, make independent cost estimates before publishing or receiving bids or proposals.*<sup>11</sup>

1. **Fixed Price.** All contracts awarded under a competitive sealed bidding result in some type of "fixed price" arrangement, normally a firm fixed price. Fixed price contracts may also be awarded under other contracting methods such as negotiation/competitive proposals, for instance, where the use of sealed bidding would be inappropriate because discussions with the contractor are deemed necessary. Fixed price contracts have the advantage that the risk rests with the contractor. Firm fixed price contracts may be appropriate when:
  - a. It is possible to describe exactly what is needed to satisfy the requirement;
  - b. Across the table discussions are determined not necessary, and
  - c. It is determined that there is adequate competition available.

Other types of fixed price contracts include:

- Fixed price with fixed price with economic price adjustment, and
- Fixed price incentive.

*TIP: Recipients must closely monitor*

2. **Cost Reimbursement.** Under cost *cost reimbursement contracts to* reimbursement contracts, contractors are *avoid unneeded cost over-runs.* paid both the allowable incurred cost (i.e., allowable actual expenses) and a

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predetermined fee or profit. Contractors should be reimbursed for their actual expenditures (no accruals may be reimbursed) no more often than bi-weekly. Normally, contractors are reimbursed in monthly increments. Some procuring organizations

<sup>11</sup> [2 C.F.R. § 200.323](#).

permit withholding of a small percentage of each reimbursement request to ensure final delivery and contract close-out. Inasmuch as contractors are incrementally reimbursed as the contract progresses, the risk to the contractor is minimized.

The most common type of cost reimbursement contract is the cost plus fixed fee (CPFF). In this type of contract the fee (on fixed price contracts it is defined as profit) is negotiated front-end and does not change. On cost reimbursement contracts, a ceiling is placed on the estimated cost. Even though additional dollars may be added under certain conditions, the fee does not change as long as the contract remains in-scope.

Any contractual situation that automatically increases the fee when additional dollars are added is known as "cost plus percentage of cost" and is prohibited.<sup>12</sup> Other types of cost reimbursement contracts are:

- Cost contracts.
- Cost sharing contracts.
- Cost plus incentive fee contracts.
- Time and materials contracts. These contracts are those where the cost to the non-Federal entity is the sum of the actual cost of the materials plus the direct labor hours charged at fixed hourly rates, reflecting wages, *TIP: Time and materials contracts may be used when the non-Federal entity* general and administrative expenses, and profit. Labor *makes a determination that no other* Hour contracts are identical to *type of contract is suitable and the* time and materials contracts *contract includes a ceiling price that* except that no materials are *the contractor exceeds at its own risk.* involved. These contracts may be used only after a

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determination that no other contract type is suitable, and only if the contract includes a ceiling price that the contractor exceeds at its own risk.<sup>13</sup>

#### Overall Structure:

1. **Task and delivery order** contracts are used when exact time of delivery or the exact amount needed is unknown. Indefinite delivery contracts may be "indefinite delivery/indefinite quantity" (ID/IQ) or "indefinite delivery/definite quantity" (ID/DQ). If the exact amount needed is not known, the contract may include a guaranteed minimum in the case of an ID/IQ or a promise not to order from others in the case of a requirements contract.
2. **Letter contracts** are used when exigency requires an immediate binding agreement so work can begin, but time does not permit negotiation of a definitive contract. When the

definitive contract is awarded, the letter contract is superseded and letter contract dollars expended will be incorporated in the definitive contract. These contracts should be used with care and only when truly necessary.

3. **State, tribal, or local contractor lists.** When pre-approved competition has already occurred, it may allow for an entity to *piggy-back* off the existing contract as long as it is consistent with State, tribal, or local laws and procedures.

The above-listed contracts are summarized on the chart located on pages 32 — 34 of this guide.

## Contract Type Checklist

No.	Question	Yes	No
1.	<p>Can the deliverables be specifically identified and the quality measurable?</p> <p>If the answer is “Yes,” then a fixed price contract may be properly utilized, either by using competitive sealed bidding procedures, or, if discussions are necessary, negotiated procurement (i.e., competitive proposals) procedures.</p>		
2.	<p>Should the contractor logically be able to assume the “risk” for contract performance?</p> <p>If the answer is “Yes,” a fixed price contract is appropriate.</p>		
3.	<p>Is the contractor’s accounting system capable of segregating costs so proper charges may be made to the non-Federal entity contract for invoicing purposes?</p> <p>If the answer is “No,” another type of contract other than cost reimbursement must be used.</p>		
4.	<p>Realizing that cost reimbursement contracts require more contract administration responsibilities, is the non-Federal entity prepared to accept this responsibility?</p> <p>If the answer is “No,” steps must be taken to correctly determine whether another type of contract may be appropriate prior to the award of any cost-reimbursement-type contract vehicle.</p>		
5.	<p>Time and Materials, indefinite quantity, and requirements contracts require that orders against the contract be negotiated and placed before the contractor begins work. Will the non-Federal entity be in a position to describe individual tasks to be accomplished as they generate?</p> <p>If the answer is “No,” consideration should be given to other contractual types.</p>		
6.	<p>Concerning “Letter Contracts,” are monetary limits along with a target date for definitization shown on the document?</p> <p>If the answer is “No,” the letter contract should be changed to accommodate these two points.</p>		

## Guide to Selection of Contract Types

The following is a non-exhaustive list of examples of some of the contracts types that are allowed for federal procurement under the FAR. Non-Federal entities may find it useful to consider these in determining the procurement approach that may be appropriate for a particular requirement.

Type	Applicability	Essential Elements	Limitations
<b>Firm-Fixed Price</b>	<p>Fair and reasonable prices can be established at inception. For example:</p> <ul style="list-style-type: none"> <li>Reasonably definite design or performance specifications;</li> <li>Realistic estimates;</li> <li>Adequate competition, and</li> <li>Valid cost or operating data that provides reasonable price comparisons.</li> </ul>	Initial fixed-price places 100% responsibility and risk on the contractor.	Non-Federal entity and contractor must agree on fixed-price at inception.
<b>Fixed-Price with Escalation</b>	Market or labor conditions unstable over extended production period.	Ceiling on upward adjustment; downward adjustment appropriate where elements escalated may fall below base levels provided in contract.	Contingencies are industry-wide and beyond contractor control; contingencies must be specifically defined in the contract.
<b>Fixed-Price Incentive</b>	<p>Where cost uncertainties exist and there is the possibility of cost reduction and/or performance improvements by giving contractor (i) a degree of cost responsibility and (ii) a positive profit incentive.</p> <p><u>Firm Target Type:</u> Firm target and final profit adjustment formula can be negotiated initially.</p>	<p><u>Firm Target:</u> Target cost; target profit; price ceiling; and profit adjustment formula.</p>	Adequate Contractor accounting system required. Must determine that any other contract type is impractical. Used for development and production procurements.

## Guide to Selection of Contract Types

Type	Applicability	Essential Elements	Limitations
<b>Cost-Plus Incentive Fee (CPIF)</b>	<p>Uncertainties in Performance or requirements -- Impossible or impractical to estimate costs firmly or circumstances do not allow for the contract requirements to be defined sufficiently for a fixed price contract.</p> <p>Development and test when incentive formula can provide positive incentive for effective management. Where feasible, use performance incentives together with cost and schedule incentives.</p>	<p>Uncertainties in Performance or requirements—Impossible or impractical to estimate costs firmly or circumstances do not allow for the contract requirements to be defined sufficiently for a fixed price contract.</p>	<p>Adequate Contractor accounting system required. Non-Federal entities must closely monitor cost reimbursement contracts to avoid unneeded cost over- runs.</p>
<b>Cost-Plus-Fixed-Fee</b>	<p>Uncertainties in Performance or requirements -- Impossible or impractical to estimate costs firmly. or circumstances do not allow for the contract requirements to be defined sufficiently for a fixed price contract</p> <p><u>Term Form:</u> Research preliminary exploration, or study when level of effort is initially unknown (or development and test when a CPIF is impractical).</p> <p><u>Completion Form:</u> Research or other development effort when the task or job can be clearly defined, a definite goal or target expressed, and a specific end product required.</p>	<p>Uncertainties in Performance or requirements -- Impossible or impractical to estimate costs firmly. or circumstances do not allow for the contract requirements to be defined sufficiently for a fixed price contract</p> <p>-- Impossible to estimate costs firmly. Negotiated estimate of costs; fee fixed initially except for changes in the work or services required.</p>	<p>Adequate Contractor accounting system required. Non-Federal entities must closely monitor cost reimbursement contracts to avoid unneeded cost over- runs.</p>

<b>Time and Materials (Labor-Hours)</b>	Not possible initially to estimate extent or duration of work (L-H used where materials not involved), e.g., engineering or design services, repair, maintenance, or overhaul.	Direct labor hours specified at fixed hourly rates; direct materials at "cost." Ceiling price shall be established.	Determination that no other type of contract is suitable. Non-Federal entities must closely monitor cost reimbursement contracts to avoid unneeded cost over-runs.
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## Guide to Selection of Contract Types

Type	Applicability	Essential Elements	Limitations
<b>Letter Contract</b>	Exigency requires immediate binding agreement so work can begin, but time does not permit negotiation of a definitive contract.	Maximum government liability, type of definitive contract, as many definitive contract provisions as possible.	No other contract type suitable.
<b>State, Tribal, or Local Contractor Lists</b>	Where adequate competition has occurred and the product or service offered meets the needs of the project.	Follow local/tribal/state regulations.	Ensure that state, tribal, or local geographic presences have not been used in the procurement evaluation.
<b>Task and Delivery Orders</b>	<p>Exact time of delivery unknown.</p> <p><u>Definite Quantity:</u> Quantity known, delivery period can be specified; supplies available or have a short lead time.</p> <p><u>Requirements:</u> Preciseness of designated activities during a definite period not known initially.</p> <p><u>Indefinite Quantity:</u> Impossible to know precise quantities needed by designated activities during a definite period and government cannot commit itself beyond a minimum.</p>	<p><u>Definite Quantity:</u> Provision for delivery to designated points or upon order.</p> <p><u>Requirements:</u> Estimated total quantity; maximum and minimum total quantity where feasible; maximum and minimum order where appropriate.</p> <p><u>Indefinite Quantity:</u> Stated maximum and minimum total quantity; maximum and minimum order where applicable.</p>	Firm fixed-price, fixed-price with escalation, or fixed-price with redetermination only.

## Chapter 13

### Code of Conduct

***The non-Federal entity must maintain written standards of conduct covering conflict of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts. The standards of conduct must provide for disciplinary actions to be applied for violations by officers, employees, or agents of the non-Federal entity.<sup>14</sup>***

No employee, officer, or agent of the non-Federal entity shall participate in selection, award, or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- The employee, officer or agent, or
- Any member of his/her immediate family, or
- His or her partner, or
- Any organization which employs, or is about to employ, has a financial or other interest in or receives or stands to receive a tangible personal benefit from a firm being considered for a contract.

Non-Federal entity personnel involved in the procurement process must be ever alert for situations that may create a real, or even apparent, conflict of interest. Common sense and adherence to standards and codes of conduct will go a long way toward eliminating potential problems.

Non-Federal entity personnel should additionally:

- Be familiar with any code of ethics guidance published by or available to their organization.
- Neither solicit nor accept gifts, favors, gratuities, or anything of monetary value from contractors or parties to subcontracts. In this connection, non-Federal entities may set standards to address situations where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.
- Avoid, at all times, even the appearance of a conflict of interest.
- Ensure that proposal evaluators (price and technical) or members of their immediate families do not own stock or have other financial interest in the companies being evaluated.

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- Refer any problem that arises concerning conflict of interest to upper management and legal counsel, as appropriate.



**Organizational Conflict of Interest:<sup>15</sup>**

Organizational conflicts of interest are conflicts of interests that arise where the non-Federal entity is or appears to be unable to conduct an impartial procurement action due to relationships with a parent company, affiliate, or subsidiary organization. Where a non-Federal entity has a parent, affiliate or subsidiary organization that is not a state, local, or tribal government, the non-Federal entity's written standards of conduct must also cover organizational conflicts of interest.

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<sup>15</sup> [2 C.F.R. § 200.318\(c\)\(2\)](#).

### Code of Conduct Checklist

No.	Question	Yes	No
1.	<p>Is there any indication that there is any inappropriate action on the part of either the non-Federal entity or the contractor from either an individual or organizational conflict of interest standpoint?</p> <p>If the answer is “Yes,” the non-Federal entity’s top management, in concert with legal counsel, should determine the severity of the problem and enforce sanctions and notify proper authorities.</p>		
2.	<p>Is there any indication the SOW might be restrictive?</p> <p>If the answer is “Yes,” the SOW must be corrected and the RFP amended or canceled, as appropriate.</p>		
3.	<p>Have there been any protests or hints of improprieties from any outside sources?</p> <p>If the answer is “Yes,” the validity must be determined and action taken accordingly.</p>		
4.	<p>Has there been an appearance of conflicts of interest relating to the proposed contractual action?</p> <p>If the answer is “Yes,” a thorough investigation should be conducted and any required corrective action taken.</p>		
5.	<p>Have cost and technical evaluation committee members evaluating proposals under competitive negotiation procedures signed a statement confirming the fact that they or members of their immediate family do not own stock in the companies being evaluated?</p> <p>If the answer is “No,” a signed statement should be obtained from each evaluator.</p>		

6.	<p>Has “brand name or equal” been used excessively in similar solicitations that might be interpreted as leading to a conflict of interest situation?</p> <p>If the answer is “Yes,” the work specification, if possible, should be expanded in order to achieve more competition.</p>		
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## Chapter 14

### Price and Cost Analysis

***The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications.<sup>16</sup>***

**Price Analysis** involves a comparison of the bottom line price quoted by the offeror with prices paid on other contracts for the same or similar materials or services; a review of trade publications for comparability; a comparison of prices quoted by other respondents to the solicitation (does not apply to sole source contracts); and any other comparison available to the non-Federal entity. The purpose of price analysis is to determine that the price quoted is within range of acceptability to the non-Federal entity.

Cost Analysis involves an analysis of the individual elements of cost (as requested by the solicitation) as stated in the contractor's cost proposal. Examples of individual elements of cost include direct labor, fringe benefits, overhead (indirect costs), materials, travel, subcontracts, etc. Questionable individual elements of cost become negotiation targets for the non-Federal entity during the subsequent negotiation with the contractor.

Price and Cost Analysis are required for all proposals submitted by offerors for evaluation and negotiation by the non-Federal entity. Non-Federal entities should make independent estimates before receiving bids or proposals. Contents of the cost proposal should be in consonance with the contractor's accounting system which must be operationally capable of segregating costs by contract. Offerors should certify that individual elements of cost are true, correct and verifiable from the contractor's accounting system.

Non-Federal entities should compare graphically each contractor's cost proposal using spreadsheets. However, keep in mind that accounting systems differ between contractors and exact dollar comparison between individual cost elements may not constitute a valid comparison. For example, one contractor may charge a certain expense item to overhead (indirect costs), whereas another contractor may charge an identical expense item as a "direct" charge to the contract.

Price Analysis and Cost Analysis are normally used in concert with each other. Each should support the other.

From an operational standpoint, this important facet of an effective negotiation plan cannot be overlooked or minimized.

### Price and Cost Analysis Checklist

No.	Question	Yes	No
1.	<p>Is the total price determined to be fair and reasonable? Does it compare favorably with the sum total of the individual elements of cost that have been analyzed?</p> <p>If the answer is “No,” (with a limited tolerance allowed), then further effort is required to make these two figures more compatible.</p>		
2.	<p>Was the overhead (indirect cost) rate used in the contractor’s proposal determined by audit?</p> <p>If the answer is “Yes,” determine when audit was completed and whether the overhead (indirect cost) rate can be categorized as current.</p> <p>If the answer is “No,” determine on what basis the overhead (indirect cost) rate was calculated and then validate acceptability.</p>		
3.	<p>Was a spreadsheet used to show graphically a comparison of the elements of cost?</p> <p>Even though a spreadsheet is not mandatory, its use is highly recommended.</p>		
4.	<p>Were individual results from cost analysis used to determine negotiation cost targets?</p> <p>Remember the proposal is the contractor’s. Justification is required for any element of cost questioned by the non-Federal entities.</p>		
5.	<p>If possible, non-Federal entities should adhere to maximum Federal fee limitations under cost reimbursement arrangements, i.e., 10% on estimated cost, 15% of the estimated cost on Research and Development, and 6% of the estimated cost of Construction or Architectural Engineering. Does the negotiated fee fall within these stated limitations?</p> <p>If the answer is “No,” consider alternatives with upper echelon non-Federal entity management.</p>		

## Chapter 15

### Protests

***Non-Federal entities alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements.<sup>17</sup>***

Any contractor or aggrieved party has the right to protest actions before or after the award of the contract. In accordance with good administrative practice and sound business judgment, non-Federal entities shall be responsible for the settlement of all contractual responsibilities arising out of contract solicitations and awards. Issues that might initiate a protest include:

1. Source evaluation activity
2. Protests
3. Disputes (differences of opinion)
4. Claims
5. Any other pertinent issues.

As a best practice, protests should be in writing to the non-Federal entity. Non-Federal entities should follow local procedures for resolution in order that effective due process may be achieved. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts.

In summary, the non-Federal entity is responsible for handling and resolving all contractual activity protests. Ordinarily, except in matters of direct federal concern, a Federal awarding agency will not substitute its judgment for that of the non-Federal entity. However, this should not be construed that Federal advice should not be sought when considered appropriate by the non-Federal entity.

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<sup>17</sup> [2 C.F.R. § 200.318\(k\)](#).

