

TO: ALL COUNTY PERSONNEL

**FROM: VERDENIA C. BAKER
COUNTY ADMINISTRATOR**

**SUBJECT: Procurement of All Non-Construction Related Goods
or Services Purchased or Reimbursed with Federal
Funds**

PPM #: CW-L-049

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ISSUE DATE
March 2, 2018

EFFECTIVE DATE
March 12, 2018
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PURPOSE:

To establish a countywide procurement policy and procedure for non-construction related goods or services (collectively “goods or services”) that are purchased or reimbursed (collectively “purchased”) with federal funds. Unless otherwise stated in a federal grant; cooperative agreement between the County and a federal agency; federal law; or federal agency regulation, the provisions set forth in this Policy and Procedure Manual (“PPM”) apply to the procurement of all non-construction goods or services purchased with federal funds.

UPDATES:

Future updates to this PPM are the responsibility of the Purchasing Department.

AUTHORITY:

- 2 CFR Parts 200.317 – 200.326, as may be amended, (“Super Circular”)
- Article II, Sections 2-51 through 2-58, Palm Beach County Code, as may be amended, (“Purchasing Code”)
- PPM # CW-L-008, Purchasing Policy and Procedures (“Countywide Purchasing PPM”)

POLICY:

The Super Circular, also referred to as “Uniform Guidance”, was implemented to reduce administrative burdens, streamline requirements for federal awards, and to protect federal funds from waste, fraud, and abuse. In particular, the Super Circular consolidates the procurement requirements of existing federal agencies and provides consistent guidance

for federal awards. Many federal laws, regulations and awards currently include the majority of requirements contained in the Super Circular; however, a few new or modified requirements have been added.

As a “non-federal entity”, Palm Beach County (“County”) is required to implement policies and procedures for compliance with the procurement provisions of the Super Circular. Accordingly, *this PPM is applicable to all User Departments, as well as the Purchasing Department, that procure goods or services with federal funds regardless of whether the goods or services are exempt from the County’s Purchasing Code or whether a pass-through entity other than the County has received a waiver from a federal agency.* **Failure to comply with the Super Circular may result in the de-obligation of federal funds.**

The County is required to follow the Purchasing Code and the Countywide Purchasing PPM unless there is conflict with a provision in federal law, federal rules or regulations, or with the Super Circular. Where there *is* a conflict, the County shall follow its Purchasing Code and Countywide Purchasing PPM when the County’s provision is *stricter* than the federal provision.

PROCEDURES:

A. ORDER OF LEGAL PRECEDENCE FOR THE COUNTY’S PURCHASE OF NON-CONSTRUCTION GOODS OR SERVICES WITH FEDERAL FUNDS

The order of precedence is:

1. Laws passed by Congress, which are codified in Provisions of the United States Code (“U.S.C.”).
2. Rules or regulations adopted by a federal agency that pertain to the particular laws the agency is mandated to implement. These rules or regulations, which serve the same purpose as our countywide and departmental policies and procedures, are codified in the Code of Federal Regulations (“CFR”).
3. The award document, which provides funding to the County, may include additional requirements that are not included in the Federal law, rules or regulations.
4. The Super Circular. If a requirement in the award document is in conflict with a requirement in the Super Circular, the award document has precedence.

B. DEFINITIONS

1. **Federal funds:** monies received by the County from the Federal government via:
 - a. Grants;
 - b. Cooperative agreements;
 - c. Direct appropriations; or
 - d. Other financial assistance (except for federal funds being provided solely for loans, loan guarantees, interest subsidies or insurance).
2. **Pass-through entity:** an entity (recipient) that directly receives federal funds (award) and provides those federal funds (sub-award) to the ultimate entity (sub-recipient). This PPM is applicable when the County receives federal funds directly from a federal agency or indirectly from a pass-through entity. Examples include:
 - a. A federal agency provides the State of Florida with federal funds that are passed to the County for support of a federal program. The State of Florida is a pass-through entity providing federal funding to the County, which is a sub-recipient of those federal funds.
 - b. A federal agency provides the County with federal funds that are passed to a non-profit organization. The County is a pass-through entity providing federal funding to the non-profit organization, which is a sub-recipient of those federal funds.
3. **User Department:** the County Department receiving or administering federal funds on behalf of the County.

