

DIVISION 2. - PROCUREMENT

Footnotes:

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**Editor's note**— Ord. No. 2018-20, adopted Sept. 25, 2018, repealed the former Div. 2, §§ 2-95—2-116, and enacted a new Div. 2, §§ 2-95—2-109 and an App. A, as set out herein. The former Div. 2 pertained to similar subject matter and derived from Ord. No. 2005-35, §§ 1—22, adopted Sept. 13, 2005; Ord. No. 2008-35, § 1, adopted Oct. 14, 2008; Ord. No. 2006-29, § 1, adopted Aug. 8, 2006; Ord. No. 2009-01, § 1, adopted Feb. 10, 2009; Ord. No. 2010-06, § 1, adopted Mar. 9, 2010; Ord. No. 2011-02, § 1, adopted Feb. 8, 2011; Ord. No. 2013-11, § 1, adopted May 28, 2013; and Ord. No. 2015-21, § 1, adopted Nov. 17, 2015.

Sec. 2-95. - Purpose.

The purpose of the Putnam County Procurement Code is to simplify, clarify, centralize, and modernize the policies governing procurement by the county. The procurement code goals are:

- (1) To ensure the fair and equitable treatment of all persons who do business with the county and to maintain a high ethical standard for all officers and employees.
- (2) To promote effective broad-based competition within the free enterprise system so as to ensure the county obtains the quality goods, services, and construction as required by the county to better serve its citizens in a cost-effective and timely manner.
- (3) To provide guidance for handling surplus stock and the sale or lease of real property.
- (4) To assist department personnel in learning and executing more effectively all department objectives, duties, and professional responsibilities with regard to the purchase of products and services required by Putnam County.
- (5) To provide a standard outline of the principles, policies, and practices to be used in performing all purchasing procedures as agents of the county.

(Ord. No. 2018-20, 9-25-2018; Ord. No. 2019-15, § 1, 12-10-2019)

Sec. 2-96. - General provisions.

(a) *Applicability and exclusions.*

- (1) *Applicability.* The purchasing code shall apply to every purchase by the board of county commissioners ("BOCC") to be paid from county funds, including those purchases made by the county with state moneys, federal moneys and grant moneys from any source. Expenditures of federal or state assistance funds and grants will be conducted in accordance with the applicable mandatory laws and regulations, which may not be reflected in this Code.
- (2) *Exclusions.* The following are exempt, except as regulated by state statute as amended, from the competitive solicitation (formal and open market) provisions of this Code but do not preclude the county from competitive selection. Though exempt from competitive solicitation, procurement of the following where noted with an asterisk (\*) must adhere to the required board and county administrator or designee approval dollar threshold established in this Code.

Full Exemption (quotes & authority)	Exempt from Quotes NOT from authority Levels
Advertisements and Public Notices	Books, periodicals, audio-books and other published Library materials and subscriptions

<p>Legal services, including attorneys, paralegals, expert witnesses, interpreters, translation services, mediators, and court reporters</p>	<p>Contracted Commodities or Services awarded through a competitive solicitation process by other governmental agencies including, but not limited to: federal, states, counties, cities, school boards, community colleges, and state university systems (piggyback)</p>
<p>Medical or health services, including but not limited to, Veterinarian services, Indigent medical care and burial as required by State Statute, Inmate medical care, services mandated through the court system involving examinations, diagnosis, treatment, prevention, medical consultation, counseling and outside providers administering the program, including but not limited to substance abuse and mental health services.</p>	<p>Emergency Purchases - (retroactive approval)</p>
<p>Bond related expenses</p>	<p>General Services Administration (GSA) contracted vendors - purchases made directly from vendors awarded a GSA Schedule Contract at prices equal to the vendor's current GSA price</p>
<p>Charitable contributions</p>	
<p>Court ordered payments</p>	
<p>Debt service payments</p>	
<p>Dues, memberships, certifications, subscriptions, workshop, conference, class and seminar registration fees and accommodations, training, and costs of job-related travel</p>	<p>Heavy equipment diagnostic and repair. Heavy equipment shall be defined as follows: (1) Public Safety, Construction and Material Handling Equipment with a rating of more than 85 horsepower (2) Transportation Equipment with a GVWR (Gross Vehicle Weight Rating) of more than 10,000 pounds (3) Fire and Rescue Vehicles with a GVWR (Gross Vehicle Weight Rating) of more than 10,000 pounds</p>
<p>Employee reimbursements</p>	
<p>Employment Services, including pre-approved interview and or moving expenses(personnel only)</p>	
<p>Expenses related to tourism promotion services and/or activities</p>	
<p>Grant Services - Grant opportunity, research, application development, administration, reporting &amp; monitoring</p>	<p>Insurance renewals (as allowed by law)</p>

Instructor fees	Maintenance of Information Technology equipment/systems, including replacement/expansion parts that maintain system compatibility and integrity
Insurance related costs, fees, etc.	Railroad signal and crossing maintenance
Lobbying services	Services or Commodities exempted by Florida Statute (ex. RESPECT, PRIDE, etc.)
Medical Director	Services or commodities purchased from other governmental entities or non-profit organizations, including government surplus/auction items
Owner Direct Purchases	
Payments to off-duty public safety personnel	
Payments to other government agencies	Single/Sole Source Goods or Services
Postage (U.S. Post Office only, no invoice required)	Software license renewal and maintenance agreements for existing systems
Real estate expense (Rental or lease of real property, real estate transactions and related costs, including title searches, title insurance and other related title services)	Used or pre-owned equipment purchases greater than 65,000.00 - requires pre-approval
Refunds on overpayments	
Risk Management claims settlements	
SHIP Payment Assistance	
Statutory Required payments	
Transfers and Exchanges between Constitutional Officers	
Tuition, lab fees, books and required course materials to approved schools	
Utilities and telecommunications, such as natural gas, electricity, water, garbage, phone, internet	

- (b) *Waiver of requirements.* The Putnam County Board of County Commissioners (or the county administrator or designee) may, with the consent of the board chairman and when within the authorized purchasing threshold(s) may, when deemed to be in the best interest of the county and not inconsistent with law, waive any or all requirements or provisions set forth in this section of the administrative code and proceed thereafter to take whatever action is deemed to be in the best interest of the county. If requirements are waived, it must be expressly stated in the applicable public document. A public purpose statement must be written to support the waiver and be entered into the public record.
- (c) *Changes in laws and regulations.* In the event an applicable law or regulation is modified or eliminated, or a new law or regulation is adopted, the revised law or regulation shall, to the extent inconsistent with this Code, automatically supersede this Code.
- (d) *Requirement of good faith.* This Code requires all parties involved in the solicitation, negotiation, performance, or administration of county procurement and contracts to act in good faith. All procurement of goods and services must in good faith be to serve a public purpose.
- (e) *Confidential information.* Confidential information shall be administered in accordance with the Public Records Act, F.S. ch. 119, as amended. Such information furnished by a bidder or respondent shall not be disclosed by the county outside of the general services department and appropriate staff without prior written consent by the bidder or respondent. All other information submitted by a bidder or respondent shall be subject to public records right of access requirements as stated in F.S. ch. 119.

(Ord. No. 2018-20, 9-25-2018; Ord. No. 2019-15, § 1, 12-10-2019)

Sec. 2-97. - Authority.

