

**COLLIER COUNTY CLERK OF THE CIRCUIT COURT & COMPTROLLER
PROCUREMENT POLICY
INDEX**

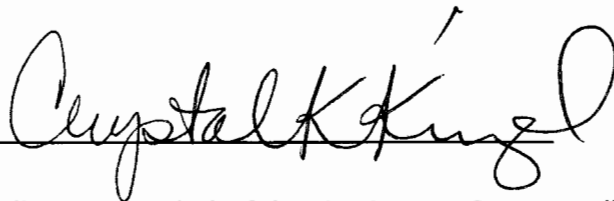
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**COLLIER COUNTY CLERK OF THE CIRCUIT COURT & COMPTROLLER
PROCUREMENT POLICY**

I. ESTABLISHMENT OF PURCHASING POLICY

It is a requirement of the Collier County Clerk of the Circuit Court and Comptroller (Clerk) that the following Procurement Policy will be followed unless exempted on a case-by-case basis by the Clerk to ensure the appropriate use of public funds for the benefit of the citizens of Collier County.

II. AUTHORITY

Approved: 

Crystal K. Kinzel, Collier County Clerk of the Circuit Court & Comptroller

Effective Date: November 6, 2020

Modifications to this Policy shall be effective when the revised document is approved by the Clerk. Standard Operating Procedures, forms and ancillary documents for the procurement process shall be effective upon the approval of the Clerk.

III. PURPOSE

This Policy is designed to ensure compliance with Florida Statutes, maximize the purchasing value of public funds, maintain the integrity of the procurement process and ensure that both the process and end results are auditable.

This Policy applies to the procurement of all goods and services regardless of the source of the funds. Nothing within this Policy will prevent the Clerk from complying with the terms and conditions of any grant, gift or bequest that is otherwise consistent with law.

IV. RESPONSIBILITIES OF PURCHASING AGENT

The Purchasing Agent shall be responsible for the following:

- A. Seeking Maximum Value: To procure the highest quality goods and services at the least expense to the Clerk.
- B. Encouraging Competition: To obtain full and open competition when possible on all purchases.
- C. Procedures: To establish, document and maintain operational procedures for the application of the Procurement Policy provided.
- D. Vendor Certification: To document that vendors doing business with the Clerk are properly licensed and acknowledge their understanding and acceptance of the terms and conditions of the Clerk's procurement policy and agree to abide by the policy.
- E. Disqualification of Bidders: To identify all vendors who default their quotations or bids to the Clerk or fail to provide commodities and services required under contract. Further, to determine if said vendors shall be removed from purchasing consideration for a period of three years unless this ban is expressly waived by the Clerk.
- F. Inquiry and Control: To question the quality, quantity and kinds of items requisitioned to ensure that the best interests of the Clerk are served.
- G. Clerk's Information Technologies (CIT) Review: To ensure all purchases of data processing equipment or software has been reviewed by the CIT Department for the purpose of assuring data processing purchases are compatible with existing systems and safeguards.
- H. Proper Records Retention: To maintain all procurement activity is in compliance with Chapter 119, Florida Statutes, and "Public Records".
- I. To advise the Clerk of misuse, inappropriate use or purchasing activities that are inconsistent with the purpose and intent of the Procurement Policy, applicable local, state or federal law.

V. ETHICAL STANDARDS/ CONFLICT OF INTEREST

Every employee and contractor of the Clerk has the responsibility to maintain the confidence of the citizens of Collier County by conducting the procurement process in an ethical, fair and transparent manner. Staff shall act in good faith to discharge their duties and avoid the intent or appearance of unethical practices in procurement relationships, actions and communications. Any attempt by the Clerk or employees to realize personal gain from the procurement process is a breach of public trust.

The Clerk shall require each vendor who seeks to do business with the Clerk to comply with the following ethical standards:

- A. No vendor shall discuss or consult with other vendors intending to compete for the same or similar contract for the purpose of bid rigging, collusion or other activities that are illegal, unethical or limit competition.
- B. No vendor shall submit false information or intentionally submit misleading information to the Clerk.

