



MEMORANDUM

To: All Delray Beach CRA Staff Members

From: Renée A. Jadusingh, Esq., Delray Beach CRA Executive Director

Date: July 10, 2023

RE: Updated Purchasing Policies and Procedures

A handwritten signature in blue ink, appearing to be "RJ", is located to the right of the "From:" line.

Effective October 1, 2019, per Resolution No. 2019-11 passed and adopted by the Board of Commissioners of the Delray Beach CRA on September 10, 2019, hereby attached as Exhibit A, the Delray Beach CRA shall procure all commodities and services under the same purchasing processes and requirements that apply to the City of Delray Beach (City).

The City revised their purchasing processes and requirements on October 8, 2022. The most up to date Purchasing Policies and Procedures Manual is attached to this Memorandum as Exhibit B.

Please let me know if you have any questions.

Thank you.

RESOLUTION NO: 2019-11**A RESOLUTION OF THE DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY ADOPTING THE CITY OF DELRAY BEACH'S PURCHASING POLICIES AND PROCEDURES MANUAL AS REQUIRED BY SECTION 163.370(5), FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, the Florida Legislature and the Governor of the State of Florida approved and adopted Chapter 2019-163, Laws of Florida during the 2019 legislative session, which contained a revision to Section 163.370, Fla.Stat., to require a Community Redevelopment Agency ("CRA") to procure all commodities and services under the same purchasing processes and requirements that apply to the municipality that created the CRA; and

WHEREAS, pursuant to the requirements of Section 163.370(5), Fla.Stat., the Board of Commissioners of the Delray Beach Community Redevelopment Agency ("Board"), desires to insure compliance with the recently adopted statutory requirement, and adopt the City of Delray Beach's Purchasing Policies and Procedures Manual as the purchasing policies and procedures for the Delray Beach Community Redevelopment Agency as of October 1, 2019; and

WHEREAS, the Board determined that the adoption of the City of Delray Beach's Purchasing Policies and Procedures Manual is in the public's interest and it is necessary to implement its goals and objectives.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY THAT:

1. Each "WHEREAS" clause set forth above is true and correct and herein incorporated by this reference.

2. Pursuant to Section 163.370(5), Florida Statutes, the City of Delray Beach's Purchasing Policies and Procedures Manual, in effect as of October 1, 2019, is hereby adopted as the Purchasing Policies and Procedures Manual for the Delray Beach Community Redevelopment Agency. Any amendments to the City of Delray Beach's Purchasing Policies and Procedures Manual shall be effective with respect to the Delray Beach Community Redevelopment Agency without any further action by the Board of Commissioners of the Delray Beach Community Redevelopment Agency.

3. Any reference to the "City of Delray Beach" or "City" as contained in the Purchasing Policies and Procedures Manual shall be interpreted to refer to the Delray Beach Community Redevelopment Agency. Any reference to the City Manager, Purchasing Director, or Requesting Director as contained in the Purchasing Policies and Procedures Manual shall be interpreted to refer to the Delray Beach Community Redevelopment Agency's Executive Director, or his/her designee.

4. If any clause, section, or other part of this Resolution shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and shall in no way affect the validity of the remaining portions of this Resolution.

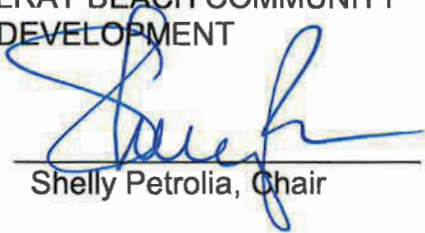
5. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

6. This Resolution shall become effective as of October 1, 2019.

(SIGNATURE PAGE TO FOLLOW)

PASSED AND ADOPTED BY THE BOARD OF COMMISSIONERS OF THE
DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY this 10 day of
September, 2019.