### Protests Checklist

No.	Question	Yes	No
1.	Has the aggrieved party submitted his protest in writing?  If the answer is “No,” consider recommending that the protest be submitted in writing if the magnitude is great enough to have serious operational impact.		
2.	Has non-Federal entity’s top management been alerted to the seriousness of the protest and has legal counsel been sought?”  If the answer is “No,” top management and legal counsel should be advised.		
3.	Has the non-Federal entity exerted ample effort toward resolution of the protest before seeking help from awarding Federal agency?  If the answer is “No,” the non-Federal entity should exert ample effort toward resolution before seeking help from awarding Federal agency.		

## Chapter 16

### Contracting with Small and Minority Firms, Women's Business Enterprises, and Labor Surplus Area Firms

*The non-Federal entity must take all necessary affirmative steps to ensure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible.<sup>18</sup>*

<b>Small Business Firms:</b>	Designated by the Small Business Administration.
<b>Minority Business Firms:</b>	51 percent Minority Owned/Operated.
<b>Women's Business Enterprises:</b>	Small business that is at least 51 percent owned by a woman or women.
<b>Labor Surplus Area Firms:</b>	Firms geographically located in distressed labor surplus areas designated by the Secretary of Labor.

Non-Federal entities shall ensure the following affirmative steps:

1. Placement of small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
3. Allocating requirements into smaller amounts, when feasible, to permit maximum participation by small and minority businesses, and women's business enterprises;
4. Establishing delivery requirements, when feasible, which encourage participation by small and minority businesses, and women's business enterprises;
5. Using the services of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce, and
6. When the non-Federal entity's contractor(s) (for these purposes, the "prime" contractor(s)) may award a subcontract(s), requiring the "prime" contractor(s) to take these steps (1-5) for its subcontract(s).

Notwithstanding the fact that no contracting goals are established, the non-Federal entity is may be expected to provide statistics on contract awards.



<sup>18</sup> [2 C.F.R. § 200.321.](#)

### **Contracts with Small and Minority Firms, Women's Business Enterprises, and Labor Surplus Area Firms Checklist**

No.	Question	Yes	No
1.	Are statistics readily available concerning contract awards to these firms?  If the answer is "No," develop a simplified reporting system.		

## Chapter 17

### Contract Administration

***Non-Federal entities will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.<sup>19</sup>***

Contract administration refers to post award actions by the non-Federal entity to ensure that the terms and conditions of the contract are met. It takes continual vigilance on the part of the non-Federal entity to ensure that contract deliverables are met to accommodate mandated project requirements. A non-Federal entity will follow the same procedures for procuring property and services under a grant as it uses for its non-Federal funds. Other non-Federal entities should follow procedures outlined in this guideline.

1. **Delegations.** Non-Federal entity management shall delegate administration responsibility to designated personnel selected for their technical and administrative capability to administer the contract effectively. Any disagreement between technical and administrative personnel shall be referred to top level non-Federal entity management for resolution.
2. **Inspection and Acceptance.** Contractor deliverables shall be inspected before official acceptance by the non-Federal entity to ensure that contract requirements are met. Acceptance shall be made officially only after the non-Federal entity determines that contract terms and conditions have been met.
3. **Progress Reports.**
  - a. For transit vehicle awards made November 3, 2014 and after, FTA recipients are required to submit, within 30 days of making an award, the name of the successful bidder for transit vehicles and the total dollar value of the contract.
  - b. Under cost reimbursement contracts, progress/status reports are required normally by the SOW. These reports shall be reviewed by the non-Federal entity to determine if contract delivery milestones are being met, and, if they are not, the seriousness of the delinquency should be analyzed and, if appropriate, corrective action taken.
4. **Invoice Processing.** Under cost reimbursement contracts, reimbursement invoices are submitted normally by the contractor on a monthly basis. However, in the case of a small or disadvantaged contractor, invoices may be submitted every two weeks. There must be a correlation between dollars paid incrementally to the contractor and contract progress in consonance with an acceptable tolerance level that is established. Invoices should be processed as expeditiously as possible with dollar hold- backs (to be

paid after completion/final acceptance) considered in determining the net amount of the incremental dollar reimbursement.

<sup>19</sup>2 C.F.R. 200.318(b).

5. **Consent to Subcontract.** Non-Federal entities shall establish procedures to review and give prior consent for subcontracts awarded by a prime contractor(s). Monetary consent levels may be established at the discretion of the non-Federal entity.
6. **Non-Federal entity Contract Close-out.** Non-Federal entity contract close-out is an important function of contract administration and may be characterized logically as the last of the many functions related to contract administration.

## Contract Administration Checklist

No.	Question	Yes	No
	<b>Delegations</b>		
1.	<p>Have delegations been made in writing to include all operational and administrative aspects of contract post award activity?</p> <p>If the answer is “No,” action should be taken to have proper delegations made in writing.</p>		
	<b>Inspection and Acceptance</b>		
2.	<p>For materials and hardware, do invoices submitted by the contractor include evidence of acceptance by the non-Federal entity?</p> <p>If the answer is “No,” the invoice shall not be paid until evidence of acceptance is indicated.</p>		
3.	<p>On cost reimbursement contracts, before acceptance by the non-Federal entity, has contract dollar reimbursement been reconciled with available contract specified funding?</p> <p>If the answer is “No,” procedures shall be developed to verify funding availability before acceptance is made.</p>		
	<b>Progress Reports (cost reimbursement contracts)</b>		
4.	<p>Was DTPW's DBE Section notified of the name of the successful bidder for transit vehicles and the total dollar value of the contract, which is to be reported within 30 days of award to FTA's Office of Civil Rights in accordance with CFR 49, Part 26.49?</p> <p>Are progress reports reviewed to validate correctness and to determine if contract delivery schedules/milestones are being met?</p> <p>If the answer is “No,” progress related to milestones should be analyzed to determine contract status. If the contractor is in violation of the contract requiring progress reports, action should be taken to enforce the contract terms and conditions.</p>		

No.	Question	Yes	No
	<b>Inspection and Acceptance</b>		
5.	Are invoices submitted by the contractor for materials and equipment analyzed by the non-Federal entity before authorizing payment?  If the answer is "No," procedures shall be developed to analyze all invoices submitted to ensure availability.		
6.	Under cost reimbursable contracts, are the dollars requested by the contractor compatible with progress indicated on status reports?  If the answer is "No," percent of contract completion indicated on progress reports should be compatible with total funds requested for reimbursement.		
7.	Is availability of funds determined before approval of the invoice authorizing payment?  If the answer is "No," funds availability must be determined before authorizing the invoice for payment.		
	<b>Non-Federal Entity Contract Close-Out</b>		
8.	Have all contract funds been reconciled? Have any remaining funds been de-obligated? Have all invoices been paid?		
9.	Has any property furnished or purchased by the non-Federal entity been returned or accounted for in accordance with existing procedures?		
10.	Has the non-Federal entity received a certification from the contractor that all bills relating to the contract have been paid?		
11.	Have all contract deliverables been inspected and accepted by the non-Federal entity?		
12.	Have any lawsuits/legal actions relating to contract activity been settled?		

No.	Question	Yes	No
13.	On cost reimbursement contracts, is the non-Federal entity satisfied that all claimed costs are allowable costs relating to contract activity?		
14.	Has a bi-lateral amendment been executed reflecting contract close-out?  Contract close-out is not complete if any of questions 8 to 14 reflect a "No" response.		

## Chapter 18

### Other Considerations

#### 1. Lease vs. Purchase

***Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.<sup>20</sup>***

Before entering into a leasing arrangement for equipment or purchasing equipment, a lease-purchase analysis should be performed by the non-Federal entity to determine economic feasibility. This analysis should reflect a comparison of forecasted costs for both an outright purchase and a leasing arrangement. If determination is made to enter into a lease/purchase, non-Federal entities shall ensure that a certain part of the lease cost (dollars) will apply toward the purchase price of the equipment (indicated in the lease). In addition, non-Federal entities shall ensure that at a predetermined time, the equipment under lease is either:

- Purchased under the terms of the lease, or
- Returned to the lessor and action is taken to cancel the lease.

#### 2. Documentation

***Non-Federal entities will maintain records sufficient to detail the significant history of a procurement. These records will include, but are necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.<sup>21</sup>***

It is extremely important that non-Federal entities document contractual actions in order to formulate and maintain an audit trail. The official contract file should reflect in detail all of the steps in the procurement process and serves as the official accountability document.

#### 3. Other Resources<sup>22</sup>

Non-Federal entities are encouraged to use other resources such as donated property and Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

<sup>20</sup> [2 C.F.R. § 200.318\(d\)](#).

<sup>21</sup> [2 C.F.R. § 200.318\(i\)](#).

<sup>22</sup> [2 C.F.R. § 200.318\(f\)](#).

#### **4. Use of Value Engineering<sup>23</sup>**

Non-Federal entities are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

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<sup>23</sup> [2 C.F.R. § 200.318\(g\)](#).



## Chapter 19

### Contracting Concepts Summary

The following lists show 1) practices to employ to have a successful procurement program, and 2) those practices to avoid that may result in unsatisfactory contracts being awarded by the recipient agency.

#### 1. Contracting Practices to Employ

- a. Ensure adequate competition.
- b. Prepare Invitation for Bid (IFB)/Request for Proposal (RFP).
- c. Maintain bidders list(s).
- d. Conduct interviews (for RFP).
- e. Obtain prior approval (where required).

#### 2. Contracting Practices to Avoid

- a. Place unreasonable requirements.
- b. Require unnecessary experience.
- c. Engage in noncompetitive pricing.
- d. Engage in organizational conflicts-of-interest.
- e. Engage in wasteful or needlessly duplicative spending.
- f. Require unreasonable timeframes.

### Federal Emergency Management Agency (FEMA) Provisions

When goods and/or services will be purchased, in part or in whole, with federal funding, and/or to meet Federal Emergency Management Agency's (FEMA) reimbursement, FEMA grant recipients and subrecipients (*non-federal entities (NFEs - Miami-Dade County)*), will often use contractors to help carry out work under County awards. These contracts are a commercial transaction between the County and its contractor, and FEMA has no contractual relationship with County contractors. Although FEMA is not a party to the contract, if the County is using federal funding to pay for the contracted goods or services, the County must comply with federal laws and assure and certify that their contractors will also comply with the following provisions:

**A. BREACHES AND DISPUTE RESOLUTION.**

1. Disputes and Remedies - Disputes arising in the performance of this Contract which are not resolved by the Contractor and the County's project manager or contractor manager, shall be referred, in writing, to the authorized representative of the County Mayor for a decision. If there is a disagreement among the parties regarding the decision of the County Mayor's representative, then either party may submit any claim, counterclaim, dispute, and other matters in question between the County and the Contractor arising out of or relating to this Contract or its breach to a court of competent jurisdiction within Miami-Dade County.
2. Performance During Dispute - Unless otherwise directed by the County, Contractor shall continue performance under this Contract while matters in dispute are being resolved.
3. Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents, or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

**B. TERMINATION FOR CONVENIENCE.**

The County, at its sole discretion, reserves the right to terminate this Contract without cause upon providing a written notice. Upon receipt of such notice, the Contractor shall not incur any additional costs under this Contract. The County shall be liable only for reasonable costs incurred by the Contractor prior to notice of termination. The County shall be the sole judge of "reasonable costs." "Reasonable costs" shall not include lost profits, loss of opportunity, damage to reputation, or indirect costs of any kind.

**C. DEFAULT; REMEDIES; TERMINATION FOR CAUSE.**

The County reserves the right to terminate this Contract, in part or in whole, or place the Contractor on probation, or to avail itself of all other remedies available at law and equity, inclusive injunctive relief and specific performance, in the event the Contractor fails to performance in accordance with the terms and conditions stated herein. Following breach of the Contract by the Contractor, the County shall provide written notice specifying the breach to the Contractor and advising the Contractor that the breach must be cured immediately, or this Agreement may be terminated by the County. The County further reserves the right to suspend or debar the Contractor in accordance with the appropriate County ordinances, resolutions and/or administrative/implementing orders. The vendor will be notified by letter of the County's intent to terminate if, following the initial notice of breach, the Contractor fails to timely or adequately and to the satisfaction of the County cure said breach. In the event of termination for default, the County may procure the required goods and/or services from any

source and use any method deemed in its best interest. All reprourement costs shall be borne by the terminated Contractor. The Contractor shall be responsible for all other direct damages incurred by the County arising out of the breach.

**D. EQUAL EMPLOYMENT OPPORTUNITY.** (Applicability - Construction/Bonding Work)

1. In connection with the performance of this Contract, the Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity or national origin. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, color, sex, age, disability, ancestry, marital status, pregnancy, sexual orientation, veteran's status, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeships. Contractor further agrees to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.
2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
4. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post

copies of the notice in conspicuous places available to employees and applicants for employment.

5. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
7. In the event of the Contractor's noncompliance with the non-discrimination clauses of this Contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. The Contractor will include the portion of the sentence immediately preceding paragraph 1 and the provisions of paragraphs 1 through 8 in this clause in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each of Contractor's vendors and subcontractors. The Contractor will take such action with respect to any subcontract or purchase order as the County may direct as of enforcing such provisions, including sanctions for noncompliance.

**E. DAVIS-BACON ACT, AS AMENDED (40 U.S.C. § 3141-3148) and COPELAND "ANTI-KICKBACK" ACT. (18 USC § 40 U.S.C. 3145). Applies to Construction/Bonding Value at >\$2K**

The Davis-Bacon Act and the Copeland Anti-Kickback Act only apply to the emergency Management Performance Grant Program, Homeland Security Grant Program Act only apply to the emergency Management Performance Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program. They do not apply to other FEMA grant and cooperative agreement programs, including the Public Assistance Program. Accordingly, if applicable to this Contract:

1. All prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144,

and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction").

- a) In accordance with the statute, and if applicable, the Contractor must pay all laborers and mechanics employed or working upon the site of the work, unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor pursuant to 29 CFR part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) at rates not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The County will attach a copy of the current prevailing wage determination issued by the Department of Labor to this form.
  - b) Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis–Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of 29 CFR §5.5; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR § 5.5(a)(4).
  - c) Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of 29 CFR § 5.5) and the Davis–Bacon poster (WH–1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.
2. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this Contract.
  3. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and a clause requiring

the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all these contract clauses.

4. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R.

§ 5.12.

**F. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT OF 1962, 40 U.S.C. §§**

**3702 AND 3704.** (Applicability: Contracts over 100,000 involving employment of mechanics, laborers, and construction work)

Compliance with Contract Work Hours and Safety Standards Act

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

3. Withholding for unpaid wages and liquidated damages. Miami-Dade County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section."

Further Compliance with the Contract Work Hours and Safety Standards Act.

(1) The contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

(2) Records to be maintained under this provision shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Homeland Security, the Federal Emergency Management Agency, and t h e Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

#### **G. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AWARD.**

If the FEMA award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the County enters into a contract involving the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the County must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FEMA.

#### **H. THE CLEAN AIR ACT OF 1955, as amended, 42 U.S.C. §§7401-7671q and the FEDERAL WATER POLLUTION CONTROL ACT, as amended, 33 U.S.C. §§ 1251-1387. (Applicability: Contracts greater than \$150,000)**

(1) The C o n t r a c t o r agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. and issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC §1251 et. seq.

- (2) The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the County, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The Contractor agrees to include these requirements in each subcontract exceeding \$250,000 financed in whole or in part with Federal assistance provided by FEMA.

**Federal Water Pollution Action:**

The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.

The contractor agrees to report each violation to Miami-Dade County and understands and agrees that Miami-Dade County will, in turn, report each violation as required to assure notification to the (insert name of the pass-through entity, if applicable), Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.

The contractor agrees to include these requirements in each subcontract exceeding \$250,000 financed in whole or in part with federal assistance provided by FEMA.

**I. ENERGY CONSERVATION.**

Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. Section 6321 et seq.) and (42 U.S.C. 6201).

**J. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION.**

- (1) This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C. F.R. pt. 3000. As such the Contractor is required to verify that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935). The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. This certification is a material representation of fact relied upon by the County. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and throughout the Contract period. The Contractor also agrees to include a provision requiring such compliance in its lower tier covered transactions.



**K. BYRD ANTI-LOBBYING CERTIFICATION AND DISCLOSURE STATEMENTS.**

Contractors who apply or bid for or have received an award of \$100,000 or more shall file the required and attached certification. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to federal awarding agency.

**L. PROCUREMENT OF RECOVERED MATERIALS.**

(Applicability: Contracts over \$10,000)

In the performance of this Contract, the Contractor shall make maximum use of products containing recovered materials that are EPA designated items unless the product cannot be acquired:

- (1) Competitively within a time-frame providing for compliance with the contract performance schedule;**
- (2) Meeting Contract performance requirements; or**
- (3) At a reasonable price.**

Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines webpage:

<https://www.epa.gov/smm/frequent-questions-about-comprehensive-procurement-guideline-cpg-program>

**M. PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES.**

(a) Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on

Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—

(b) Prohibitions.

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan

guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

(i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

(ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

(iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or

(iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) Exceptions.

(1) This clause does not prohibit contractors from providing—

(i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to: (i) Covered telecommunications equipment or services that:

i. Are not used as a substantial or essential component of any system; and

ii. Are not used as critical technology of any system.

(ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(d) Reporting requirement.

(1) In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report

the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:

(i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts.

The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

#### **N. DOMESTIC PREFERENCES FOR PROCUREMENTS.**

As appropriate, and to the extent consistent with law, the contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products. It is the intent of Miami-Dade County and the Contractor that the Agreement include and incorporate all requirements under all applicable State or Federal law, rules, regulations, or standards as may be needed such that the Agreement is eligible for state or Federal reimbursement. All such laws, rules, regulations, or standards, to the extent not expressly included herein, are deemed incorporated into the Agreement, and Contractor shall comply with same as if same were expressly included therein.