- C. After the issuance of any solicitation, no current or prospective vendor or any person acting on his or her behalf, shall contact, communicate with or discuss any matter relating to the solicitation with any Clerk's staff or elected or appointed official, other than the Purchasing Agent or his/her designees. This prohibition ends upon execution of the final contract or upon cancellation of the solicitation. Any current or prospective vendor that lobbies any Clerk employee or elected or appointed official while a solicitation is open or being recommended for award (i) may be deemed ineligible for award of that solicitation by the Clerk and (ii) will be subject to suspension.
- D. Failure to comply with this Section shall be deemed a violation of ethical standards and may subject the violator to administrative actions and to civil, and/or criminal penalties for ethical violations as described below:
 - 1. Staff who violate the ethics standards described in this Section shall be subject to administrative disciplinary action, following the Clerk's Human Resources policies and procedures as outlined in the Employee Manual, up to and including dismissal and prosecution.
 - 2. Vendors who violate the ethics standards described in this Section may be subject to suspension or debarment.
- E. Vendors doing business with the Clerk shall comply with the provisions of Section 287.133, Florida Statutes ("Public Entity Crimes").

VI. DEFINITIONS

- A. Consultant/Contractor/Supplier/Vendor shall mean a provider of goods or services to the Clerk. These terms may be used interchangeably.
- B. Evaluation Committee refers to a committee of at least 5 staff members who are appointed by the Clerk to review and evaluate competitive solicitations. Members of the committee are prohibited from discussing the solicitation or responses with any parties including other members of the committee except in official committee meetings.
- C. Term Contract is a type of contract in which a source of supply is established for a specific period of time for specified services or supplies; usually characterized by an estimated or definite minimum quantity, with the possibility of additional requirements beyond the minimum, all at a predetermined price.
- D. Fixed-Fee Agreement is a contract providing for a firm price, or a price that may be adjusted only in accordance with contract clauses providing for revisions of the contract price under stated circumstances.
- E. Lease Agreement is a contract outlining the terms in which one party agrees to lease property or equipment owned by another party for a specified amount of time.
- F. Lump Sum or Specific Project Agreement is a contract where a firm, fixed total price is offered by the vendor for the completion of a project; which must be accomplished through a competitive process.
- G. Responsive Bidder/Proposer shall mean a vendor who has submitted a bid or proposal that fully conforms in all material respects to the solicitation and all of its requirements, including form and substance.

- H. Responsible Bidder/Proposer shall mean a vendor who has the financial and technical capacity to perform the requirements of the solicitation and subsequent contract.
- I. Minority business enterprise or any other designation assigned by the Office of Supplier Diversity with the Division of State Purchasing shall mean a firm or individual whom satisfies the registration requirements of that agency and/or satisfies the requirements outlined in Florida Statute Chapter 287.0943(2) (e), Chapter 295.187, Chapter 60A-9, Florida Administrative Code.
- J. Local Vendor is a business that has a current Business Tax Receipt issued by the Collier County Tax Collector with a permanent physical business address located within the limits of Collier County from which the vendor's staff operates.
- K. Purchase Order shall mean a form of contract, issued by the Clerk's Purchasing Agent, which encumbers appropriated funds and which is directed to a single vendor to furnish and deliver commodities or services to the Clerk.
- L. Purchasing Card shall mean a credit card officially assigned to specific staff under the purview of the Clerk, for the purpose of making small and/or strategic purchases.
- M. Single Source refers to a procurement directed to one source because of standardization, warranty, or other factors, even though other competitive sources may be available.
- N. Sole Source refers to a procurement where the selection of one particular supplier to the exclusion of all others is based on the fact that the vendor is the only one that manufactures or provides a particular product or services.

VII. EXEMPTION FROM THE COMPETITIVE PROCESS

The following procurement categories may be eligible for exemption from the competitive process based upon the determination of the Clerk that the approval of such an exemption is in the best interest of the citizens and the Clerk.

- A. Purchases from another government agency or from a nonprofit organization authorized to do business in the State of Florida.
- B. Dues and memberships in trade or professional organizations; registration fees for trade or career fairs; fees and costs of job-related seminars and training.
- C. Subscriptions, periodicals, newspapers, books, electronic information, media and maps in printed or electronic form.
- D. Advertisements.
- E. Utility services, communications and data transmission services subject to government rate control.

- F. Educational or academic programs; educational field trip instructors, trainers, facilitators, professional advisors and speakers. Legal services including retaining services of law firms or other outside counsel for any reason, expert witnesses, court reporter services, appraisal services, trial consultants or similar persons or firms deemed by the Clerk as necessary to address the legal needs of the Clerk, together with document management and production, legal research, and information technology products and services.
- G. Goods or services purchased from grants, gifts, bequests or donations to the extent that the application of this Policy would not conflict with the requirements, conditions, or limitations attached to the grant, gift, bequest, or donation.
- H. Products or services necessary to maintain existing warranties and licenses or to maintain compatibility with existing Clerk systems.
- I. Personnel services or recruitment services.
- J. Services for management studies, executive analysis and related matters as directed by the Clerk.