C. CODE OF CONDUCT

1. The County's Code of Ethics, Sections 2-441 through 2-448 of the County Code ("Ethics Code"), shall serve as the County's conflict of interest policy for federal awards. The Code of Ethics applies to all County officials and employees.
2. Notwithstanding the above, the Super Circular requires disclosure of a potential conflict of interest; standards of conduct for "organizational conflicts of interest", which may apply to non-profit sub-recipients of federal funds; and, gift requirements that are different from those included in the

Ethics Code. As such, the following provisions will govern in those instances where federal funds are utilized for purchasing goods or services:

- a. Conflict of Interest: Notwithstanding any provision of Section 2-443 of the Ethics Code, no employee, officer or agent of the County 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, 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 may receive a tangible personal benefit from a vendor considered for a County contract.*

User Departments shall disclose any potential conflict of interest in writing to the federal awarding agency or pass-through agency. In addition, all federal criminal law violations involving fraud, bribery or gratuity that potentially affect a federal award are required to be disclosed in writing. Failure to make the required disclosures can result in withheld payments, award termination, suspension or debarment of the vendor.

- b. Organizational Conflict of interest: If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state government, 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 the related organization.
- c. Gift Policy: Notwithstanding any provision of the Ethics Code, no officer, employee, or agent of the County shall solicit or accept gratuities, favors, or anything of monetary value from *contractors or parties to subcontracts.*

3. Section 2-448 of the Ethics Code and the County's Merit Rules govern the administrative and disciplinary actions for violations of Paragraph 1.a., b. and c. above by County officials and employees.

D. GENERAL PROCUREMENT STANDARDS AND REQUIREMENTS

User Departments, as well as the Purchasing Department, shall adhere to the requirements of the Purchasing Code and the Countywide Purchasing PPM when procuring goods or services with federal funds.

Notwithstanding the prior statement, User Departments, as well as the Purchasing Department, shall adhere to the additional requirements set forth in the Super Circular pertaining to procurement standards.

The additional Super Circular procurement standards are as follows:

1. In order to ensure objective contractor performance and to eliminate unfair competitive advantage, contractors who develop or draft specification requirements, statements of work, or IFBs or RFPs for the County shall be excluded from competing for such procurements.
2. When it is impractical to make a clear and accurate description of the technical specifications of a good, a "brand name or equal" may be used. The salient characteristics or specific features of the named brand must be met by the bidders or proposers. A specification with a "brand name" only shall not be used.
3. Geographical preferences are prohibited in solicitations for goods or services that are paid with federal funds. This prohibition includes the use of the County's Small Business Enterprise (SBE) Preference, and the County's Local and Glades Preferences. (See Affirmative Steps below).
4. A User Department may request that its procurement process be reviewed by the federal awarding agency or pass-through entity to determine whether its process meets the federal standards in order for its process to be certified.
5. The User Department may self-certify its procurement process. Such self-certification must not limit the federal awarding agency's right to survey the process. Under a self-certification procedure, the federal awarding agency may rely on written assurances from the User Department that it is complying with these standards. The User Department must cite specific policies, procedures, regulations, or standards as complying with these requirements and have its process available for review.
6. All solicitations and contracts shall include a termination for cause and a termination for convenience, which shall be at the sole discretion of the County, and the manner by which these terminations are to be implemented (i.e., notice, etc.). For termination for cause, all solicitations and contracts shall include all administrative, contractual, or legal remedies for a breach of contract, and shall provide sanctions and penalties as appropriate.
7. For those solicitations and contracts including the employment of mechanics or laborers, the contract must provide for compliance with 40 USC 3702, as supplemented by Department of Labor regulations (29 CFR Part 5). Specifically, 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 (1½) times the basic rate of pay for all hours worked in excess of 40 hours in the work week.