DELRAY BEACH COMMUNITY
REDEVELOPMENT

By: 

Shelly Petrolia, Chair

Approved as to form:

By: 

Renée A. Jadusingh, Secretary

I HEREBY APPROVE THIS
RESOLUTION AS TO FORM:



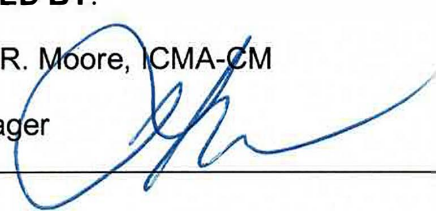
General Counsel



CITY OF DELRAY BEACH
100 NW 1st Avenue
Delray Beach, Florida 33444
FINANCE DEPARTMENT

PURCHASING AND CONTRACT ADMINISTRATION DIVISION

PURCHASING POLICIES AND PROCEDURES MANUAL

City of Delray Beach 	ADMINISTRATIVE		SUBJECT:	
	POLICIES AND PROCEDURES MANUAL		Purchasing Policies and Procedures Manual	
	NUMBER PUR- 15	REVISIONS 6	EFFECTIVE DATE: <u>10/5/2022</u>	PAGE 1 OF 41
SUPERSEDES PUR-15, revision 6	APPROVED BY: Terrence R. Moore, ICMA-CM City Manager 			

FINANCE DEPARTMENT
PURCHASING AND CONTRACT ADMINISTRATION DIVISION

VISION STATEMENT

To contribute ethically, quantitatively, and qualitatively to the strategic goals of the City by employing technology and best practices to achieve efficiency, transparency, cost savings, and fairness in the City's procurement efforts.

MISSION STATEMENT

The Purchasing and Contract Administration Division is committed to the fair, equitable, and timely acquisition of goods and services for the City of Delray Beach. Using technology, competition, and best practices, we strive to bring the greatest value to the City and its residents in an efficient and cost-effective manner.

VALUES STATEMENT

The primary objectives of a first-class procurement organization extend beyond the traditional belief that procurement's primary role is to obtain goods and services in response to internal needs. These primary objectives include:

- *Support operational requirements*
- *Manage the purchasing and contracting process equitably, efficiently, and effectively*
- *Develop strong relationships with other functional groups and stakeholders*
- *Support organizational goals and objectives*

The Purchasing and Contract Administration Division is committed to the fair, equitable, and timely acquisition of goods and services for the City of Delray Beach, and to cultivating an ethical and professional environment. Using technology, competition, and best practices, we strive to bring the greatest value to the City and its residents in an efficient and cost-effective manner. The Department embraces the Values and Guiding Principles of Public Procurement, which are:

- *Accountability*
- *Ethics*
- *Impartiality*
- *Professionalism*
- *Services*
- *Transparency*

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1. INTRODUCTION

This policy and procedural manual (PPM) is intended to provide basic orientation information for the operational activities of the Purchasing and Contract Administration Division of the City of Delray Beach, Florida. It is not intended to be a detailed guide describing each aspect of the Purchasing and Contract Administration Division's internal specific procedures. However, this manual is intended to provide sufficient procedural detail to enable City departments, other governmental entities, and the vendor community to:

- i. be fully aware of, and comply with, City purchasing policies, and
- ii. effectively participate in the City's purchasing program.

In the event there is any contradiction between these guidelines and City, County, State or Federal legislation, the legislation shall prevail. The funding source(s) of procurement action may determine which legislation shall be adhered to, as applicable.

The basic purchasing policies of the City of Delray Beach are conducted on the basis of full and open competition to the greatest extent possible, with award being made to:

- i. the lowest responsive and responsible bidder under Invitations to Bid;
- ii. the best value proposer under qualitative solicitations that involve pricing as a competitive selection factor;
- iii. the highest ranked technical proposer(s) with which a fair and reasonable price may subsequently be negotiated under solicitations that do not involve pricing as an initial competitive selection factor;
- iv. that all specifications or statements of work included in City purchasing actions accurately describe the essential needs of the City, and contain no artificial or arbitrary requirements that limit competition or increase cost;
- v. that each purchasing action is conducted in accordance with the best interests of the City, and with the highest level of integrity and fairness to all involved parties throughout the acquisition cycle;
- vi. that all City purchasing operations be conducted in compliance with federal, state, and local laws as applicable and ensure the highest degree of ethical standards;
- vii. and that transparency and community inclusion be sustained throughout the purchasing process.