Purchases of commodities and services from a single source or sole source may be exempted from formal competition upon certification by the Purchasing Agent of both of the following conditions:

- The vendor is the only one available that can properly perform the intended function(s);
- The recommended vendor/contractor is the only one ready, willing and able to meet the Clerk's requirements.

A public notice shall be posted on www.CollierClerk.com for three (3) business days before a purchase order is issued.

The Purchasing Agent shall complete an Exemption from Competition Request Form with required supporting documentation for approval by the Clerk. Once reviewed and approved by the Clerk, the Purchasing Agent shall obtain the best value from the vendor under the exemption.

VIII. RESERVED RIGHTS

The Clerk reserves the right, in any solicitation, to accept or reject any or all bids, proposals or offers; to waive minor irregularities and technicalities; or to request resubmission. In addition, the Clerk reserves the right to accept all or any part of any bid, proposal, or offer, and to increase or decrease quantities to meet additional or reduced requirements of the Clerk. Notwithstanding, any other provisions of this Section, if none or only one responsive and responsible bid or proposal is received following any solicitation, the Clerk reserves the right to reject all bids, proposals or offers and to negotiate with any responsible providers to secure the best terms and conditions in the best interest of the taxpayer unless otherwise provided by law.

IX. SMALL AND DISADVANTAGED MINORITY AND WOMEN BUSINESS ENTERPRISES

The Clerk is committed to providing equal opportunities to small businesses, disadvantaged business enterprises (DBE), minority business enterprises (MBEs) and women business enterprises (WBEs) as well as to all vendors, consultants, contractors and subcontractors who seek to do business with the Clerk. The Clerk encourages its vendors, consultants, contractors and subcontractors to provide qualified small businesses and DBEs with an equal opportunity to participate in the formal competitive processes for the procurement of commodities and services by the Clerk.

This Policy is not intended to require or to allow partiality toward or discrimination against any small business, DBE, MBE, WBE, or any other vendor, consultant, contractor or subcontractor on the basis of gender, race or national origin, or other such factors, but rather to create an opportunity for small businesses and DBEs, MBEs, WBEs, and all qualified vendors, consultants, contractors and subcontractors to participate in the Clerk's formal competitive processes. Nothing in this Policy shall be construed to provide for, or require, any preference or set-aside based on gender, race, national origin or any other such factor.

X. LOCAL VENDORS

Purchasing shall encourage or include local vendors when soliciting quotations in accordance with this policy.

XI. SMALL PURCHASES (PURCHASES UNDER \$500)

Small purchases under \$500 may be made without formal solicitation or quotes. The Department and/or the Purchasing Agent should make all reasonable efforts to seek the best value for the purchase.

XII. INFORMAL COMPETITION/REQUEST FOR QUOTE (PURCHASES BETWEEN \$500 AND \$20,000)

The Purchasing Agent will obtain three (3) documented quotes for purchases between \$500 and \$20,000 and will seek the lowest quote obtained, from a responsive and responsible vendor.

Request for quotes shall be conducted in a fair and equitable fashion by providing the same information, under the same conditions, to all vendors in a fair and open competitive process.

All supporting documentation must be attached to the requisition for review as part of the requisition approval process.

XIII. PROCUREMENT METHODS (PURCHASES OF \$20,001 OR MORE)

The Clerk has established an amount of \$20,001 as the formal competitive threshold for purchases. The established limit shall be applied to all methods of purchase including but not limited to competitive bids, competitive proposals and competitive selections and negotiations.

A. Invitation for Bid (IFB)

An IFB shall be issued by the Purchasing Agent in cooperation with the department/division. The IFB shall be publicly noticed or posted on the Clerk's website or bid platform for at least ten (10) business days. The public notice required herein shall include a general description of the goods or services to be purchased, shall state where bid instructions and specifications may be obtained, and the time and place for opening bids.

When deemed necessary by the Purchasing Agent, bid deposits shall be prescribed in the public notices inviting bids. Said deposits shall be in the amount equal to five percent of the bid submitted. The Purchasing Agent shall have the authority to return the deposits of all bidders excepting that posted by the apparent lowest, qualified and responsible bidder prior to award of bid contract by the Clerk. A successful bidder shall forfeit any deposit required by the Purchasing Agent upon failure on the vendor's part to enter into a contract within ten (10) business days after written notice of award.

Any addendum to a request for formal, sealed bids shall be approved by the Clerk or designee. The addendum shall clearly point out an addition or change to the specifications. The Purchasing Agent shall be responsible for ensuring that all prospective bidders who have received specifications are notified of the addendum in writing prior to the opening of bids.