#### **O. AFFIRMATIVE SOCIOECONOMIC STEPS: CONTRACTING WITH SMALL AND MINORITY BUSINESS, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS, C.F.R. § 200.321(G).**

Pursuant to C.F.R. 200.321 (g), Miami-Dade County will take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:

- a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

If subcontracts are to be let, the prime contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5)- as listed above to ensure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

#### **P. ACCESS TO RECORDS.**

In addition to the provisions contained in the Contract, the following access to records requirements apply to Contract:

- a. The Contractor agrees to provide Miami-Dade County, the FEMA Administrator, the Comptroller General of the United States, Inspectors General of the United States, the Florida Auditor General, the Chief Inspector General of the State of Florida, the Florida Division of Emergency Management, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- b. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- c. The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the Contract.
- d. The Contractor agrees to retain its books, documents, papers and records of Contractor pertinent to this Contract for a period of five (5) years from the date of expiration of this Contract; provided, however, that the following are exceptions to this five (5) year requirement:
  - i. If any litigation, claim or audit is started before the expiration of the five (5) year period and Contractor is notified of same, then the records must be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken;

- ii. Where Contractor is notified in writing to extend the retention period, then the record must be retained for the additional times requested by the government; and
- iii. Where Contractor transfers all records to the County at the completion of the Contract as set forth in and in accordance with Section W herein, then Contractor is not required to retain records for the five (5) year period as herein required and shall instead comply with the requirements of Section W below.

In compliance with section 1225 of the Disaster Recovery Reform Act of 2018, Miami-Dade County and the Contractor acknowledge and agree that no language in the contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

**Q. PROGRAM FRAUD AND FALSE OF FRAUDULENT STATEMENTS OF RELATED ACTS.** The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to the Contract.

**R. DHS SEAL, LOGO, AND FLAGS.**

The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. The Contractor shall include this provision in the any subcontracts.

**S. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS.** This is an acknowledgment that FEMA financial assistance may be used to fund all or a portion of the Contract. The Contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

**T. NO OBLIGATION BY FEDERAL GOVERNMENT.**

The federal government is not a party to the Contract and is not subject to any obligations or liabilities to the non-federal entity, Contractor, or any other party pertaining to any matter resulting from the Contract.

**U. CHANGES.**

The Contract may be modified by mutual consent, in writing through the issuance of a modification to the Contract. All changes to the method, pricing, or schedule of work must be reasonable and the Contractor shall not present any claim which is not allowable or allocable under any FEMA rule, requirement, or standard. The Contractor shall present all full and complete written justifications, including cost or schedule documentation, supporting any request for a change to the Agreement at the direction of the County, and shall certify any such request for a change pursuant to the County's False Claims Ordinance, 21-255 et seq of the Miami-Dade County Code.

**V. NO OBLIGATION BY FLORIDA DIVISION OF EMERGENCY MANAGEMENT.**

The Florida Division of Emergency Management and the State of Florida are not parties to the Contract and are not subject to any obligations or liabilities of the County, Contractor, or any other party pertaining to any matter resulting from the Contract. The Contractor agrees to hold harmless and indemnify the Florida Division of Emergency Management, the State of Florida, the United States of America, FEMA, the County, and their employees and/or contractors from and against all liability and claims of whatever nature by third parties arising from the Contract or the performance of work arising from the Contract.

**W. FLORIDA PUBLIC RECORDS**

Pursuant to section 119.0701, Florida Statutes:

- (1) Contractor understands, agrees and acknowledges that this Contract is subject to the provisions of Chapter 119 of the Florida Statutes commonly referred to as "Florida's Public Records Laws.
- (2) For purposes of this section, the term "public records" shall mean all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business of the County.
- (3) IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT  
(Departments to insert telephone number, email and mailing address)

Contractor is required to keep and maintain public records required to perform under this Contract and, upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time, at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by applicable law.

- (4) Contractor shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract and following completion of the Contract if the Tenant does not transfer the records to the County.

- (5) Upon completion of the Contract, Contractor shall transfer, at no cost, to the County all public records in possession of the Contractor or keep and maintain public records required by the County to perform the service. If the Contractor transfers all public records to the County upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records.

All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

- (6) If Contractor does not comply with a request for records, it shall be a material breach of this Contract and the County shall have the right to the remedies set forth in this Contract and all other remedies provided by law. In addition, if Contractor fails to provide the public records within a reasonable time, Contractor may be subject to penalties under section 119.10, Florida Statutes. **X.**

**Inapplicable Provisions:**

The following provisions are to not be included in the Contract and, to the extent that the following provisions are contained elsewhere in the Contract, they shall be void and of no force or effect.

**A. SBE Measures**

SBE Measures under Sections 2-8.1.1.1.1, 2-10.4.01, and 10-33.02 of the County Code under an SBE program shall NOT apply to the Contract.

**B. Prompt Payment Terms**

Payment terms under Sections 2-8.1.1.1.1 or 2-8.1.1.1.2 of the Code of Miami- Dade County, Florida ("County Code") that are for a Small Business Enterprise ("SBE") subcontractor shall NOT apply to the Contract.

**C. County User Access Program ("UAP")**

The UAP fee in the amount of two percent (2%) shall NOT apply to the Contract and the County shall not withhold any portion of payment due to Contractor for the UAP fee.

**D. First Source Hiring Referral Program ("FSHRP")**

Section 2-2113 of the County Code which provides that County contractors are to use a local workforce referral agency for job postings and to use good faith efforts to fill fifty percent (50%) of job vacancies through such local workforce referral agency shall NOT apply to the Contract.

E. Inspector General

The cost of random audits of one quarter (1/4) of one (1) percent will NOT be incorporated into the contract price of this Contract and shall not be withheld from payment due to the Contractor.

**II.** It is the intent of the County and the Contractor that the Agreement include and incorporate all requirements under all applicable State or Federal law, rules, regulations, or standards as may be needed such that this Agreement is eligible for state or Federal reimbursement. All such laws, rules, regulations, or standards, to the extent not expressly included therein, are deemed incorporated into the Agreement, and Contractor shall comply with same as if same were expressly included therein.

Firm/Company Name: \_\_\_\_\_

Authorized Representative: \_\_\_\_\_  
Printed Name

Authorized Representative: \_\_\_\_\_  
Signature

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Attest: \_\_\_\_\_  
Corporate Secretary/Notary

Attachments:  
Certifications  
Scope of Work  
Pricing

Byrd Anti-Lobbying Amendment Certification Form

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned Contractor certifies, to the best of his or her knowledge, and belief that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a



Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by § 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, \_\_\_\_\_ certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chapter 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's

Authorized Official Name and Title of Contractor's

Authorized Official

Date

(1) This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by the County. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The Contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2

C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.”

Signature of Contractor’s Authorized Official

\_\_\_\_\_  
Name and Title of Contractor’s Authorized Official

\_\_\_\_\_  
Date

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## SECTION 7      VENDOR GUIDE

This Section serves to provide basic procurement information to the vendor community, to educate firms and enable maximum participation in the County's centralized competitive procurement process. The County invests in securing responsible vendors who can supply its operational needs promptly, economically and in the desired quality and quantities. The information contained in the Section is for informational purposes only and is not a compilation of all legal requirements that may be applicable.

We hope that our Vendor Guide serves as a convenient source of information for our existing and potential strategic partners. All existing and prospective vendors are encouraged to visit the SPD webpage at <http://www.miamidade.gov/procurement/> and the Supplier Services website at <http://www.miamidade.gov/procurement/supplier-services.asp>, to familiarize themselves with:

- the many procurement opportunities existing within the County
- basic procedures and requirements for doing business with the County
- the promulgation of good working relationships between vendors and the County
- streamlined processes for the effective use of vendors' and procurement staff's time

## Online Vendor Registration

The online vendor registration portal provides a **free**, easy and convenient way to become registered as a County vendor, or to update an existing Vendor Registration. While the Vendor Registration is not required for participation in County business opportunities, it is a condition of award of any County contract.

Completing the Vendor Registration:

avoids delays in the event the vendor is recommended for contract award

places the vendor on the list of Miami-Dade County Registered Vendors. This list is used by all County departments, including SPD, to obtain quotes for goods and services, and to gather information from prospective vendors when a future solicitation is being prepared.

To register, the following are needed:

Miami-Dade County Local Tax Receipt (for firms with a physical location within Miami-Dade County)

Certificate of Incorporation, if applicable

W-9 (or

IRS Letter 147C

Visit the online Vendor Portal: <http://www.miamidade.gov/procurement/vendor-registration.asp> and complete the application.

During the online registration process, vendors will complete the County's Uniform Affidavit Packet. Final Summary pages must be notarized and attached to the online vendor application.

In addition to the registration process, some vendors may be required to submit additional information regarding insurance and affirmative action plans. SPD, through its Vendor Outreach, Compliance and Support Services Section, manages the vendor registration process for all registration activity. This responsibility includes initial registrations and any profile updates re-registrations necessitated by corporate name changes or corporate entity acquisitions.

Vendors may contact the Vendor Outreach, Compliance and Support Services Section at 305-375-5773 or at [ISD-VSS@miamidade.gov](mailto:ISD-VSS@miamidade.gov).

### **Electronic Bidding Solution**

The County issues all competitive solicitations for goods, services, architectural and engineering and design-build projects (issued by SPD) through INFORMS.

**There is NO CHARGE TO VENDOR** for the use of this service. Vendors are able to view and submit their bid/proposal electronically through INFORMS. Paper submittals are no longer accepted.

The use of INFORMS for County solicitations does not require vendor's participation in any of INFORMS subscription services or promotional options.

## **Contracting Opportunities**

SPD uses a variety of competitive procurement methods to acquire goods and services for the County. All County competitive solicitations may be easily accessed and reviewed, and downloaded through INFORMS.

While the County always strives for a competitive process in the acquisition of goods and services, in unusual circumstances, where the request can be verifiably and substantively justified, a non-competitive acquisition process may be pursued.

Vendors are encouraged to proactively and systematically review the “Advanced Notice to Waive Competition Listing” for the goods and services to be procured through a non-competitive action. If you believe you can provide the desired good or service, please let us know.

## **Cooperative/State of Florida Contracts**

The County may access a State of Florida and other qualifying cooperative contract, when in its sole discretion, it deems such action to be in the County’s, and the residents it serves, best interest.

## Helpful Links to Doing Business with the County:

**Current solicitations:** <http://www.miamidade.gov/procurement/solicitations.asp>

**Future solicitations:** <https://www.miamidade.gov/DPMww/FutureSolicitations.aspx>

**Award Recommendations:** <https://www.miamidade.gov/DPMww/AwardRecommendations.aspx>

**Awarded Contracts:** <https://www.miamidade.gov/DPMww/SearchContracts.aspx>

**Pool of Prequalified Vendors:** <https://www.miamidade.gov/DPMWW/PerpetualContracts.aspx>

**Bids and Proposals:** <http://www.miamidade.gov/procurement/bids-and-proposals.asp>

**Invitation to Bid:** <http://www.miamidade.gov/procurement/bid-invitation.asp>

**General Terms and Conditions:** <http://www.miamidade.gov/procurement/itb-terms-conditions.asp>

**Request for Proposals:** <http://www.miamidade.gov/procurement/bid-proposal-request.asp>

**Bid Protests:** <http://www.miamidade.gov/procurement/bid-protest.asp>

**Vendor Insurance:** <http://www.miamidade.gov/procurement/insurance-process.asp>

**Vendor Workshops:** <https://www.miamidade.gov/global/strategic-procurement/vendor-academy.page>

## SECTION 8 LEGISLATION, POLICIES, AND DIRECTIVES

This section provides a summarized listing of the legislation, policies, and directives affecting County procurements

### 8.1 2 CFR - Part 200 and FTA Circular 4220.1F

Federal Reference	Subject	Summary
<a href="#">2 CFR, Part 200 200.317-200.326</a>	Procurement Standards	Provides basic requirements for non-federal recipients of federal assistance and requires that such entity use its own documented procurement procedures which reflect applicable state, local, and tribal laws and regulations, and conform to applicable federal law and the standards identified in 2 CFR, Part 200.
<a href="#">2 CFR, Part 200 200.333-200.339</a>	Records Retention and Access	Establishes federal policy that all state, county, and municipal records are open for personal inspection and copying by any person; defines a public record; allows for the recovery of reasonable costs; and creates exemptions.
<a href="#">FTA Circular 4220.1F</a>	Third Party Contracting Guidance	Provides contracting guidance for recipients of federal assistance awarded by the FTA, when using that federal assistance to finance its procurements (third party contracts).

### 8.2 State of Florida Statutes

State Reference	Subject	Summary
<a href="#">§119.01</a>	Government in the Sunshine, Public Records	Establishes State of Florida Policy (policy) that all state, county, and municipal records are open for personal inspection and copying by any person; defines a public record; allows for the recovery of reasonable costs; and creates exemptions.
<a href="#">§119.021</a>	Custody, Maintenance and Retention of Public Records	Establishes policy for custodial requirements; maintenance, preservation and retention of state, county, and municipal public records; allows for the disposal of records in accord with §257.36.
<a href="#">§218.70</a>	Local Government Prompt Payment Act	Establishes policy that payment for all purchases by local governmental entities be made in a timely manner (45 days for goods & services, other than construction); provides for interest payments on late payments by local governmental agencies; allows for dispute resolutions.
<a href="#">§255.05</a>	Bonds	Establishes policy for bonds of contractor constructing public buildings; form; action by claimants.
<a href="#">§286.011</a>	Public Meetings and Records; Inspection; and Penalties	Establishes policy that all meetings of any agency at which official acts are to be taken are public meetings open to the public at all times, and that no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting; requires agency to provide reasonable notice of such meetings; and establishes penalties for violation.
<a href="#">§287.055</a>	Consultants' Competitive Negotiation Act	Establishes policy for the acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services.



<a href="#">§287.057</a>	Procurement of Commodities or Contractual Services	Establishes policy for the competitive solicitation processes to be used in the procurement of commodities or contractual services.
<a href="#">§287.0935</a>	Surety Bond Insurers	Establishes policy for surety bond insurers

### 8.3 County Home Rule Charter and Rules of Procedures

Reference	Subject	Summary
<a href="#">County Charter</a>	County Charter (as amended through November 8, 2016)	Describes the powers and scope of Miami-Dade County government; establishes the roles of the Board of County Commissioners, the County Mayor, and the County Attorney's Office; requires purchases of supplies, materials, and services to be made through competitive bids wherever practicable; requires formal sealed bids to be secured for all such contracts and purchases; allows non-competitive purchases when it is in the best interest of the County and approved by 2/3 <sup>rd</sup> vote of the Board.
<a href="#">County Code 2-1</a>	Rules of Procedure, Three Day Rule, Four Day Rule	Provides the Rules of Procedures for the Board of County Commissioners; provides that items approved at committee meetings recommending the award or rejection of contracts for public improvements and purchases of supplies, materials, and services (including professional services) shall not be subject to the four-day rule; establishes that approvals to exercise OTR terms do not require committee review.

### 8.4 Primary Procurement County Code Requirements

Code Reference	Subject	Summary
<a href="#">2-8.1</a>	Contracts and Purchases, Generally	Requires formal sealed bids for purchases over \$250,000; describes the circumstances under which non-competitive purchases may be approved; establishes requirements for legacy purchases, designated purchases, and single vehicle leases; provides that procurement procedures shall be established by I.O. and approved by the Board.
<a href="#">2-8.1.1</a>	Bid Collusion	Establishes that where two or more related parties submit a bid or proposal for County purchases of supplies, materials, and services, such bids shall be presumed to be collusion although bidders may rebut the presumption through presentation of evidence to the contrary. Prohibits sham or collusive bids and determines that collusive contractors shall be ineligible for award of County contracts.
<a href="#">2-8.1.1.1</a>	Selection Committees and Negotiations	Requires selection and negotiation committees to be taped either by audio or video taping.
<a href="#">2-8.1.4</a>	Prompt Payment	Provides the timeline for which the County shall pay vendors and establishes policies pertaining to interest charges and penalties for late payments.

<a href="#">2-8.1.6</a>	Expedited Purchasing Program (EPP)	Establishes the Expedited Purchasing Program, which may be used for the competitive purchase of supplies, materials, and services, including professional services other than architectural and engineering services which are estimated to cost \$1 million dollars or less.
Code Reference	Subject	Summary
<a href="#">2-8.3</a>	Mayor's Recommendation	Requires the County Mayor to review responses to solicitations and to recommend the appropriate action to the County Commission. The recommendation shall be in writing, filed with the Clerk of the Board, and mailed to all participants no later than 10 days prior to any Commission meeting in which such recommendation is scheduled to be presented. The Board may waive the requirements of this section by a 2/3 vote of the County Commission.
<a href="#">2-8.4</a>	Protest Procedures	Establishes the protest procedures that are available to a participant in a competitive process used for the selection of a person or entity to construct any public improvement, to provide any supplies, materials, or services, or lease of County land; requires requests for responsiveness opinions from the County Attorney's Office.
<a href="#">2-8.9</a>	Living Wage	Provides that County service contractors for covered services shall pay employees a living wage. Covered services include contracts over \$100,000 per year for the following services: food preparation and/or distribution, security services, routine maintenance, clerical or other non-supervisory office work, transportation and parking services, printing and reproduction services, landscaping, lawn, or agricultural services, certain Aviation service contracts.
<a href="#">2-8.10</a>	User Access Program (UAP)	Creates the UAP Program and allows the County to deduct two (2) percent from each invoice with the amount retained by the County to defray the cost of procurement activities.
<a href="#">2-10.4.</a>	Acquisition of professional architectural, engineering, landscape architectural or land surveying and mapping services	Establishes the process for the acquisition of professional architectural, engineering, landscape architectural or land surveying and mapping services.
<a href="#">2-11.1</a>	Conflict of Interest & Code of Ethics	Creates a minimum standard of ethical conduct and behavior for all County officials, officers, and employees.
<a href="#">2-11.1(t)</a>	Cone of Silence	Prohibits certain communications between specific individuals from the advertisement of a solicitation until a recommendation of award. Creates exemptions and establishes penalties.
<a href="#">29-124</a>	Citizens' Independent Transportation Trust (CITT)	Requires CITT review of contracts funded by the People's Transportation Plan or for contracts with a Transit allocation that exceeds \$1 million.