- (a) *Board of county commissioners.* F.S. ch. 125 grants authority to the board of county commissioners of Putnam County, Florida to enact the provisions of this Code.
  - (1) All contracts, agreements (including renewals) and other purchases whose value exceeds \$65,000.00 annually shall be awarded by the board prior to execution or purchase. For contracts and agreements, the threshold amount for board approval shall be based on the annual cost or annual not-to-exceed cost (i.e. not cumulative, multi-year costs).
  - (2) The board shall approve any amendments, change orders and renewals to a contract originally executed by the county administrator or designees, which would increase the annual amount or annual not-to-exceed amount of the contract above the threshold limit as identified in section 2-97.1(a)(1). However, once approved by the board, the county administrator or designee shall have authority to execute 1) agreement renewals which do not increase the annual amount or not-to-exceed amount and 2) contract amendments which do not increase the annual amount or annual not-to-exceed amount or the scope of services as approved by the board.
  - (3) The board shall award contracts involving public construction and improvements, which must adhere to the formal bid and contract policy contained herein.
- (b) *County administrator.* The county administrator is responsible for the day-to-day administration of the county and to administer and carry out the policies of the board.
  - (1) The county administrator, or designee, shall have the authority to award, sign and execute agreements, contracts, and/or amendments that do not exceed an aggregate total of \$25,000.00. For those agreements, contracts and/or amendments with an aggregate total of \$25,000.00—\$65,000.00, the county administrator and board chairman shall award, sign and execute. For contracts, amendments and agreements, the threshold amount shall be based on the annual contract cost or annual not-to-exceed cost. No other employee, except as delegated by the county administrator, has the authority to sign contracts, agreements, lease agreements or any other form of contractual commitment, regardless of dollar value.
  - (2) When the best interests of the county would be served, the county administrator shall have the authority to

increase the dollar value of board approved contracts by an amount not to exceed \$25,000.00 over the original contract amount. When the best interests of the county would be served, the county administrator and board chairman shall have the authority to increase the dollar value of board approved contracts by an amount not to exceed \$65,000.00 over the original contract amount.

- (3) The county administrator or designee shall have authority to approve and execute task orders for continuing service contracts up to \$25,000.00. The county administrator and board chairman shall have authority to approve and execute task orders for continuing service contracts \$25,000.00—\$65,000.00. Any other county administrator authority, and/or delegation of authority, to approve and execute task orders may be included in agenda requests and/or agreements approved by the board when applicable.
  - (4) The county administrator or designee shall have the authority to adopt operational procedures consistent with this Code, Florida Statutes and best practices governing the procurement and management of all goods, services, and construction by the county.
- (c) *County attorney.* The county attorney serves as legal counsel and represents the board and county departments, including procurement.
- (1) All contract, agreement and amendment templates, including terms and conditions, may be reviewed by the county attorney for legal sufficiency.
  - (2) The board, county administrator or designee may request individual legal review and approval of specific agreements, contracts, and/or amendments, or other procurement-related documents on a case-by-case basis.
- (d) *General services department and director.* There is hereby established a general services department of the county. The general services director shall supervise the purchasing functions of the county, perform all duties required by law and such other duties as assigned by the board and shall have the powers and duties prescribed by this Code.

The general services director shall have the power and it shall be his/her duty:

- (1) Supervise the procurement of all goods, services, and construction required by the county.
- (2) Oversee the execution and issuance of purchase orders for goods, services and construction associated with agreements, contracts, task orders, amendments and open market purchases.
- (3) Manage the county's procurement card (P-Card) program.
- (4) Assist the county administrator in the development, implementation and administration of procurement procedures and processes in the best interest of the county and in accordance with this Code, state statutes, best practices and any other applicable laws. Develop and maintain a standard purchasing manual for the county.
- (5) Act to procure for the county the highest quality in supplies and contractual services at the least expense to the county.
- (6) Maintain and enhance vendor file.

(Ord. No. 2018-20, 9-25-2018; Ord. No. 2019-15, § 1, 12-10-2019)

#### Sec. 2-98. - Ethics in public contracting.

- (a) *Standards of conduct.* Public employment is a public trust. Public employees must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Employees should conduct themselves in such a manner as to foster public confidence in the integrity of the county's procurement process.

Failure of a county employee to adhere to this Code or the procurement procedures as established by the county administrator shall constitute insubordination and shall subject that employee to disciplinary action.

- (b) *Conflicts of interest.* County employees and officers involved in the selection, award or administration of contractor purchase orders for the acquisition of goods or services shall comply with the restrictions of F.S. §§ 112.313 and 112.3148.
- (1) Bidders, respondents, members of an evaluation committee, vendors, awarded contractors, county employees and agents shall not engage in any action that would create a conflict of interest in the performance, or possible performance, of their obligation with the county or would violate, or cause others to violate, the applicable provisions of the Florida Statutes and federal laws relating to ethics in government.
  - (2) Except as allowed by Florida Statutes, no procurement of goods, services, or construction in which a conflict of interest occurs between the county and the vendor shall be made with any person. A conflict of interest with a respondent, contractor, vendor, subcontractor or person may occur under the following situations:
    - An employee of Putnam County or an individual chosen by the county to serve as a member of an evaluation committee has a material interest as defined in the Florida Statutes.
    - A member of the board, the county administrator, or a spouse, or child thereof, has an employment relationship or a material or financial interest, as defined in the Florida Statutes.
  - (3) For contracts funded in whole or in part by federal monies, no county employee, officer or agent involved in the selection, award or administration of such contracts, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the foregoing parties, may have a financial or other interest in or a tangible personal benefit from a firm considered for a contract.
  - (4) No public officer or employee of the county shall solicit or accept anything of value including a gift, loan, reward, promise of future employment, favor or service based upon the understanding that a procurement recommendation or decision would be thereby influenced.
  - (5) In addition to the prohibitions concerning gifts and gratuities as stated in F.S. §§ 112.313(2) and 112.3148, employees within the general services department shall not accept any gift from a lobbyist, as that term is defined in F.S. § 112.3148(2)(b), regardless of the dollar value.
  - (6) Any violation of any provision of this section shall be subject to the sanctions contained in the F.S. ch. 112, and/or any other applicable state or federal law.
- (c) *Lobbying.*
- (1) The lobbying black-out period commences upon the issuance of the formal solicitation document.  
The lobbying black-out period for awards requiring board approval concludes at the beginning of the meeting at which the board will be presented the award(s) for approval or a request to provide authorization to negotiate a contract(s). However, if the board refers the item back to the county administrator for further review or otherwise does not take action on the item, the lobbying black-out period will be reinstated until such time as the board meets to consider the item for action.
  - (2) The lobbying black-out period for awards requiring county administrator or designee approval concludes upon issuance of a notice of intent to award.
  - (3) Bidders, respondents, potential vendors, service providers, lobbyists, consultants, or vendor representatives shall not contact any board member, the county administrator, any requesting or evaluating department/division/office personnel, and/or any member of the evaluation committee concerning an active formal solicitation during the lobbying black-out period.
  - (4) All questions and inquiries concerning procedural matters shall be directed to the general services department.
  - (5) Except in response to communications initiated by authorized county representatives, contact or communications by bidders or respondents to any board member, the county administrator, any requesting or evaluating county personnel, or any member of the evaluation committee, initiated during the black-out

period, may result in disqualification from the formal solicitation process.

- (d) *Prohibition against contingent fees.* Contractors and vendors wanting to do business with the county must not hire a person to solicit/or secure a contract for a commission, percentage, brokerage, or contingent fee.
- (e) *Unauthorized purchases.*
  - (1) No county employee shall make any procurement in the name of the county for personal use.
  - (2) No county employee shall obligate the funds of the county, except in the case of emergency procurements, authorized procurement card (P-Card) transactions, and/or purchase order requests handled through the department of general services.
  - (3) Every purchase requisition, procurement card (P-Card) transactions and contract shall be properly financed and budgeted prior to issuance of a purchase order by the general services office.
  - (4) Dividing or breaking up procurements into two or more small purchases to avoid or to circumvent the required competition, authorized limits, or approval process is expressly prohibited.

(Ord. No. 2018-20, 9-25-2018; Ord. No. 2019-15, § 1, 12-10-2019)

Sec. 2-99. - Procurement methods and solicitation.

- (a) *Open market procedures.* All open market purchases shall only be made by a purchase order or by a purchasing card. Unless otherwise exempt from competition, open market purchases shall be made as follows:

The following thresholds apply unless otherwise directed by funding source.

