

Chapter 155 - PROCUREMENT AND CONTRACTING^[1]

Footnotes:

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Editor's note— Res. No. 2003-867, adopted Aug. 13, 2003, and Res. No. 2004-1081, adopted Oct. 13, 2004, amended ch. 155 in its entirety to read as herein set out. Former ch. 155, pertained to similar subject matter, and was derived from R.M. No. 27 and R.M. No. 60.

Cross reference— Procurement and contracting procedures, ch. 255; procurement card procedures, § 255-21 et seq.

Sec. 155-1. - Scope.

The scope of this policy and the supporting documents listed in this section shall apply to all District purchasing and contracting activities authorized by the Governing Board. Purchasing and contracting activities not covered by this policy are listed below:

- (1) Transactions involving real estate interests governed by Sections 373.089 and 373.139, Florida Statutes, and/or by Chapters 40E-7 and 40E-9, Florida Administrative Code.
- (2) Reimbursement for purchases of selected small items, which are covered under the Petty Cash Policy and Disbursement Policy, Chapter 210, *Finance*, District Policies and Procedures Code.
- (3) Regulated item purchases, which are covered under the Disbursement Policy, Chapter 210, *Finance*, District Policies and Procedures Code.
- (4) Disposal of surplus property, which is governed by Chapter 274, Florida Statutes and the Fixed Assets Policy, Chapter 210, *Finance*, District Policies and Procedures Code.
- (5) Transactions involving Procurement Card purchases, which are covered under Chapter 255, Procurement and Contracting, District Policies and Procedures Code.
- (6) Travel Services, which are covered under Chapter 101, District Policies and Procedures Code.
- (7) Leases of District land shall be administered as set forth under Chapter 140, District Policies and Procedures Code.

(Res. No. 2003-867, 8-13-2003; Res. No. 2004-1081, 10-13-2004; Res. No. 2006-820, 8-9-2006; Res. No. 2012-801, 8-9-2012)

Sec. 155-2. - Purpose.

- (1) The purpose of this policy is to provide an efficient, effective, economical and equitable means of procuring needed commodities, equipment and services.
- (2) This policy incorporates the provisions of Chapter 40E-7, Florida Administrative Code, and the provisions of F.S. § 287.055, Consultants' Competitive Negotiation Act (CCNA).

(Res. No. 2003-867, 8-13-2003; Res. No. 2004-1081, 10-13-2004; Res. No. 2006-820, 8-9-2006; Res. No. 2012-801, 8-9-2012)

Sec. 155-3. - Effective Date.

- (1) All transactions not initiated as of the effective date shall be subject to the provisions of this revised policy for the entire process of competition (as applicable), transaction authority and execution authority.

(Res. No. 2003-867, 8-13-2003; Res. No. 2004-1081, 10-13-2004; Res. No. 2006-820, 8-9-2006; Res. No. 2012-801, 8-9-2012)

Sec. 155-4. - Statements of Policy.

The following policy statements govern the procurement of all commodities, equipment and services by the District:

- (1) The District embraces diversity and is committed to ensuring that the District's vendors reflect the full diversity of the communities we serve.
- (2) The District shall follow generally accepted public procurement practices, and to the extent practicable and applicable, implement the legislative intent of Section 287.001, Florida Statutes.
- (3) The District shall conduct contract negotiations in a manner that ensures that the District receives fair value for its money, and that vendors and contractors receive fair compensation for their commodities, equipment and services.
- (4) The District shall actively encourage the participation of certified Small Business Enterprises in the procurement process in accordance with Chapter 40E-7, Part VI, Florida Administrative Code, the "Small Business Enterprise Contracting Rule." The purpose of the program is to spur economic development and support small businesses, including women-owned and minority-owned businesses to successfully encourage expansion in the marketplace.
- (5) District employees shall refrain from making representations or entering into any oral agreements unless they have delegated procurement authority.
- (6) District employees shall neither solicit nor accept privileges, benefits, gifts or exemptions for themselves or for others and shall adhere to the Code of Ethics for Public Officers and Employees Part III, Chapter 112, Florida Statutes.
- (7) District solicitations are valid as the basis of a contract for a period of one year from the date of solicitation opening.
- (8) The dollar amount required for the procurement of particular commodities, equipment or services from one source shall not be intentionally divided among two or more procurements as a means of avoiding competition requirements.
- (9) Pursuant to Rule 40E-7, Part II, Florida Administrative Code., the District's Governing Board may temporarily or permanently suspend contractors from doing business with the District whenever a contractor materially breaches its contract with the District.

