

**TO: DIRECTOR, FACILITIES DEVELOPMENT & OPERATIONS;
DIRECTOR, WATER UTILITIES; DIRECTOR, DEPARTMENT
OF AIRPORTS; COUNTY ENGINEER; DIRECTOR,
ENVIRONMENTAL RESOURCES MANAGEMENT; AND
PURCHASING DIRECTOR**

**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 TO BE APPROVED BY DEPARTMENT HEADS UNDER
THE AUTHORITY OF PBC ORDINANCE 96-17, AS AMENDED**

PPM#: CW-F-064

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ISSUE DATE
December 20, 2005

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EFFECTIVE DATE
December 20, 2005
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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 PPM # CW-F-064 will be the responsibility of the Director of Facilities Development and Operations.

AUTHORITY:

- Palm Beach County Ordinance 96-17 ("Purchasing Ordinance"), as amended
- Palm Beach County Ordinance 2002-64 ("Small Business Enterprise" (SBE))
- PPM CW-F-049 OFMB/Contract Development & Control - Contract Responsibility
- Palm Beach County Ordinance No. 2002-065 (Local Preference Ordinance)
- Palm Beach County Ordinance No. 2003-004 (Living Wage Ordinance)
- PPM CW-F-016 Bond Waiver Program
- PPM CW-F-050 Contract and Change Order Authority for Construction, Engineering and Architectural Contracts.

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 Ordinance to execute construction and construction related contracts with values of less than \$200,000, per contract. 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 Ordinance. 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 between \$50,001.00 and \$200,000.00
4. **Competitive Quote**
A process of purchasing goods and/or services with a value of less than \$50,000 competitively quoted. The competitive process requires that the County Representative solicit quotes based on a written scope from qualified minority and majority vendors registered with the Palm Beach County Purchasing Department.
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 \$ 200,000.00 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 \$200,000.00 or more per contract, the contract 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 \$200,000.00 per contract. If change orders are issued which increase the contract value to \$200,000.00 or more per contract, the contract 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 were 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 does not allow time to observe the normal requisition procedures. All emergency purchases shall be in accordance with Palm Beach County Ordinance 96-17, Section IV (c) (3), as amended, 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.

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 Ordinance No. 2002-64 (Small Business Enterprise Ordinance) PBC Ordinance 96-17, as amended (Purchasing) and No. 2002-64 (SBE) shall apply and have precedence over the provisions of this PPM.

PROCEDURES:

1. 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 awarding contracts:
 1. Competitive Bid: Legally advertised, competitive bid for construction or construction related good or services with a value between \$50,001.00 and less than \$200,000.00 per contract.

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. The second advertising date must be a minimum of 21 days before the bid opening.
- b. Pre-Bid Conferences: A mandatory pre-bid conference shall 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 as soon after advertising as possible, but 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 assembly 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 amendment to the IFB (Invitation For Bid). The mandatory pre-bid meeting must be electronically recorded.
 - iv. The time, date and location of the mandatory pre-bid meeting 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 as specified by regulation, shall be recorded; the record and each bid shall be open to public inspection. Bid tabulation summary sheet must be kept, including SBE participation.
- 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 proposal 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.
- 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 utilizes 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. When evaluating competitive bids/quotes in which the apparent low bidder is determined to be non-responsive to SBE requirements, the contract shall be awarded to the low bidder responsive to SBE requirements, or in the event there are no bidders responsive to the SBE requirements to the bidder with the greatest SBE participation in excess of seven (7) percent participation, as long as the bid does not exceed the low bid amount by ten (10) percent. In order to receive the SBE preference the bidder/proposer must be a certified SBE at the time of bid submittal.

- h. All contracts shall be awarded pursuant to the requirements of the Palm Beach County Purchasing SBE Ordinances; Local Preference Ordinance; Bond Waiver PPM; Living Wage Ordinance and other applicable PPM's.

2. Bid Bonds

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 relative to the Bond Waiver Program, copies of which may be obtained from the Facilities Development & Operations Department. For information on bonding requirements see list of attachments.

3. Competitive Quote:

- a). A minimum of five (5) solicitations are required for purchases with a value less than \$25,000.00 and seven (7) solicitations for purchases with a value between \$25,001.00 and \$50,000.00. Solicitations must be sent to all registered SBE vendors and a minimum five (5) or seven (7) (depending upon the size of the quote) majority vendors registered with Palm Beach County.
- 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.

- 4. Sole Source. Prior to approving a sole source procurement, the requesting Department Director must submit justification for same to an Authorized Department Director.

5. 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 under the provisions of the applicable ordinances.
6. 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 should review the competitive bidding or proposal process used by other governmental entity's purchasing ordinance, Invitation for Bid or RFP, the number of responses submitted, the vendor response 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 \$200,000.00, the purchase must be approved by the Board of County Commissioners.