TOTAL PURCHASE PRICE	MINIMUM REQUIREMENTS
\$0.01 to \$5,000.00	No formal quote or competition is required. The requesting department shall identify the best value for the required commodity or service. Note, a statement of work must be provided if services are requested. Good judgment shall be exercised that no purchase is made at an unreasonable price.
\$5,000.01 to \$10,000.00	A minimum of two (2) written or documented telephone (verbal) solicitations to be submitted to Purchasing at requisition entry.
\$10,000.01 to \$65,000.00	A minimum of three (3) written quotes to be submitted to Purchasing at requisition entry.
\$65,000 to unlimited	Formal Solicitation issued by Purchasing and award approved by the BOCC.

- (1) Exempt items listed in subsection 2-96(a)(2) do not require quotes/formal solicitation. However, board or county administrator or designee approval based on purchasing threshold authority is required if noted in subsection 2-96(a)(2).

- (2) For individual purchases, dollar limits shall be based on the total order value, not on an individual item nor line-item volume of similar purchases of like items from one vendor by an individual department shall be considered in de open market procedures apply. Departments must anticipate their expected expenditures based on past use and
  - (3) For purchases more than \$5,000.01, either the individual department or general services shall obtain the quotes, however the general services department shall keep a record of the quotes.
  - (4) The general services department shall ensure that a current list of vendors and suppliers is maintained and utilized.
- (b) *Procurement methods and solicitations.*
- (1) *Cooperative purchasing.* The county may participate in, sponsor, conduct or administer a solicitation for the procurement of any goods, services, or construction through a cooperative purchasing venture. The county may execute purchases at the unit or contracted prices established through competitive solicitations by any unit of government established by law or non-profit buying cooperatives.
  - (2) *Sole source procurement.* This refers to the purchases of equipment and other commodities and services that are unique and available from only one source. The commodity may be identified by a brand, model, catalog number or similar identification for which no substitute is acceptable in these circumstances.
  - (3) *Single source procurement.* This refers to the purchase of equipment and other commodities and services which may be available from multiple sources; however, it is in the county's best interest to purchase the item from a single source.
  - (4) *Emergency procurements.* Notwithstanding any other provisions of this Code, the county administrator or designee may make or authorize others to make emergency procurements of goods, services, or construction when there is an unexpected turn of events beyond the control of the agency in the normal conduct of its business, involving health, welfare, safety, loss or significant operational delay or disruption to the county that can only be rectified by the immediate purchase of supplies and/or contractual services. This stipulation is provided that such emergency procurements shall be made utilizing any existing contracts or whatever competition as is practicable under the circumstances.
- A written determination of the basis for the emergency and for the selection of the particular vendor shall be maintained by the general services department as a public record in the procurement file. Any emergency purchase more than \$25,000.00 shall be reported to the county administrator or designee as soon as practicable. Any emergency purchase more than \$25,000.00 shall be reported to the board at its next scheduled meeting.
- In the event an official state of emergency affecting Putnam County has been declared by the governor, the county administrator in collaboration with the board chair or vice chair, or designee, is expressly authorized to execute contracts with the State of Florida, FEMA and/or other applicable emergency relief entities on behalf of the county in order to accomplish all necessary relief efforts, provided that the requirements of this section have been met.
- (5) *Procurement card (P-Card) program.* The county recognizes that certain procurements are more efficiently processed via a P-Card than through a purchase order. All P-Card transactions must comply with this Code. Single and monthly transaction limits shall be established for all users. P-Cards may only be used for authorized purposes. The program shall include the establishment, communication, and maintenance of procedures for the use and control of the utilization of a P-Card to purchase goods and services on behalf of the county.
  - (6) *Purchase of used equipment, commodities or items purchased at auction.* The purchase of used equipment shall not be competitive unless it is possible to compare like attributes for a fair and open competitive process. A written explanation as to the advantage to the county of having made a purchase of used and/or auction



items which exceed the \$100,00.00 threshold shall be approved by the board.

The county administrator and board chair have the authority to make purchases of used equipment greater than \$25,000.00 but less than \$65,000.00.

The county administrator has the authority to make purchases of used equipment up to \$25,000.00.

If the estimated purchase cost exceeds \$65,000.00, the department must get prior approval from the board authorizing negotiations up to a maximum purchase price.

- (c) *Formal procurement.* Unless exempt as stated in subsection 2-96(a)(2) or procured via one of the methods listed in subsection 2-99(b), formal competitive solicitation is required for goods, services and construction with an estimated cost above \$65,000.00, and as otherwise required by state and federal laws and grant agreements. Formal procurement types include invitations to bid, requests for qualifications, invitations to negotiate, and requests for proposals. The formal process shall be conducted to ensure a fair and equitable solicitation, and include all contractual terms and conditions applicable to the procurement, including the criteria to be used in determining acceptability and relative merit of the bid, proposal or reply. In addition to bids and proposals, the county may require respondents to provide presentations to a selection committee, county administrator and/or board during the selection process as stated in the solicitation document. All respondents selected for presentation shall be accorded fair and equal treatment.

The using agency/department shall be responsible for developing all technical specifications and bid requirements. The general services department shall be responsible for developing bid templates and for reviewing all bids before they are finalized for advertising.

- (1) *Public notice.* Public notice shall be given to prospective vendors for a reasonable period of time as determined by the director of purchasing, which shall, at a minimum include:
- U.S. mailing or emailing public notice to prospective vendors on an applicable bidders list maintained by the purchasing department, and
  - Posting public notice on the general services department website.

For the purchase of capital construction valued in excess of \$200,000.00 advertisement of the public notice will be either in a newspaper of general circulation in the county, trade journal, bulletin or other publication that will inform prospective vendors of the proposed purchase, as determined to be appropriate by the director of purchasing.

The advertisement inviting bids for construction projects expected to cost between \$200,000.00—\$500,000.00 shall be published in at least one newspaper of general circulation within the county at least 21 calendar days prior to the scheduled bid opening. The advertisement inviting bids for construction projects expected to cost more than \$500,000.00 shall be published in at least one newspaper of general circulation within the county at least 28 calendar days prior to the scheduled bid opening. The director of purchasing reserves the right to modify the time frame for bid advertisement based on need and/or urgency.

The public notice shall briefly describe the goods or services sought, and shall state the place, date and time that bids or proposals must be received.

- (2) *Pre-qualification.* A pre-qualification process may be conducted by the general services department prior to the issuance of a solicitation in order to establish a list of qualified bidders or respondents.
- (3) *Procurement of construction services.* The county administrator, or designee, shall have the discretion to select the appropriate delivery method for a construction project. In determining which method to use, consideration shall be given to the county's requirements and resources. Contracts for construction services

shall be procured in accordance with Florida Statutes and/or applicable funding requirements and pursuant to any applicable county policies and procedures established by the board and county administrator, or designee.

- (4) *Owner direct purchase program.* When a construction project is proposed, the general services department, in conjunction with the end user department, will determine, prior to the solicitation process, whether the owner direct purchase program will be utilized for that particular project. The county may, if not prohibited by law, exercise a right to purchase directly various materials, goods, and/or equipment to be used in the construction project pursuant to F.S. § 212.08(6), as amended. The general services director is authorized to execute owner direct purchase program purchase orders if the associated contract approved by the board or county. Administrator includes clauses allowing the owner direct purchase program. Nothing herein shall prohibit the county from deleting items within the solicitation and purchasing said items directly from a supplier, without further bidding, in an effort to benefit from the county's tax exempt status, in accordance with the proper authorization.
- (5) *Cancellation or rejection of solicitations.* Solicitations may be cancelled, or any or all submittals in response to solicitations issued by the county may be rejected, in whole or in part, without recourse, when it is in the best interest of the county. Confidentiality will be maintained according to Florida Statutes.
- (6) *Value engineering.* The county reserves the right to engage in value engineering discussions in the pre-award period based on the following conditions:
- a. Bid responses exceed project budget.
  - b. The county administrator deems it is in the best interest of the county to explore value engineering options and assembles a committee, comprising of not less than three individuals with direct project knowledge.
  - c. The lowest qualified bidder, is given the opportunity to meet with the "value engineering committee" to determine if viable options exist to meet the budget threshold without substantially reducing the scope of the project as designed and solicited. Local preference, if applicable, applies in determination of lowest qualified bidder.
  - d. The lowest qualified bidder will be given seven days to submit deductive modifications/options, prior to submission to the value engineering committee, bidder must gain approval of deductive modifications/options by the architect/engineer of record for the project that the deductive modifications/options do not violate county or state building code. Timeline extensions may be approved circumstantially with written approval from the county administrator.