The bid will be awarded to the responsive and responsible bidder submitting the lowest or best overall bid which meets all specifications. In the event of a tie, where one of the proposals is considered a local vendor, the award shall be made to the local vendor. If there are no local vendors, the selection shall be determined by random selection (coin toss) by the Purchasing Agent in front of at least two witnesses.

B. Request for Proposals (RFP)

An RFP shall be issued by the Purchasing Agent for solicitations where multiple factors are considered for the basis of award and price may or may not be the prevailing factor. The requesting department/division will provide a detailed scope of services as well as the evaluating criteria. The Purchasing Agent will publicly notice all RFP's for at least twenty-one (21) business days.

An RFP may be conducted in one or more steps and may involve presentations or demonstrations by proposing vendors. All meetings of the evaluation committee shall be publicly noticed at least three (3) business days in advance. Meetings shall be open to the public and will be documented by audio recording. At the conclusion of all steps, which may include both scoring and ranking by an Evaluation Committee, the Purchasing Agent will preserve the results, including standardized score/rank sheets, meeting minutes and audio recordings.

A Notice of Recommended Award, indicating the final ranking order of proposers, will be posted and contract negotiations will commence with the number one ranked firm. In the event negotiations are unsuccessful with the number one ranked firm, the Purchasing Agent will publish a revised Notice of Recommended Award indicating that it is initiating negotiations with the next firm in rank order.

C. Cooperative Purchasing/Piggybacking

The Clerk shall approve the use of all cooperative purchasing agreements on a case by case basis. The Purchasing Agent shall have the authority to procure goods or services from vendors who have been selected, as a result of a competitive selection process by a federal, state or local government, provided that the originating entity utilized a competitive process similar to the Clerk's.

D. Requests for Information (RFI)

An RFI shall be issued by the Purchasing Agent when it is in the Clerk's best interest to request information from potential vendors prior to the issuance of a planned solicitation. An RFI is used to collect comments and obtain input from the marketplace. An RFI will not necessarily result in a request for proposal.

All notices of recommended awards will be posted on CollierClerk.com and visible platform (if applicable) by the Purchasing Agent prior to presentation of any contract to the Clerk for signature.

Any modifications or changes to an executed contract can only be made with the written approval of both the awardee and the Clerk.

XIV. PROTEST OF BID OR PROPOSAL AWARD

The purpose of this Section is to accommodate legitimate protests concerning formal competitive invitations and recommended contract awards above the competitive bid or proposal thresholds prior to award of contract by the Clerk.

- A. Any actual or prospective bidder or respondent to a Request for Proposal, who alleges to be aggrieved in connection with the solicitation or award of a contract, (hereafter referred to as "the protesting party") may protest to the Purchasing Agent, who shall serve as the sole recipient of any and all notices of intent to protest and all formal protests.
- B. All formal protests with respect to an Invitation to Bid (IFB) or a Request for Proposal (RFP) shall be submitted to the Purchasing Agent in writing prior to the opening of bids or the closing time for acceptance of proposals. The Purchasing Agent, in consultation with the department, shall have the authority to address all such protests received under the subsection to determine whether postponement of the bid opening or proposal closing time is appropriate.
- C. Any actual or prospective bidder or respondent to a Request for Proposals who desires to formally protest a recommended contract award shall submit a Formal Protest to the Purchasing Agent within three (3) business days from the date of the initial posting of the recommended award.
- D. The formal protest shall include, but not be limited to the following information:
 - 1. The bid number and title.
 - 2. The name and address of the protesting party.
 - 3. Statement of disputed issues of material fact. If there are no disputed material facts, the written letter must so indicate.
 - 4. A concise statement of the ultimate facts alleged and of any relevant rules, regulations, statues, and constitutional provisions entitling the protesting party to relief.
 - 5. A demand for the relief to which the protesting party deems themselves entitled.
 - 6. Such other information as the protesting party deems to be material to the issue.
- E. In the event of a timely protest of contract award consistent with the requirements of this section, the Purchasing Agent shall not proceed further with the award of the contract until all appropriate administrative remedies, as outlined in this section, have been exhausted or until the Clerk makes a determination on the record that the award of a contract without delay is in the best interests of the Clerk.
- F. The Clerk shall review the merits of each timely protest and, in consultation with the Purchasing Agent issue a decision stating the reasons for the decision. Said decision shall be in writing and mailed or otherwise furnished to the protesting party. The decision of the Clerk shall be final and conclusive.
- G. Failure to file a formal protest within the time and manner prescribed by this section shall constitute a waiver of the right to protest by any party.