7. Emergency Contract: Emergency purchases shall be in accordance with Palm Beach County Ordinance 96-17, Section IV (C) (3), as amended, 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, responsiveness and responsibility will be as required by the Purchasing Ordinance and as may be further defined by the specific solicitations.
2. Post all awards pursuant to the Purchasing Ordinance.
3. All bidders must be registered as vendors with Palm Beach County prior to the bid opening. If not registered, contact the Palm Beach County Purchasing Department. This should be reiterated at the mandatory pre-bid conference and be stated in the competitive quote solicitations.
4. All vendors must be properly licensed to perform specific work prior to bid opening. This can be verified through Planning, Zoning & Building (PZB) Contractor Certifications Division. This should be reiterated at the mandatory pre-bid conference and be stated in the competitive quote solicitations.
5. In order to receive the SBE preference, the bidder/proposer must be a certified SBE at the time of bid submittal.

6. 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.

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.
- 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 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.

3. Post contract issuance:

- A. The vendor must complete work in accordance with contract specifications and/or scope in order to be approved for payment.
- B. If a purchase order is issued, the County Representative signs off on an invoice/receiver document and forwards it to the Authorized Department's Fiscal Section for input into Advantage. Invoice/receiver document must denote whether job is complete or a partial payment is being authorized.
- C. The vendor must send invoice to the County Finance Department, P.O. Box 4036, West Palm Beach, FL 33401.
- D. 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.

ROBERT WEISMAN
COUNTY ADMINISTRATOR

Supersession History:

1. PPM CW-F-064, issued 2/9/982
2. PPM CW-F-064, issued 6/14/04

**FACILITIES DEVELOPMENT & OPERATIONS
BUDGET AVAILABILITY STATEMENT**

REQUEST DATE:

REQUESTED BY:

PHONE:

FAX:

PROJECT TITLE:

PROJECT NO.:

ORIGINAL CONTRACT AMOUNT:

**BCC RESOLUTION
NO.:**

REQUESTED AMOUNT:

DATE:

CSA or CHANGE ORDER NUMBER:

CONSULTANT/CONTRACTOR:

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

**CONSTRUCTION
PROFESSIONAL SERVICES
STAFF COSTS** (Design/Construction Phase)
MISC. (permits, prints, advertising, etcetera)
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 NUMBER (IF KNOWN)

FUND:

DEPT:

UNIT:

OBJ:

FUNDING SOURCE (CHECK ALL THAT APPLY):

AD VALOREM OTHER

FEDERAL/DAVIS BACON

BAS APPROVED BY: _____

DATE: _____

ENCUMBRANCE NUMBER: _____

Revised 3/30/04

BOND REQUIREMENTS

- 5.2.4.1 The Bidder shall furnish bonds covering the faithful performance of the Contract and the payment of all obligations arising thereunder in such form and amount as the County may prescribe. Bonds may be secured through the Bidder's usual sources provided the Surety must be authorized to do business in the State of Florida.
- 5.2.4.2 Prior to execution of a Contract, and not later than fourteen (14) calendar days after Notification from Owner, the successful Bidder shall furnish contract bonds to the Department, on the forms provided in the bidding documents as follows:
1. Public Construction Bond in the amount of 100% of the Contract Price.
 2. Guarantee
- Such Bond shall incorporate by reference all of the terms and conditions of the Contract Documents, including but not limited to the Contractor and Surety's obligations for liquidated damages as well as Surety's acknowledgment regarding any and all provisions addressing or regarding "no damages for delay", as provided for in the General Conditions.
- 5.2.4.3 The Surety Company, in addition to the above requirements, shall be currently listed with the United States Department of Treasury for an amount greater than the contract amount. The Contractor, at the time of his execution of the contract, shall provide, with his Contract Bonds, a copy of the Surety Company's current valid Certificate of Authority issued by the United States Department of the Treasury under SS 31, U.S.C. 9304-9308.
- 5.2.4.4 The bonds shall be written on Public Construction Bond and Guarantee Forms included in the Contract Documents provided by the Department.
- 5.2.4.5 The Bidder shall require the attorney-in-fact who executes the required bonds on behalf of the Surety to affix thereto a certified and current copy of his Power of Attorney, reflecting his/her authority as Power of Attorney in the State of Florida.
- 5.2.4.6 Bid Security is not required for contracts of less than \$50,000.00 and will be waived for all other contracts of less than \$200,000.00 if the bidder is going to participate in the Bond Waiver Program and provided bidder complies with Palm Beach County Resolution No. 89-1178 and Palm Beach County Policies and Procedures relative to the Bond Waiver Program. For contracts with values between \$50,000.00 and \$200,000.00, the bidder must complete a form entitled "Intent to Participate in Bond Waiver Program Bid Affidavit" or provide Bid Security. Failure to provide a Bid Security or complete and return this affidavit shall result in rejection of bid. The affidavit can be obtained from the Facilities Development & Operations Department. For all contracts less than \$200,000.00 the Public Construction Bond will be waived provided bidder complies with Palm Beach County Resolution No. 89-1178 and Palm Beach County Policies and Procedures relative to the Bond Waiver Program. Copies of the requirements of the Bond Waiver Program may be obtained from the Facilities Development & Operations Department.

5.2.5 Insurance Requirements - Prior to execution of a Contract and not later than fourteen (14) calendar days after Notification from Owner, the successful Bidder shall furnish to the Department certificates of insurance evidencing the existence of current valid, and binding insurance policies for the limits and coverage in accordance with the requirements delineated in the General Conditions, where such insurance is to be provided by Contractor, or as otherwise modified within the Contract Documents, together with a declaration of deductible amounts applicable to each type of insurance provided, acceptable to County.