(Ord. No. 2018-20, 9-25-2018; Ord. No. 2019-15, § 1, 12-10-2019)

Sec. 2-100. - Bids/proposals.

(a) *Bid/proposal acceptance and evaluation.*

- (1) *Opening.* Competitive sealed bids/proposals received in the location stated in the solicitation document no later than the precise date and time set for the opening shall be accepted without alteration or correction. The county reserves the right to accept and/or reject any or all bids/proposals or to waive any formalities, technicalities or irregularities.
- (2) *Correction or withdrawal of bids.* After bid opening, no changes in bid prices or other bid provisions shall be permitted. In the event of mathematical mistakes in extended pricing, the unit price shall prevail. Mistakes discovered before opening may be modified or withdrawn via written notice from the bidder if received in the general services department prior to the time set for bid opening, as deemed appropriate by the general services director.

- (3) *Evaluation.* Bids/proposals shall be evaluated based on the requirements set forth in the solicitation document. No bid shall be used in evaluation that is not set forth in the solicitation document. With the exception of solicitations procure under F.S. § 287.055 (CCNA), evaluation of bids shall include consideration of the total cost for each year of the contract renewal years, as submitted by the vendor.
  - (4) *Award to other than low bidder.* When the award is not given to the lowest and best bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared and signed by the general services director and filed with the other papers relating to the transaction.
  - (5) *Exceeding allocated funds.* In some circumstances the lowest acceptable bid for a project exceeds allocated/budgeted funds; however, the projects' scope, time or economic considerations preclude the re-solicitation of work of a reduced scope. The general services department and the end user department are authorized, to negotiate an adjustment of the bid price with the lowest responsive and responsible bidder so long as the adjusted bid price does not exceed allocated funds and the county administrator, or designee, has approved such adjustment.
  - (6) *Tie bids.* If there are two or more bid submittals that are identical in price and meet all the requirements and criteria set forth in the solicitation, the award may be made by the board or county administrator or designee pursuant to the approval limitations as stated in this Code. In making the tie-breaker decision, the following may be considered, including, but not limited to: bidder's location, and/or the bidder's past performance with the county.
  - (7) *Determination of non-responsibility.* If a bidder or respondent, who otherwise could have been awarded a contract, is found non-responsible, a written finding of non-responsibility, setting forth the basis of the finding, shall be prepared by the general services department. The written finding shall be maintained as part of the county's procurement file.
  - (8) *Right to inspect.* The county may inspect the plant or place of business of, or equipment to be utilized by a proposed bidder or respondent or any subcontractor of an awarded contract or a contract to be awarded by the county to assist in determination of bidder/respondent responsibility.
- (b) *Local preference.* This section shall apply to the purchase of all items subject to this Code including, but not limited to, supplies, contractual services and public improvement contracts, unless its application is prohibited by state or federal law, or is funded in whole or in part by assistance from any federal, state, or local agency that disallows local preference. This section shall not apply to purchases subject to F.S. § 287.055, the Consultants' Competitive Negotiation Act, as amended. Procurements subject to formal proposal where price is not the primary factor and/or is not part of the criterion are not subject to local preference. However, a firm's location may be considered in the evaluation criterion. Purchases made through "piggybacking" off other government contracts, cooperative procurement contracts and open market procurement are not subject to local preference.

The county strives to use local vendors whenever practicable and possible. When applicable, preference will be given to the lowest qualified bidder who:

- (1) Holds a current Florida business license and submits a bid under the name on such license; and
- (2) Submits a bid that is within 15 percent of the price submitted by the lowest qualified non-local bidder; and
- (3) Has maintained a place of business within Putnam County staffed by the bidder, or an employee of the bidder, for a period of one year immediately preceding the date of the bid; and
- (4) Is incorporated under Florida law, or is a sole proprietorship whose proprietor is a resident of the county; or is a partnership, all of whose partners are residents of the county; or
- (5) Is a joint venture, all of whose venturers qualify under the relevant portion of subsection (4) above; or
- (6) Is a limited liability company whose manager is a resident of the county.

The lowest priced local bidder (bidder who meets the above criteria) shall be entitled to match the lowest qualified bid and be considered the lowest bidder by giving written notice to that effect to the county by 4:00 p.m. on the third business day after the bid opening.

- (c) *Minority/women business enterprises (M/WBE), veteran-owned enterprises and small business enterprises.* Minority/women business enterprises (M/WBE), veteran-owned enterprises and small business enterprises are encouraged to participate in the procurement process, and as such the county shall use its best efforts to encourage participation and award contracts to eligible M/WBE and veteran-owned vendors for all goods, services, and construction. All entities performing work for the county, including subcontractors, shall take all necessary and reasonable steps to ensure that M/WBEs, veteran-owned enterprises and small business enterprises have the maximum opportunity to participate in the performance of contracts without discrimination on the basis of race, color, national origin, or sex.

(Ord. No. 2018-20, 9-25-2018; Ord. No. 2019-15, § 1, 12-10-2019)

Sec. 2-101. - Bonds and security requirements.

- (a) *Bid security.* The county may require the submission of a bid bond or other form of security to guarantee full bid compliance. When the solicitation requires a bid bond or security, failure of the bidder to supply same, in the amount and type required, shall automatically render the bidder as non-responsive to the requirements of the solicitation. Unsuccessful bidders shall be entitled to a return of their deposit. A successful bidder shall forfeit its deposit upon failure on his/her part to enter a contract within the limits established by the bid.
- (b) *Contract payment and performance bonds.* When a contract is awarded the county may require the successful bidder to supply a payment and performance bond as required by state statute. When a payment and performance bond is required, it shall be in the amount and type satisfactory to the county and executed by a surety company authorized to do business in Florida that is acceptable to the county. The bonds shall guarantee the full and faithful performance of the contract obligations and the payment of labor and material expended pursuant to the contract. The bonds shall be recorded in the public records of the county, be held by the clerk of the board, and shall become binding on the parties upon the execution of the contract. Nothing in this section shall be construed to limit the authority of the board, the county administrator, or the general services director to require or accept other security in addition to, or in lieu of, those bonds or in circumstances other than those specified in this Code, when in the best interest of the county.

(Ord. No. 2018-20, 9-25-2018)

Sec. 2-102. - Bid protests.

The department of general services shall distribute at the bid opening, a bid tabulation sheet documenting all bids received. Immediately following the bid opening, the bid tabulation sheet will be posted to the general services department section on the county's website.

Any contractor/vendor that has submitted a bid to the county who wishes to challenge an intended recommendation with respect, to the award of such bid shall file with the general services director a written notice of intent to file a protest not later than 4:00 p.m. on the third business day after the posting of the bid notice from the county of the intended recommendation.

The notice of intent to file a bid protest shall state all grounds claimed for the protest. Failure to list a ground for protest in this notice shall constitute a waiver with respect to that ground.

If the contractor then wishes to pursue a formal written protest, it must be filed within five calendar days after the date of filing of the notice of intent to file a protest.

The formal written protest shall contain the following:

- (1) County bid/proposal identification number and title.
- (2) The name and address of the protesting party, and the title or position of the person submitting the protest.
- (3) A statement of disputed issues of material fact. If there are no disputed material facts, the protest must so indicate.
- (4) A concise statement of the facts alleged and of the rules, regulations, statutes, and constitutional provisions entitling the party to relief.
- (5) A statement indicating the relief sought by the party.
- (6) Such other information deemed material.

Upon receipt of a timely filed notice of intent to protest, the general services director shall delay the award process until the protest is resolved pursuant to fundamental principles of due process, except and unless the general services director sets forth in writing particular facts and circumstances which would require the continuation of the award process for the purpose of avoiding an immediate and serious danger to the public health, safety or welfare.

