

**TO: ALL COUNTY PERSONNEL**

**FROM: ROBERT WEISMAN  
COUNTY ADMINISTRATOR**

**PREPARED BY: FACILITIES DEVELOPMENT & OPERATIONS DEPARTMENT**

**SUBJECT: REQUIREMENTS FOR CONSTRUCTION AND CONSTRUCTION  
RELATED CONTRACTS WITH VALUES OF LESS THAN \$200,000**

**PPM#: CW-F-064**

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**ISSUE DATE**  
**November 12, 2014**

**EFFECTIVE DATE**  
**November 12, 2014**

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**PURPOSE:**

To set forth procedures for implementing purchasing authority of construction and construction related activities with a contract value of less than \$200,000 which is executed by the Directors of Facilities Development & Operations, Airports, Water Utilities, Environmental Resources Management or the County Engineer (collectively referred to as "Construction Departments"). Also to standardize contract procedures for Department executed contracts, consistent with the documentation requirements for Board approved construction contracts.

**UPDATES:**

Future updates to this PPM will be the responsibility of the Director of Facilities Development and Operations.

**AUTHORITY:**

- Palm Beach County Purchasing Code Chapter 2, Article III, Section 2-51 – 2-54, as amended
- Palm Beach County Ordinance 2002-64 ("Small Business Enterprise" (SBE)) as amended
- Palm Beach County Ordinance No. 2002-065 (Local Preference Ordinance) as amended
- Palm Beach County Ordinance No. 2003-004 (Living Wage Ordinance) as amended
- Palm Beach County Code Chapter 2, Article XII, Office of the Inspector General
- PPM CW-F-016 Bond Waiver Program
- PPM CW-F-050 Contract and Change Order Authority for Construction, Engineering and Architectural Contracts.
- PPM CW-F-049 OFMB/Contract Development & Control - Contract Responsibility

**DEFINITIONS:**

Definitions as used in this PPM, the following terms carry the specified meaning:

1. **Advantage**  
County's automated financial system.
2. **Authorized Department Director**  
Department Directors authorized by the Purchasing Code to execute construction and construction related contracts with values of less than \$200,000, per contract or less than \$200,000 per annum. Those Department Directors are limited to the County Engineer, Director of Facilities Development & Operations, Director of Water Utilities, Director of the Department of Airports, and Director of Environmental Resources Management for Coastal and Land Management Construction Contracts.
3. **Competitive Bid**  
The process of purchasing goods and/or services as legally advertised with an invitation for bid. The contract is awarded to the lowest responsive and responsible bidder, as detailed in the Purchasing Code. Unless covered by an alternate source selection, a legally advertised competitive bid and the Standard Contract format are required for all contracts with a value equal or greater than \$50,000 or as amended by Purchasing Code.
4. **Competitive Quote**  
A process of purchasing goods and/or services with a value of less than \$50,000 or as amended by Purchasing Code.
5. **Coastal and Land Management Construction Contract**  
Any construction or construction related contract or purchase order as defined by the Purchasing Department policy for improvements to real property, including constructing, altering, repairing, improving or demolishing buildings, or for goods or services related thereto, and further limited to construction and construction related activities directly required for 1) shoreline protection, restoration or enhancement, or 2) management of environmentally sensitive lands that were purchased through the Environmentally Sensitive Lands Acquisition Program (ESLAP) valued at less than \$200,000 per contract. This authorization does not include the procurement of services from a building or general contractor for any type of vertical construction within a coastal or land management project. If change orders are issued which increase the contract value to \$200,000 or more per contract, the change must then receive the approval of the Board of County Commissioners.
6. **Construction Contract**  
Any construction or construction related contract or purchase order as defined by the Purchasing Department policy for improvements to real property, including constructing, altering, repairing, improving or demolishing buildings, or for goods or services related thereto, valued at less than \$200,000 per contract. If change orders are issued which increase the contract value to \$200,000 or more per contract, the change must then receive the approval of the Board of County Commissioners.