8. Those solicitations or contracts providing federal funds in support of scientific research and development must comply with the requirements of 37 CFR 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.
9. A contract award shall not be made to parties listed on the government-wide exclusions set forth in the System for Award Management ("SAM") (found at www.sam.gov), which contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority.
10. Procurement of Recovered Materials - User County Departments and the Purchasing Department must comply with Section 6002 of the Solid Waste Disposal Act ("Solid Waste Act"), as amended by the Resource Conservation and Recovery Act.
 - a. Pursuant to the Solid Waste Act, the County must procure only those goods designated by the Environmental Protection Agency "(EPA)", at 40 CFR Part 247 – 247.17, containing the highest percentage of recovered materials practicable while maintaining a satisfactory level of competition for goods valued above \$10,000 *or* where the value of the goods procured during the preceding fiscal year exceeded \$10,000.
 - b. The EPA's Comprehensive Procurement Guideline (CPG) Program lists eight (8) categories of goods that are/can be made with recovered materials. Included are: construction products; landscaping products; miscellaneous products; non-paper office products; paper and paper products; park and recreation products; transportation products; and, vehicular products.
 - c. The County shall procure solid waste management services in a manner that maximizes energy and resource recovery; and
 - d. All solicitations for the procurement of recovered materials shall follow the Methods of Procurement and Affirmative Steps provided below.

E. USER DEPARTMENT RESPONSIBILITY

1. User Departments shall have knowledge of the applicable federal laws, rules, regulations, required terms and conditions, and award documents applicable to the funding received.
2. Review the proposed procurement to ensure the User Department is not procuring unnecessary or duplicative goods or services.
3. Consider the consolidation of procurements if the result will save money or time along with the possibility of a joint procurement for the goods or services with another government agency.
4. If relevant, consider whether a lease or a purchase of the goods is the most economical approach to the procurement of it.
5. If the good required is included within an EPA designated category set forth in Section D.10. above, the User Department shall write the specification for said good consistent with the following EPA CPG Program Guidelines, as may be amended. It is the User Department's responsibility to verify whether or not a specification within the EPA CPG Guideline has changed.
 - a. <https://www.epa.gov/sites/production/files/2016-02/documents/construct.pdf>
 - b. <https://www.epa.gov/sites/production/files/2016-02/documents/landscape.pdf>
 - c. <https://www.epa.gov/sites/production/files/2016-02/documents/nonpaper.pdf>
 - d. <https://www.epa.gov/sites/production/files/2016-02/documents/paper.pdf>
 - e. <https://www.epa.gov/sites/production/files/2016-02/documents/parks.pdf>
 - f. <https://www.epa.gov/sites/production/files/2016-02/documents/transport.pdf>
 - g. <https://www.epa.gov/sites/production/files/2016-02/documents/vehicle.pdf>
 - h. <https://www.epa.gov/sites/production/files/2016-02/documents/miscell.pdf>
6. Carefully consider the use of a “time and materials” type contract. A time and materials type contract shall *only* be used after it has been determined that no other contract is suitable *and* the contract includes a ceiling price that the contractor exceeds at its own risk. If you can define a statement of work, it is not a time and materials contract. A time and materials type contract requires a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost

controls. A time and materials type contract means a contract whose cost is the sum of:

- a. The actual cost of materials; and
 - b. Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.
7. Carefully consider a use of a “cost plus percentage” type contract. A cost plus a percentage of cost type contract shall not be used unless the base price is an across the board cost *and* the percentage above the cost is based upon a commodity price index that is applicable to everyone equally.
 8. Provide the Purchasing Department with all required procurement provisions, terms, conditions, forms and attachments for inclusion in the solicitation for the goods or services requested. It is the sole and total responsibility of the User Department to notify the Purchasing Department whether or not the procurement is federally funded and to provide the Purchasing Department with all applicable information and documents required for the procurement.
 9. Prior to awarding a federally funded contract, the User Department (or the Purchasing Department, if applicable) must verify that the recommended awardee is not listed in SAM. Verification is made by inputting the name of the recommended awardee in the search field at www.sam.gov. If the search does not find the name of the recommended awardee, the User Department (or Purchasing Department, if applicable) may proceed with the contract award process. The User Department (or Purchasing Department, if applicable) shall print the screen that shows no results were found in SAM and file it in the appropriate procurement file. This documentation will be beneficial during a federal audit.

F. METHODS OF PROCUREMENT

1. Micro Purchase – A good or service valued less than \$3,500.

Micro purchases shall be made in accordance with the County’s Decentralized Purchase Order (DPO) process outlined in PPM # CW-L-048. Notwithstanding the preceding direction, neither the SBE Preference nor the Local or Glades Preferences shall be considered or applied. In addition, the Super Circular mandates the additional requirements:

- a. The User Department shall make a determination that the price the County will be paying for the good or service is reasonable. Said documentation of the determination shall be filed in the appropriate User Department procurement file.

