



PROCUREMENT AND CONTRACTING
PROCEDURES AND PROCESSES

Approved

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OVERVIEW

Purpose & Scope

The purpose of this document is to (i) define the objectives and responsibilities of the City's Budget & Procurement Office; (ii) clarify the process by which City employees purchase goods and services in compliance with the City's procurement policy; (iii) outline the procedure for executing and administering vendor contracts, (iv) outline the guidelines for disposal of surplus property and (v) outline the guidelines for processing public-private partnership (P3) proposals.

It is the individual responsibility of each City employee with a procurement need to know, understand and comply with the City's Procurement Policy and to follow these procedures and processes.

This document is for internal use only and establishes no rights in third parties to challenge or otherwise frustrate the City's procurement activities.

Budget & Procurement Office (BPO) Responsibilities

- Maintain a procurement and contracting process that:
 - Is compliant with Federal, State and local laws
 - Is ethical, fair, and objective
 - Is competitive and cost effective manner
 - Is designed to enhance efficiency
 - Promotes good will and clear communication in City-vendor relations
 - Identifies and reduces City's contractual risk
- Provide support with:
 - Determining proper procurement method
 - Obtaining quotes as needed
 - Facilitating formal competitive processes (RFQ, RFSQ, RFP, ITB, etc...)
- Identify potential opportunities to consolidate and leverage large purchases to obtain the maximum economic benefits and cost savings.
- Identify and secure piggyback opportunities
- Provide support with vendor disputes (i.e. bid protests, contract disputes); Suspending or debaring vendors as appropriate

ELECTRONIC SIGNATURES

The use of electronic media for transactions with the City, including acceptance of electronic signatures, is hereby authorized by the City Manager in accordance with the City's Procurement Policy. All such electronic media must be securitized, as determined by the City, to prevent unauthorized access to the competitive solicitation, approval and award processes and to ensure the integrity of the transaction. The electronic media must also allow for the accurate retrieval and conversion of electronic forms into a medium which permits inspection, copying, and displaying for ADA compliance.

PROCUREMENT PROCESS

Purchasing Card (P-Card) Usage

A Purchasing Card (P-Card) is a credit card issued in an employee's name with preset spending limits and controls. P-Cards are only issued upon written request from the Department Director. The P-Card is to be used only for City purposes. City purchases are those purchases that support the goals and objectives of the City.

Employees who are approved and issued a P-Card in their name (P-Card Holder) may make purchases within their spending limit and controls. However, in the event of a single purchase exceeding \$1499.99 a Purchase Order (PO) must also be issued in accordance with the Procurement Policy and **prior** to the P-card purchase being made.

Training, followed by an exam requiring 100% correct responses, is required to be issued a P-Card. Annual training, also followed by an exam requiring 100% correct responses, is required to be permitted to maintain the P-Card.

P-Card Holders must safeguard their P-Card and purchase appropriately. Failure to do so may result in suspension of P-Card privileges, and disciplinary action up to and including termination in accordance with the Personnel Policy.

Safeguard: The P-Card Holder must:

- Not share the P-Card account number for use by someone other than the cardholder
- Return the P-Card to Human Resources upon leaving employment with the City
- Monitor invoices and immediately report the following to the P-Card Company/Bank (800-270-7760)
 - lost or stolen cards
 - fraudulent charges
 - disputes
- Immediately report declines to P-Card Administrator
- Immediately report any erroneous charge to your supervisor/manager and the P-Card Administrator

Purchase Appropriately: The P-Card Holder must:

- Use the P-Card for City purposes only
- Purchase within approved spending limit
- Not purchase a prohibited spend item
- Not split transactions to reduce the appearance of total spend in order to bypass the procurement process
- Submit all receipts to Staff Assistant within three (3) business days for document retention purposes
- Never accept cash or gift cards for returns. Credit must be applied to the P-Card account.

Permitted Purchases

- Travel expenses in accordance with Travel Policy
- Employee Training/Conferences
- Approved subscriptions
- Approved memberships
- Operating and office supplies
- Alcohol – P&R Director/City Manager Only, from wholesaler only and with proof of City Liquor License

Prohibited Purchases: This list is not all inclusive. Individual departments may impose more restrictive requirements and limits on the P-Card usage.

- IT/Electronic Purchases that have not been coordinated with IT
- Cash Advances
- Cell Phones
- Construction Services
- Consulting Services
- Contraband
- Meals unrelated to either approved travel as per Travel Policy or emergencies* or otherwise approved by the City Manager
- Fuel unrelated to either approved travel as per Travel Policy or emergencies* or otherwise approved by the City Manager
- Gift Cards
- Legal or medical services
- Personal Items
- Personal Memberships
- Weapons and Ammunition

***Emergencies** –serious unexpected situation requiring immediate action and that causes one or more employees to unexpectedly and unforeseeably be working outside their normal work hours or unable to take their typical lunch break.

Department Directors or designee are responsible to review the account activity and approve the charges of the P-Card Holders in their respective departments. However, a Department Director or designee cannot approve his/her own account activity.

All P-Card transactions and related recordkeeping are subject to audit by Financial Services and external auditors.

Procurement Policy Matrix

The following matrix identifies the least restrictive procurement sourcing method in accordance with the purchasing ordinance as well as approval authority pursuant to City Manager direction.