7. **County Representative**  
A County employee representing one of five (5) authorized construction departments who is responsible for administering a construction project.
8. **Direct Contract**  
If no bids are received pursuant to a competitive quote or bid, the contract may be awarded to any vendor that meets the original bid specifications.
9. **Emergency Contract**  
A contract is issued when an authorized Department Director determines that the urgency of a situation would be detrimental to the interests, health, safety, or welfare of the County and does not allow time to observe the normal requisition procedures. All emergency purchases shall be in accordance with Palm Beach County Code Chapter 2, Article III, Div 2, except that approval shall be the responsibility of the authorized Department Director.
10. **Piggyback Contract**  
Construction goods or services contracted for by County using other competitively selected government contracts as long as the vendor extends the same terms and conditions to the County.
11. **Price Agreement (Term Contract)**  
A formal agreement between Palm Beach County and a designated vendor(s) to provide an identified commodity (product and/or service) upon request. The agreement establishes a price structure, duration, responsible buyer and the anticipated contractual expenditure. If a price agreement is the selected procurement method, the procedures established by that Agreement's Resource Manager will prevail.
12. **Proprietary Purchase**  
A contract issued when the authorized Department Director has determined and documented in writing that the requested item is the only item which meets the Department's need and is available through more than one (1) source.
13. **Purchase Order**  
A Purchase document used to authorize a purchase transaction with a vendor. It should contain provisions for services ordered, applicable terms as to payment, discounts, date of performance and other factors or conditions relating to the transaction, acceptance of a purchase order shall constitute a contract.
14. **Sole Source**  
A contract issued when the authorized Department Director has determined and documented in writing that the requested item is the only item which meets the Department's need and is only available for procurement from a single source.

**POLICY:**

It is the policy of the County to employ a fair and equitable competitive process, to acquire the most

cost effective goods and services to meet the County's needs, and to encourage participation in and access to, this process by Small Business Enterprises (SBE) as defined within PBC Code.

**PROCEDURES:**

1. For the bidding/procurement phase of a project, the County Representative will follow the procedure listed below:
  - A. Prepare written scope of work;
  - B. Determine the urgency of work;
  - C. Prepare preliminary estimate of cost/schedule of values;
  - D. Determine which of the following processes will be used in procuring the work.

1. Competitive Bid: Legally advertised, competitive bid for construction or construction related good or services with an estimated value between \$50,000 and \$200,000 or as amended by Purchasing Code.

When using this process the following must be utilized:

- a. Advertising: Competitive bids must be publicly advertised. Advertising must be accomplished in sufficient time to allow bidders to prepare and submit their bids to meet the established public bid opening.
  - b. Pre-Bid Conferences: Pre-Bid Conferences may be mandatory or non-mandatory. A mandatory pre-bid conference may be used to explain complicated specifications and requirements to potential bidders to achieve a better understanding of what the County is seeking.
    - i. The conference should be held no sooner than 5 days after advertising, allowing sufficient time for interested bidders to learn of the solicitation and acquire a copy.
    - ii. Arrange for attendance of the appropriate user department and technical personnel.
    - iii. The County Representative is responsible for conducting the conference. The County Representative must emphasize to the bidders that, regardless of what is said by anyone present at the conference, the terms, conditions, and specifications of the solicitation can be changed only by a written and published addendum to the IFB (Invitation for Bid).
    - iv. The time, date and location of the pre-bid conference must be identified in the invitation for bid.
  - c. Site Visits: Site visits shall be conducted with interested bidders and appropriate County Staff when it is determined that it is essential to the bidding process that certain elements relating to the specifications

must be seen by interested bidders and if necessary, be explained further. In the event it is decided that a site visit is necessary, the site visit shall be mandatory and certification of the vendor's attendance must be kept on file.