- b. All Micro Purchases must be made equitably among qualified suppliers and, unless the pool of vendors is limited, the same suppliers should not be asked each time to submit prices.

2. **Small Purchase – A good or service valued equal or greater than \$3,500 and less than \$100,000.**

The County's Request for Quote ("RFQ") or Request for Submittal ("RFS") process, as set forth in the Countywide Purchasing PPM, shall be used for small purchases. Notwithstanding the previous mandate, neither the SBE Preference nor the Local or Glades Preferences shall be considered or applied. In addition, the Super Circular mandates the below requirements apply:

- a. The User Department shall conduct an independent cost estimate for each small purchase good or service prior to receiving quotes or submittals.
- b. At least two (2) responsive quotes or submittals must be received to be considered a competitive procurement. If two (2) quotes or submittals are not received, the User Department (or the Purchasing Department, if applicable) shall determine and document that competition was either adequate or inadequate and shall include said document in the procurement file along with proof of the solicitation, a listing of all responses received, and proof of the advertisement of the solicitation. If the User Department (or the Purchasing Department, if applicable) determines and documents that competition was adequate, the procurement selection process shall continue. If the User Department (or the Purchasing Department, if applicable) determines and documents that competition was inadequate, the solicitation shall be cancelled and may subsequently be re-issued.
- c. The User Department shall make a determination as to whether the price the County will be paying for the good or service is reasonable. Said documentation of the determination shall be filed in the appropriate User Department procurement file.

3. **Purchases equal to or exceeding \$100,000:**

- a. The User Department shall conduct an independent cost estimate for each good or service equal to or exceeding \$100,000 in value prior to receiving bids or proposals.
- b. The User Department shall conduct a cost or price analysis for each bid or proposal received. In addition, a cost or price analysis is required for each contract modification.

- c. The User Department (or the Purchasing Department, if applicable) shall document the reason for rejecting any and all bids or proposals. This documentation shall be retained in the procurement file for that particular solicitation.
- d. At least two (2) responsive bids or proposals must be received to be considered a competitive procurement. If two (2) bids or proposals are not received, the User Department (or the Purchasing Department, if applicable) shall determine and document that competition was either adequate or inadequate and shall include said document in the procurement file along with proof of the solicitation, a listing of all responses received, and proof of the advertisement of the solicitation. If the User Department (or the Purchasing Department, if applicable) determines and documents that competition was adequate, the procurement selection process shall continue. If the User Department (or the Purchasing Department, if applicable) determines and documents that competition was inadequate, the solicitation shall be cancelled and may subsequently be re-issued.
- e. ALL solicitations and contracts for purchases equal to or in excess of \$100,000 must contain a provision requiring the County compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 USC 7401-767 1q) and the Federal Water Pollution Control Act, as amended (33 USC 1251-1387). Violations must be reported to the federal awarding agency and the Regional Office of the EPA.
- f. ALL solicitations and contracts for purchases equal to or in excess of \$100,000 must file the Byrd Anti-Lobbying Amendment Certification, per 31 USC 1352. Contractors and sub-contractors shall certify that they will not, and have not, used federal appropriated funds to pay any person or organization in order to influence or attempt to influence an officer or employee of any agency, a member of Congress, office 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 USC 1352. Contractors and sub-contractors must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award.
- g. **Bids – Based upon lowest price**

The County's Invitation for Bid (IFB) process, as set forth in the Purchasing Code, shall be used for sealed bid purchases equal to or exceeding \$100,000.

- 1) Notwithstanding the preceding direction, neither the SBE Preference nor the Local or Glades Preferences shall be considered or applied.
- 2) Also notwithstanding the above, sealed bids shall be *publicly opened* at the time and place set forth in the IFB. The name and price of the bidder shall be read aloud. This is different from Florida law.

h. **Proposals – Based upon evaluation criteria**

The County's Request for Proposal (RFP) process, as set forth in the Purchasing Code, shall be used for purchases equal to or exceeding \$100,000.

- 1) Notwithstanding the preceding direction, neither the SBE Preference nor the Local or Glades Preferences shall be considered or applied.
- 2) Also notwithstanding the above, the User Department must have a written method for conducting technical evaluations of received proposals. When a solicitation is processed through the Purchasing Department, the User Department must provide the written method for conducting technical evaluations to Purchasing for inclusion in the procurement file.