<a href="#">2-1076</a>	Office of the Inspector General	Creates the Office of the Inspector General. Requires ¼ of 1 percent fee to be collected on all County contracts to cover the costs of OIG contract audits; establishes exemptions for the IG contract fee requirements.
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## 8.5 Implementing and Administrative Orders

I.O./A.O. No.	Subject	Procedures Summary
<a href="#">A.O. 2-2</a>	Request for Legal Opinion	Establishes procedures for requests for legal opinions from the County Attorney's Office.

I.O./A.O. No.	Subject	Procedures Summary
<a href="#">I.O. 2-13</a>	Guidelines and Procedures Regarding Legal Opinions with Respect to County Competitive Processes	Authorizes the County Mayor or designee to issue a written request for a Responsiveness Opinion when an issue of responsiveness is identified in response to a solicitation that will affect the ultimate award of the solicitation. Requires responsiveness opinions to be presented to the Board with agenda item.
<a href="#">A.O. 3-19</a>	Prompt Payment	Establishes the policy that payment for all purchases by all Miami-Dade County departments and agencies be made in a timely manner. Requires payment for certain transactions by specific deadlines.
<a href="#">A.O. 3-20</a>	Independent Private Sector Inspector General	Requires all procurement contracts to incorporate a clause which allows the County to engage IPSIG firms.
<a href="#">I.O. 3-21</a>	Bid Protest Procedures	Establishes the policy that the County shall provide a participant in any competitive process the opportunity to protest an award recommendation with respect to County contracts and purchases involving the expenditure of over \$25,000. Establishes the bid protest procedures.
<a href="#">A.O. 3-23</a>	Anti-discrimination in Contracting, Procurement, Bonding, and Financial Services Activities	Establishes County policy to eliminate and prevent discrimination in County contracting, procurement, bonding, and financial services activities because of race, color, religion, ancestry, national origin, gender, pregnancy, age or disability.
<a href="#">A.O. 3-25</a>	Surcharge on Joint Participation	Requires procurement division to review all new and recurring County contracts for the appropriateness of delivering the same commodities and/or services to other municipalities or quasi-governmental entities on an annual basis and to designate eligible contracts as Countywide or Statewide contracts and to impose a fee on the affected contract.
<a href="#">A.O. 3-27</a>	Cone of Silence	Establishes the Cone of Silence procedures and creates exceptions.
<a href="#">A.O. 3-29</a>	Prohibiting Vendors in Arrears	Prohibits contractors that are in arrears to the County in excess of the enforcement threshold from obtaining new County contracts, extensions of contracts or new purchase orders, until such a time as the arrearage has been paid in full or the County has agreed in writing to an approved payment plan.
<a href="#">A.O. 3-30</a>	Living Wage	Establishes the Living Wage procedures and requires affidavit certifications for County contracts.

<a href="#">I.O. 3-34</a>	Selection Committees	Provides internal administrative processes for the creation of fair, impartial, object, and qualified selection committees for the evaluation of offers or proposals.
<a href="#">A.O. 3-35</a>	Purchasing Card Program	Establishes policies related to the purchasing card program.
<a href="#">I.O. 3-38</a>	Purchasing of Goods and Services	Governs the County's processes and procedures for the purchase of goods and services including professional services. It establishes the roles and responsibilities of the Internal Services Department, methods of purchasing goods and services, and the authority to award contracts. Contains requirements for access contracts, emergency purchases, bid waivers, confirmation purchases, and sole sources.

<b>I.O./A.O. No.</b>	<b>Subject</b>	<b>Procedures Summary</b>
<a href="#">AO3-39</a>	Standard process for construction of Capital improvements, acquisition of professional services, construction contracting, change orders and reporting	Governs all phases of the capital improvement construction process including, but not limited to planning, design, and construction.
<a href="#">I.O. 3-55</a>	Green Business Certification Program	Establishes a voluntary Green Business Certification Program.
<a href="#">I.O. 7-7</a>	Public Service Honor Code	Establishes policy that all elected and appointed County officials and County employees shall adhere to the Public Service Honor Code, as described therein.
<a href="#">A.O. 11-3</a>	Life Cycle Costing Procedures	Requires life cycle analysis that considers maintenance, repair, energy costs and other expenditures associated with day-to-day operations for certain commodities.

## 8.6 Procurement Related Policies and Directives

Resolution No.	Subject	Policy/Directive
<a href="#">R-234-01</a>	Negotiate Changes for Revenue Generating Contracts	Grants the Mayor the authority to negotiate changes in contracts, permits and concessions that are about to expire to assure that the County does not lose revenue opportunities due to delays in obtaining a successor contract.
<a href="#">R-1204-05</a>	Outsourcing	Directs the Mayor to evaluate in-house capabilities and expertise prior to contracting the services of outside consultants.
<a href="#">R-130-06</a>	Contract Execution	Prohibits agenda items seeking approval of a contract or conveyance and authority to execute the same from being placed on any Committee or Commission agenda unless the underlying contract or conveyance is completely negotiated, in final form, and executed by all non-County parties.
<a href="#">R-841-06</a>	Deadline for Award of Successor Contracts	Directs the Mayor to seek approval for award of successor contracts or extensions 30 days prior to contract expiration.
<a href="#">R-1038-06</a>	Delegation of Authority	Directs the Mayor to specify the dollar amount of delegated authority in the titles of ordinances and resolutions delegating contract authority to the County Mayor.
<a href="#">R-1433-06</a>	Option to Renew, Small Business Review	Directs the Mayor to develop an administrative process to review all contracts for procurement of goods and services for opportunities for Small Business Enterprise participation prior to exercising the Options-to-Renew.
<a href="#">R-734-09</a>	Total Contract Value	Directs the Mayor to state in each memorandum recommending the award of a contract the total cost of the contract including options to renew.
<a href="#">R-749-09</a>	Material Contract Breach	Directs the Mayor to notify the Board of County Commissioners when the County waives any material breach of a contract or extends a contract cure period beyond 30 days.
<a href="#">R-1053-09</a>	Green Procurement Preference Program	Directs the Mayor to prepare a “green” procurement preference program for the purchase of environmentally responsible products and services.
<a href="#">R-98-12</a>	Negotiations, Options to Renew	Directs the Mayor to attempt to negotiate better prices on all awarded contracts for the purchase of goods and services prior to the exercise of any options-to-renew, to include a summary of efforts to negotiate better pricing in OTR recommendations before the Board. Additionally, delegates the authority to the Mayor to amend contracts to provide better prices for the County.
<a href="#">R-187-12</a>	Due Diligence	Directs the Mayor to include due diligence information in memoranda recommending certain contract awards.
<a href="#">R-395-12</a>	Ratification of Vendors Added to Pool	Requires vendors added to open pool contracts to be subject to bi-annual ratification by the Board of County Commissioners.

<a href="#">R-716-12</a>	Certification Identification on Board Memos	Directs the Mayor to identify certified SBE, CBE-AVE, CSBE, DBE, and ACDBE firms in any procurement item submitted for Board approval.
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Resolution No.	Subject	Policy/Directive
<a href="#">R-449-14</a>	Commission Auditor to Conduct Background Checks on Members Serving on Evaluation Committees	Directs the Commission Auditor to conduct background checks on the members serving on evaluation committees for any contracts that are to be awarded by the Board.
<a href="#">R-454-13</a>	Emergency Contracts, Retroactive Contract Modifications	Directs the Mayor to bring emergency contract ratifications to the Board within 120 days of such emergency and to bring retroactive contract modifications to the Board within 120 days of modifications.
<a href="#">R-140-15</a>	Scope of Services	Directs the Mayor to conduct a full review of the scope, prior to the re-procurement of replacement contracts for goods or services to ensure such contracts reflect the current needs of the County, to include information in recommendations to the Board, and to consult with the Office of Small Business Development regarding solicitation contract language.
<a href="#">R-1011-15</a>	Local Address of Awarded Vendors	Directs the Mayor to require that vendors provide addresses of all local branch offices and headquarters and the number and percentage of local residents such vendors employ, and directs the Mayor to include such information in the memorandum to Board pertaining to vendor being recommended for contract award.
<a href="#">R-1106-15</a>	<a href="#">Diversity in Contracting</a>	<a href="#">Sets aspirational policy of Miami-Dade County that all individuals and entities in Miami-Dade County have a full, fair and meaningful opportunity to participate in County-funded contracting regardless of race, gender or ethnic origin, directing the County Mayor to include descriptive language in all County contracts.</a>
<a href="#">R-500-16</a>	Polystyrene	Establishes County policy to eliminate the purchase of disposable polystyrene products whenever possible.
<a href="#">R-391-17</a>	Competition, Contract Extensions, Mayor's Recommendation	Directs the Mayor to conduct competitive selections whenever feasible instead of expanding the term or services under existing contracts, to include in any recommendation to the Board for the expansion of term or services under existing contracts a written justification of why a competitive process is not feasible, to include to the maximum extent possible in any proposed expansion of term or services any requirements of Ordinance or Resolutions adopted by the Board subsequent to the initial contract and to report to the Board in the recommendation which requirements were adopted and rejected.

<a href="#">R-718-17</a>	Re-procurement Planning	Directs the Mayor to commence planning for re-procurement no later than 18 months PRIOR to the expiration of contracts and Lists of Prequalified Vendors for the purchase of goods and/or services; and directs the Mayor or their designee, on a quarterly basis to identify in writing to the Office of Commission Auditor those contracts and prequalified vendor lists that are set to expire no later than 18 months prior to expiration.
<a href="#">R-477-18</a>	Vendor(s) Recommended	Directs the Mayor or Mayor's designee to disclose to Board reasons goods and services are not being procured through local businesses when recommendation is to award contract to non-local vendor or
<b>Resolution No.</b>	<b>Subject</b>	<b>Policy/Directive</b>
		establish a prequalification pool of vendors where less than 75% of the pool members are local businesses.

### 8.7 Other County Code Provisions

Code Reference	Subject	Summary
<a href="#">2-8.2.5</a>	Aviation Department Procurement	Authorizes the Mayor to advertise any proposed contract administered by the Aviation Department without prior approval by the Board.
<a href="#">2-8.2.7.01</a>	Miscellaneous Construction Contracts Program	Creates the MCC program in order to enhance the contracting opportunities of Community Small Business Enterprises and to facilitate and expedite the award of construction contracts to small businesses. Creates the 7040 Plan and the 7360 Plan and establishes procedures.
<a href="#">2-8.2.10</a>	Procurement Policy for Contracts funded by BBC-GOB	Establishes policies pertaining to capital projects that are funded in whole or in part by the Building Better Communities General Obligation Bond Program; provides that projects constructed by a municipality or non-profit shall utilize their own procurement procedures.
<a href="#">2-8.2.11</a>	WASD Contracting Authority	Details the County Mayor's authority with respect to Water and Sewer Department Contracts.
<a href="#">2-8.2.12</a>	WASD Consent Decree	Provides for the acceleration of Miami-Dade Water and Sewer Department Consent Decree and Capital Improvement Program projects, establishes policies and procedures for the approval of contracts related to those projects.
<a href="#">2-10.1</a>	Joint Purchases	Authorizes the County Mayor to include a Joint Purchase Provision in contract documents for County purchases and allows the County Mayor to establish a surcharge as a percentage of the purchase price to be charged to the accessing entity.
<a href="#">2-10.6</a>	Competitive Bidding for Bond Transactions, Underwriters Pool	Establishes the policies and procedures with respect to bond transactions and the County's bond underwriting procurements.
<a href="#">10-38</a>	Debarment	Establishes County policy to solicit offers from and award contracts to responsible contractors only and creates procedures for the debarment of contractors.



## 8.8 Vendor Registration Requirements and Affidavits

Reference	Subject	Summary
<a href="#">2-8.1.2</a>	Drug-free workplace requirement for County Contractors	Establishes County policy that the award of a County contract will be conditioned upon the recommended vendor agreeing to provide a drug-free workplace.
<a href="#">2-8.1.5</a>	Nondiscrimination	Establishes County policy that the award of a County contract (for entities with annual gross revenues over \$5 million) shall be conditioned upon the recommended vendor agreeing to affirm that it does not discriminate in its employment or promotion practices.
Reference	Subject	Summary
<a href="#">2-8.6</a>	Contracts with Individuals/Entities Convicted of Felony	Requires any individual or corporation who has been convicted of a felony during the past ten years to disclose the information at the time of bid or proposal submission.
<a href="#">2-8.8</a>	Fair Subcontracting Practices	Establishes policy to promote diversity in the use of subcontractors of Miami-Dade County projects and to allow opportunities for subcontracting to as many qualified subcontractors as possible.
<a href="#">R-183-00</a>	Family Leave	Requires compliance with family leave requirements a condition of award by including existing requirements in contractual terms.
<a href="#">R-63-14</a>	Due Diligence Affidavits	Requires potential vendors to submit an affidavit detailing history of lawsuits, defaults, debarment, and non-performance within the past five (5) years as a condition of contract award for contracts requiring Board approval.
<a href="#">R-1072-17</a>	Pay Parity Affidavit	Requires compliance with various legislation on equal pay as a condition of award by including existing requirements in contractual terms as well as submission of an affidavit attesting commitment to such compliance as part of the County's Vendor Registration process.

## 8.9 Small Business, Local, and Veterans Preferences (Not applicable to Federally Funded Purchases)

Reference	Subject	Summary
<a href="#">2-8.1.1.1.1</a>	Small Business Enterprise Services Program	Provides definitions and eligibility for participation in SBE Services program, establishes criteria for contract measures (set-asides, subcontractor goals, bid preference, selection factor); provides for sanctions and penalties for vendor non-compliance.
<a href="#">2-8.1.1.1.2</a>	Small Business Enterprise Goods Program	Provides definitions and eligibility for participation in SBE Goods program, establishes criteria for contract measures (set-asides, subcontract goals, bid preference, selection factor); provides for sanctions and penalties for vendor non-compliance.
<a href="#">2-8.2.2</a>	Sanctions	Requires the County Mayor to include language in all prospective contracts containing a DBE goal to establish sanction for a contractor to meet a DBE goal. Conditions the contractor's ability to receive another County contract upon the contractor making up the deficit in DBE participation.



<a href="#"><u>2-8.5</u></a>	Local Business and Locally Headquartered Business Preference	Provides definitions, establishes a preference for local businesses and locally headquartered businesses, establishes exceptions, and allows for reciprocity agreements.
<a href="#"><u>2-8.5.1</u></a>	Service Veteran Business Enterprise Preference	Provides definitions and establishes a preference for local certified veteran business enterprises in County contracting.
<a href="#"><u>I.O. 3-41</u></a>	SBE Program	Establishes procedures related to the Miami-Dade County Small Business Enterprise Program.
<a href="#"><u>R-422-15</u></a>	Local Products Preference	Establishes preference for the purchase of goods produced or manufactured in Miami-Dade County and directs the Mayor to include appropriate language in solicitation documents and contracts to give effect to the same.

## SECTION 9 INTERNAL PROCEDURES MANUAL

**The Internal Procedures Manual is a comprehensive guide to assist procurement staff with procurement processes; it includes checklists, and guidance for the acquisition process and contract management and administration.**

**MIAMI-DADE COUNTY  
SPD INTERNAL  
PROCEDURES MANUAL**

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## **MIAMI-DADE COUNTY SPD INTERNAL PROCEDURES MANUAL**

### **Introduction**

Miami-Dade County purchasing activities are governed by laws established through federal regulations, state statutes, and the Miami-Dade County Code. Additionally, Administrative and Implementing Orders as well as resolutions approved by the Board of County Commissioners prescribe processes for conducting County purchasing activities.

Strategic Procurement Department (SPD) is the central procurement office of Miami-Dade County. The Department is responsible for the management of County purchasing for goods and services, design and construction, construction management services, and supply management. This manual addresses the purchases for goods and services.

### **Procedures**

SPD provides procurement services to all County departments and certain County agencies, assisting them in achieving their purchasing goals while promoting adherence to applicable legislation, policies and procedures. The objective of the procedures is to standardize procurement actions in SPD thereby ensuring consistent and uniform application of the procurement process. Standardization also improves efficiencies and promotes accountability.

These procedures document steps and actions to complete purchasing activities and should be considered a general guide. Staff is responsible for effective decision-making to achieve desired outcomes while complying with applicable legislation and policy. While the procedures list the general order of steps that should be followed to execute a particular action, multiple steps can often be worked on simultaneously. Staff is encouraged to work closely with their team members, colleagues, and the Procurement Contracting Manager to achieve full compliance with governing policies, procedures, and legislation while effectuating the purchasing goals of individual client departments.

### **Guides**

This section of the manual documents the steps to complete some of the routine activities in INFORMS. This section also includes a Market Research Guide and Delegated Authority Chart for reference. Additionally guides such as determining insurance requirements and small business measures will be forthcoming.

### **Legislation**

Links to the majority of the legislation governing the procurement process are included. Any County staff-member performing a procurement activity is responsible for understanding and abiding by the legislation relevant to that activity.

### **Updates**

Updates to this manual will be provided periodically, as needed. Communication regarding changes in policies and legislation (including the creation of new legislation) will continue to be issued to the entire SPD staff in a timely manner via e-mail, team meetings or all-division staff meetings.

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**DEFINITIONS**

<b>Term</b>	<b>Definition</b>
Award Sheet	Payment of County contracts are summarized and published on the internet as award sheets. The award sheets are created and updated in the e-Procurement system.
Bid Tracking System (BTS)	A web-based, highly customized procurement reporting system that supplements the functionalities of INFORMS.
Bid Waiver (BW)	A purchase of a good or service without formal competitive bidding.
Confirmation Purchase	The ratification of an unauthorized purchase that is not in compliance with policies and procedures.
Contracting Officer (CO)	The person responsible for the placement and administration of the contract. This may be a Procurement Contracting Manager, Procurement Contracting Officer, Procurement Contracting Associate, or any other person in a procurement position.
Emergency Purchase	An unforeseen or unanticipated urgent and immediate need for goods or services when the protection of life, health, safety or welfare of the community or the preservation of public properties would not be possible using normal purchasing procedures.
Formal Purchase	A purchase of any amount for which a formal process is used.
Informal Purchase	A purchase of up to and including \$250,000 for which an informal process is used.