The general services director shall conduct a meeting with the protesting party to attempt an amicable resolution of the protest.

If such resolution does not occur, the general services director shall forward to the county administrator a recommendation, which shall include background information related to the bid.

The county administrator or designee shall attempt to resolve the protest.

If such resolution does not occur, the county administrator shall forward to the board a recommendation, which shall include background information related to the bid.

The board shall thereafter conduct an informal hearing at a regularly scheduled meeting or at such other time as may be arranged. Following presentations by all involved parties, the board shall render its decision on the merits of the protest.

All bid/proposal solicitations shall set forth the following statement:

"Failure to follow the bid protest procedures prescribed by the Putnam County Purchasing Ordinance shall constitute a waiver of your protest and any resulting claims."

(Ord. No. 2018-20, 9-25-2018)

#### Sec. 2-103. - Contracts.

In addition to the contract authority outlined in section 2-97, all procurement contracts/agreements shall be approved for legal sufficiency by the county attorney and signed by the board chairman, county administrator or designee. All county contracts shall include provisions necessary to define the responsibilities and rights of the parties to the contract.

When applicable, purchases shall be based on valid, written contracts. contracts will be executed in accordance with this Code, will be managed by the end user department to ensure legal compliance and will be renewed, or goods/services re-procured, in a timely manner.

- (1) *Multi-year contracts and appropriation of funds*. A contract for goods, services, or construction may be entered into for more than one fiscal year if it is deemed to be in the best interest of the county, if the term of the contract and conditions of renewal or extension are included in the solicitation, and funds are available for the current fiscal year. Obligations for succeeding fiscal years may be subject to the availability and

appropriation of funds by the board. Renewal of a contract must be in writing and is subject to the same terms and conditions as set forth in the initial contract and any written amendments/change orders signed by the parties.

(2) *Administration and compliance* .

- a. After a contract has been awarded, the end user department will conduct contract administration and compliance activities. This encompasses all interaction between the county and the vendor from the time the contract is awarded until the work has been completed and accepted or the contract terminated, payment has been made, and disputes have been resolved.
- b. The end user department will ensure all contracts are signed and paperwork is completed; renewals are handled properly; agenda items and/or change orders approved and/or executed by the board, county administrator or designee.
- c. The end user department's project administrator is responsible for the contract administration and compliance functions to ensure compliance with the contract, county codes, Florida Statutes and federal regulations, as applicable, county procedures and other applicable requirements.
- d. The end user department will request purchase orders, for goods, services and construction, including owner direct purchases, that are associated with agreements, contracts, task orders, and amendments. Blanket purchase orders shall be allowed for contracts, based on the annual contract allowances.

(3) *Right to audit records* . The county may, at reasonable times and places, audit the books, records, and accounts of any person, to the extent that the books, records, and accounts relate to the performance of services in accordance with a county contract. Any person that is awarded a contract or granted a contract amendment shall maintain all books, records, and accounts in compliance with generally accepted accounting procedures; and shall retain all books, records, and accounts for three years, or a longer term as required by the funding source and designated in the solicitation and contract documents, from the date of final payment, termination, or until a full county audit is complete, whichever comes last. All books, records, and accounts related to the performance of a county contract shall be subject to the applicable provisions of the Florida Public Records Act, F.S. ch. 119, as amended.

(4) *Settlement of a contract dispute* . The county attorney, is authorized to settle disputes arising out of the performance of a county contract, provided the settlement amount does not cause the total contract amount, including the settlement amount, to exceed the authority of the county administrator as established in this Code. Any settlement exceeding the authority of the county administrator must be approved by the board.

(5) If it is determined that termination is in the best interest of the county, the end user department shall present a proposed letter of termination for board or county administrator approval, pursuant to original agreement approval.

(Ord. No. 2018-20, 9-25-2018)

Sec. 2-104. - Suspension and debarment.

(a) *Authority to debar or temporarily suspend*.

- (1) The board has the authority to debar a person or business, for cause, from doing business with the county.
- (2) The county administrator or designee has the authority to suspend a person or business from doing business with the county during an investigation and pendency of debarment action.
- (3) The debarment shall be for a period not to exceed three years from the date of the final debarment determination by the board. However, if the debarment is based solely upon a previous debarment by another governmental agency, the period of debarment may run concurrently with the period established by that other agency.

- (4) The temporary suspension shall be for a period not to exceed six months from the date of the final suspension of the county administrator.
- (b) *Causes for debarment.*
- (1) Conviction of any person, under any statute of the federal government, this state, or any other state, for embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a county contractor/vendor within the last 36 months;
  - (2) Conviction for commission of a criminal offense as an incident to obtaining, or attempting to obtain, a public or private contract or sub-contract, or in the performance of such contract or sub-contract within the last 36 months;
  - (3) Conviction of or civil judgment against any person based on a violation of a state or federal antitrust statute, relating to a response to a solicitation within the last 36 months;
  - (4) Violations of contract provisions within three years of current debarment action, of a character which are reasonably deemed to be so serious as to justify the current debarment or suspension action;
  - (5) Abandonment of a contract;
  - (6) Knowing failure, without good cause, to perform in accordance with the terms and conditions as stated in an awarded contract;
  - (7) Failure to perform or unsatisfactory performance of any of the terms of a contract with the county. However, failure to perform or unsatisfactory performance caused by acts beyond the control of the person shall not be considered to be a basis for debarment or suspension;
  - (8) Failure to pay a contractor, subcontractor, or materials provider as required;
  - (9) A determination by a court, the Florida department of business and professional regulation or the federal government that the person has violated the provisions of any Florida Statute, federal regulation or local law and/or has been placed on the State of Florida or federal government list of debarred contractors; and/or
  - (10) Any other cause that the board reasonably considers to be as serious and compelling enough to support a determination for of debarment.
- (c) *Initiation of debarment, temporary suspension and final determination.*
- (1) The county general services director shall investigate any information received concerning a possible cause for debarment.
  - (2) The county administrator may determine that the person shall be temporarily suspended from doing business with the county during the investigation, and pendency of a debarment action.
  - (3) In the event of temporary suspension by the county administrator, the general services director shall provide written notification to the person, regarding the temporary suspension, by certified mail, return receipt requested or by any other method that provides evidence of receipt, to the address provided to the general services department by the person. The notice of suspension shall state:
    - a. The basis for the investigation;
    - b. That no solicitation response shall be accepted from the person and, if received, will not be considered during the temporary suspension period; and
    - c. The date and time that the final debarment determination hearing will be held in front of the board.
  - (4) The basis and documentation for the debarment of a person shall be reviewed by the county administrator.
  - (5) If the county administrator determines that there is no reasonable basis for a cause for debarment, he/she may reinstate the suspended person.
  - (6) If the county administrator determines that there exists a reasonable basis for a cause for further debarment

actions, the county administrator, after review by the county attorney, shall request a hearing before the board for a final determination regarding debarment.

- (7) If the board determines that a person should be debarred, the general services director shall provide written notification to the person, regarding the debarment, by certified mail, return receipt requested or by any other method that provides evidence of receipt, to the address provided to the general services department by the person. The notice of debarment shall state:
- a. The basis for the debarment;
  - b. That any current contract with the county shall be terminated per the conditions in the contract;
  - c. That no solicitation response shall be accepted from the person and, if received, will not be considered during the debarment period; and
  - d. The period of debarment, including the specific date that the debarment ends.
- (d) *Imputed knowledge.*
- (1) Improper conduct by a person may be imputed to an affiliate for purposes of debarment where the impropriety occurred in connection with the affiliate's duties for, or on behalf of, and/or with the knowledge or approval of the person.
  - (2) The improper conduct of a person or its affiliate having a current county contract with a contractor/vendor may be imputed to the contractor/vendor for purposes of debarment where the impropriety occurred in connection with the person/affiliate's duties for, or on behalf of, and/or with the knowledge or approval of the contractor/vendor.
- (e) *Master list of debarred or suspended persons.* The general services department shall maintain a master list of debarments and suspensions, which will include, at a minimum, the names of those persons debarred or suspended, the basis for such action, the period including expiration date and the name of the debarring agency, if the county's debarment is based on debarment by another governmental entity.

