



John A. Carey
Inspector General

OFFICE OF INSPECTOR GENERAL PALM BEACH COUNTY

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Perfecting the *Art* of PIGGYBACKING

Piggybacking is a procurement/contracting method that allows a public entity to access goods or services in similar size, scope, and price as contracted by another entity. The National Association of State Procurement Officials defines a piggyback as, “a form of intergovernmental cooperative purchasing in which an entity will be extended the pricing and terms of a contract entered into by a larger entity.”

The State of Florida encourages open and competitive procurement practices. According to section 287.001, F.S., “the Legislature recognizes that fair and open competition is a basic tenet of public procurement; that such competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically...” One concern with piggybacking is that the procurement method will be used to avoid full, fair, and open competition.

Best Practice Alert—Know your piggyback policy

Do your due diligence & Verify

- Bid complied with entity rules, local, state, Fed laws
- Original contract was bid
- Piggybacking is permitted
- Vendor qualifications

Reference the Best Practices Below for more details.:

Validating the procurement process for the original piggybacked contract helps ensure that the contract was awarded on a fair and equitable basis. Validating the process includes, reviewing the bid or RFP, requesting a copy of the bid tabulation or list of respondents, reviewing the approval of the contract to make sure there was a valid award, and examining supporting documentation relating to the original contract.

There are several benefits that piggybacking can offer:

1. the ability to share contract pricing for goods or services that are similar in quantities, scope, and/or size;
2. save time, effort, and cost associated with administering a formal solicitation; and
3. potentially expedite the time to receive goods and/or services.



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However, there are other factors to consider prior to deciding on the piggyback method, such as: ensuring legal compliance with your internal policies and procedures, potential protest from a competing contractor, and determining if the originating contract fully meets the needs of your entity. Agencies wishing to utilize the piggybacking procurement method should exercise due diligence when deciding whether piggybacking is appropriate by performing market research, assessing the needs of your entity, and conducting a thorough review of the originating entity's contract and purchasing/procurement code, ordinances, policies, and/or procedures to ensure that piggybacking on that contract complies with your entity's piggybacking policy.

Expanding the scope of work and/or the specifications in a piggyback contract beyond that of the originating government entity's contract minimizes the fairness of open competition. In the December/January 2012 issue of *Government Procurement*, Richard Pennington warns that "the more the contract scope differs, the less likelihood of achieving fair and reasonable pricing through cooperative procurement."¹ The *Accela, Inc. v. Sarasota City*, 993 So. 2d 1035 (Fla. 2d DCA 2008) case illustrates the limits to piggybacking and upheld a challenge to an entity's ability to expand the scope of the terms in the originating entity's contract.

Piggybacking Best Practices

When preparing to use the piggyback option as an alternative method of procurement, first review your entity's piggybacking policy. We identify 4 (four) best practices to consider after reviewing your own policy requirements for piggybacking as illustrated below:

**1**

OBTAIN INFORMAL QUOTES

- As part of market research, prior to initiating a piggyback contract obtain a minimum of 3 quotes as the basis for cost comparative analysis.
- If the pricing of the informal quotes is lower than the contract being considered to piggyback, goods or services should be competitively procured.

**2**

USE COMPETITIVELY PROCURED CONTRACT

- Ensure the originating contract is not expired.
- Check if the originating contract allows other entities to access same pricing of goods and/or services.
- Confirm in writing that the Contractor will extend the same goods/services awarded for the same prices in the piggyback contract.

¹ Pennington, R. (2012). 'Piggybacking' on the Law (of Piggybacking). *Govpro Hot Topics Legal Pro - NIGP Online Magazine*, December/January 2012, 7-8.

**3****LIMIT PIGGYBACK CONTRACT TO IDENTICAL ITEMS**

- Expanding the scope of the piggyback contract beyond the originating contract is cautioned because it prohibits fairness in competition.
- Review and verify piggyback contract item matches originating contract items and pricing.
- Avoid venturing into non-competing purchasing practices, whereas, “local vendors may view piggyback contracts as unfair because they did not have an opportunity to compete.”

**4****VALIDATE THE PROCUREMENT PROCESS**

- Review solicitation documentation; ITB/RFP, bid tabulation, score sheets of evaluation.
- Review the contract award and approval.
- Fully executed contract between originating entity and awarded contractor.

Recommendation

We recommend that local governments review their procurement ordinances, policies, and practices and take appropriate actions necessary to provide staff guidance on the benefits of:

1. obtaining informal quotes;
2. using of other active competitively solicited contracts;
3. limiting piggyback to identical goods or services and similar in quantities, scope, and/or size, as needed in your agency;
4. ensuring the original contract allows piggybacking;
5. ensuring the original contract is valid and has not expired; and
6. using a checklist.