- d. Bid Openings: Bid(s) shall be opened publicly in the presence of one or more witnesses at the place and time as designated in the IFB. The amount of each bid, the name of the bidder and other relevant information shall be recorded; the record and each bid shall be open to public inspection in accordance with Florida Law. Bid tabulation summary sheet must be kept.
- e. Invitation for Bid Cancellation or Postponement: An authorized Department Director may cancel or postpone an Invitation to Bid prior to bid opening. After the bid opening, the authorized Department Director may cancel the bid if no or only one responsive, responsible bid is received, or if the lowest responsive, responsible bid is in excess of the funding limits established by the County for that bid. In the event of discovery after bid opening of a patent irregularity or procedural flaw of which is so severe as to render the process invalid, the County Administrator or designated Assistant County Administrator may cancel the bid.
- f. Standard Contract Format must be used. The Standard Contract Form is available from each authorized Department Director. It is up to each authorized Department Director to ensure that the updated standard contract form is used for all procurements.
- g. SBE: There is a minimum SBE goal of fifteen percent (15%) for every procurement. This goal may be achieved through the award of a bid or contract to an entity that is a certified SBE, or through the award of a bid or contract to an entity that utilizes a certified SBE subcontractor. The annual goal should be applied to the procurement of all goods, services, or construction unless otherwise approved by the County Administrator.

Ranking of Responsive Bidders: Bidders who meet the SBE goal will be deemed to be responsive to the SBE requirement. In evaluating competitive bids or quotes between one-thousand dollars (\$1,000) and one million dollars (\$1,000,000) where the low bidder is non-responsive to the SBE requirement:

- i. the contract shall be awarded to the low bidder responsive to the SBE requirement as long as the bid does not exceed the low bid amount by 10%; or

- ii. In the event there are no bidders responsive to the SBE requirement, the contract shall be awarded to the bidder with the greatest SBE participation in excess of seven percent (7%) participation, provided that such bid does not exceed the lowest responsive bid amount by more than ten percent (10%).
- h. All contracts shall be awarded pursuant to the requirements of the Palm Beach County Purchasing and SBE Ordinances; Local Preference Ordinance; Bond Waiver PPM; Living Wage Ordinance and other applicable PPMs and Ordinances.
- i. Each Department Director is responsible for ensuring that written Department procedures are in place specifically addressing how State and Federal grant related certifications, representations, conditions, and requirements are reflected in the contract documents especially when this PPM is in conflict with those grant requirements and for ensuring that they are included in the initial project request to the construction department.
- j. The Bid Security and Public Construction Bond may be waived for contracts of less than \$200,000 provided bidder complies with Palm Beach County Resolution No. 89-1178 and Palm Beach County Policies and Procedures PPM CW-F-016 relative to the Bond Waiver Program.

2. Competitive Quote:

- a. A minimum of three (3) solicitations are required for all competitive quotes which have an estimated cost of less than \$50,000 or as allowed by Purchasing Code. If less than three quotes are submitted, the Department Director has the option of verifying that the lowest submitted quote is within the estimate for the work and award the work. Solicitations must be sent to all registered SBE vendors.
- b. All solicitations for competitive quotes will include a date and time by which quotes must be received, and a statement encouraging compliance with SBE Ordinance. If a pre-quote site visit is necessary, the solicitation shall include the date and time for the pre-quote site visit.

3. Sole Source: Prior to approving a sole source procurement, the Department Director must approve justification for same from the County Representative.

4. Proprietary Purchase: Since this type of procurement does not provide for full and open competition, regardless of the number of sources solicited, it shall require prior approval by the Department Director. Award shall be



made to the lowest responsive, responsible quote unless displaced by SBE vendor or local vendor under the provisions of the applicable ordinances.

5. Piggyback or Cooperative Contract: The authorized Department Director may purchase goods and/or services under contract with Federal, State and municipal government or other government agencies or political subdivisions providing that the vendor extends the same terms and conditions of the contract to Palm Beach County. Prior to using another entity's contract, the County Representative shall review the competitive bidding or proposal process used by other governmental entity's purchasing ordinance, Invitation for Bid or RFP, and the resultant contract, purchasing agreement, purchase order, etc., as the County's purchase must be pursuant to the identical terms.

In the event the purchase order exceeds the mandatory award amount of \$200,000, the purchase must be approved by the Board of County Commissioners.

6. Emergency Contract: Emergency purchases shall be in accordance with Palm Beach County Code, Chapter 2, Article III, Division 2 except that approval shall be the responsibility of the authorized Department Director.