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Integrated Financial Resources Management System (INFORMS)	The County's mainframe "System of Records" for all Miami-Dade County procurement. The lifecycle of a procurement generally starts with the creation of a "Requisition" in INFORMS. All County contract allocations, purchase
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	orders, and invoices are managed and approved in INFORMS.
Invitation to Bid (ITB)	Process used to solicit competitive sealed bids, including establishing pre-qualification pools and contracts for formal purchases of any amount.
Invitation to Quote (ITQ)	Process used to solicit competitive quotes, including quotes under pre-qualification pools for any amount and establishing a contract for informal purchases totaling \$250,000 or less.
Market Research	Process of collecting and analyzing data regarding the market for a good or service to determine the best, most efficient approach to acquiring the good or service.
Non-Competitive Purchase	Purchases made without using the competitive bidding process. This occurs when competition is not available or when it is determined to be in the best interest of the County.
Other Governmental Entity Contract	A competitive contract awarded by any governmental entity or not-for-profit organization.
Project Administration	An e-Procurement system developed by the County which provides for an electronic reviewing and approval process for certain actions. The system is composed of three modules: advertisement, award, and contract modifications. A module to process options to renew is in development.
Request for Proposal (RFP)	A solicitation that is evaluated and awarded based on best value rather than upon the lowest price.
Scope of Services	Also known as "Specifications", the material and operating requirements of goods or services. The scope is provided by the client department and included in the solicitation and contract.
Sole Source (SS)	A non-competitive purchase used when there is only one source of supply and an equal product or service is not available from any other source.
Strategic Procurement Department	County department created by the consolidation of General Services Administration and Procurement Management, along with the Offices of Americans with Disabilities Act Coordination and Capital Improvements.

Vendor Assistance	The centralized unit within SPD where firms/vendors are provided information on how to do business with Miami-Dade County and how to become a registered vendor.
Work Order Proposal Request	A solicitation issued to vendors in a pre-qualified pool that is evaluated and awarded based on best value rather than upon the lowest price.

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**1. Competitive Contracts**

**Policy Statement:** It is the policy of Miami-Dade County to purchase goods and services using full and open competition, unless it is determined to be in the best interest of the County to award a non-competitive contract.

**Authority:** Pursuant to **Section 2-8.1 of the Miami-Dade County Code, Contracts and Purchases Generally**, the Mayor, or Mayor's designee, has the authority to advertise County contracts for goods and services. The Mayor has delegated this authority to the Strategic Procurement Department (SPD) Director.

Pursuant to **Section 2-8.1 of the Miami-Dade County Code, Contracts and Purchases Generally**, the Mayor, or Mayor's designee, has the authority to award competitive County contracts for goods and services costing \$1,000,000 or less. The Mayor has delegated this authority to the SPD Director, up to \$500,000. Any contract that costs more than \$1,000,000 in the aggregate for the entire contract term, including options to renew, requires Board of County Commissioners approval.

**Purpose:** The purpose of this process is to advertise and award a competitive contract. This is the standard procurement method to be used for all contracts, except those for which it has been determined to be in the best interest of the County to award a non-competitive contract (Bid Waiver or Sole Source). Accessing another entity's competed contract that meets the County standards for competition is considered a competitive award but procedures for such a contract are addressed in a separate section since the contract was already competed.

The client department is responsible for justifying the need for the contract, performing market research, and preparing their technical specifications or scope of work. SPD is responsible for verifying the market research, preparing the solicitation, determining the method of award, issuing the solicitation, conducting the pre-bid conference, issuing addendum, coordinating evaluation of the responses, chairing the Evaluation/Selection Committee meetings for RFPs/RFQs, conducting negotiations, and preparing the award recommendation.

These procedures are an overview of the process and responsibilities. The checklists in the Master folders should be used for each solicitation as they provide a comprehensive list of actions and promote efficient project tracking.

Solicitation Preparation Procedures	
Steps	Actions
Submittal to SPD	Client department posts a requisition and forwards scope of services to Manager for assignment. For replacement contracts, often a client department will forward the request directly to the CO assigned to the contract. In which case, the CO should advise the Manager.



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<b>Solicitation Preparation Procedures</b>	
<b>Steps</b>	<b>Actions</b>
Scope Review	In accord with Resolution No. R-140-15, prior to the re-procurement of a replacement contract, a full review of the scope of services set forth in the replacement solicitation shall be conducted with any and all user departments of the goods or services sought to be procured to assure that the request accurately reflects the County's current needs. The PCO shall also consult with the Office of Small Business Development to ensure that all information included in the replacement solicitation is current and necessary to the County's solicitation of such good or service.
CO Review	Manager will assign a CO. The CO will review the request from client department. CO should discuss with client department their market research and ask for documentation as needed.
Market Research	<p>CO will conduct market research to verify client department's research, identify potential proposers, review other entities' contracts for sample language and to potentially access, and to ensure that competitive bidding is the best option.</p> <p>Based on the market research, CO may determine that accessing another entity's contract is in the County's best interest. In which case, CO should discuss with their Manager and refer to the Accessing a Contract section.</p> <p>See Market Research Guide for information about conducting and documenting research.</p>
Future Solicitation Posting	Once CO has determined that the scope of services is complete, the CO will post it on the Future Solicitation website for comments. The CO may also use the posting to solicit feedback from vendors regarding aspects of a solicitation such as minimum qualifications or pricing structure.
Small Business	If the dollar value of the purchase exceeds \$50,000, CO will forward input document to Small Business Development (SBD) for review along with the scope of services. SBD should provide a response within 3 business days. CO will incorporate the SBD recommendation into the solicitation.
Insurance Requirements	CO will review specifications to determine if insurance is required. If unsure of whether insurance is needed, CO can forward specifications and recommended insurance to SPD, Risk Management Division for a determination.
Draft Solicitation	CO will prepare draft solicitation using the Master file documents to include terms and conditions, scope of services, scoring criteria, pricing, affidavits, etc. CO should work with client department during solicitation development to ensure the solicitation will meet the client department's needs.

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Client Department Approval	CO will work with client department contact to gain approval of draft solicitation by client department director or designee. For solicitations with multiple departments, pick the department with the most use and/or most funding. CO may also choose to request a response from multiple departments.
<b>Solicitation Preparation Procedures</b>	
<b>Steps</b>	<b>Actions</b>
ITB	The CO will prepare an ITB in INFORMS. The system will send the ITB directly to VA once posted.
PA Advertisement Module	<p>CO will prepare PA advertisement module and upload the following:</p> <ul style="list-style-type: none"> <li>• Draft Market Research Form</li> <li>• Draft solicitation</li> <li>• SBD determination</li> <li>• Insurance determination, if any</li> <li>• Client Department Director or designee approval of solicitation</li> <li>• Any other relevant documents</li> </ul> <p>The CO and Manager should work together to determine when the solicitation is ready for routing to the Manager in PA. Some managers may want to review the solicitation for some CO's prior to receiving the item in PA and/or prior to the CO sending the solicitation to the client department for approval.</p> <p>The completed module will be forwarded to Manager who will review and work with CO to finalize Market Research and solicitation before forwarding to VA. The ITB and PA advertisement will be matched by VA, a number will be assigned (if ITQ/ITB), and PA advertisement will be returned back to CO. For RFPs/RFQs, a number can be assigned any time through VA.</p>

<b>Advertisement Procedures</b>	
<b>Steps</b>	<b>Actions</b>
Submittal to County Attorney	CO will submit RFPs/RFQs to County Attorney for legal sufficiency. Work with the Manager to gain approval to submit the document.

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Advertise	<p>CO will issue the solicitation in the system to the registered vendors for the applicable commodity code, and will solicit other identified potential vendors and any SBE firm registered for the commodity code. Allow a minimum of 14 days for formal solicitations, but otherwise establish the opening date based on the project timeline, complexity of the requested proposal, availability of staff to open the proposals, etc.</p> <p>Information regarding all solicitations, including quotations issued by County departments, must be provided to the Office of Small Business Development (SBD) of the Internal Services Department for placement on the Cone of Silence Report upon advertisement. The report is published daily. The information to be forwarded to SBD includes the project number and title, advertisement date and any other information required by SBD for public notice of the Cone of Silence.</p>
<b>Advertisement Procedures</b>	
<b>Steps</b>	<b>Actions</b>
Addendum	CO will collect questions received and prepare responses, coordinating responses with the client department for questions regarding the scope of services. CO will review the addendum with the Manager to gain approval to issue it.
Solicitation Closing Date	On the closing date.

<b>Evaluation Procedures</b>	
<b>Steps</b>	<b>Actions</b>
Review for Responsiveness	CO will review the bids or proposals for responsiveness. Any concerns will be discussed with the Manager. The Manager will guide the CO on when and how to refer responsiveness requests to the County Attorney.
Prepare Tally for ITBs	CO will prepare tally. The tally is a summary of the bids and an indication of the status of the bid such as responsive, local preference eligible, etc. (See Master drive folder for sample.)
Prepare Summary for RFPs/RFQs	<p>CO has the option of preparing a summary for proposals. The summary includes information such as the forms submitted, compliance with minimum requirements, preferences, etc. (See RFP drive/ Master folder for sample.)</p> <p>This summary is used if there are large quantities of proposals or there are many qualification requirements that need to be checked and documented.</p>

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Conduct Evaluation/ Selection Committee Meetings	CO will schedule Evaluation/Selection Committee meetings, book the conference room, and metro calendar the meetings. CO will also prepare the agendas and Committee packages.  Note: The Committee establishment and role is provided for in I.O. 3-34, Formation and Performance of Selection Committees. The evaluation process is detailed in the solicitation.
County References	Bids or proposals that include recommendation letters from County employees should be brought to the Manager's attention. Generally, a County project manager listed as a reference is acceptable while a letter recommending a firm by a County employee may not be per Section-11.1(p) of the Miami-Dade County Code.  Pursuant to the Ethics and Public Trust Commission Opinion RQO 05-27, respondents requesting professional references from Miami-Dade County employees must submit the request in writing, to the attention of the County employee with a copy to the COB.
<b>Evaluation Procedures</b>	
<b>Steps</b>	<b>Actions</b>
Consider Measures and Preferences	CO will apply preferences as applicable. Refer to Contract Measures and Preferences section.
Compliance Check	Complete review of compliance elements on the <i>Pre-Award Vendor Compliance</i> webpage. Copy each relevant page of the lists checked and compile into one document. (See DPM_Files/RFP/Master Folder/Evaluation <i>Contract Compliance</i> sample document.)
Reference Checks	CO will check the references for recommended vendors as applicable.
Report of the Chairperson for RFPs/RFQs	CO will prepare the Report of the Chairperson which will detail the outcome of the evaluation and the Committee's recommendation. (See RFP drive/Master Folder/Evaluation/SC Memo to Director as a guide.)  This Report is routed to the SPD Director for review and approval.

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<b>Contract Award Procedures</b>	
<b>Steps</b>	<b>Actions</b>
Administrative Signature	Once County Attorney signs the contract, CO will route original contracts to SPD Director's Office for administrative signature.
Clerk of Board Execution	<p>Once administration signs contract, CO will route to the Clerk of the Board for execution. CO may date contract if a specific start date is needed, otherwise the Clerk will date the contract.</p> <p>The Clerk will keep an original contract. CO will send an original contract to the vendor and a copy to the client department. CO will place an original contract in the file.</p>
Contract Activation	<p>After approvals, PA will be returned to Manager who will forward to VA. Upon receiving approved PA award module from Manager, or approval by Board, and approval of insurance certificates, if applicable, VA will activate the contract in INFORMS.</p> <p>VA will first check Risk Management Insurance Certificate system to see if vendor(s) already has appropriate insurance on file. If not, VA will request insurance certifications from vendor(s) if not provided from CO.</p>
Close Out	<p>CO will:</p> <ul style="list-style-type: none"> <li>• check information fields in INFORMS to ensure accuracy;</li> <li>• issue a blanket purchase order in INFORMS, or purchase order if one- time purchase, and forward to the user department; and</li> <li>• issue award sheet and roadmap, as applicable.</li> </ul>

## 2. Contract Measures and Preferences

**Policy Statement:** It is the policy of Miami-Dade County to afford small, veteran-owned, and local businesses preferences in the evaluation of bids and proposals for the purchase of goods and services using the competitive process.

**Authority:** Pursuant to **Section 2-8.1.1.1.1 of the Miami-Dade County Code, Small Business Enterprise Programs**, contract measures for Small Business Enterprises (SBE) are applicable to ITBs and RFPs.

Pursuant to **Section 2-8.5.1 of the Miami-Dade County Code, Procedure to Provide Preference to Local Certified Veteran Business Enterprises in County Contracts**, a preference for Veteran businesses is applicable to ITBs and RFPs.

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Pursuant to **Section 2-8.5 of the Miami-Dade County Code, Procedure to Provide Preference to Local Business in County Contracts**, a preference for Local businesses is applicable to ITBs and RFPs. Additionally, a preference for Locally Headquartered businesses is applicable to ITBs.

Purpose: The purpose of this process is to apply contract measures and preferences in the competitive process. The Manager will approve the application of contract measures and preferences.

The Small Business Division (SBD) of ISD is responsible for registering small businesses and administering the small business program. SPD is responsible for working with SBD to determine the small business measure, inserting all applicable measures and preferences in the solicitation, evaluating compliance of bids and proposals with the measures, applying the measures and preferences in the evaluation of bids, and guiding the E/S Committee on the application of the measures and preferences in the evaluation of proposals.

Applying Contract Measures and Preferences Procedures	
Steps	Actions
SBD Input	<p>For solicitations up to \$50,000, CO will determine applicable SBE contract measure but can consult SBD if needed.</p> <p>For solicitations over \$50,000, CO will prepare Contract/Project Measure Analysis and Recommendation and submit to SBD along with the scope of services.</p>

Applying Contract Measures and Preferences Procedures	
Steps	Actions
SBE Contract Measures	<p>For all solicitations funded in whole or in part by County funds, an SBE contract measure can be applied in accordance with the legislation.</p> <p><b><u>Exceptions</u></b></p> <ul style="list-style-type: none"> <li>• not applicable to solicitations that do not include County funds</li> <li>• not applicable where federal or state laws or regulations mandate to the contrary, such as in most grant-funded projects</li> <li>• not applicable to contracts that are not competed</li> </ul>

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Types of Contract Measures	<p><b><u>For ITBs or RFPs</u></b>  Set-Aside – a contract for competition among SBEs  Subcontractor Goal – portion of a contract to be subcontracted to SBEs</p> <p><b><u>For ITBs</u></b>  Bid Preference – amount deducted from the total bid price to calculate the bid price for evaluation – on contracts \$1 million or less it is 10% from the bid price and over \$1 million it is 5% from the bid price</p> <p><b><u>For RFPs</u></b>  Selection Factor – additional 10% percent of the evaluation points scored on the technical criteria for a proposal – only applied to RFPs over \$50,000</p> <p>Contract measures are not mutually exclusive, as more than one can apply to a contract.</p>
Selection of a Contract Measure	<p>For solicitations of \$100,000 or less, a set-aside shall apply unless there is either not enough capacity (i.e., less than 3 SBEs available) or the contract can only be handled by a non-SBE. In which case, ITBs will have a 10% micro business enterprise bid preference and RFPs over \$50,000 will have a selection factor.</p> <p>For solicitations over \$100,000, SBD will determine the applicable measure or preference based on availability, the best interest of the County, estimates of the type of subcontracting opportunities provided by the contract, and the type of solicitation.</p>
Veteran Preference	For all solicitations, a Local Certified Veteran Business preference applies, except where federal or state laws or regulations mandate to the contrary.
Local Preference	<p>For all solicitations, a Local Business preference applies, except when prohibited by federal or state law.</p> <p>For ITBs, a Locally-Headquartered preference applies, except when prohibited by federal or state law.</p>

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<b>Applying Contract Measures and Preferences Procedures</b>	
<b>Steps</b>	<b>Actions</b>
Prepare Solicitation	<p>CO will insert all applicable contract measures and preferences in the solicitation. The master documents for ITBs and RFPs already have language to address each. CO will review the language and adjust it as necessary to reflect the applicability of each. CO will include a Schedule of Intent in solicitations that are set-aside or have a subcontractor goal.</p> <p>For ITBs, the standard language is in the terms and conditions. CO will specify in Section 2, Special Conditions, if there is a change to the language.</p> <p>For RFPs, the standard language is in Section 1 for a set-aside or subcontractor goal and Section 4 for a selection factor. CO will adjust the language to specify which contract measure and preference is applicable.</p>

<b>Set-aside or Subcontractor Goal Compliance in Bids and Proposals Procedures</b>	
<b>Steps</b>	<b>Actions</b>
SBE Set-aside	For solicitations that are set-aside, CO will check the Schedule of Intent and the small business list to determine if bidder or proposer, and all subcontractors, are certified for the commodity that applies to the solicitation.
SBE Subcontractor Goal	For solicitations with a subcontractor goal, CO will check the Schedule of Intent and the small business list to determine if subcontractor is certified for the commodity that applies to the solicitation and that the percent of work to be completed by the subcontractor meets the goal.
SBD Verification	<p>CO will forward the Schedule of Intent to SBD for verification that the bidder or proposer met the contract measure.</p> <p>If a bidder or proposer did not submit a Schedule of Intent, or a bidder, proposer or subcontractor is not on the small business list or is not certified for the commodity that applies to the contract, CO will bring this information to the Manager for a decision.</p>