VALUE	MINIMUM REQUIREMENTS	AWARD APPROVAL
\$1 - \$1,499.99	Use of Purchase Card or Direct Payment Request No Purchase Order Required	n/a
\$1,500 - \$4,999.99	Single Written Quote; Purchase Order	Department Director
\$5,000 - \$29,999.99	Multiple Written Quotes; Purchase Order	Department Director
\$30,000 - \$49,999.99	Multiple Written Quotes using Procurement Portal; Purchase Order	City Manager
\$50,000 or Greater	Formal Sealed Competitive Solicitation; Standard Contract Work Order (Services); Purchase Order	City Council

Purchasing Process Steps

The following is an outline of various steps in the procurement process and responsibility for each. Depending upon the procurement method used, some steps may not be required.

1. Plan/Identify a departmental need – Department
 - Plan for sufficient time and budget
 - Prioritize by need
2. Research solutions available in the marketplace – Department and BPO
3. Prepare specifications for scope of work – Department
4. Draft a solicitation, public advertisement and notice – BPO
5. Conduct a pre-bid meeting, as needed, followed by formal opening, receipt of responses – BPO
6. Evaluate responses – Evaluation team
7. Publish Intent to Award – BPO
8. Present recommendation to Council – Department
9. Prepare contract for execution – BPO
10. Review and maintain the City’s contract throughout its term – BPO

Informal Quotes – \$1,500.00 to \$29,999.99

Department staff are responsible for obtaining the required minimum number of written quotes as follows:

Estimated Value \$1500.00 - \$4,999.99—Single WRITTEN Quote: This only requires obtaining a single written quote. However, a general check of the marketplace should be made to ensure the best value.

Estimated Value \$5,000.00 - \$29,999.99 — Multiple WRITTEN Quotes: This requires obtaining multiple written quotes. Typically, no less than three (3) written quotes are required, unless the Department can justify why only two (2) or less written quotes can be provided.

In furtherance of the City’s obligation to be fair, objective, competitive, cost effective, all quotes must be for the same quantity and quality and under the same delivery requirements and special conditions. BPO will assist when requested by Department staff. BPO reserves the right to obtain additional quotes.

Formal Solicitations - \$30,000.00 and above

In accordance with the Procurement Policy, formal solicitations are required for purchases equal to or exceeding \$30,000.00 unless otherwise exempted.

Estimated Value \$30,000.00 - \$49,999.99: These purchases require formal Requests for Quote posted using the City’s procurement portal. The requesting department shall attach the supporting documentation of proper quote vetting with the requisition request.

Estimated Value \$50,000.00 or more - or - for Professional Design and Engineering Consultants: These purchases require formal, sealed, advertised solicitations (Invitations to Bid, Requests for Proposal, Requests for Statement of Qualifications, or Requests for Information).

The solicitation of competitive bids or proposals for professional services covered by the Consultants Competitive Negotiation Act (CCNA) shall be accomplished in accordance with the provisions of Section 287.055, Florida Statutes. The solicitation of competitive bids or proposals for City utility projects shall be accomplished in accordance with the provisions of Chapter 180, Florida Statutes.

Developing the Specifications

All solicitations should include a description of the physical, functional, and performance characteristics required of the good or service. It is the responsibility of the Department to understand their needs and requirements and clearly communicate these needs to BPO. The Department should use reasonable efforts to develop specifications that permit maximum practical competition while considering the total cost. When developing specifications, accepted commercial standards/products should be used and unique requirements shall be avoided, to the extent practical. Specifications that list a brand name "Or Equal" description are intended to be descriptive rather than restrictive, and to indicate the minimum quality and characteristics of the products that will be accepted. Submittals offering "equal" products will be considered for award if such products are clearly identified and are determined by the Department and BPO to fully meet or exceed the salient characteristics listed in the specifications.

The quality of the vendors' responses is directly related to the quality and completeness of the specifications. The solicitation must provide potential vendors a clear understanding of the City's needs. Effective and thorough specifications in the solicitation will reduce post award protests and contract administration problems. The following are some considerations for inclusion in the specifications:

- Complete and clearly written scope of work. It is not prudent to rely upon the vendor to draft the scope of services.
- Requirements for inspecting and testing
- Conditions for acceptance
- Delivery and passing of title
- Express warranties/guarantees
- Preservation of rights under an implied warranty
- Liquidated damages
- Performance bond and maintenance bond, as appropriate
- Periodic reports.
- Progressive payment schedule.
- Periodic meetings and process reviews
- Audit rights
- Escalation provisions in the event of dispute
- Preservation of right to dispute and withhold payment
- Termination rights for failure to deliver and other defaults.
- Indemnification and insurance provisions.

Preparing and Processing the Solicitation Documents

BPO is responsible for facilitating formal solicitations and will begin the process upon request from the Department. BPO will manage all of the details of the solicitation such as drafting the solicitation manual, incorporating the specifications, confirming key dates (i.e. pre-bid meeting, formal opening, evaluation and award dates), publishing the solicitation and any public meeting notices, arranging rooms for pre-bid meetings, when applicable, as well as the formal opening, taking minutes/recording public meetings and preparing any Addenda.