E. Select the Vendor to be Awarded the Contract:

1. Follow all award criteria required for the type of procurement selected, including responsiveness and responsibility as required by the Purchasing Code and as may be further defined by the specific solicitations.
2. All vendors must be properly licensed to perform specific work prior to bid opening. This can be verified through Palm Beach County Planning, Zoning & Building (PZB) Contractor Certifications Division. This should be reiterated at the pre-bid conference and be stated in the competitive quote solicitations.
3. In order to receive the SBE preference, only certified SBEs at the time of bid submittal may be counted towards the goal.
4. If there is a conflict between the result produced by application of the Local Preference Ordinance and the result produced by application of the SBE Ordinance, the SBE Ordinance result prevails.
5. Post all awards pursuant to the Purchasing Code.

2. Documentation for Contract Approval:

- A. The contract will have a clearly defined scope of work and a contract price amount. If there are reimbursable expenses, the reimbursable expense amount must be identified separately in the contract as well as the items to be reimbursed.

- B. Each contract must have a start and completion date. If liquidated damages apply, they may be assessed using Florida Statute 337.18.
  - C. An approved Budget Availability Statement (BAS) must be attached. The User Department must clearly identify the source of funding for all projects on the BAS and convey all relevant Federal certifications and representations at the initial project request. See attachment for a sample BAS.
  - D. The Insurance Certificate(s) must be attached with the appropriate insurance category limits, the County identified as additionally insured and must contain at least a 30 day cancellation clause. Contact Palm Beach County Risk Management, prior to solicitation, if you are unsure of the appropriate insurance category limits.
  - E. The vendor must sign the contract before approval by the Department Director.
  - F. All contracts must be reviewed and signed off by the County Attorney's office before approval by the Department Director.
  - G. The successful bidder must register as a vendor with the Purchasing Department.
3. Payment:
- A. The vendor must complete work in accordance with contract specifications and/or scope in order to be approved for payment.
  - B. If a Standard Contract format is issued, the vendor must give invoice to the County Representative, who then forwards the approved invoice to the authorized Department's Fiscal Section for processing.

**ATTACHMENTS:**

Budget Availability Statement (BAS)



**ROBERT WEISMAN  
COUNTY ADMINISTRATOR**

**Supersession History:**

- 1. PPM CW-F-064, issued 2/9/82
- 2. PPM CW-F-064, issued 6/14/04
- 3. PPM CW-F-064, issued 12/20/05
- 4. PPM CW-F-064, issued 2/23/10
- 5. PPM CW-F-064, issued 5/13/2011



**BUDGET AVAILABILITY STATEMENT**

REQUEST DATE:

REQUESTED BY:                      PHONE:

PROJECT TITLE:

PROJECT NO.:

LOCATION:

LOCATION DESCRIPTION:

BUILDING NUMBER:

CONTRACTOR/CONSULTANT NAME:

PROVIDE A BRIEF STATEMENT OF THE SCOPE OF SERVICES TO BE PROVIDED BY THE CONSULTANT/CONTRACTOR:

**WILL THIS AMENDMENT CHANGE THE ESTIMATED COST OF THE PROJECT?  
IF YES, PROVIDE ESTIMATES OF THE NEW COSTS:**

CONSTRUCTION	_____
ARCHITECT/ENGINEER/CONSULTANT	_____
STAFF COSTS*	_____
EQUIPMENT/ OTHER	_____
CONTINGENCY	_____
TOTAL	_____

\*By signing this BAS your department agrees to these staff costs and your account will be charged upon receipt of this BAS by FD&O. Unless there is a change in the scope of work, no additional staff charges will be billed.

**BUDGET ACCOUNT NUMBERS** (IDENTIFY ALL SOURCES) FUNDING SOURCE (CHECK ALL THAT APPLY)

FUND:            DEPT:            UNIT:            OBJ:            SUBOBJ:

AD VALOREM       OTHER / GRANT(S)       FEDERAL/DAVIS BACON

If Grant(s), specify name of Grant(s): \_\_\_\_\_

SUBJECT TO INSPECTOR GENERAL FEE     YES             NO

BAS APPROVED BY \_\_\_\_\_ DATE: \_\_\_\_\_

ENCUMBRANCE NUMBER: \_\_\_\_\_