XV. PAYMENT OF INVOICES

The Clerk shall be in compliance with Section 218.70 F.S., otherwise known as the "Florida Prompt Payment Act".

XVI. CONTRACT ADMINISTRATION

The purpose of this section is to provide the steps necessary for the administration of contracts executed by the Clerk.

A. Every procurement of contractual services or commodities shall be evidenced by a written document containing all provisions and conditions of the procurement. Said document shall include, but not be limited to:

1. A listing of the scope of services to be performed or commodities to be purchased.
2. If appropriate, a provision specifying the criteria and the final date by which such criteria must be met for completion of the contract.
3. A provision specifying the terms of cancellation by the Clerk and where applicable, a provision specifying the terms of renewal.
4. Where applicable, include subject to appropriation language.
5. Where applicable, a provision establishing the appropriate types and levels of insurance to be carried by the vendor. Said provision shall be employed in a manner consistent with minimum insurance standards approved by the County's Risk Management department.
6. Legal venue shall be Collier County, Florida unless waived by the Clerk.
7. A statement that vendors doing business with the Clerk shall comply with the provisions of F.S. 287.133, Public Entity Crimes.
8. The following public records law requirements shall be included to ensure compliance with F.S. 119.0701:

Company shall comply with Florida public records laws, specifically to:

- Keep and maintain public records required by the public agency to perform the service.
- Upon request from the public agency's custodian of public records, provide the public agency 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 this chapter or as otherwise provided by law.
- 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 term and following completion of the contract if the contractor does not transfer the records to the public agency.

- Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency 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 public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

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:

Public Records Coordinator
Collier County Clerk of Courts
3315 Tamiami Trail East, Suite 102
Naples, FL 34112-5324
(239) 252-2725
PublicRecordRequest@CollierClerk.com

- B. The Purchasing Agent is responsible for contract administration.
- C. All contracts for commodities and services shall be authorized by the Clerk or the Clerk's designee.

XVII. CONTRACT DISPUTES

The purpose of this section is to establish procedures for the resolution of claims against the Clerk relating to an awarded contract.

- A. Any party that has entered into an agreement with the Clerk for the provision of goods and/or services and alleges to be aggrieved in the performance of said agreement may file a contract claim with the Purchasing Agent.
- B. All claims by a contractor against the Clerk relating to a contract shall be submitted in writing to the Purchasing Agent. Claims include (but are not limited to) disputes arising under a contract and those based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission. The claim shall contain, but not be limited to the following information:
 - 1. The contract number and title.
 - 2. The name and address of the contractor.

3. Statement of disputed issues of material fact. If there are no disputed material facts, the written letter must so indicate.
 4. A concise statement of the ultimate facts alleged and of any relevant contractual provisions, rules, regulations, statutes, and constitutional provisions entitling the contractor to relief.
 5. A demand for the relief to which the contractor deems himself entitled.
 6. Such other information as the contractor deems to be material to the issue.
- C. The Purchasing Agent shall communicate the Clerk's decision in writing within thirty (30) days of receipt of claim. The decision shall state the reason(s) for the decision reached and specify the contractor's rights of appeal.
- D. The Clerk's decision shall be final unless, within five (5) calendar days from the date of the contractor's receipt of the decision, the contractor delivers a written appeal to the Clerk.

XVIII. UNAUTHORIZED PURCHASES

No employee shall intentionally purchase, other than by a purchase order, any commodities or services, or make any contract within the purview of this Policy other than through the Clerk. Any purchase order or contract made contrary to the provision hereof shall not be approved and the Clerk shall not be bound thereby.

XIX. PROHIBITION AGAINST SUBDIVISION

No contract or purchase order shall be subdivided to avoid the requirements of this policy.

XX. EMERGENCY PROCEDURES

In case of an emergency, which requires immediate purchase of commodities or services, the Purchasing Agent may secure goods or services as needed with the approval of the Clerk. The Clerk shall have the authority to act in the case of any emergency, including the issuance of emergency change orders/supplemental agreements.

XXI. SURPLUS STOCK

Departments should notify the Purchasing Agent of all surplus items. The Purchasing Agent shall have the authority to transfer surplus items to other Clerk departments/divisions. Surplus should follow Collier County CMA #5809 for proper disposition.

XXII. SEVERABILITY

If any one or more of the provisions of this Policy should be held contrary to any provision of law or contrary to express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such provision(s) shall be null and void and shall be deemed severable from the remaining provisions of this Policy and in no way shall affect the validity of all other provisions of this Policy.