Public Advertisements

Formal solicitations must be published on the City's website and the City's procurement portal. Formal solicitations, \$50,000.00 and above, must also be advertised as outlined below in advance of the specified

opening date in one major newspaper that covers the area (i.e. the Daytona News Journal). Public advertisement must also be at least 5 days before any pre-bid meeting. For construction projects in excess of \$200,000, the legal advertisement must be published at least 5 days prior to the pre-bid conference. (Section 255.0525 (1), Florida Statutes)

Public Advertising Requirements

Type	Times	Minimum Bid Period*	Recommended Bid Period
Invitation to Bid (Non-Construction) ITB	1	7 days	14-21 days
ITB (Construction)	1	7 days	21-45 days
Request for Statement of Qualifications - RFSQ	1	7 Days	21-45 days
Request for Proposal – RFP	1	7 Days	21-45 days
Request for Solutions - RFS	1	7 Days	21-45 days
ITB Construction > \$200,000 and <= \$500,000 **	1	21 days	21-45 days
ITB Construction > \$500,000*	1	30 days	30-45 days
Grants	Per Grant Requirements		

Pre-Bid Meetings

When applicable, pre-bid meetings are held during the bid/proposal preparation period, before the official time and date for the formal opening. Their purpose is to clarify any concerns vendors may have with the solicitation documents, scope of work and other details of the requirement. Pre-bid meetings may be optional or mandatory. A mandatory pre-Bid meeting may be scheduled and conducted if the technical or physical requirements of the solicitation require the physical presence of potential vendors. Responses from any vendors who do not attend the mandatory meeting will not be considered. BPO staff serves as proctor for all pre-Bid meetings.

Vendor Questions & Answers

Vendors must be accorded fair and equal treatment with respect to any opportunity for discussions that promote understanding of requirements and revisions of proposals. Such discussions must be facilitated by BPO, not by the Department nor any evaluation group member. All requests for information, clarification, or the status for any solicitation must be directed to BPO. If there is a need for any substantial clarification or change in the solicitation, the solicitation will be amended, using an Addendum, to incorporate such clarification or change.

Formal Opening

A public opening of the submissions is one of the fundamentals of the formal solicitation process. The time and place of the formal opening is included in the advertisement. The name of each responding vendor must be read aloud and tabulated along with the pertinent information as described in the formal solicitation. Note: Applicable Florida Statutes Section 119.071, 180.24, 218.80, 286.011, 286.0113, and 255.0525.

Evaluation and Award Process

After the formal opening, the responses will be evaluated based upon predetermined criteria for award. The evaluation criteria and methodology must be structured to be as objective as possible. The perception of subjectivity in evaluating responses generates a greater likelihood of a challenge or protest by unsuccessful vendors.

Key tasks for consideration in the evaluation process are the establishment of the evaluation group(s), defining clear evaluation criteria including scoring methodology, ascertaining the need for vendor presentations, notification of award and other public notices, and meeting minutes.

Evaluation Groups

“Administrative review” is completed by the BPO Coordinator facilitating the solicitation. The purpose of this review is to confirm that the responders provided a fully responsive submission. Failure by a party responding to the competitive sourcing process to complete and submit all required documentation shall result in rejection of the response as unresponsive.

“Technical review” is the evaluation group of three or more (odd number to avoid tie scores) persons that scores, ranks and/or short-lists respondents to solicitations based upon their submissions. The technical review must comply with Section 287.055 Florida Statutes, the “Consultants Competitive Negotiation Act” (CCNA), as amended. Each reviewer scores individually with no discussion with the other reviewers. However, this group may meet to evaluate submissions as part of the decision making process. All such meetings are proctored by the BPO Procurement Coordinator. Such meetings are public meetings as defined in Chapter 286 Florida Statutes unless exempt in accordance with Section 286.0113 Florida Statutes. If exempt, such meetings must be recorded. No “off-the-record” meetings are permitted. The outcome of the technical review is based on whether responses meet the evaluation criteria and which response (offer) is best for the City.

As facilitator of the procurement process, the Procurement Coordinator assigns members to the technical review evaluation group. The Procurement Coordinator shall only assign qualified members and will give due consideration to suggestions from the user Department. The selected members must possess two traits; first, they must have the skills and ability to carry out their tasks in a professional manner. Second, they must be persons of high integrity and free from bias or conflict of interest. A conflict of interest is defined as any circumstance in which the personal interest of an evaluation group member may prevent or appear to prevent him or her from making an unbiased decision. A conflict of interest is also any conflict defined in the City of Palm Coast Code or Policies, Florida Statutes, or Federal Statutes. Members must ensure that they disclose any conflicts of interest and abstain from voting when a conflict exists. If, at any time during the procurement process, the Procurement Coordinator has reason to believe a member of the evaluation group has an unreasonable bias or conflict of interest, they may remove the member from the evaluation group.

Evaluation group members are prohibited from discussing the contents of submissions with persons not directly associated with the solicitation. Except for the Procurement Coordinator, no evaluation group member may have discussions relating to the solicitation with any responding vendor until after the publication of the Notice of Intent to Award. Failure of any member to abide by this may lead to disciplinary action up to and including termination. Further, members shall disclose any attempts by responding vendors to influence committee member’s the award decision to the Procurement Coordinator.