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<b>Bid, Veteran and Local and Locally-Headquartered Preferences in the Evaluation of Bids Procedures</b>	
<b>Steps</b>	<b>Actions</b>
SBE Bid Preference	<p>For ITBs \$100,000 or less with a bid preference, determine which bidders meet the requirements to receive the micro business enterprise bid preference.</p> <p>For ITBs over \$100,000 with a bid preference, determine which bidders meet the requirements to receive the small business enterprise bid preference.</p> <p>A bidder must be certified by SBD for the commodity to be purchased and must be an SBE or micro, as applicable, to receive the preference. If bidder meets the requirements, subtract the applicable percentage from its bid price to arrive at the price that will be used for evaluation.</p>
Veteran Preference	<p>CO will determine which bidders meet the requirements to receive the veteran preference. A bidder must meet the local preference requirements, be on the state veteran business list, and not have received an SBE bid preference to receive the veteran preference.</p> <p>After applying the SBE contract measures, if a bidder meets the veteran preference requirements, subtract 5% from its bid price to arrive at the price that will be used for evaluation.</p>
Local and Locally-Headquartered Determination	<p>CO will determine if low bidder is local or locally headquartered after applying the SBE and Veteran preferences.</p> <p>Local business:</p> <ul style="list-style-type: none"> <li>• has a physical business address located within the limits of Miami-Dade County from which the firm operates or performs business;</li> <li>• has a valid business tax receipt issued by Miami-Dade County at least one year prior to bid or proposal submission or, for firms which are exempt from the business tax receipt requirements, has submitted documentation to the County's satisfaction demonstrating the physical business presence of the firm in Miami-Dade County for at least one year prior to bid or proposal submission; and</li> <li>• contributes to the economic development and well-being of Miami-Dade County in a verifiable and measurable way.</li> </ul> <p>Locally-Headquartered business:</p> <ul style="list-style-type: none"> <li>• meets the requirements for a local business; and</li> <li>• has a principal place of business in Miami-Dade County (principal place shall mean the nerve center, the center of overall direction, control, and coordination of the activities of the firm, or the only business location)</li> <li>• A bidder or proposer that meets the local business requirements shall be considered a local business. Similarly, a bidder that meets the locally-headquartered requirements shall be considered a locally-headquartered business.</li> </ul>

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<b>Bid, Veteran and Local and Locally-Headquartered Preferences in the Evaluation of Bids Procedures</b>	
<b>Steps</b>	<b>Actions</b>
Local Preference and Locally-Headquartered Preference	<ul style="list-style-type: none"> <li>• If low bidder is locally headquartered, no further action is needed.</li> <li>• If low bidder is local and is not locally headquartered, and no bidder is within 5% of the low bid (calculated by using the low bid price and adding 5%), no further action is needed.</li> <li>• If low bidder is local and is not locally headquartered, and a bidder is within 5% of the low bid and is locally headquartered, the low bidder and all locally-headquartered bidders that are within 5% of the low bid shall have the opportunity to submit a Best and Final Offer equal to or lower than the low bid.</li> <li>• If low bidder is not local, and a local bidder is within 10% or locally-headquartered bidder is within 15%, the low bidder and all local bidders within 10% and locally-headquartered bidders within 15% of the low bid shall have the opportunity to submit a Best and Final Offer equal to or lower than the low bid.</li> </ul>

<b>Selection Factor, Veteran Preference and Local Preference in the Evaluation of Proposals Procedures</b>	
<b>Steps</b>	<b>Actions</b>
SBE Selection Factor	<p>CO will determine which proposers qualify for the selection factor. Upon completion of the scoring for the technical points, CO as Chairperson will advise E/S Committee which proposers qualify for the selection factor and instruct the members to add 10% to the technical scores for those proposers.</p> <p>If oral presentations are held, the E/S Committee will re-rate the proposals. CO will instruct the E/S Committee to recalculate the selection factor to be sure they are adding 10% to the post-oral technical score.</p>
Veteran Preference	<p>CO will determine which proposers meet the requirements to receive the veteran preference. Proposer must meet the local preference requirements, be on the state veteran business list, and not have received an SBE selection factor to receive the veteran preference.</p> <p>Upon completion of the scoring for the technical points and applying the SBE measures, CO as Chairperson will advise E/S Committee which proposers qualify for the veteran preference and instruct the members to add 5% to the technical scores for those proposers.</p>

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<b>Selection Factor, Veteran Preference and Local Preference in the Evaluation of Proposals Procedures</b>	
<b>Steps</b>	<b>Actions</b>
Local Preference	<p>CO will determine which proposers meet the requirements to receive the local preference. The requirements are listed above.</p> <p>If, following the completion of final rankings (technical and price combined, if applicable), a non-local business is the highest ranked proposer, and the score of a local proposer is within 5% of the score obtained by the non-local proposer, then the highest ranked local proposer shall have the opportunity to proceed to negotiations. CO will instruct E/S Committee on the application of local preference and the recommendation.</p>

### 3. Tie Breaker

**Policy Statement:** Bids submitted by two or more bidders have identical pricing after application of preferences, if any, the tie shall be broken by giving preference to the business that employs more staff that reside in Miami- Dade County, if applicable.

**Authority:** Section 2-8.5 (2) of the Miami-Dade County Code, Procedure to Provide Preference to Local Business in County Contracts and Resolution No. R-1574-88, Directing Award of Contracts to Local Bidder when Two Equal Bids Submitted.

**Purpose:** To apply a uniform process in order to determine award of the lowest responsive, responsible bidder for ITBs or ITQs. As a general policy, all issues encountered that require a Procurement Contracting Officer (PCO) to contact a bidder, such as a tie bid, should first be discussed with the Procurement Contracting Manager (PCM) for guidance and concurrence.

<b>Tie Breaker Procedure</b>		
<b>Step</b>	<b>Responsibility</b>	<b>Action</b>
1	Procurement Contracting Officer (Supported by Procurement Contracting Manager)	PCO will evaluate all bids for responsiveness and apply all pertinent preferences.
2	Procurement Contracting Officer	If the tie is not resolved in Step 1, PCO will provide to the tied bidders a Tie Breaker Affidavit (Affidavit) requesting that the document be completed, notarized, and returned to the PCO.  (Affidavit may be accessed from the X-Files, Evaluation Folder)
3	Procurement Contracting Officer	Once the PCO receives the completed Affidavit, the PCO will review the Affidavit to determine the number of employees the tied bidders attested to residing in Miami-Dade County.
4	Procurement Contracting Officer (Supported by Procurement Contracting Manager)	PCO will determine which bidder has the most employees who reside in Miami-Dade County and recommend that bidder for award.

Tie Breaker Procedure		
Step	Responsibility	Action
5	Procurement Contracting Officer (Supported by Procurement Contracting Manager)	<p>If the Affidavit does not break the tie, the PCO and PCM will draw by lot, limited to those bidders that still remain equally eligible, at a publicly-noticed meeting to determine the bidder to recommend for award.</p> <p>The PCO will notify the tied bidders of the meeting date and time, and that attendance at the meeting is optional.</p>

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**4. Bid Waiver, Sole Source or Legacy Contracts**

**Policy Statement:** It is the policy of Miami-Dade County to purchase goods and services using full and open competition. However, a contract for goods or services can be awarded without formal competitive bidding when it is determined to be in the best interest of the County. The best interest determination is based on justifiable conditions. Such non-competitive contracts include awards made through a Bid Waiver (BW) or Sole Source (SS) process. A BW process refers to any award made without competitive bidding. The SS process is used when there is only one source of supply.

**Authority:** Pursuant to **The Home Rule Amendment and Charter, Section 5.03(D)**, the Board, upon written recommendation of the Mayor, may waive competitive bidding for goods and services. The Board delegated authority to the Mayor, pursuant to **Implementing Order 3-38, Master Procurement**, to award non-competitive contracts with a value of \$250,000 or less. The Mayor has further delegated that authority to the SPD Director. See the Delegated Authority Chart.

Pursuant to **Section 2-8.1 of the Miami-Dade County Code, Contracts and Purchases Generally, Subsection (b)(2), Legacy Purchases**, the Board authorized legacy purchases, waiving competitive bidding for the purchase of goods and services when competition is unavailable, impractical or constrained as a result of the need to continue to operate an existing County system which may not be replaced without substantial expenditure.

**Purpose:** The purpose of this process is to award a contract without formal competitive bidding. This method is used when, after considering all options to obtaining the goods or services, a non-competitive contract represents the best method for the County. The client department is responsible for justifying the need to waive the bidding process. PMS is responsible for verifying the justification, including confirming the purchase satisfies legislative requirements to waive the competitive bidding process. Verifiable justifications for bid waivers include significant savings or avoidance of loss to the County, lack of competition, product standardization or compatibility, proprietary or distributorship rights, uniquely qualified vendor, etc.

There are circumstances that require a contract that started as a competitive solicitation to be awarded as a bid waiver. These types of contracts are usually referred to as competitive bid waivers, although there is not a separate process for this as it is a hybrid of the competitive and bid waiver processes.

<b>BW, SS and Legacy Contracts Procedures</b>	
<b>Steps</b>	<b>Actions</b>
Submittal to PMS	Client department posts a requisition and forwards <i>Justification/Input Document for Non-Competitive Acquisition</i> (see Master Drive, Non-Competitive Forms Folder) along with the scope of services to Manager for assignment.

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<b>BW, SS and Legacy Contracts Procedures</b>	
<b>Steps</b>	<b>Actions</b>
Scope Review	In accord with Resolution No. R-140-15, prior to the re-procurement of a replacement contract, a full review of the scope of services set forth in the replacement solicitation shall be conducted with any and all user departments of the goods or services sought to be procured to assure that the request accurately reflects the County's current needs. The PCO shall also consult with the Office of Small Business Development to ensure that all information included in the replacement solicitation is current and necessary to the County's solicitation of such good or service.
CO Review	Manager will assign a CO. The CO will review the <i>Justification/Input Document for Non-Competitive Acquisition</i> and request from client department any other documents required. CO should discuss with client department the market research conducted by that department and ask for documentation as needed.
Market Research	<p>CO will conduct market research to verify client department's justification and to ensure that the proposed recommendation to waive competitive bidding is in the County's best interest.</p> <p>If SS, market research may include contacting vendor to understand proprietary or distributorship rights and requesting a SS letter from vendor or manufacturer, depending upon the circumstances.</p> <p>See Market Research Guide for information about conducting and documenting research.</p>
Non-competitive Contract Determination	Once CO has sufficient documentation and determines a non-competitive contract is justified or not, CO should discuss with the Manager the market research findings and the CO's determination to gain agreement.
Small Business	If the dollar value of the purchase exceeds \$50,000, CO will forward input document to Small Business Development (SBD) for review along with the scope of services. SBD should provide a response within 3 business days, but there is no need to wait for response, as this is a courtesy notification.
Draft Contract	CO will prepare draft contract to include terms and conditions, scope of services, pricing, insurance, etc. CO should work with client department during contract development to ensure the contract meets the client department's needs.
Advance Notice	PCO will post for comments on Advance Notice to Waive Competition website.
Insurance Requirements	CO will review scope of services to determine if insurance is required. If unsure of whether insurance is needed, CO can forward specifications and recommended insurance to SPD, Risk Management Division for a determination.

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ITB	The CO will prepare an ITB in INFORMS. The system will send the ITB directly to VA once posted.
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<b>BW, SS and Legacy Contracts Procedures</b>	
<b>Steps</b>	<b>Actions</b>
PA Advertisement Module	<p>CO will prepare PA advertisement module and upload the following:</p> <ul style="list-style-type: none"> <li>• Draft Market Research Form</li> <li>• <i>Justification/Input Document for Non-Competitive Acquisition</i></li> <li>• Draft contract</li> <li>• SS Letter</li> <li>• Any other relevant documents</li> </ul> <p>The completed module will be forwarded to the Manager who will review and work with CO to finalize Market Research and contract before forwarding to VA. The ITB and PA Advertisement will be matched by VA, a contract number will be assigned, and PA Advertisement will be returned back to CO.</p>
Negotiations	<p>CO will lead negotiations with client department and vendor to finalize contract language and pricing. Once an agreement is reached, CO will prepare final contract and submit to the Manager for approval.</p> <p>The Manager can be consulted for guidance in determining the best communication style to be used, the best strategy for negotiations including how to prepare, and the desired outcome.</p>
County Attorney Review	CO and Manager may need to consult County Attorney for certain legal aspects of the contractual language and for general legal sufficiency. The Manager will guide the CO as to the need for County Attorney review.
Contract Signature	<p>Once the negotiated contract is approved by Manager, CO will forward to vendor for signature along with applicable affidavits and the County's signature requirements. (See DPM_Files/RFP/Master Folder/Negotiation <i>contract signature letter</i> sample.)</p> <p>If contract has insurance requirements, CO should first check Risk Management Insurance Certificate system to see if vendor already has appropriate insurance on file. If not, CO should request insurance certifications from vendor.</p>
Compliance Check	Complete review of compliance elements on the <i>Pre-Award Vendor Compliance</i> webpage. Copy each relevant page of the lists checked and compile into one document. (See DPM_Files/RFP/Master Folder/Evaluation/Contract Compliance sample document.)



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<b>BW, SS and Legacy Contracts Procedures</b>	
<b>Steps</b>	<b>Actions</b>
PA Award Module	<p>CO will complete all tabs in PA award module and upload the following documents into PA before forwarding for Manager's review:</p> <ul style="list-style-type: none"> <li>• Signed contract</li> <li>• Completed Affidavits</li> <li>• Sunbiz or other state corporate status</li> <li>• Vendor compliance check</li> <li>• Draft memo</li> <li>• Any other relevant documents</li> </ul> <p>Note: PA reviewers can access the advertisement module to see other documents, if needed.</p>
Award Routing	<p>If the purchase is \$250,000 or under, PA routing will go to SPD Director for approval. A formal contract award memo is required. CO prepares the draft memo and includes it with supporting documents in the award package submitted via PA to the relevant manager for review and approval. Following the manager's approval, the award package is routed in PA to the Procurement Analyst. Following review by the Analyst, the package is forwarded to the Division Director for review and approval. Following the Division Director's approval, the package is forwarded to the SPD Director for review and approval.</p> <p>If the purchase is over \$250,000, the Board approves the award. A formal contract award memo is required. CO prepares the draft memo and includes it with supporting documents in the award package submitted via PA to the relevant manager for review and approval. Following the manager's approval, the award package is routed in PA to the Procurement Analyst. Following review by the Analyst, the package is forwarded to the Division Director for review and approval. Following the Division Director's approval, the package is forwarded to the SPD Senior Assistant Director for review and approval. Upon the Assistant Director's approval, the award is forwarded to the SPD legislative team for finalizing. The legislative team coordinates submission to the Mayor for approval to award which will then be presented to the Board.</p> <p>Note: The award memo for Legacy Purchases shall include a statement as to the need for such purchase and the provisions taken to reduce or eliminate the future need for legacy purchases for the particular good or service.</p>
County Attorney Signature	<p>After award approval, CO will route original contracts to County Attorney's Office for legal sufficiency signature.</p>

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Administrative Signature	Once County Attorney signs the contract, CO will route original contracts to SPD Director's Office for administrative signature.
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<b>BW, SS and Legacy Contracts Procedures</b>	
<b>Steps</b>	<b>Actions</b>
Clerk of Board Execution	<p>Once administration signs contract, CO will route to the Clerk of the Board for execution. CO may date contract if a specific start date is needed, otherwise the Clerk will date the contract.</p> <p>The Clerk will keep an original contract. CO will send an original contract to the vendor and a copy to the client department. CO will place an original contract in the file.</p>
Contract Activation	<p>After approvals, PA will be returned to Manager who will forward to VA. Upon receiving approved PA award module from Manager, or approval by Board, and approval of insurance certificates, if applicable, VA will activate the contract in INFORMS.</p> <p>VA will first check Risk Management Insurance Certificate system to see if vendor(s) already has appropriate insurance on file. If not, VA will request insurance certifications from vendor(s) if not provided from CO.</p>
Close Out	<p>CO will:</p> <ul style="list-style-type: none"> <li>• check information fields in INFORMS to ensure accuracy;</li> <li>• issue a blanket purchase order in INFORMS, or purchase order if one- time purchase, and forward to the user department; and</li> <li>• issue award sheet.</li> </ul>

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**5. Emergency Purchases**

Authority:

An emergency purchase may be utilized to resolve an unforeseen or unanticipated urgent and immediate need for goods or services for which the protection of life, health, safety or welfare of the community or the preservation of public properties would not be possible using normal purchasing methods.

Purpose:

Pursuant to **Implementing Order 3-38, Master Procurement**, a department director or authorized designee may determine an emergency purchase is necessary. In such case, a contract may be awarded without utilizing the competitive bid process regardless of the amount of the expenditure.

If the expenditure is over the Mayor's delegated authority for non-competitive awards, i.e., \$250,000, the SPD Director shall forward the documented circumstances to the County Mayor for presentation to the Board of County Commissioners for ratification. See the Delegated Authority Chart.

As department directors have the authority to declare an emergency and award a contract, these procedures are limited to SPD processing the emergency in the system, including Board ratification if necessary, in order to pay the vendor.