(Ord. No. 2018-20, 9-25-2018)

#### Sec. 2-105. - Grants.

- (a) Generally, expenditures from funds other than county tax or special assessment revenues may require special processes because of specific legal terms and conditions placed by the funding agency. Grants often have certain purchasing requirements that are different or additional to the county's procurement code and they require special purchasing procedures. It is the responsibility of the user department to identify any special purchasing requirements or provisions, notify the general services director of them, and to ensure that all requirements are followed. Unless otherwise specified in the grant, all grant procurements shall follow the general standards set forth in this Code.
- (b) *Projects funded with federal monies.* For projects funded in whole or in part with federal funds, the county will follow the procurement standards set forth in this Code, plus the additional standards set forth hereinafter. In the event of a conflict, the following standards will govern.

County personnel from the user department shall maintain oversight of contracts and purchase orders to ensure contractors perform in accordance with the terms, conditions and specifications.

- (1) *General procurement standards.*
- a. The county must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.



- b. The county will award contracts only to responsible contractors possessing the ability to perform successful and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, public policy, record of past performance, and financial and technical resources.
- c. The county will maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- d. The county may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to the county is the sum of:
  - The actual cost of materials; and
  - Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the county must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

- e. The county will promote cost-effective use of shared services by entering into inter-local and other types of partnering agency agreements where appropriate for procurement or use of common or shared goods and services.
- f. When feasible, the county will use federal excess and surplus property in lieu of purchasing new equipment and property to reduce project costs.
- g. The county will be responsible, in accordance with good administrative practice and sound business judgement for the settlement of all contractual and administrative issues arising out of procurements.

(2) *Competition* .

- a. All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:
  - Placing unreasonable requirements on firms in order for them to qualify to do business;
  - Requiring unnecessary experience and excessive bonding;
  - Noncompetitive pricing practices between firms or between affiliated companies;
  - Noncompetitive contracts to consultants that are on retainer contracts;
  - Organizational conflicts of interest;
  - Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and
  - Any arbitrary action in the procurement process.
- b. The county will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals,

except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

- c. The county will adhere to the following procedures for procurement transactions. All solicitations will:
- Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and
  - Identify all requirements which the respondents must fulfill and all other factors to be used in evaluating bids or proposals.
- d. The county will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the county will not preclude potential bidders from qualifying during the solicitation period.
- (3) *Methods of procurement to be followed*. The county will use one of the following methods of procurement.
- a. *Procurement by micro-purchases*. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (2 CFR 200.67 micro-purchase). To the extent practicable, the county will distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the county considers the price to be reasonable.
- b. *Procurement by small purchase procedures*. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold (2 CFR 200.88). If small purchase procedures are used, price or rate quotations will be obtained from an adequate number of qualified sources.
- c. *Procurement by sealed bids (formal advertising)*. Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph c.1 of this section apply.
1. In order for sealed bidding to be feasible, the following conditions should be present:
    - A complete, adequate, and realistic specification or purchase description is available;
    - Two or more responsible bidders are willing and able to compete effectively for the business; and
    - The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
  2. If sealed bids are used, the following requirements apply:

- Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids and the invitation for bids must be publicly advertised;
  - The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
  - All bids will be opened at the time and place prescribed in the invitation for bids, and the bids will be opened publicly;
  - A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
  - Any or all bids may be rejected if there is a sound documented reason.
- d. *Procurement by competitive proposals* . The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
1. Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
  2. Proposals will be solicited from an adequate number of qualified sources;
  3. The county will have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
  4. Contracts will be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
  5. The county may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.
- e. *Procurement by noncompetitive proposals* . Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:
1. The item is available only from a single source;
  2. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
  3. The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the county; or
  4. After solicitation of a number of sources, competition is determined inadequate.
- (4) Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.
- a. The county will take all necessary affirmative steps to assure that minority businesses, women's business

enterprises, and labor surplus area firms are used when possible.

- b. Affirmative steps will include:
  1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
  3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
  4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
  5. Using the services and assistance, as appropriate, of such organizations as the small business administration and the minority business development agency of the department of commerce; and
  6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs 1 through 5 of this section.
- (5) *Procurement of recovered materials.* The county and its contractors will comply with section 6002 of the solid waste disposal act, as amended by the resource conservation and recovery act. The requirements of section 6002 include procuring only items designated in guidelines of the environmental protection agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000.00 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000.00; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- (6) *Contract cost and price .*
  - a. The county will perform a cost or price analysis in connection with every procurement action in excess of the simplified acquisition threshold (2 CFR 200.88) including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the county will make independent estimates before receiving bids or proposals.
  - b. The county will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
  - c. Costs or prices based on estimated costs for contracts under the federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the county under Title 2, Part 200, Subpart E—Cost Principles. The county will rely on its own cost principles that comply with the federal cost principles.
  - d. The cost plus a percentage of cost and percentage of construction cost methods of contracting will not be used.
- (7) *Federal awarding agency or pass-through entity review.* The county will comply with all requests by federal awarding agencies or pass-through entities for documentation or other review of the county's procurement processes.
- (8) *Bonding requirements .* For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold (2 CFR 200.88), the county will follow its standard bonding requirements set

forth in this Code if the federal awarding agency or pass-through entity has made a determination that the federal interest is adequately protected. If such a determination has not been made, the minimum bonding requirements will be as follows:

- a. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
  - b. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
  - c. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.
- (9) *Contract provisions.* When applicable and feasible, the county will use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions.
- The county's contracts will contain the applicable provisions described in Appendix II to Part 200—contract provisions for non-federal entity contracts under federal awards.

(Ord. No. 2018-20, 9-25-2018)

#### Sec. 2-106. - Surplus stock.

All using agencies shall submit to the general services director, at such times and in such form as he/she shall prescribe, reports showing fixed assets and capital assets which are no longer used or which have become obsolete, worn out or scrapped ("surplus stock"). The board shall have the authority to approve the surplus of fixed and capital assets.

- (1) *Transfer.* The board shall have the authority to transfer surplus stock to other using agencies, governmental entities, or any other entity not for profit which is organized to promote community interest and welfare.
- (2) *Sale.* The general services director shall have the authority to sell surplus, or to exchange the same for, or trade in the same on, new supplies. Sales under this section shall be made to the highest responsible bidder in conformance with competitive conditions.

(Ord. No. 2018-20, 9-25-2018; Ord. No. 2019-15, § 1, 12-10-2019)

#### Sec. 2-107. - Sale or lease of real property.

The board is hereby authorized to sell or lease real property belonging to the county whenever the board determines that it is in the best interest of the county to do so. Requests to initiate the sale or lease of real property shall be presented to the board by the county administrator.

Upon a determination by the board that it is in the best interest of the county to sell or lease a parcel or parcels of real property and, unless specifically directed by the board to effect the disposition through the use of a particular method, the county administrator or designee is hereby authorized, in his/her discretion, to exercise all rights, powers, and duties to effect such transaction through one of the following methods:

- (1) In accordance with procedures set out in F. S. § 125.35(1), the sale or lease of real property may be made to the highest bidder who has complied with terms and conditions established for bids for such property after notice of such proposed transaction has been published once a week for at least two weeks in a newspaper of

general circulation published in Putnam County. The county administrator or designee may require that a deposit be made or a surety bond be given with each bid submitted.