Public Meeting Notice/Advertisements

Public notice shall be given at least twenty-four (24) hours before any evaluation group meeting. Such notice shall include: (1) name and purpose of evaluation group, (2) time and place of meeting, and (3) ADA requirements notification information.

Meeting Minutes and Recordings

The minutes of any open public meeting must be kept, and shall be available for public review. If an open public meeting is adjourned and reconvened at a later date to complete the business of the meeting, the second meeting shall also be noticed. This includes any meeting where a presentation is made to the evaluation group. In accordance with Section 286.0113 Florida Statutes, all meetings that are exempt from the public meetings law must be recorded.

Evaluation Factors/Local Business Preference

The advertised solicitation must state the evaluation factors, including price, and their relative importance. Specific weights to be applied to the individual evaluation factors need not be listed in the solicitation, but must be documented in the Evaluation Criteria file prior to receipt of submissions. The evaluation must be based on the evaluation factors set forth in the solicitation. Criteria not listed cannot be considered when evaluating submissions.

Except as provided for in the Procurement Policy, a local business preference shall apply to all purchases. City staff is encouraged to purchase products or services from local businesses where possible. The City's local business preference shall be applied when pricing is all or part of the evaluation factors except for those solicitations that are funded in whole or part by Federal, State, or other agencies that disallow local business preference funding. The evaluation group shall apply the City's local business preference to all responding vendors that qualify in accordance with the City's Procurement Policy.

Selection

Selection shall be made by consensus if possible. If the Procurement Coordinator deems consensus impossible the selection shall then take place by taking a vote from all members and majority rule.

Vendor Presentations/Negotiations

Auction techniques (revealing one vendor's price to another vendor) and disclosure of any information derived from competing proposals is prohibited. Under Section 286.0113 Florida Statutes, any portion of a meeting during which negotiation with a vendor is conducted, or a vendor makes a presentation or answers questions is exempt and confidential until the City provides a notice of an intended decision or until 30 days after bid opening, whichever is earlier. Any substantial oral clarification of a proposal must be reduced to writing by the vendor.

Mistakes in Proposals

Discovered Prior To Award

Until formal opening, responding vendors may freely correct any mistake in their submission by modifying or withdrawing the submission. After formal opening but prior to award, vendors may correct a mistake in their submission only if:

1. The vendor can establish that both the mistake and the intended correct offer are clearly evident on the face of the proposal, or
2. The mistake is not clearly evident on the face of the proposal, but the vendor submits proof of evidentiary value which clearly and convincingly demonstrates both the existence of a mistake and the intended correct offer, and such correction would not be contrary to the fair and equal treatment of other vendors.

Discovered after Award

Mistakes shall not be corrected after award of the Agreement except where the City determines it would be unconscionable not to allow the mistake to be corrected.

Notice of Intent to Award

At time of award, all responding vendors shall be notified in writing of the vendor selected for award. Unsuccessful vendors shall be provided fair access to the complete procurement file, including proposal submittals and evaluation documentation, except where the City rejects all bids, in which case Section 119.071 Florida Statute applies.

The City reserves the right to reject all submissions, and to solicit and re-advertise for new submissions, or to abandon the project in its entirety at any time during the process including, but not limited to, after the Notice of Intent to Award is published.

Bid Protests

Bid protests procedures are as set forth in the City's Procurement Policy.

Exemptions to Quotes and Formal Solicitations

Emergency Purchases

Emergency purchases are only for goods or services needed due to emergency conditions that may affect the health, safety, and welfare of the citizens of the City or that may stop or seriously impair the necessary function of City government. In case of any such emergency, the City Manager or designee is authorized to waive the competitive solicitation process provided that such emergency procurements be made with such competition as is practical under the circumstances. The emergency must be valid and not a result of poor planning. It shall be the responsibility of all authorized personnel to ensure that emergency purchase procedures shall not be used to abuse or otherwise purposely circumvent the procurement policy. A monthly report listing all emergency purchases for the prior month shall be submitted to City Council.

Piggybacking

The City may forego its formal solicitation process by piggybacking. Piggybacking is the procedure of procuring goods or services without our formal solicitation process by means of utilizing another public entities' award of its formal advertised solicitation. The City may piggyback any contract with any federal, state or local agency, as well as any state or federal authorized cooperative as long as the contract was awarded following a formal advertised solicitation. In situations where neither the solicitation documents nor the contract indicate that piggybacking is permitted, BPO will obtain the agency authorization to piggyback first. Then BPO will ask the vendor to allow the City to piggyback using an engagement letter as follows:

- (1) The engagement letter will expressly indicate that the piggyback shall be in accordance with all the terms and conditions, prices, time frames, and other criteria as included in the other public entities' contract. Additional options not priced in the underlying contract may be purchased, without competitive solicitation, as long as the total dollar value of the additional options does not exceed \$49,999.99.
- (2) Approval of the engagement letter to piggyback shall comply with the Award Approvals set forth in the Procurement Policy Matrix.

Renewals of piggybacks will depend upon the contract. If the contract automatically renews and requires notice of termination rather than an option to renew, no further action is required to renew. However the complete

term of the contract including renewals is limited to a five (5) year term. To continue past five (5) years will require a new engagement letter and approvals in accordance with the Procurement Policy Matrix above. If the contract renewal is an option and the Department Project Manager seeks to renew, BPO will submit a new engagement letter. This renewal engagement letter does not require City Council approval if the original engagement letter was approved by City Council. If at any renewal of a piggyback that has not been before City Council, contract value exceeds \$49,999.99 City Council approval must be received.