2. VENDOR ENROLLMENT AND REGISTRATION

The City of Delray Beach does not require vendors or any firm, individual or organization to register with the City in order to respond to City solicitations or quote requests. However, vendors are encouraged to visit the Purchasing and Contract Administration Division's webpage at <https://www.delraybeachfl.gov/government/city-departments/purchasing> and enroll online by joining

the Vendors List to receive notifications when solicitations are advertised by the City. The Purchasing and Contract Administration Division requires that vendors complete a Vendor Registration Form to the Purchasing and Contract Administration Division at (<https://www.delraybeachfl.gov/government/city-departments/purchasing/supplier-registration>) to receive a Vendor ID to allow for the processing of Purchase Orders and invoice payments. The City also uses the vendor database maintained by BidSync, and vendors are encouraged to visit the Bidsync website at www.bidsync.com to register to receive notices of City solicitations.

3. PURCHASING ORGANIZATION AND AUTHORITY

GENERAL INFORMATION AND POLICY

The Purchasing and Contract Administration Division, a division of the Finance Department, is the central purchasing agency of the City of Delray Beach government. It is the responsibility of the Purchasing and Contract Administration Division to issue and maintain purchasing policies, procedures, and guidelines for the City's departments. It is also the responsibility of the Purchasing and Contract Administration Division to issue solicitations and prepare contracts at the authorization levels established within the PPM.

The Purchasing and Contract Administration Division's goal is to provide the City with the required goods and services in the most cost-effective manner and at the time and place necessary to help ensure that the City provides the public timely and quality service. The following policies and procedures, including stated approval authorization levels, apply equally to expenditure and revenue producing contracts.

Technical specification reviews, prior to solicitation advertisement, must be completed by the requesting departments and returned to the Purchasing and Contract Administration Division in a timely manner. Additionally, the review of bid or proposal responses during the evaluation phase shall also be completed and returned to the Purchasing and Contract Administration Division by the requesting department no later than ten (10) working days after receipt of responses. If additional time is required for either review, the request must be made in writing (email is acceptable) by the Department Head (or designee) of the requesting department to the Chief Financial Officer.

To obtain the best value for the taxpayer and to promote equitable economic participation by all segments of our community, the Purchasing and Contract Administration Division is mandated to utilize a competitive bidding process, with the award being made to the lowest, responsive, and responsible bidder. Chapter 36 of the City's Code of Ordinances authorizes the establishment of purchasing procedures for the competitive bidding process and associated alternative processes. These procedures also allow for the use of other than full and open competition should it be determined to be in the best interest of the City.

All purchases shall be made in compliance with Florida Statutes, the City Code of Ordinances, these purchasing guidelines, and public procurement best practices. No person may make any purchase utilizing City funds unless specifically authorized to do so by the City Code of Ordinances, resolution, or designation by the City Commission or the City Manager. Payment for any unauthorized purchase may be the responsibility of the person placing the order (see "Unauthorized Purchases" section of these guidelines for further information).

The Chief Financial Officer is appointed by the City Manager. The City's Chief Procurement Officer (CPO) will be a direct report to the Chief Financial Officer. As such, the CPO is the Chief Financial Officer's

designee for all procurement actions governed by this PPM. Authority to interpret areas of procedure not specifically covered within the PPM are also vested with the CPO.