- (2) In accordance with procedures set out in F. S. § 125.35(2), a private sale of property may be made when the parcel is of insufficient size and shape to be issued a building permit or when the value is \$15,000.00 or less and when, due to size, shape, location and value, it is of use only to one or more adjacent property owners.
- (3) Pursuant to the authority granted in F. S. § 125.35(3), the sale or lease of real property may be made to the highest bidder at a public auction under the following conditions:
  - The county administrator or designee is hereby authorized to market, advertise and otherwise promote the parcel or parcels to be offered for sale or lease.
  - The board shall establish minimum bids.
  - A notice setting out the date, time and location of the public auction shall be published in a newspaper of general circulation published in Putnam County once a week for at least two weeks prior to the date set for the auction. The notice shall contain a legal description of the parcel or parcels of real property to be sold or leased, the existing land use designation for the property as established by the Putnam County Comprehensive Plan and the Putnam County Land Development Code, the minimum bid and a statement that copies of documentation and information relating to the properties to be auctioned and procedures for the auction shall be available at the county during normal business hours.
  - The successful bidder at auction shall make a cash payment often per cent (10 percent) of the successful bid on the date of the auction and shall pay the balance at a closing to be held no later than 30 days from the date of the auction.
- (4) Sales of real property shall be "as is", and shall convey only the interest of the county in the property. The county shall not warrant the title or otherwise represent any state of facts concerning the property and conveyance shall be made by a county deed pursuant to F. S. § 125.411.

(Ord. No. 2018-20, 9-25-2018)

Sec. 2-108. - Conflict and severability.

Should this ordinance conflict with any other ordinance of Putnam County, this ordinance shall control. Should any section, subsection or provision of this ordinance be declared unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the parts declared to be unconstitutional or invalid.

(Ord. No. 2018-20, 9-25-2018)

Sec. 2-109. - Effective date.

This ordinance shall become effective upon receipt of official acknowledgement of filing by the Secretary of State.

(Ord. No. 2018-20, 9-25-2018)

Sec. 2-110. - Appendix A—Definitions.

Unless the context otherwise requires, the following terms shall have the meanings set forth below whenever they appear in the procurement code:

*Advertisement:* Public notice in a newspaper of general circulation in the county and/or posted on the county's website listing of formal solicitations; notice should state the place, date and time that bids or proposals must be received.

*Affiliate:* A corporation that is related to another corporation by one owning shares of the other, by common ownership, or by other means of control.

*Agenda items/requests:* A written form of communication presented to the board for consideration. The agenda item/request includes a summary of the requested action along with supporting documentation.

*Agreement:* Written agreement between two or more competent parties that includes provisions necessary to define the responsibilities and rights of the parties to perform a specific act(s); any type of agreement, regardless of what it is called, for the procurement or disposal of goods, services or construction, usually an exchange of goods or services for money or other consideration. The term agreement may be used interchangeably with the term "contract" or "contract acceptance letter."

*Amendment/contract amendment:* Written modification, which revises specifications, price, quantity, or other terms of the agreement, upon mutual consent and with a formally executed document signed by both parties.

*Bid:* A formal written price offer by a vendor to the county to furnish specific goods, services, and/or construction in response to an Invitation for bids or a multistep bidding procedure.

*Bid award:* Award of a bid for goods or services by the appropriate level of authority after receipt of competitive quotes or bids, and determination of fund availability.

*Bid bond/security:* An insurance agreement, accompanied by a monetary commitment, by which a third party (the surety) accepts liability and guarantees that the bidder will not withdraw the bid. The bidder will furnish bonds in the required amount and if the contract awarded to the bonded bidder, the bidder will accept the contract as bid, or else the surety will pay a specific amount.

*Bidder:* Any person, firm, business or other group of individuals that submits a response to a solicitation. The term bidder may be used interchangeably with the term respondent.

*Black-out period:* The period that begins upon the issuance of a solicitation and concludes upon the final execution of the contract by the appropriate approval authority during which bidders and respondents are prohibited from contacting any board member, the county administrator, any requesting or evaluating department personnel and/or any member of the evaluation committee.

*Board/BOCC:* The Putnam County Board of County Commissioners.

*Business:* Corporation, firm, association, syndicate, partnership, sole proprietorship, joint stock company, joint venture, or any other legal entity.

*Capital Improvement Project (CIP):* Any public improvement which the county undertakes, including the construction or reconstruction in whole or in part, of any building, road, highway, street improvements, physical plant, structure, or facility.

*Certificate of contract completion acceptance:* A form which indicates that a project has been satisfactorily completed and the contractor has paid all labor, materials and other charges against the project in accordance with the terms of the contract.

*Certificate of insurance:* A document which is provided by the contractor/consultant to show proof of insurance according to the requirements stated by the county.

*Change order:* Modification, deletion or addition to an authorized purchase order or contract.

*Communications:* Services used by the county such as cellular telephone providers, cable television, and long distance services carriers.

*Competitive solicitation/competition:* Process of requesting and receiving sealed bids, proposals, or replies submitted by responsive Vendors in accordance with the terms of a competitive process, regardless of the method of procurement.

*Conflict of interest:* A clash between the public interest and the private pecuniary interest of the individual concerned. (Black's Law Dictionary, 299, 1990.) The term identifies those situations where contractors or public officials may obtain a benefit from a public contract. Conflicts of interest may result in a breach of ethics or an ethical code. Actual or perceived conflict of interest: Any action, decision or recommendation by an agent or public official acting in an official capacity, the effect of which could be to the private pecuniary benefit or detriment of the person or person's relative.

*Construction:* The process of constructing a building, structure, road or drainage utilities; altering, repairing, improving, or demolishing any structure or building; or other improvements of any kind.

*Construction services:* All labor, services, and materials provided in connection with the construction, repair, replacement, renovation, or demolition, or any other improvement of any kind, to any real property.

*Consultant:* A person that possesses unique qualifications which allow them to serve and/or perform specialized and/or advisory services, usually for a fee.

*Consultants Competitive Negotiation Act (CCNA):* Guidelines for the acquisition of professional architectural, engineering, landscape architecture, or surveying and mapping services, including definitions, procedures and prohibitions as defined in F.S. § 287.055, as amended.

*Contract:* Obligation, such as an accepted offer, between competent parties upon a legal consideration, to abstain from or to do some act or acts. The term contract may be used interchangeably with "agreement."

*Contractor:* Any individual, firm, partnership, corporation, association or other legal entity having a contract with the board of county commissioners to furnish goods, services, or construction for an agreed upon price.

*Cooperative purchasing:* procurement conducted by, or on behalf of, more than one public procurement unit.

*Debar/debarment:* An action taken by the board under this Code to prohibit a person or firm from participating in county procurements for an extended period of time.

*Department/end user department/end user/division/office:* An administrative department, division, or office of the county which utilizes any goods, services, or construction procured under the administrative code and correlating procedures. The terms may be used interchangeably.

*Designee:* A person who has been given the authority to act on the behalf of another person of authority.

*Discussion:* Communication between a bidder or respondent and the general services department for the purpose of: eliminating minor irregularities, informalities, or apparent clerical mistakes in the offer or response; clarifying any offer or response to assure full understanding of, and responsiveness to, solicitation requirements; resolving minor variations in contract terms and conditions; and/or establishing the competency or financial stability of any bidder or respondent.

*Emergency procurement:* procurement that is made when there is an unexpected turn of events beyond the control of the agency in the normal conduct of its business, involving health, welfare, safety, loss or significant operational delay or disruption to the county that can only be rectified by the immediate purchase of supplies and/or contractual services.

*Employment services:* Employee recruitment services, employee leasing, temporary employment services.

*Ethics:* Pertaining to or relative to moral action, conduct, motive or character; as ethical emotion; professionally right or benefitting; conforming to professional standards of conduct.

*Evaluation committee (EC):* An evaluation group established for the sole purpose of evaluating responses received from a county solicitation.



*Filed:* The delivery of applicable document(s) to the general services department. A time and date of receipt shall be documented by the general services department in a verifiable manner for purposes of filing.

*Firm:* Any business, individual, union, committee, club, organization or group of individuals.

*General services administration (GSA) contract:* Program established by the federal government for products and services procured from pre-vetted vendors. procurement from vendors offering GSA schedule pricing results in reduced costs and maximized efficiency due to federal volume procurement.

*Goods:* Any tangible property other than services or real property.

*Grant:* The furnishing by the county of assistance, whether financial or otherwise, to any person or organization; or the receipt by the county of assistance, whether financial or otherwise, from any governmental or private entity. Grant does not include an agreement whose primary purpose is to procure a specific end product, whether in the form of goods, services, or construction.