4. **Sole Source purchases** shall be conducted in accordance with the method of procurement for the good or service described in Paragraphs 1., 2., or 3., of this Section, the Purchasing Code, and the Countywide Purchasing PPM. If contemplating use of a sole source procurement or a procurement where there is no competition, the User Department must negotiate profit *as a separate element of the price*. To establish a fair and reasonable profit, consideration shall be given to the complexity of the work to be performed, the risk borne by the contractor, the past performance of the contractor, and industry profit rates in the surrounding geographical area for similar work.

5. **Emergency purchases** shall be conducted in accordance with the method of procurement for the good or service described in Paragraphs 1., 2., or 3., of this Section, the Purchasing Code, and the Countywide Purchasing PPM.

- a. Emergency purchases are for a limited duration of time. Once the actual emergency ceases, a solicitation is required for goods or services required for ancillary damage or a situation caused or related to the emergency, but that are not emergencies in and of themselves.
 - b. Notwithstanding the preceding direction, neither the SBE Preference nor the Local or Glades Preferences shall be considered or applied.
6. **Pre-qualification of vendors** shall be conducted in accordance with the Purchasing Code and the Countywide Purchasing PPM.
 - a. Notwithstanding the preceding direction, neither the SBE Preference nor the Local or Glades Preferences shall be considered or applied.
 - b. Also, notwithstanding the above, pre-qualification solicitations must not preclude potential bidders or proposers from qualifying during the solicitation period. Vendors may apply to qualify for pre-qualification contracts at any time during the term of the contract.
7. **Piggyback Purchases** are discouraged when purchasing goods or services with federal funds. Piggyback purchases shall be conducted in accordance with the method of procurement applicable for the dollar value of the good or service described in Paragraphs 1., 2., or 3., of this Section, the Purchasing Code, and the Countywide Purchasing PPM. Notwithstanding the previous mandate, all federal procurement standards and requirements *must be in the original solicitation* and the originating governmental entity *must have anticipated Palm Beach County's participation in the original scope of work* or original specifications of the contract.

G. REQUIRED AFFIRMATIVE STEPS

For goods or services to be purchased with federal funds, all necessary affirmative steps shall be taken to ensure that small and minority businesses, women's business enterprises, and labor surplus area firms are solicited whenever they are potential sources and are to be utilized whenever possible.

1. **Responsibilities of the Office of Small Business Assistance ("OSBA")**
 - a. To assure that small and minority businesses and women's business enterprises are solicited as potential sources, OSBA shall maintain an Affirmative Steps Solicitation List ("List") that is *not* based on a geographic preference. Included in this List shall be small and minority businesses and women's business enterprises that provide

recovered materials identified by the Environmental Protection Agency (“EPA”), and as noted in Section E. above.

- b. In developing the List, OSBA should use 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.
- c. On the date the solicitation is to be advertised either by the User Department or by the Purchasing Department, OSBA shall distribute an email to all small and minority businesses and women’s business enterprises that are included on the List advising them to check the County’s website for County business opportunities utilizing federal funds. Referring small and minority businesses and women’s business enterprises to check the County’s website will ensure that the most current version of the solicitation and any amendment thereto is obtained.
- d. Work with User Departments in developing their scopes of work or specifications into smaller tasks or quantities, when economically feasible, to permit maximum participation by small and minority businesses and women's business enterprises.
- e. Work with User Departments in developing their scopes of work or specifications to establish delivery schedules, where the requirement permits, to encourage participation by small and minority businesses and women's business enterprises.

2. User Department Responsibilities

- a. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women enterprises;
- b. Establish delivery schedules, where the requirement permits, to encourage participation by small and minority businesses, and women’s business enterprises;
- c. Ensuring that all solicitations and ensuing contracts include the requirement that the prime contractor, if subcontracts are to be let, utilize the Affirmative Steps set forth in this Section to ensure that small and minority businesses, and women’s business enterprises are used whenever possible.
- d. Prior to advertising a solicitation, the User Department (or the Purchasing Department, if applicable) shall forward the final

solicitation document to OSBA for distribution to small and minority businesses and women's business enterprises on the List.