The CPO is responsible for implementing programs and initiatives to improve competition. This includes, but is not limited to, ensuring effective and efficient market research, ensuring contracting opportunities for small business entities, scrutinizing sole source and bid waiver requests, reviewing change orders, and challenging specifications and statements of work (SOWs) to ensure no artificial barriers limit or reduce competition.

4. EXCEPTIONS

A. Certain purchases made by the City are authorized for direct payments and as such, are exempt from the City's competitive solicitation procedures, including approval threshold requirements. The current list of purchases authorized for direct payment is shown below:

- i. Regulated services: Telephone, electricity, natural gas, water, or similar services where rates or prices are fixed by legislation or by federal, state, county, or municipal regulations.
- ii. Casualty and Property Insurance
- iii. Life, Health, and Dental Insurance
- iv. Employee Benefits/Contracts with Third Parties for Payroll Deduction
- v. Services Procured with Non-City Funds that are a "pass-through" (developer deposits, etc.)
- vi. Debt Service Payments
- vii. Pension Payments
- viii. Unemployment Compensation
- viii. Tax Payments of any kind (including Tax Withholding Payments)
- x. Retirement Plan and Section 457 (Deferred Compensation) Contributions
- xi. Memberships, Dues, Subscriptions, Publications
- xii. Seminars and Travel Expenses
- xiii. Investments

- xiv. Postage
 - xv. Recording Fees
 - xvi. Automobile License Plates
 - xvii. Advertisements
 - xviii. Payment for insurance claims (Risk Management) and legal settlements
- B. Certain purchases made by the City are specifically exempt from the competitive processes outlined in this Manual. The current list of purchases exempt from the competitive process is shown below:
- i. Legal Services and all services directly related to the provision of same
 - ii. Items Purchased for Re-Sale
 - iii. Recreational Programs provided by Independent Contractors
 - iv. Lobbying Services
 - v. Training (where a provider is contracted by the City to provide the training)
 - vi. Facilitation (where a provider is contracted by the City to facilitate a workshop, working group, program, or the like.)
 - vii. Art and talent/artistic services
 - viii. Medical services, including veterinarian services
 - ix. Special Events as outlined in Section 101.32 of the Delray Beach Ordinances and the City's Special Events Policy adopted in January 2019
 - x. Consultant/Professional Services up to \$65,000 with approval of the City Manager
 - a. *Professional Services means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered*

surveyor and mapper in connection with his or her professional employment or practice

- b. *Consultant Services includes those services within the scope of practice of actuaries, attorneys, business consultants, computer programmers, copywriters, developers, efficiency experts, executive search firms, facilitators, public relations, recruiters, real estate brokers, translators; or any other professional service as determined by approval of the City Commission from time to time and made a part of this policy*

- xi. On-going maintenance and support of existing software/hardware, equipment, whereby the initial purchase was made through a competitive method
- xii. Services or commodities provided by governmental agencies, other public entities, universities and colleges, or political subdivisions

Purchasing authorization and approval levels, as defined herein, apply to purchases set forth in Paragraph B. Payment of invoices for purchases set forth in Paragraph B. above are also eligible for direct payment unless there is a City Contract in place. When a City Contract is in place, a requisition, purchase order and invoice against the contract must be issued via the City's financial system. Exceptions to this process may only be authorized by the Chief Financial Officer or designee.

When appropriate, the City may encourage and actively promote local, minority and small business enterprises to bid on City purchases.

The purchasing guidelines may not govern every purchasing situation that may arise. In the event a specific purchase is not covered by these guidelines, the purchase shall be made based on these objectives following consultation with the Chief Financial Officer.

Goods and services to be procured, which are funded by a Federal Grant Program, must be procured in accordance with 2 CFR §200.318 through §200.326 (aka Federal Super Circular), current version as may be amended by the Federal government.