Sole Source Purchases

The following criteria must be met, documented and included with a Requisition in order to sole source:

- a. It is the only item that will produce the desired results (or fulfill the specific need), or
- b. The item is available from only one vendor, or
- c. The item is available from more than one vendor, but due to other circumstances (such as exclusive sales territory by manufacturer, prohibitive delivery time and cost, compatibility with existing systems, etc.), only one vendor is suited to provide the goods or services.
- d. The Department requesting the sole source must document that they have made a reasonable attempt to locate competitive sources.

Any sole source purchase over \$35,000 must be electronically posted for fifteen (15) business days, in accordance with Section 287.057(3)(c) Florida Statutes. The notice must include a request that potential vendors provide information regarding their ability to supply the goods and/or services described.

Additional Exemptions

Purchases of the following goods and services are exempt from quotes and formal solicitations.

- (1) Water, Sewer, Gas, Electric, Telecommunication, Internet, Cable, Satellite and other Utility Service.
- (2) Postage
- (3) Advertisements
- (4) Membership Fees
- (5) Subscriptions including software subscriptions and licenses
- (6) Software maintenance and support renewal fees for existing software licenses
- (7) Goods and/or services provided by governmental entities
- (8) Any items covered under the City's travel policy

Requesting a Purchase Order (Requisition)

For all purchases over \$1499.99, the Department shall submit a Requisition in the City's on-line financial system requesting a purchase order. The Requisition must include:

- All Quote(s)*
- A complete description of the goods or services needed, including required delivery time, and all special conditions (if not clearly expressed in the quote)
- Agenda Item and Resolution (\$50K and above)

- Contract, if applicable
- Work Order Information Sheet (Master Service Contract only) - For purchases related to an existing Master Services Agreement, a work order request outlining the specific scope of services and fee must be attached to the requisition. A work order is written authorization to the vendor to proceed with the performance of the contract. The Contracts Coordinator will execute the Work Order on behalf of the City once the requisition has met all approvals within the ERP system.
- Sole Source justification as applicable
- Emergency purchase justification as applicable

**Blanket POs for amounts under \$5,000 for purchases on an "as needed basis" to support multiple purchases for various items at various times (i.e., Ace Hardware, Ver E Safe, Tom Nehl, etc.) do not require quote. Also, if pricing is in active contract, no quote is required.*

Exemptions from Purchase Orders and Requisitions

In addition to permissible P-Card purchases, the following payment types do not require Purchase Orders:

- Purchases under \$1,500.00
- Utility (water, sewer, electric, gas , telecom and other utility services)
- Postage
- Membership fees
- Magazine Subscriptions
- Bank fees
- Debt Service/Lease Payments
- Land Transactions
- Payments under Interlocal Agreements
- Payroll and related Vendor Payments
- Tax Filings
- Permits

Requisition/Purchase Order Approval

The approval flow is determined based on the dollar value of the Requisition in accordance with the City Manager's designee approvals.

BPO reviews Requisitions for the following:

- All required information must be included
- The general ledger account code assigned must be reasonable and appropriate based on the nature of the item or service being purchased
- Compliance with Procurement Policy
- Adequate funds available in the budget
- Work Order RAP, if underlying contract is a Master Services Agreement requiring a Work Order

Once the requisition completes the approval flow, a Purchase Order is generated.

The official copy of the signed purchase order will be uploaded to the City Records document retention tool. An electronic copy of the purchase order is sent to the vendor's email address on file.

Except in the case of Emergency purchases, the requisition must be approved and the purchase order must be created prior to delivery of goods and performance of services. Failure to follow this requirement could result in the inability of the City to accept the related goods or services or to process payments to the respective vendors. In the event this process is not followed, the requestor must submit a procurement procedure exception form, signed by the Department Director, with the requisition.

Requisitions for Emergency Purchases - The department may make the purchase and submit a completed requisition form along with an emergency purchase form within a reasonable period of time after the emergency.

Receiving, Inspecting and Testing

Receiving and Inspecting

It shall be the responsibility of each department to have an individual, immediately upon receipt of a product or service, inspect that product or service to ensure that it meets the specifications as set forth in the purchase order. The receiving person shall have a copy of the purchase order for verification purposes. The person shall inspect for timing of delivery, quantity, quality, and damage. Any deviations should be immediately documented and sent to the vendor. Time is of the essence when dealing with problems on an order. Failure to advise the vendor and/or freight carrier and document the issue in real time may limit the remedies. In addition, if an item is delivered damaged, the receiving department has the responsibility to protect it and all packing materials from any further damage, and to make it available to the vendor and/or carrier for inspection.

Testing

Testing and samples are at the discretion of the department.

Delivery Requirements

Delivery terms and freight costs are important considerations when asking for a quote. Agreeing to the wrong delivery terms can create the risk of unexpected costs; such as freight costs (shipping and handling), and costs related to the passing of title/ownership. Passing of title impacts which party bears the risk of loss during shipping and the potential need for additional insurance. Therefore, when obtaining quotes for goods, Departments should request that the price include shipping and handling and whenever possible, the shipping terms should be F.O.B. Destination, Prepaid, Allowed. F.O.B. Destination means the title/ownership does not pass until the goods are accepted by the City at the destination point. Risk of damage during shipping is borne by the vendor. Prepaid, Allowed means that the vendor prepays the shipping costs and will not charge back the City.