H. PROTEST PROCESS –

1. Protests for goods or services valued in excess of \$100,000 and paid or reimbursed with federal monies shall be handled in accordance with the Purchasing Code.
2. A protest process for goods or services equal to or in excess of \$3,500 and less than \$100,000 is required by many federal agencies. If the federal funding agency requires a protest process for these purchases, the following process shall be utilized.
 - a. Any vendor submitting a quote or a submittal who is aggrieved in connection with the recommended award may protest in writing to the Director of *the User Department*.
 - b. The protest shall be submitted via hand deliver, mail, email or fax within five (5) business days after posting of the award recommendation. The protest shall identify the protestor and the solicitation, and shall include a factual summary of the basis of the protest. A protest is considered filed when it is received and date/time stamped by the User Department. Only those issues submitted writing within the period specified for the protest will be considered.
 - c. Upon receipt of a written protest, the Director of the User Department shall review the protest and any written material provided by the protestor. The Director of the User Department shall issue a written decision within a reasonable period of time that either upholds the protest or denies the protest. In either instance, the User Department's written decision shall include a rationale for said determination, which shall be provided to the protestor.
 - d. The Director of the User Department may uphold the protest based upon a violation of the provisions of the Purchasing Code; any other County Ordinance, resolution, policy, or procedure; federal law, rule or regulation; the Super Circular, or upon discovery of an irregularity or procedural flaw that is so severe as to render the process invalid. If the upholding of the protest will result in a change of the recommended award, a new recommended award shall be posted by the Purchasing Department or User Department, as applicable, for five (5) business days allowing aggrieved respondents/quoters an opportunity to protest the new recommended award. If upholding of the protest will result in a cancellation of the solicitation, said cancellation shall be made in accordance with the Purchasing Code.

- e. If the Director of the User Department denies the protest, the protestor may request review of the protest and the denial of same by the Purchasing Director. The request for review by the Purchasing Director shall be submitted in writing to the Director of the User Department within five (5) business days of the issuance of the denial of the protest. Upon timely submittal, the Purchasing Director shall review the protest, all material provided relating to the protest, and the determination of the Director of the User Department. The Purchasing Director shall render the final administrative decision with regard to the protest.

I. USER DEPARTMENT CONTRACT ADMINISTRATION AND REVIEW

1. User Departments are required to maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contract or purchase order. Vendor Performance Reports should be filed with the Purchasing Department when a vendor, for a contract solicited through the Purchasing Department, fails to perform in accordance with the contract.
2. A contractor may be suspended or debarred by the Director of Purchasing in accordance with the Purchasing Code.
3. The User Department (or the Purchasing Department, if applicable) is responsible for the settlement of all contractual and administrative issues arising out of the procurement. Violations of the law by a contractor shall be referred to the local, state or federal authority having proper jurisdiction.

J. PROCUREMENT RECORDS AND RECORDS RETENTION

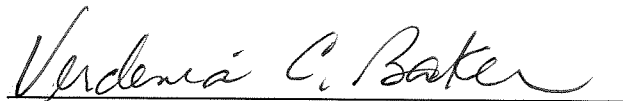
1. User Departments and the Purchasing Department must maintain records sufficient to detail the history of the procurement. These records shall include, but not be limited to, independent cost estimate, cost or price analysis of the good or service if required, the solicitation, proof of advertisement, rationale for the method of procurement, selection of contract type, contractor selection or rejection, the basis for the contract price, and documentation regarding protests, if any.
2. All records pertaining to the procurement of the goods or services paid with federal funds shall be retained for a period of three (3) years *from the date of submission of the final expenditure report for the **entire** federal allocation* or, for federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as

*of submission of the final expenditure report for the **entire** federal allocation* or, for federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the federal awarding agency or pass-through entity. Please note that this requirement is different from the Florida public records law. Exceptions include:

- a. If any litigation, claim, or audit is started before the expiration of the three (3) year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
- b. When the County has received written notification to extend the records retention period from the federal awarding agency, agency for audit, oversight agency for audit, agency for indirect costs, or pass-through entity.
- c. Records for equipment acquired with federal funds must be retained for three (3) years *after final disposition*.
- d. When records are transferred to or maintained by the federal awarding agency or pass-through entity, the three (3) year retention requirement is *not* applicable to the County.

K. **QUESTIONS AND CLARIFICATIONS**

All questions and clarifications relating to particular requirements of a federal law, rule, regulation, or the Super Circular pertaining to a federal award shall be referred to the federal agency providing the award or to your Department's designated Assistant County Attorney.



Verdenia C. Baker
County Administrator