5. RESPONSIVENESS AND RESPONSIBILITY DETERMINATIONS

The City shall award its contracts to the responsive, responsible vendor offering the best value, and whose offer or proposal is technically compliant with the City's requirements. Best Value means the highest overall value to the City based on factors that include, but are not limited to, price, quality, design, and workmanship. The use of the term bidder shall be understood to include any participant in the City's procurement process and the term bid shall be understood to include any offer in response to a solicitation. The following is intended to be used as general guidelines:

- i. Bidder responsiveness refers to a bidder's unequivocal promise, as shown on the face of its offer, to provide the items or services called for by the material terms of the solicitation. A responsive bid means one submitted at the correct time and place, in the correct format, containing all required information, signatures, and affidavits. A bid that deprives the government of the assurance that the contract will be entered into in accordance with its

terms is not responsive. Any omission is normally not curable, as a bidder submitting an incomplete or qualified bid could opt in or out of the process at its will, depriving the City of a valid offer and placing that bidder at a material advantage over other bidders who have made firm offers. The determination of responsiveness is based on the application of bid requirements and legal precedent to facts provided by City staff or developed in the course of a bid protest. In consultation with the City Attorney, the CPO has the authority to decide whether a bid is responsive or non-responsive.

- ii. Bidder responsibility refers to whether the bidder can perform as provided in the bid. In general, solicitation requirements for information relating to a bidder's financial condition, capability, experience, and past performance pertain to a bidder's responsibility. The term responsibility is not limited in its meaning to financial resources and ability. Under its definition, the City has discretionary power to make determinations upon the honesty and integrity of the bidder necessary to a good faith performance of a contract, upon a bidder's skill and business judgment, its experience, and its facilities for carrying out the contract, the bidder's previous conduct under other contracts, and the quality of bidder's previous work. The type of information bearing on a bidder's ability to perform may be furnished at any time during the solicitation process, or during performance of a City contract.
- iii. In the event the City has knowledge of facts which may exist that would render a bidder non-responsible, the Purchasing and Contract Administration Division may conduct a responsibility review and inquiry as may be reasonably required to make the affirmative finding of responsibility as a condition of recommending the bidder for award. City departments shall advise the Purchasing and Contract Administration Division in a timely manner, of knowledge of any facts that may render a bidder non-responsive. Given the variety of goods and services purchased by the City, and the unique issues that may arise, the issues of responsibility may be addressed on a case-by-case basis. A determination of bidder responsibility shall be made on a contract-by-contract basis. A responsible bidder is a bidder, which the City affirmatively determines has the ability, capability and skill to perform under the terms of the contract; can provide the materials or service promptly within the time specified, without delay or interference; and has a satisfactory record of integrity and business ethics.
 - a. In making the determination of whether the bidder has the capability to perform the contract, the City may consider factors including, but not limited to, the following:
 - i. past performance of the bidder, its principals, affiliates, or supervisory personnel in the execution of prior City contracts;
 - ii. any information which the City may obtain relating to the performance of the bidder, its principals, affiliates, or supervisory personnel on contracts with third parties, including without limitation, contracts with other governmental entities;
 - iii. financial performance and capability, including without limitation, pending and unsatisfied claims;
 - iv. qualifications and past performance of the personnel who will have supervisory responsibility for the performance of the specific City contract;

- v. licensing, certifications, and other permits; and
 - vi. any significant changes in the bidder's financial position or business organization.
- b. In making the determination whether the bidder has a satisfactory record of integrity and business ethics, the City may consider factors including, but not limited to, the following:
- i. pending criminal charges against the contractor, its principals, affiliates, or supervisory personnel;
 - ii. criminal conviction of bidder, its principals, affiliates, or supervisory personnel;
 - iii. debarment of the bidder, its principals, affiliates, or supervisory personnel in the City of Delray Beach or any other jurisdiction;
 - iv. pending disciplinary proceedings against the bidder, its principals, affiliates, or supervisory personnel;
 - v. pending enforcement cases, civil judgments, citations, or notices of violation of regulatory authorities with jurisdiction over the goods or services to be rendered, or any adverse determination resulting therefrom, including, but not limited to, those related to environmental protection, the health and safety of labor, and determinations by any government entity;
 - vi. pending investigation related to, or arising from allegations of dishonesty, illegal or fraudulent business practices;
 - vii. efforts by the bidder to redress any breach of prior contracts, and compliance with settlement agreements to redress any contract deficiency;
 - viii. inaccurate, incomplete, or fraudulent accounting practices;
 - ix. efforts by the bidder to remediate any of the adverse conditions mentioned herein, including compliance with the terms and conditions of any compliance agreement; and
 - x. the preponderance of the evidence, nature, and credibility of any and all facts underlying any of the above-cited investigations, allegations, charges, accusations, proceedings, or indictments.