(Res. No. 2003-867, 8-13-2003; Res. No. 2004-1081, 10-13-2004; Res. No. 2006-820, 8-9-2006; Res. No. 2007-327, § 1, 3-15-2007; Res. No. 2012-801, 8-9-2012)

Sec. 155-5. - Competitive Procurement—Methods.

The following competition methods and thresholds govern District procurements and shall be implemented according to procedures outlined in the Procurement Procedure Manual. Note that all dollar thresholds refer to the "total procurement amount," which is defined as the full amount of the individual transaction regardless of the cost of each item procured.

Competition Methods

- (1) Verbal or Written Requests for Quote
- (2) Requests for Bids
- (3) Requests for Proposals
- (4) Design-Build

(5) Request for Information or Request for Qualifications

**Competition Thresholds
Commodities and Contractual Services**

No Competition Required	Verbal Quotes	Written Quotes Min. of 3 Required	Formal Competition
< or = \$10,000	> \$10,000 to \$50,000	> \$50,000 to \$100,000	> \$100,000

Construction Procurements

No Competition Required	Written Quotes Min. of 3 Required	Formal Competition
< or = \$50,000 Verbal Quotes Highly Desirable	> \$50,000 to \$200,000	> \$200,000

(Res. No. 2003-867, 8-13-2003; Res. No. 2004-1081, 10-13-2004; Res. No. 2006-820, 8-9-2006; Res. No. 2007-327, § 1, 3-15-2007; Res. No. 2012-231, § 1, 2-9-2012; Res. No. 2012-306, § 1(Exh. A), 3-15-2012; Res. No. 2012-801, 8-9-2012)

Sec. 155-6. - Exceptions to Competitive Solicitation.

The following services or commodities are not subject to competitive solicitation as set forth in F.S. § 287.057 and District policy:

- (1) Artistic services;
- (2) Lectures by individuals;
- (3) Auditing services;
- (4) Legal services, including attorney, paralegal, expert witness, appraisal, court reporting, mediator, arbitrator, or dispute resolution services;
- (5) Health services involving examination, diagnosis, treatment, prevention, medical consultation, or administration;
- (6) Services or commodities provided between government agencies;
- (7) Commodities or contractual services available only from a single source (must follow District Procurement Procedures for sole source procurements and waivers of competition);

- (8) Commodities and contractual services from purchasing agreements/contracts established by other government agencies, if that contract was based on a competitive proposals, bid or quote and from state term contracts procured by the Department of Management Services, pursuant to F.S. § 287.057. This method of procurement is not subject to protest under F.S. § 120.57(3);
- (9) If less than two responsive bids, proposals, or replies for commodity or contractual services purchasing are received, the District may negotiate on the best terms and conditions. The District shall document the reasons that such action is in the best interest of the District in lieu of re-soliciting competitive sealed bids, proposals or replies;
- (10) Office space leases less than 5,000 square feet in privately owned buildings for District purposes;
- (11) Away-from-base or unscheduled or emergency aircraft services/repairs in order to keep the aircraft airworthy and operational (pilot to use most practicable local procurement);
- (12) Licensing, warranty, compatibility requirements that limit the selection to the manufacturer, including purchases of parts, repairs, or maintenance services for field equipment from the original equipment manufacturer, seller, or authorized repair facility (e.g. pumps generators, and specialized field equipment);
- (13) Insurance in abnormal market conditions (determined by Executive Director);
- (14) Services or commodities required from entities which are prohibited from competing by law (e.g., utilities);
- (15) Services or commodities where the state or federal law prescribes with whom the agency must contract or if the rate of payment is established funding in the appropriations process;
- (16) Renewals for maintenance and licensing of proprietary computer software;
- (17) Services from universities and colleges, including community colleges, for research, studies or training, unless more than one institution can provide comparable products or services.