When the preferred terms are not available, the delivery costs should be quoted as a separate line item and shipping terms should be F.O.B. Destination, Prepaid and Added. Once again title passes after the goods are accepted by the City at the destination point and the vendor prepays the freight costs. The difference is that the vendor will invoice the City for the freight as a separate line item on their invoice. If these delivery terms are used, the vendor should be instructed to include the actual shipping document with pricing along with its invoice. If using any other F.O.B. terms other than these preferred methods, it must be noted in the description field of the requisition.

Adjusting a Purchase Order

Initiation

In the course of business, it may be necessary to adjust a purchase order. Purchase order adjustments are appropriate for administrative adjustments (vendor, quantity changes, and final invoice reconciliation). Purchase order adjustments are not appropriate to avoid the purchasing process or to use a vendor for a different project, phase, or cost center. In order to initiate a purchase order adjustment, the Department should submit the Purchase Order Adjustment through the City's financial system. Supporting documentation should be attached to justify the purchase order adjustment.

For construction projects, in order to initiate a purchase order adjustment, submit the Change Order request to BPO via email. The change order must be signed by the general contractor, the City Project Manager, and engineer (if applicable).

Depending upon the total value of the original purchase order and any adjustment requested, a purchase order adjustment and/or change order may require City Council approval before sending the request to BPO.

Approval

The purchase order adjustment will be processed and approved in the financial system. Once the purchase order adjustment is approved, any related contract change orders will be signed by Contract Coordinator and sent to the vendor and project manager. In addition, the revised purchase order may be sent to the vendor at the discretion of the project manager.

Vendor Relations

Vendor Registration

Vendor registration is a requirement for those vendors with whom the City is doing business. To be paid by the City, vendors must complete the AP Registration. This registration should not be submitted until an award of business is made by the City.

Notifying Vendors of Requests for Quotes, Bids and Proposals

Vendors who are interested in receiving notice of City competitive bid processes such as requests for quotes, formal and informal, Invitations to Bids, Requests for Proposals, etc... should register on the City's solicitation portals. Currently these portals are ["Bonfire"](#) and ["GovQuote"](#).

Vendor Performance

If any Department is experiencing a performance issue with a vendor, the Department should document the issue in writing giving all details such as date, nature of problem, person contacted, conversations with the vendor, efforts to resolve, vendor commitment to resolve, etc. This can be done by keeping a written log of the issue and any email or other correspondence. Any Department that experiences a performance issue with a vendor which is not satisfactorily resolved within a reasonable period of time should contact BPO. BPO has the authority to take action against any vendor including possible banning from doing business with the City for a specified length of time or forever. This is a very drastic action and will not be done without proper documentation and due process. Therefore, documentation must be very detailed and immediately recorded. Vague complaints with little supporting document or minor complaints with little negative impact such as "last week my uniform delivery was late" are not acceptable.

Surveys / Testimonials / References

Due to the potential legal consequences, both personally and to the City, City employees must refrain from completing surveys or providing testimonials or any other type of reference for any vendor without prior approval from the Department Director who may consult with the City Attorney or the City Manager as needed.

CONTRACTING PROCESS

A contract is an agreement between two parties which creates legal rights and obligations as to the contracting parties. Although a contract can be enforceable even if verbal, the City requires all contractual rights and obligations for goods and services valued at or above \$1,499.00 be in writing and signed by an authorized representative of the City. For purchases of goods regardless of amount and purchases of services under \$50,000, the City's standard Purchase Order can be the contract. The Purchase Order contains terms and conditions which become the contractual rights and obligations of the purchase. For purchases of services over \$50,000 the City requires a contract in writing signed by an authorized representative of both the City and the vendor.

When, either by City policy and/or by the vendor's policies and procedures, a Purchase Order is not sufficient, then a fully executed contract will be required. The need for a fully executed contract can present itself in different ways. For example, formal solicitations for competitive bids may include or reference the City's standard contract as part of the bid package. In these cases, the City will use the City's standard contract. Sometimes however, when the City project manager asks for quotes, the vendor may require the quote to be signed or the vendor may provide its own order form of contract. In these cases, a determination must be made as to whether to use the vendor's form of contract or the City's standard contract. In any case, when the need for a fully executed contract arises, engage BPO. The City's Contract Coordinator will facilitate development and execution of the contract.

The process that follows specifically covers contracts involving the City's purchase of goods and services over \$50,000 and construction services.

Contract Development and Execution

Development

Contract Coordinator selects the appropriate contract template.

- Confers with City Attorney as needed.
- When using a vendor's form of contract, Contract Coordinator reviews and edits as necessary, then sends to City Attorney for review and approval. This step may also involve some back and forth negotiations with the vendor and the City Attorney to obtain mutual approval of modifications.
- When the City's standard contract is used, City Attorney review is not needed as the standard templates have already been reviewed and approved by the City Attorney, although the Contract Coordinator should ask for periodic review by the City Attorney to ensure the template is up to date.
- Contract Coordinator prepares the contract and executive overview document for submission in the automated contract approval/signature tool.