Emergency Purchases Procedures	
Steps	Actions
PA Advertisement Module	CO will prepare PA advertisement module and upload <i>Section 3 Emergency Purchase</i> document. The completed module will be forwarded to Manager who will review and either return to CO for changes or forward to VA. The ITB and PA advertisement will be matched by VA, a contract number will be assigned, and PA advertisement will be returned back to CO.
Compliance Check	Complete review of compliance elements on the Pre-Award Vendor Compliance webpage. Copy each relevant page of the lists checked and compile into one document. (See DPM_Files/RFP/Master Folder/Evaluation Contract Compliance sample document.)
PA Award Module	<p>Once VA has forwarded item back to CO in PA, CO will complete all tabs in PA award module and upload the following documents into PA before forwarding for Manager's review:</p> <ul style="list-style-type: none"> <li>• <i>Section 3 Emergency Purchase</i> document</li> <li>• Vendor's proposal, quote and/or invoice</li> <li>• Sunbiz or other state corporate status</li> <li>• SBD determination (e-mail or Project Worksheet)</li> <li>• Affidavits</li> <li>• Vendor compliance check</li> <li>• Draft memo for purchases over \$250,000</li> <li>• Additional documentation (UAP/IG letter, emails, etc.)</li> </ul>
Award Routing	<p>Emergencies up to \$250,000 approved by Department Directors other than SPD may be approved on this floor by the Division Director and subsequently routed to VA. No memo is required. SPD emergencies must be approved by the SPD Director.</p> <p>Emergencies over \$250,000 must be ratified by the Board. A memo is required. The SPD legislative team will coordinate submission to the Mayor for approval to present to the Board for ratification.</p>
Contract Activation	<p>After internal approvals, PA will be returned to Manager who will forward to VA. Upon receiving approved PA award module from Manager, or approval by Board, and approval of insurance certificates, if applicable, VA will activate the contract in INFORMS.</p> <p>VA will first check Risk Management Insurance Certificate system to see if vendor(s) already has appropriate insurance on file. If not, VA will request insurance certifications from vendor(s).</p>

Emergency Purchases Procedures	
Steps	Actions
Close Out	CO will: <ul style="list-style-type: none"> <li>• check information fields in INFORMS to ensure accuracy; and</li> <li>• issue a blanket purchase order in INFORMS, or purchase order if one- time purchase, and forward to the client department.</li> </ul> <p>Note: An award sheet is not issued for this type of purchase.</p>

## 6. Confirmation Purchase

**Policy Statement:** A Confirmation Purchase is the ratification action of an unauthorized purchase. An unauthorized purchase is a purchase or commitment of funds by an employee that does not have the authority to do so, or a purchase or commitment of funds by an unauthorized employee but not in accordance with County legislation or the procedures prescribed by Implementing Order 3-38.

**Authority:** The authority to ratify the Confirmation Purchase is determined by the authority delegated to the Mayor and SPD Director to award non-competitive contracts. If the expenditure exceeds the Mayor's authority, the SPD Director shall forward the documented circumstances to the County Mayor for presentation to the Board of County Commissioners for ratification. See the Delegated Authority Chart.

**Purpose:** As a department has already made the purchase, these procedures are limited to SPD processing the confirmation in the system, including Board ratification if necessary, in order to pay the vendor.

Confirmation Purchase Procedure		
Step	Responsibility	Action
1	Client Department	<p>Client Department will post a requisition and forwards to the PCM for assignment. The Department should also provide the following documents:</p> <ul style="list-style-type: none"> <li>• <i>Allocation Request Form for Non-Competitive Acquisition</i> which includes a detailed justification for the purchase and the Director or designee's signature;</li> <li>• Copy of invoices, signed and accepted by the Client Department; and</li> <li>• Any additional supporting documentation.</li> </ul>

2	Procurement Contracting Officer	<p>PCM will assign PCO. The PCO must ensure that the invoices match requested purchase, including reviewing the following:</p> <ul style="list-style-type: none"> <li>• Dollar value of each invoice is accurate;</li> <li>• Unit price is correct (check the contract or any other source from where the unit prices are derived);</li> <li>• Total dollar value of all invoices is accurate;</li> <li>• Date of invoice and date of services to match the dates provided by the Client Department in the <i>Allocation Request Form for Non-Competitive Acquisition</i>;</li> <li>• Invoices are not duplicated; and</li> <li>• Taxes are not included as Miami-Dade County is tax exempt.</li> </ul> <p>If any discrepancies are found, PCO will discuss with Client Department for clarification and, if necessary, request Client Department to provide an updated invoice, signed and accepted by Client Department.</p>
3	Procurement Contracting Officer	PCO will forward the <i>SBD Input Document</i> to SBD for review. There is no need to wait for a response.
4	Procurement Contracting Officer	<p>PCO will prepare an ITB in INFORMS. The system will send the ITB directly to VOSS once posted.</p> <p>Refer to INFORMS Guide to prepare ITB.</p>
5	Procurement Contracting Officer	<p>PCO will prepare PA Initiation Module and upload <i>Allocation Request Form for Non-Competitive Acquisition</i>. The completed Initiation Module will be forwarded to the PCM for review.</p> <p>Once approved the Initiation Module will be routed to VOSS. The ITB and PA Initiation Module will be matched by VOSS, a contract number will be assigned, and the PA Initiation Module will be routed to the PCO.</p>
6	Procurement Contracting Officer	PCO will complete review of compliance elements on the Pre-Award Vendor Compliance webpage. PCO will copy each relevant page of the lists checked and compile into one document.

7	Procurement Contracting Officer	<p>Once VOSS has forwarded item to the PCO in PA, PCO will complete all tabs in the PA Award Module and will upload the following documents into PA before forwarding for PCM's review:</p> <ul style="list-style-type: none"> <li>• Allocation Request Form for Non-Competitive Acquisition</li> <li>• Invoices with Tally</li> <li>• SBD Determination</li> <li>• Additional Documentation</li> <li>• Vendor Compliance Check</li> <li>• Signed memorandum from the Client Department Director with detailed justification for the inappropriate activity, to include disciplinary action taken, if applicable, and the corrective action(s) implemented to prevent recurrence. This memorandum will need to be tailored depending upon the circumstances, and on whether the Client Department Director provided an <i>Allocation Request Form for Non-Competitive Acquisition</i>. (Only the memo <b>OR</b> <i>Allocation Request Form for Non-Competitive Acquisition</i> needs to be submitted).</li> </ul> <p>Consult the Delegated Authority Table.</p> <p>If the approval authority is at the CPO level or below, a memo is <b>not</b> required. If approval authority is at the SPD Director level or above, a memo <b>is</b> required.</p> <p>If applicable, PCO will prepares the draft memo and includes it with supporting documents in the award package submitted via the PA Award Module to the PCM for review and approval. Following the PCM's approval, the award package is routed via PA to the appropriate approval authority by the PCM.</p>
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8	Procurement Contracting Manager	<p>The PA Award Module approval will be routed to PCM who will forward to VOSS for contract activation in INFORMS.</p> <p>Note: Insurance is generally not required since the purchase already occurred.</p>
9	Procurement Contracting Officer	<p>PCO will:</p> <ul style="list-style-type: none"> <li>• Check information fields in INFORMS to ensure accuracy; and</li> <li>• Issue a Blanket Purchase Order in INFORMS, or Purchase Order if one-time purchase, and will forward document to the Client Department.</li> </ul> <p>Note: An award sheet is not issued for this type of purchase.</p>

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**7. Accessing Contracts**

**Policy Statement:** A contract can be awarded by accessing the competitively awarded contract of a governmental or quasi-governmental entity or not-for-profit organization, provided the goods or services are not available through an existing Miami-Dade County contract at the same or lower price.

**Authority:** Pursuant to **Implementing Order 3-38, Master Procurement**, the County can access a competitively awarded contract as described in the Policy Statement above. The authority to award an accessed contract follows the same authority to award a competitive contract. See the Delegated Authority Chart.

**Purpose:** The purpose of this process is to access another entity's contract to obtain the same terms, conditions, and pricing. Accessing contracts helps to facilitate awards and can result in savings in cost, time and effort. This method is used when, after considering all options to obtaining the goods or services, accessing represents the best value for the County. If the market research shows that the accessible contract has the most favorable pricing, the contract is needed immediately and/or a bridge contract is needed for a short-term until a contract can be established, accessing may be the best solution.

Accessing a contract usually forgoes the County's ability to apply SBE measures and local or veteran's preferences, unless some type of competition is applied to select among multiple vendors. If the accessed contract has more than one vendor that can perform the

<b>Accessing Contracts Procedures</b>	
<b>Steps</b>	<b>Actions</b>
Submittal to PMS	Client department posts a requisition and forwards to Manager for assignment.
CO Review	<p>SPD Manager will assign a CO. The CO will request the scope of services from the client department and review the client department's market research. If the client department requested accessing, it should provide the market research and PMS will check it and supplement it, if necessary. Conversely, if CO discovers available contract for accessing during his/her market research, CO should discuss the contract with client department to ensure it meets the department's needs. CO should also contact the other entity's contract manager and vendor to ensure all are agreeable to the access.</p> <p>See Market Research Guide for information about conducting and documenting research for an access contract.</p>



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<b>Accessing Contracts Procedures</b>	
<b>Steps</b>	<b>Actions</b>
Request Documents	<p>CO will obtain and review the following documents to be sure that the contract was competitive to PMS's standards and is accessible.</p> <ul style="list-style-type: none"> <li>• Solicitation, including addendums</li> <li>• Advertisement</li> <li>• Tally or score sheets</li> <li>• Award documents such as agenda items and award memos</li> <li>• Contract</li> </ul>
Match Determination	<p>The above requested documents are needed in order to determine whether accessing the contract meets the County's needs. Specifically, the CO must confirm the following:</p> <ul style="list-style-type: none"> <li>• Contract was awarded competitively to the County's standards for competition</li> <li>• Contract does not have a prohibition on other entities accessing it (for instance, only certain federal government contracts are available for accessing)</li> <li>• Scope of services matches the County's</li> <li>• Value of the contract is compatible with the amount the County needs</li> <li>• Contract is active for term the County needs to access it</li> <li>• Terms and conditions of the contract are reasonable and adequately protect the County</li> <li>• Whether there is an opportunity to negotiate a better price under the terms and conditions of the contract</li> <li>• Whether the contract requires competition among all contract vendors</li> </ul> <p>CO should discuss with the Manager the market research and the determination that accessing is the best solution to gain initial agreement to proceed with accessing.</p>
Small Business	<p>If the dollar value of the purchase exceeds \$50,000, CO will forward input document to Small Business Development (SBD) for review along with the scope of services. SBD should provide a response within three business days, but there is no need to wait for a response, as this is a courtesy notification.</p>
Insurance Requirements	<p>CO will review contract to determine if County standard insurance requirements are included. If unsure of whether insurance is needed or insurance in contract is adequate, CO can forward scope of services and recommended insurance and/ or insurance from contract to SPD, Risk Management Division for a determination.</p>
ITB	<p>The CO will prepare an ITB in INFORMS. The system will send the ITB directly to VA once posted.</p>

Draft Letter of Agreement	CO will draft a letter of agreement. The letter will indicate the County's intent to access the contract, incorporate the County's scope of services (if further clarification to the contract scope is required), designate delivery date or completion date as may be applicable, address the insurance requirements, and request acceptance of conditions required by County legislation. (See Master Folder for sample letter.)
PA Advertisement Module	<p>CO will prepare PA advertisement module and upload the following:</p> <ul style="list-style-type: none"> <li>• Draft Market Research Form</li> <li>• Scope of Services</li> <li>• Documents listed above in "Request Documents"</li> <li>• Draft Letter of Agreement with applicable affidavits</li> <li>• Any other relevant documents</li> </ul> <p>The completed module will be forwarded to Manager who will review and work with CO to finalize Market Research and Letter of Agreement before forwarding to VA. The ITB and PA advertisement will be matched by VA, a contract number will be assigned, and PA advertisement will be returned back to CO.</p>
Letter of Agreement Signature	<p>Once draft letter of agreement is approved by Manager, CO will forward to vendor for signature along with applicable affidavits.</p> <p>If contract has insurance requirements, CO should first check Risk Management Insurance Certificate system to see if vendor already has appropriate insurance on file. If not, CO should request insurance certifications from vendor.</p>
Compliance Check	Complete review of compliance elements on the <i>Pre-Award Vendor Compliance</i> webpage. Copy each relevant page of the lists checked and compile into one document in the electronic file.
PA Award Module	<p>Once VA has forwarded item back to CO in PA and Letter of Agreement is signed, CO will complete all tabs in PA award module and upload the following document into PA before forwarding for Manager's review:</p> <ul style="list-style-type: none"> <li>• Signed Letter of Agreement</li> <li>• Signed Affidavits</li> <li>• Sunbiz or other state corporate status</li> <li>• Vendor compliance check</li> <li>• Draft memo</li> <li>• Any other relevant documents</li> </ul> <p>Note: PA Reviewers can access the PA Advertisement module to see other documents, if needed.</p>

Award Routing	<p>If the purchase is \$500,000 or under, PA routing will go to SPD Director for approval.</p> <p>If the purchase is over \$500,000 up to \$1,000,000, routing will go to Mayor for approval.</p> <p>If the purchase is over \$1,000,000, the SPD legislative team will and coordinate submission to the Mayor for approval to access which will then be presented to the Board.</p>
Contract Activation	<p>After internal approvals, PA will be returned to Manager who will forward to VA. Upon receiving approved PA award module from Manager, or approval by Board, and approval of insurance certificates, if applicable, VA will activate the contract in INFORMS.</p> <p>VA will first check Risk Management Insurance Certificate system to see if vendor(s) already has appropriate insurance on file. If not, VA will request insurance certifications from vendor(s).</p>
Close Out	<p>CO will:</p> <ul style="list-style-type: none"> <li>• check information fields in INFORMS to ensure accuracy;</li> <li>• issue a blanket purchase order in INFORMS, or purchase order if one- time purchase, and forward to the user department; and</li> <li>• issue award sheet.</li> </ul>

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**8. Modifications**

Policy Statement: It is the policy of Miami-Dade County to allow a contract to be modified to meet the business needs of the County. Contract modifications refer to any change to the terms and conditions of the agreement. The term “contract modifications” is also used to describe changes that occur to the contract information in INFORMS.

However, the authority to modify a contract may be dependent upon considerations other than the dollar value of the modification. For instance, the need to sign a supplemental agreement requires at least SPD Director approval for signature and a material change to a contract awarded by the Board may require Board approval.

There are many considerations in determining the level of authority for a contract modification.

Purpose: The purpose of this process is to execute modifications to contracts to meet the County’s business needs, without the need to spend time and resources to re-procure the goods or services which are already under contract.

<b>Modifications Procedures</b>	
<b>Steps</b>	<b>Actions</b>
Submittal to PMS	<p>The client departments are responsible for initiating modifications for their needs: Money, Transfer Allocation, and Accessing Contract.</p> <p>Client department prepares modification in PA, gains internal approvals, and routes to PMS. The PA Contract Modification Request will automatically route the modification to the CO assigned to the contract.</p> <p>The client department can use PA to route internally for their approvals or has the option to complete a <i>Contract Modifications</i> form (generated in PA modification module) to gain approval. If the form is used, the client department will upload the signed form in the contract modification request in PA.</p>
Preparation by PMS	<p>CO will usually initiate modification for contract administration needs: Increase Time, Add a Vendor, and Supplemental Agreement.</p> <p>CO will prepare modification in PA Contract Modification Request and hit Route to Procurement. The PA Contract Modification Request will automatically route the modification to the CO assigned to the contract.</p>

CO Review	The CO will review the modification request including the justification and attached documents. CO will determine if modification is acceptable (i.e., proper justification, appropriate explanation of need, appropriate use of the contract, allowable in contract, etc.).
Supplemental Agreement and/or Negotiations	<p>CO will determine if a supplemental agreement (change to the contract document) is needed. CO and Manager may need to consult County Attorney for certain legal aspects of the contractual language and for general legal sufficiency. The Manager will guide the CO as to the need for County Attorney review.</p> <p>If negotiations are needed, CO will lead negotiations with client department and vendor. Once an agreement is reached, CO will prepare supplemental agreement and submit to Manager for approval.</p> <p>The Manager can be consulted for guidance in determining the best communication style to be used, the best strategy for negotiations including how to prepare, and the desired outcome.</p>
PA Contract Modification Module	<p>CO will complete PA modification module, indicating the approved time and money in the appropriate fields as applicable, and upload the following:</p> <ul style="list-style-type: none"> <li>• Signed Supplemental Agreement</li> <li>• Draft memo (required for CMO and BCC modifications only)</li> <li>• Any relevant documents</li> </ul> <p>The completed module will be forwarded to Manager who will either return for changes or forward to VA.</p>
Approval Routing	<p><b>Transfer Allocation, Add a Vendor, and Accessing Contract with no additional money</b> Generally, the Manager will approve. No memo is required.</p> <p><b>Increase to Time, Money or signature of Supplemental Agreement</b> For modifications within SPD Director's Authority, no memo is required.</p> <p>For modifications within Mayor's Authority, a formal memo is required.</p> <p>For modifications requiring Board approval, legislative team will coordinate submission to the Mayor for approval to modify which will be presented to the Board.</p> <p>Refer to the Delegated Authority Chart.</p>
Supplemental Agreement Signatures	<p>After approval, CO will route original supplemental agreements to County Attorney's Office for signature for legal sufficiency. Once County Attorney signs contract, CO will route original contracts to SPD Director's Office for administrative signature. Then CO will date contract and route to Clerk of the Board for execution.</p> <p>The Clerk will keep an original supplemental agreement. CO will send an original supplemental agreement to the vendor and a copy to the client department. CO will place an original supplemental agreement in the file.</p>

Modification Activation	<p>For approvals within Manager authority, Manager will forward to VA.</p> <p>For all others, after internal approvals, PA will be returned to Manager who will forward to VA. Upon receiving approved PA modification module from Manager, or approval by Board, VA will make applicable modifications in INFORMS.</p>
Close Out	<p>CO will, if needed:</p> <ul style="list-style-type: none"> <li>• check information fields in INFORMS to ensure accuracy;</li> <li>• update a blanket purchase order in INFORMS, if applicable; and</li> <li>• update award sheet and note changes in roadmap, if applicable.</li> </ul>

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**9. Options to Renew**

**Policy Statement:** An Option to Renew (OTR) in a contract may be exercised when the goods or services continue to be needed and such renewal is in the best interest of the County. The OTR is usually specified in the contract as a County prerogative, and not a right of the vendor. However, some contracts may have other conditions for renewing which require consideration prior to exercising the OTR.

**Authority:** The administrative authority to renew a contract is usually authorized when the contract is initially awarded. Prior to routing an OTR for approval, the CO is responsible for determining whether the administrative authority to exercise the OTR was already granted when the contract was awarded. OTR's that have been previously authorized will be approved by CO and forwarded to Manager for approval. If an OTR will take the aggregate amount of the contract over \$1,000,000 and the contract was not approved by the Board, the OTR approval must go to the Board.