*Gratuity:* A payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless given without consideration.

*Intent to recommend:* End user department's written recommendation of bid award to the board or county administrator or designee depending upon approval thresholds.

*Interlocal agreement:* Permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities.

*Invitation to bid (ITB):* Solicitation documents, written or electronic, whether attached or incorporated by reference, which are used for competitive sealed bidding for the procurement of goods, services and/or construction. The invitation to bid is used when the county is capable of clearly defining the scope of work for which a contractual service or precise specification defining actual commodities that are being procured.

*Lobbying:* Any action taken by a person to influence the decision of a board member, the county administrator, any user department/division/office personnel, and/or any individual serving on an evaluation committee during the black-out period.

*Lobbyist:* An individual or group whose efforts are intended influence public and governmental policy.

*Local preference:* Preference given to a bidder during certain formal bid processes as described in section 2-100(b) of this Code.

*Material Interest:* Direct or indirect ownership of more than five percent of the total assets or capital stock of any business entity as set forth in F.S. ch. 112.

*Materials:* Items that are incorporated into or attached to an end item or consumed in performing a contract. Materials do not include land, a permanent interest in land, or leases of real property.

*Minority Owned Business Enterprise:* A Florida domiciled Small Business entity or firm:

- That is at least 51-percent-owned by minority persons who are members of an insular group that is of a particular racial, ethnic, or gender makeup or national origin, which has been subjected historically to disparate treatment due to identification in and with that group in an under representation of commercial enterprises under the group's control;
- For which the minority/women ownership exercises control and management over the daily business operations;

- That has been awarded certification as a valid minority business enterprise certified by the state, other government entity within the State of Florida, or the county, for meeting statutory criteria in certification; and
- That is legally organized to perform a specific line of business, or practice of profession; and
- Ownership by a minority person does not include ownership which is the result of a transfer from a non-minority person to a minority person within a related immediate family group if the combined total net asset value of all members of such family group exceeds \$1,000,000.00. For purposes of this subsection, the term related immediate family group means one or more children under 16 years of age and a parent of such children or the spouse of such parent residing in the same house or living unit.

*Minority person:* A lawful, permanent resident of Florida who is:

- African American - a person having origins in any of the black racial groups of the African Diaspora, regardless of cultural origin;
- Hispanic American - a person of Spanish or Portuguese culture with origins in Spain, Portugal, Mexico, South America, Central America, or the Caribbean, regardless of race;
- Asian American - a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands, including the Hawaiian Islands prior to 1778;
- Native American - a person who has origins in any of the Indian Tribes of North America prior to 1835, upon presentation of proper documentation thereof as established by rule of the Department of Management Services; or
- American woman.

*Minority/Women Business Enterprise (M/WBE):* A business that is either a minority-owned business enterprise or a women-owned business enterprise, or both.

*Must:* Denotes the imperative.

*Negotiation:* Legitimate, arm's length discussion and conferences to reach an agreement on terms or price.

*Non-responsible:* Refers to a bidder who does not have the capability to fully perform the contract requirements, or who does not have the experience, reputation, and/or reliability to assure performance.

*Non-responsive:* Refers to a bidder whose submittal does not conform to the mandatory or essential requirements of the solicitation.

*Opening:* Date and time set for opening of bids, receipt of statements of qualifications or receipt of proposals in competitive sealed proposals, or in the case of a reverse auction, the date and time set for the auction close.

*Owner direct purchase program:* Materials and commodities that will be purchased and paid for directly by the county that are incorporated into any public work project, which is under the direction or management of a contract administrator.

*Person:* Any consultant, business, individual, union, committee, club, representative, other organization, or group of individuals.

*Procurement:* Buying, purchasing, renting, leasing, or otherwise acquiring of any goods and/or services for public purposes in accordance with the laws, rules, regulations and procedures intended to provide for the economic expenditure of public funds. It includes but is not limited to all functions which pertain to the obtaining of any supplies, materials, equipment and/or services

including construction projects and capital improvement projects, as defined herein, required by any division/department/office or agency of county government regardless of the source of funds.

*Procurement card (P-Card):* An instrument used to purchase goods/services in accordance with established procedures.

*Procurement card (P-Card) program:* A program designed to improve efficiency in processing low dollar purchases of commodities or services from any provider that accepts a credit card.

*Professional services (PS):* Any architectural, engineering, landscape architectural, registered land surveying, or planning activity as defined and prescribed under F.S. § 287.055, as amended.

*Proposal:* An executed formal document submitted by an offeror to the county stating the good(s) and/or service(s) offered in response to a request for proposal or request for information.

*Public notice:* Written announcement made by the county concerning a solicitation or other information of general public interest.

*Purchase:* The same as procurement, as defined herein.

*Purchase order:* The county's document used to authorize a purchase transaction with a vendor; contains provisions for construction, goods and/or services ordered; applicable terms as to payments, discounts, date of performance and transportation; and other factors or conditions relating to the transaction.

*Quotation:* An oral or written informal offer to the county by a vendor for furnishing specific goods and/or services at a stated price.

*Receipt:* Actual receipt of an item being delivered or the first attempted delivery by certified mail, or by any other means that provides conclusive evidence of the attempt to deliver to the last known address of party.

*Request for letters of interest (LOI):* A non-binding solicitation method used to obtain information for services or projects that cannot be quantified.

*Request for proposals/competitive proposal solicitation (RFP):* A solicitation method used to solicit proposals from potential providers of goods, services, and construction. Price is not the only determining factor in an RFP and an award of a contract may be accomplished in a single step or multi-step process.

*Request for qualifications/qualifications based solicitation or professional services (PS):* Solicitation method used to solicit proposals from potential providers of specific services where price is not an evaluation factor.

*Request for quotations (RFQ):* An informal solicitation where oral or written quotes are obtained from the required number of providers, without formal advertising or receipt of sealed bids.

*Respondent:* A person, business, firm or other group of individuals that submits a response to a solicitation. The term respondent may be used interchangeably with the term bidder.

*Responsible bidder/offeror/responsible respondent:* An individual or business which has submitted a bid, offer, proposal, quotation or response, which has the capability, as determined by the county, in all respects, to fully perform solicitation requirements with the integrity and reliability which give reasonable assurance of good faith and performance.

*Responsive bidder/offeror/responsive respondent:* An individual or business which has submitted a bid, offer, proposal, quotation or response, which conforms to all material aspects of the solicitation, as determined by the county.

*Services:* The furnishing of labor, time, and/or effort by professionals or contractor, wherein the submission of goods or other specific end products other than reports, studies, plans, advisories, contractual documents or other documents relating to the required performance is incidental or secondary.

*Shall:* Used to denote the imperative.

*Single source:* Single source is procurement in which, although two or more vendors supply the commodities or services, there is only one reasonable source for the required goods or services. "Reasonable source" may be based on geographic distribution areas, vendor location, delivery schedule, maintenance requirements, etc.

*Small business enterprise:* Any person, sole proprietor, self-employed individual, independent contractor, firm, corporation, partnership, or association that is actively engaged in business, has its principal place of business in this state, employed an average of at least one but not more than 50 employees on business days during the preceding calendar year, the majority of whom were employed in this state, and employs at least one employee on the first day of the current calendar year.

*Sole source:* The only existing source of the item which meets the needs of the user department/division/office as determined by a reasonably thorough analysis of the marketplace.

*Solicitation:* An invitation or request by which the county invites participation in the procurement process.

*Suspend/suspension:* Action taken by the county administrator under the administrative code to temporarily disqualify or exclude a person from participating in county procurements for a definite period of time.

*Threshold:* The dollar value which determines the methods for the purchase or solicitation of goods and services and authorization approval.

*Used or pre-owned:* Used to identify an item or equipment that is not new.

*Vendor:* A supplier/seller of goods, services, and/or construction. The term vendor may be used interchangeably with provider or supplier.

(Ord. No. 2018-20, 9-25-2018)

Secs. 2-111—2-143. - Reserved.