(Res. No. 2003-867, 8-13-2003; Res. No. 2004-1081, 10-13-2004; Res. No. 2006-820, 8-9-2006; Res. No. 2012-231, § 2, 2-9-2012; Res. No. 2012-306, § 1(Exh. A), 3-15-2012; Res. No. 2012-801, 8-9-2012)

Sec. 155-7. - Emergency Procurement.

Under emergency circumstances, an agreement may be executed without competitive selection as follows:

- (1) If the Executive Director or the Executive Director's delegate determines that the procurement of services without competition is necessitated in order to respond to an immediate danger to the public health, safety, welfare or other substantial loss to the public, the Executive Director or the Executive Director's delegate may proceed with such procurement accordingly. However, such procurement shall not exceed the amount of \$500,000.00. The need for such procurement without competition shall be evidenced in writing. In order to make procurement of services in an amount greater than \$500,000.00, the Governing Board must make a determination that emergency conditions exist. All procurements made pursuant to this paragraph shall be reported to the Governing Board within 30 days.
- (2) Whenever the President of the United States, or the Governor of the State of Florida, or the head of the Department of Environmental Protection shall formally declare that a major disaster area exists anywhere within the boundaries of the District, or issues an emergency order temporarily suspending the application of any specified laws otherwise applicable to the operations of the District, then the Executive Director of the District shall have the authority to undertake all such actions, without competition, regarding the procurement of commodities, equipment and services so required to deal with the emergency conditions up to the next

meeting of the Governing Board notwithstanding that such authority resides in the Governing Board. At the next Governing Board meeting, the Board shall determine if the further emergency procurement of commodities, equipment and services is still required. However, all emergency procurements shall be made with such competition as is practicable under the circumstances. The Executive Director shall report to the Governing Board all actions taken pursuant to this exception within 30 days.

(Res. No. 2003-867, 8-13-2003; Res. No. 2004-1081, 10-13-2004; Res. No. 2006-820, 8-9-2006; Res. No. 2012-801, 8-9-2012)

Sec. 155-8. - Transactions Requiring Governing Board Approval.

The following commodities and services require Governing Board approval:

- (1) Commodities in excess of the Division/Program approved annual District budget.
- (2) Single award to a single vendor for one or more of the same commodity or one or more pieces of equipment with a total combined value exceeding \$1,000,000.00 even if such commodities or equipment have been approved as part of the annual District budget.
- (3) Unbudgeted services, commodities or equipment funded from capital outlay savings in excess of the amounts specified in the table below.
- (4) Transactions consisting of both commodities (or equipment) and services require Governing Board approval if the services dollar amount exceeds the thresholds noted in the table below or thresholds relating to commodities and/or equipment are exceeded.

Dollar Thresholds by category for a total award shall apply as follows:

Table of Governing Board Thresholds

> \$150,000	> \$500,000	> \$1,000,000
Commodities and Contractual Services Including: • Waivers of Competition • Exceptions to Competition	Construction Procurements (Services and Materials)	Single vendor/single award of one or more of the same commodity or equipment
• CCNA Procurements	Construction Change Orders (threshold applies to aggregate amount)	
	Emergency Procurements	
• Lease Agreements		

(Res. No. 2003-867, 8-13-2003; Res. No. 2004-1081, 10-13-2004; Res. No. 2006-820, 8-9-2006;
Res. No. 2007-327, § 1, 3-15-2007; Res. No. 2012-801, 8-9-2012)