**Purpose:** The purpose of this process is to renew a contract to eliminate the need to invest time and resources to re-solicit the contract to achieve the same or similar results.

<b>OTR Procedures</b>	
<b>Steps</b>	<b>Actions</b>
6 Month Check	<p>Begin the OTR review process 6 months prior to the contract term expiration. Determine whether administrative authority to exercise an OTR has been granted or not. If authority was granted, OTR process should begin no later than 3 months prior to the contract term expiration.</p> <p>If authority was not granted and Board approval is needed, begin process immediately and notify Manager and SPD legislative team that a Board item is forthcoming.</p>
NOEC	<p>Send <i>Notice of Expiring Contract</i> (NOEC) document (see Master Folder) via the PA OTR Module to the client department(s) contract manager or procurement liaison.</p> <p>Specify expectation for return of completed document, usually no later than 2 weeks after request.</p> <p>Upon receipt of the NOEC from the client department(s), verify the allocations for each (as applicable).</p>
Market Research	<p>CO will conduct market research to ensure that the proposed recommendation to proceed with exercising the OTR is in the County's best interest. Check INFORMS registration status and verify Sunbiz or other state corporate status of vendor.</p> <p>See Market Research Guide for information about conducting and documenting research.</p>

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<b>OTR Procedures</b>	
<b>Steps</b>	<b>Actions</b>
Negotiations	<p>Contact the vendor to initiate negotiations. Generally, a phone discussion is sufficient to express the County's interest and objectives in the negotiations. If a phone call is not productive or practical, an e-mail or letter via e-mail, could also be used. Other negotiation methods may also be helpful such as conducting a meeting.</p> <p>The Manager can be consulted for guidance in determining the best communication style to be used, the best strategy for negotiations including how to prepare, and the desired outcome.</p> <p>The intent of negotiations is to achieve a better deal for the County, such as lower prices. However, some contracts may allow for increases based on an index such as CPI, or other circumstances. If the vendor appropriately requested an increase under the contract, CO will factor the request into the negotiations.</p>
OTR Transmittal Form	<p>CO will prepare the <i>OTR Transmittal Form</i>.</p> <p>Generally, allocations for an OTR are pro-rated. However, careful consideration must be given to the appropriate allocations. For instance, if the prices will be increased during the OTR due to allowable increases in the contract such as Living Wage or CPI, CO should contact client departments to review their allocations and determine if an increase is needed for the OTR term. These types of allocation increases are allowable for an OTR without processing as a modification and must be indicated on the form. Conversely, if the prices will decrease due to allowable decreases such as negotiated lower prices or decrease to CPI, the same consideration to a change in allocation should be given as noted above.</p> <p>Consider which vendors will be renewed. The CO may determine that a vendor should not be renewed depending on the circumstances such as vendor out of business, lack of compliance with insurance, lack of performance, etc. Document such reasons on the OTR Transmittal Form.</p>
Compilation of File	<p>CO will prepare electronic and hardcopy files to house the back-up documentation for the OTR to include the following:</p> <ul style="list-style-type: none"> <li>• Completed <i>OTR Transmittal Form</i></li> <li>• Documents obtained during market research</li> <li>• Sunbiz or other state corporate status</li> <li>• Copy of original administrative approval to exercise OTR</li> <li>• NOEC from department(s)</li> <li>• Correspondence with vendor(s)</li> <li>• Vendor compliance check</li> <li>• Draft memo for OTRs requiring CMO or BCC approval</li> <li>• Any other relevant documents</li> </ul>



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<b>OTR Procedures</b>	
<b>Steps</b>	<b>Actions</b>
Routing of OTR Transmittal Form	<p>Route <i>OTR Transmittal Form</i> via PA to Manager for approval. SPD Manager will either return form for changes or sign form and return to CO.</p> <p>Manager may request to see documentation, including hardcopy file.</p>
Contract Activation	<p>CO will route approved form to VA for processing. If contract requires insurance, VA will first check Risk Management Insurance Certificate system to see if vendor(s) already has appropriate insurance on file. If not, VA will request insurance certifications from vendor(s).</p> <p>VA will activate the contract renewal in INFORMS.</p>
Close Out	<p>CO will:</p> <ul style="list-style-type: none"> <li>• check information fields in INFORMS to ensure accuracy;</li> <li>• issue a blanket purchase order in INFORMS, or purchase order if client issued requisition for one-time payment, and forward to the user department; and</li> <li>• update award sheet and roadmap, if applicable.</li> </ul>
Follow-up	<p>If this was the final OTR available in the contract, CO should communicate with the client department(s) regarding future needs. If a new solicitation will be needed, such process should be started no later than 1 year prior to the expiration date for contracts requiring Board approval and no later than 9 months for all others. CO will use their judgment and start process early enough to complete award process 60 days before current contract will expire.</p>

## 10. Invitation to Quote (ITQ)

**Policy Statement:** It is the policy of Miami-Dade County to purchase goods and services using full and open competition, unless it is determined to be in the best interest of the County to award a non-competitive contract.

**Authority:** Pursuant to **Section 2-8.1 of the Miami-Dade County Code, Contracts and Purchases Generally**, the Mayor, or Mayor's designee, has the authority to advertise County contracts for goods and services. The Mayor has delegated this authority to the SPD Director. The SPD Director has further delegated that authority pursuant to the delegated authority memos located in the X-Files. *See X-Files, Delegated Authority Folder, Delegated Authority Chart.* Additionally, Client Department Director or their designee shall approve the solicitation prior to advertisement.

Pursuant to **Section 2-8.1 of the Miami-Dade County Code, Contracts and Purchases Generally**, award or rejections of competitive County contracts for goods and services shall follow the authorization delineated in the Delegated Authority chart located in the X-Files. *See X-Files, Delegated Authority Folder, Delegated Authority Chart.*

**Purpose:** The purpose of this process is to solicit competitive quotes, including quotes under pre-qualification pools for any amount and establishing a contract for informal purchases totaling \$250,000 or less. The ITQ process is used to secure pricing and terms for lowest price

awards. <b>Invitation to Quote Procedure</b>		
<b>Step</b>	<b>Responsibility</b>	<b>Action</b>
1(a)	Procurement Contracting Officer  (replacements)	PCO contact Client Department to review draft solicitation to include terms and conditions, technical specifications/scope of work and pricing schedule of the replacement solicitation to assure that the request accurately reflects the County's current needs.  Proceed to Step 3.
1(b)	Client Department  (new request and replacement)	Client Department complete the technical specifications/scope of work and provides it to the SPD PCO overseeing the Prequalification Pool for assignment.
2	Procurement Contracting Officer Supported by Client Department	PCO reviews the request and contacts the Client Department (initial contact should be via a phone call) to introduce themselves as the solicitation facilitator and requests any other documents necessary for the comprehensive review of the acquisition.

Invitation to Quote Procedure		
Step	Responsibility	Action
3	Procurement Contracting Officer	<p>PCO completes independent market research activities as indicated below.</p> <ol style="list-style-type: none"> <li>1. PCO conducts independent market research to review other entities' contracts for sample language.</li> <li>2. PCO creates a draft solicitation inclusive of the technical specifications/scope of work and business terms clearly labeled with a DRAFT watermark.</li> <li>3. PCO obtains solicitation number from INFORMS.</li> </ol>
4	Procurement Contracting Officer Supported by Small Business Development, Risk Management, Client Department, and Procurement Contracting Manager	<p>PCO prepares draft solicitation to include terms and conditions, technical specifications/scope of work, pricing schedule, etc. PCO works with Client Department and PCM during solicitation development to ensure the contract meets the Client Department's operational needs and the County's business terms.</p> <p>The following items should be completed in parallel to contract drafting:</p> <p>PCO forwards SBD Input Document (<a href="#">See X-Files, Preparation, Input Document to SBD</a>) to SBD for review along with the draft of the technical specifications/scope of work. SBD should provide a determination within 5 business days.</p> <p>PCO forwards the technical specifications/scope of work via email to SPD, Risk Management Division for a determination on insurance requirements. Upon response from Risk Management, PCO incorporates the insurance requirements into the solicitation draft (if they differ from the standard listed in Section 1, General Terms and Conditions.)</p> <p>If the Client Department requested a bond of any kind, PCO consults with PCM to determine the appropriateness and contractual requirements for such bonds.</p>
5	Procurement Contracting Officer Supported by Client Department and Procurement Contracting Manager	<p>PCO works with Client Department contact to gain approval of draft solicitation by Client Department Director or designee.</p>

6	Procurement Contracting Officer Supported by Procurement Contracting Manager	PCO conducts the following in parallel:  PCO routes solicitation in INFORMS for approval. PCM approves INFORMS advertisement.
7	Procurement Contracting Officer	PCO advertises the solicitation in INFORMS.
8	Procurement Contracting Officer Supported by Procurement Contracting Manager	<p>PCO will collect questions received and prepare responses, coordinating responses with the Client Department for questions regarding the technical specifications/scope of work.</p> <p>When possible, addendum should contain changes to the solicitation in the following order:</p> <ul style="list-style-type: none"> <li>A. Changes to important dates such as pre-bid meeting or pre-proposal conference, Q&amp;A deadline, or solicitation end date.</li> <li>B. Changes to Ts &amp; Cs or other parts of solicitation should be in the same ascending order as the solicitation, by sections and paragraph number. If possible, the preferable format is: <u>Delete in its entirety section X, paragraph X.XX, and replace with the following...</u>insert the new section and/or paragraph in addendum. <b>Or</b>, insert after or before section X, paragraph X.XX, as X.XX.</li> <li>C. List all questions and responses. The format is to follow the order in which questions are listed in INFORMS. Paste the word <u>Response:</u> below each question followed by the response. If the response is a change to important dates, Ts &amp; Cs, or other parts of solicitation, you should have already listed the change in section B of the addendum, and your response should be “see number X in section B above. Remember to go back to *INFORMS and insert a response to each question (i.e., See Addendum No. X).</li> </ul> <p>Note: All addenda released in INFORMS will require Bidder/Proposers to check a box acknowledging the addendum. If the County information is not material (will not be part of the contract), and there is no need for Bidders/Proposers to acknowledge an addendum, you may release the addendum in INFORMS and check the box “mark as change.”</p>

Invitation to Quote Procedure		
Step	Responsibility	Action
		<p>Attachments or exhibits must be labeled and described under changes in section B. Note: Attachments are meant to become part of the contract, where exhibits are for informational purposes only, such as directions to a meeting, maps, or pictures <u>not</u> needed post award or as part of specifications.</p> <p>PCO will review the addenda with the PCM to gain approval from the appropriate approval authority prior to issuing it.</p>
9	Procurement Contracting Officer	PCO reviews the responses for responsiveness and responsibility. PCO discusses any concerns with PCM. PCM guides PCO on when and how to refer responsiveness requests to the County Attorney Office (CAO) and responsibility requests to the CPO.
10	Procurement Contracting Officer	PCO prepares tally and evaluate responses. The tally is a summary of the responses received and an indication of the status of the response such as responsiveness, local preference, small business, etc. Tally shall include all qualification requirements listed in the solicitation. <i>See X-Files, Evaluation Folder, Template Tally.</i>
11	Procurement Contracting Officer	PCO applies preferences as applicable. <i>Refer to Contract Measures and Preferences Procedure.</i>
12	Procurement Contracting Officer Supported by Procurement Contracting Associate	PCO provides the list of vendors to the PCA requiring compliance. PCA completes review of compliance elements on the Pre-Award Vendor Compliance webpage. PCA prints each relevant page of the lists checked and compiles into one document. <i>See X-Files, Award Folder, Due Diligence and Pre-Award Vendor Compliance.</i>
13	Procurement Contracting Officer Supported by Procurement Contracting Associate	PCO provides reference questionnaire template that has been customized for the solicitation to the PCA, if applicable. PCA checks the references for recommended vendors as instructed.

14	Procurement Contracting Officer Supported by Procurement Contracting Manager	<p>PCO reviews the following documents with PCM to gain award approval:</p> <ul style="list-style-type: none"> <li>• Solicitation (Generated from INFORMS after closing date)</li> <li>• Vendor Responses</li> <li>• Pre-Award Compliance Check document (for prime and any DBA) <i>See X-Files, Award Folder, Due Diligence and Pre-Award Vendor Compliance.</i></li> <li>• Signed Tally</li> <li>• Award Recommendation Email</li> <li>• Any other relevant documents</li> </ul>
15	Procurement Contracting Officer	Following the award approval, PCO emails award recommendation to all participating vendors with cc: Clerk and lifting of the Cone of Silence.
16	Procurement Contracting Officer Supported by Procurement Contracting Manager and Vendor Outreach and Support Services	<p>Upon receiving approval from PCM, and approval of insurance certificates, if applicable, PCO creates:</p> <ul style="list-style-type: none"> <li>• Blanket Purchase Order or Purchase Order if one-time purchase in INFORMS, forwards to Client Department</li> <li>• Roadmap <i>See X-Files, Award Folder, Roadmap Sample</i></li> </ul>

# REQUEST FOR INFORMATION (RFI) PROCEDURES

**Policy/Legislation:** For the County to function efficiently and responsibly, goods and services meeting the necessary quality shall be procured for County agencies at fair and reasonable prices, and in a timely manner. Advance acquisition planning by departments, effective market research, and early SPD collaboration with user departments in the acquisition process are essential to successful procurement. Formal market research may utilize a Request for Information (RFI) process. See **Section 1 of this Manual** for the itemized Dictionary of Definitions.

**Sections 1.01 and 5.03 of the Miami-Dade County Home Rule Charter and Section 2-8.1 of the Code of Miami-Dade County, Contracts and Purchases Generally, Master Procurement Implementing Order 3-38 (I.O. 3-38)**, establish the roles and responsibilities of the SPD, methods of purchasing goods and services, and the authority to award contracts.

**Purpose:** The purpose of the RFI is to survey various industries to gauge whether there is supplier availability for the procurement of goods and services and/or if it is feasible to obtain additional goods and services to supplement or complement existing County infrastructure, goods and/or services. For example, the County may have existing software (such as PeopleSoft) and desires to purchase additional software. Through the use of an RFI, the County may be able determine whether the new software would interface with the existing software.

Further, an RFI may be used by the County to validate a sole source claim made by a vendor. By issuing an RFI, the County may ascertain whether there are vendors available, capable, and interested in participating in a competitive process, or if there is only a sole source of supply for the particular goods and/or services. Conversely, depending on the responses received, even if competition exists, it may be deemed to be in the County's best interest to proceed with a bid wavier contract.

An RFI should not be used in instances where the availability of competition is known to exist or where results of Market Research revealed the availability of suppliers in the marketplace.

Step	Responsibility	Action
1	Procurement Contracting Officer Supported by Client Department	<p>In the event the Client Department submits an ARF for a Non-Competitive Acquisition, written authorization to proceed with a non-competitive acquisition must be provided by the Client Department's Director or designee. The PCO should not proceed to Step 2 until this authorization has been identified. <a href="#">See Section 3 of this Manual – Acquisition Methods.</a></p> <p>In the event that the ARF identifies a federal funding source for the purchase, the PCO should request a copy of the grant document. Further, in the event the request is for a Non-Competitive Acquisition, written authorization must be provided by the granting agency unless otherwise allowed for under the terms of the grant. The PCO should not proceed to Step 2 until these two authorizations have been identified. <a href="#">See Section 1 of this Manual – Purpose and Scope</a></p>
Step	Responsibility	Action
2	Procurement Contracting Officer Supported by Client Department	If there is no existing County contract, and one or more Client Department express the desire to establish a contract, Procurement Contracting Manager (PCM) assigns the project to the Procurement Contracting Officer (PCO) for completion. PCO reviews the Allocation Request Form (ARF) and contacts the Client Department (initial contact should be via a phone call) to introduce themselves as the solicitation facilitator and requests any other documents necessary to proceed.
3	Procurement Contracting Officer	<p>PCO conducts independent market research to determine what procurement methodology is in the County's best interest. <a href="#">See X-Files, Preparation Folder, Market Research Folder for Market Research Form.</a> For information regarding processes for conducting market research, <a href="#">See Section 3 of this Manual – Advanced Acquisition Planning.</a></p> <p>PCO creates a draft solicitation document, clearly labeled with a DRAFT watermark. Note: This document serves as working document for review with the Client Department(s).</p>



Step	Responsibility	Action
4	Procurement Contracting Officer Supported by the Procurement Contracting Manager	<p>PCO creates a draft RFI based on the Scope of Services from the draft solicitation. <i>See X-Files, Preparation Folder, Solicitation Documents Folder, Request for Information Folder, Request for Information Template</i></p> <p>PCO submits draft RFI to PCM for approval prior to initiating the RFI in INFORMS.</p> <p>PCO creates an ITB in INFORMS. INFORMS will send the ITB directly to the Vendor Outreach and Support Services Unit (VOSS) once posted.</p> <p>PCO prepares PA Initiation Module and uploads the following:</p> <ul style="list-style-type: none"> <li>• Draft Market Research Form</li> <li>• Allocation Request Form</li> <li>• RFI</li> <li>• SBD Worksheet</li> <li>• Project Timeline</li> <li>• Any other relevant supporting document(s)</li> </ul> <p>Once the RFI is approved, PCM authorizes release of RFI in INFORMS.</p>
5	Procurement Contracting Officer Supported by the Procurement Contracting Manager	<p>After the RFI closes, PCO reviews responses received, if any.</p> <p>PCO completes the Market Research Form, inclusive of the results of the RFI, with their independent findings and recommendations for next steps.</p> <p>PCO updates the PA Initiation Module by uploading the following:</p> <ul style="list-style-type: none"> <li>• RFI Results</li> <li>• Final Market Research Form</li> <li>• Draft Solicitation</li> </ul> <p>PCO routes the completed PA Initiation module to PCM who reviews and works with PCO to determine the next steps for the project.</p>