Execution

- Contract Coordinator releases the contract to begin the signature approval process.
 - Submission Timing - If the value of the purchase is over \$49,999.99 or otherwise requires City Council approval, the Contract Coordinator will not release the contract for signature until City Council approval has been received.
- Signature/Approval Flow begins:
 - Typically, the vendor signs first;
 - Next, approvals signatures from Department Director, City Finance, City Attorney and any other City Manager designee follow;
 - Typically, the City Manager signs last.
- Upon completion of the signature/approval flow, the fully executed contract is forwarded to the vendor, the Project Manager and uploaded to the City's City Records document retention tool.

Contract Administration

The goal of contract administration is to ensure that each contract is performed and the responsibilities of both parties are properly discharged, including but not limited to, timely delivery, acceptance, and payment. Contract administration includes all dealings between parties to a contract from the time a contract is awarded until the work has been completed and accepted or the contract terminated, payment has been made, and disputes have been resolved. To achieve this goal, the Department project managers together with the Contract Coordinator monitor and provide guidance to the vendors. Effective contract administration will minimize or eliminate potential claims and disputes. Contract Administration may include any of the following:

Resources

Department project managers should be cognizant of the resources the vendor has devoted to the work required. Vendor resources should be used in accordance with the proposed levels in the contract.

Timeliness and Quality of Deliverables

Any delay in delivery or poor quality of products or services is an indication that the vendor may be experiencing problems. Prompt inquiry may avoid further delays or quality problems. Additionally, any delay or poor quality is an indication that stricter monitoring of the contract is warranted, e.g., once a delay has occurred, the program or project manager may wish to contact the vendor prior to future scheduled deliveries to ensure there is no further slippage. Deliverables must be inspected as soon as they are received to assure that quality deficiencies are not present.

Performance Monitoring

Understanding the Scope/Statement of Work is critical to performance monitoring. Monitoring the performance of a vendor allows the City to:

- Ensure that the vendor is performing its duties in accordance with the contract;
- Identify problems which may be developing; and
- Exclude unsatisfactory vendors from seeking award of subsequent City procurements.

The level of monitoring necessary for a particular contract is determined by factors such as the nature and complexity of the work, the dollar value of the contract, the experience of the vendor and vendor's personnel and the risks involved in performance.

Progress Reports

Some contracts require the vendor to submit periodic progress reports. Comparing these reports with the contract schedule shows whether or not the vendor is making progress in accordance with the terms of the contract. If the contract does not provide for periodic progress reports, the Department project managers will monitor the contract to ensure that sufficient progress is being made by the vendor. This may be accomplished by requesting a status from the vendor, a site visit to view the progress, discussions with City staff and other means.

Audits, Review Meetings, Site Visits

More complex contracts may require audits or periodic review meetings and/or site visits to ensure progress in accordance with the contract schedule. Review meetings can be used to review any reports provided and hold discussions with the vendor regarding the progress of the work. Site visits by the Department project manager or construction inspectors are useful to verify actual performance against scheduled or reported performance and ensure that the vendor is dedicating sufficient resources and appropriate personnel to the contract.

Monitoring by Outside Vendors

In some instances the obligation of monitoring a vendor's progress is assigned to another vendor (e.g., on a construction contract, the task of ensuring progress in accordance with the contract may be handled by the architectural firm that provided the plans for construction). For highly technical work, consultant subject matter experts (SMEs) may be employed to perform monitoring services independently or by Department staff augmentation. It is important to ensure that the vendor performing the inspection does not have the opportunity to cover up its own design errors.

Contract Changes

During the term of the contract it may be necessary to make changes to the contract. Some changes are minor, such as a change of address, and some changes are substantive changes that affect terms such as price or delivery.

Minor Changes

Minor changes do not affect or alter the rights of the parties. These changes are executed by written notice (if allowed by the contract) or an amendment. BPO will provide copies of the notice or amendment to all affected departments. Examples of minor administrative changes include:

- Changes in billing instructions or address.
- Corrections of typographical errors not affecting the substance of the contract.
- Changes as permitted by specific contract clauses.
- Changes in City personnel assigned to the contract.

Substantive Changes

These are changes that affect the rights of the parties. Such changes require a fully executed amendment, change order (construction), or renewal (when opting to renew contract).

Examples of substantive changes include:

- Change in the price of the contract.
- Change in delivery schedule.
- Change in the quantity.
- Change or nature of deliverables or specifications.
- Change of key personnel.
- Change of any material term and condition.
- An extension of the contract not previously contemplated by the contract.

Constructive Changes

A vendor may claim the right to additional time and/or money based on the allegation that the contract was “constructively” changed. The following City actions can lead to a claim of constructive change:

- Providing suggestions to a vendor.
- Providing definitions to general contract terms without an amendment.
- Accelerating the delivery schedule.
- Directing work to be performed differently.
- Changing sequencing of the work.
- Delaying acceptance or rejection of deliverables without cause.
- Delaying review of invoices and approval of payments without cause.
- Interfering with or hindering performance.

Therefore, City personnel should be vigilant in avoiding such claims. To prevent claims of constructive change by the vendor, personnel interacting with the vendor should remind the vendor from time to time during the period of performance that the vendor is NOT allowed to initiate or accept any change to the contract unless the change has been processed through the proper written change order procedure in accordance with the contract. Contact BPO and City Attorney immediately if a vendor makes such claims.

Contract Dispute Resolution Procedures (Non-Construction)

Purpose

The purpose of this section is to provide a cooperative dispute resolution process for contract related disputes with vendors. This procedure is intended to complement other requirements imposed by the contract, which is the subject of the dispute and is not intended to create duties or obligations not otherwise imposed by law or the contract. The parties remain responsible for performance of all obligations imposed under the contract. At all times during the time that any dispute is pending and in the process of being resolved or decided, the vendor shall proceed diligently with performance so as to achieve completion of the work.

Conflict with Contract

If the contract provides for a dispute resolution procedure, or if any terms of this dispute resolution procedure are inconsistent with or conflict with terms of the contract, the contract shall take precedence.

Payment Only Disputes

Pursuant to 218.76 (2)(a) Florida Statutes, if a dispute arises between a vendor and the City concerning payment of a payment request or invoice, the dispute resolution process set forth below must be commenced within 45 days after the date the payment request or proper invoice was received by the City, and concluded by final decision of the City within 60 days after the date the payment request or proper invoice was received by the City. The dispute shall be finally determined by the City pursuant to the following procedure:

Notice of Claim

In the event of a claim or dispute involving a vendor contract ("Contract Claim"), that party bringing the Contract Claim ("Invoking Party") shall provide written notice of the dispute in accordance with the Notice provision of the Contract ("Dispute Notice") to the attention of the non-Invoking Party. Dispute Notices shall be given as early as reasonably possible but in no event later than the time allowed in the Contract.

Dispute Process and Escalation

Upon issuance of a Dispute Notice, the vendor's Project Manager and the City's Project Manager, or their designated representatives, shall furnish to each other all information and documentation requested by the other party and shall also furnish all information and documentation with respect to the Contract Claim believed by them to be appropriate and germane. The Project Managers shall exercise their best efforts to negotiate and promptly settle the Contract Claim. The Project Managers shall use reasonable efforts to arrange personal meetings and telephone conferences as needed, at mutually convenient times and places, to address and work toward resolution. If such dispute is not resolved by the Project Managers or their designated representatives within ten (10) business days of issuance of the Dispute Notice, or such other time as may be mutually agreed upon by the Project Managers as being necessary given the scope and complexity of the dispute, the Project Managers may, depending upon the nature, scope, and severity of the dispute, escalate the Contract Claim to successive management levels.

Mediation

At any point after the issuance of a Dispute Notice coupled with a good faith attempt by the Invoking Party to resolve the dispute in accordance with this cooperative dispute resolution process, the Invoking Party may request and initiate formal non-binding mediation before a single mediator, which mediation shall be completed within thirty (30) days of initiation or such longer time as may be agreed upon by both parties as being necessary for the mutual selection of a mediator and scheduling of such mediation. Any such mediation shall be convened and conducted in accordance with the rules of practice and procedure adopted by the Supreme Court of Florida for court-ordered mediation, Rule 1.700 et seq. of the Florida Rules of Civil Procedure, and Chapter 44, Florida Statutes. If the dispute remains unresolved after conducting such mediation, then either party may proceed to finalize any pending termination remedies and commence litigation in a court of competent jurisdiction. Each party shall bear its own costs and attorney's fees for mediation of an issue arising under this Agreement. The mediator's fee will be split between the parties.

DISPOSAL OF SURPLUS PROPERTY

Disposal of Surplus Property shall be in accordance with Section 274.05 Florida Statutes.

City owned personal property is considered “surplus” when:

- it is obsolete,
- the continued use of it is uneconomical or inefficient, or
- it serves no useful function

Surplus personal property may be disposed of by trade, sealed bid, donated, or sold at public auction depending on the item, its value, or other factors all as may be in accordance with law and City policy. If the surplus property is determined to be only of scrap value or have no commercial value, City staff is authorized sell the surplus property as scrap if possible, or dispose in any other appropriate manner. City Council approval must be sought for disposal of surplus property that has commercial value, unless the property is disposed by public auction or redistributed to another City department.

Once a determination regarding how to dispose is made, the responsible designee within the Public Works Department executes the disposal of surplus personal property.

GRANTS

Purchases from grant funds may require special processing because of specific legal terms and conditions required by the grant funding agency. Departments shall advise BPO staff when grant funding is applicable to a particular sourcing project and shall provide BPO staff with those terms and conditions of the grant agreement that set forth requirements related to procuring goods and/or services using grant funding. In accordance with the City of Palm Coast Grant Policy, the Department Project Manager shall include BPO staff in the Post-Award meeting to ensure that grant requirements are addressed. Such grants include but are not limited to FEMA reimbursement, Federal Community Development Block Grants (CDBG) and Florida Department of Transportation (FDOT) funded projects.

PUBLIC/PRIVATE PARTNERSHIPS

A Public-Private Partnership (“P3”) is a contractual arrangement between a public agency and a private sector entity that allows for greater private sector participation in the delivery and financing of public building and infrastructure projects. The City shall comply with Section 255.065 Florida Statutes and the Procurement Policy with regard to proposals for P3 arrangements.