In evaluating the factors above, the City shall give priority to acts or legal proceedings occurring within the five (5) years preceding the submission of an offer to the City, and any violation or deficiency that is continuous or uncured. Additionally, at any time, the City may require that the bidder submit documentary evidence and other proof necessary to evaluate the factors identified above.

The City shall be entitled to rely on information of the type reasonable persons rely on, in the conduct of business affairs. If the bidder is unable to furnish such documentary evidence or other proof, or if the City is otherwise unable to make an affirmative determination that the bidder is

responsible to perform the work as required, the bidder shall be determined non-responsible. Failure of the bidder to provide requested information to determine responsibility in response to a solicitation may cause such bid or proposal to be rejected.

Generally, prospective prime contractors are responsible for determining the responsibility of their prospective subcontractors. Determinations of prospective subcontractor responsibility may affect the City's determination of the prospective prime contractor's responsibility. A prospective contractor may be required to provide written evidence of a proposed interest to do so, and the City may directly determine a prospective subcontractor's responsibility. In this case, the same standards used to determine a prime contractor's responsibility shall be used.

In the event a bidder is determined to be non-responsible, the CPO shall place in the contract file a determination of non-responsibility, which shall state the basis for the determination. All documents, reports, or minutes of meetings supporting a determination of non-responsibility shall also be included in the contract file.

- iv. In addition to responsiveness and responsibility determinations, the Purchasing and Contract Administration Division, in collaboration with the requesting City Department, shall ensure that the goods or services to be procured are technically compliant with the specifications and requirements of the City's solicitation. The requesting department (or consultant, as may be the case) shall act as subject matter experts in determining whether the offered goods or services are technically compliant with the specifications of the solicitation.

6. ADVANCED ACQUISITION PLANNING

The Purchasing and Contract Administration Division, in collaboration with City departments, procures a wide range of supplies and services for the operations of the City. In the past, the Purchasing and Contract Administration Division's function essentially commenced upon receipt of requisitions and relevant supporting documentation from the requesting departments. While this approach may be sufficient for some purchases, it may not be appropriate for most major acquisitions. Advance acquisition planning is especially necessary for major procurements and should be conducted in accordance with sound business practices and in a timely manner. Advance acquisition planning involves the Purchasing and Contract Administration Division, in collaboration with the requesting departments, reviewing specifications and statements of work to ensure that the purpose of the acquisition is clear, and that the minimum requirements are clearly defined and stated in terms of performance and/or functionality when possible. It should also include market research and analysis to determine sources of supply and available solutions in the marketplace. Advanced acquisition planning results in effective competitive solicitations, accurate budgetary projections, timely procurement of goods and services, consideration of multiple products or solutions, and enhanced competition.

It is often the case that procurement actions are delayed due to circumstances such as conflicting or unanticipated workloads, redundant requirements, repetitive after-the-fact revision of specifications or solicitation provisions, or initially unconsidered competition or business utilization issues. The best way to minimize the potential for such delays is to identify and resolve such concerns during the initial planning phases for a given purchase.

It is the Purchasing and Contract Administration Division's intent and goal to work with departments at the earliest point possible in the acquisition cycle. The acquisition cycle begins when a department

perceives a need for a given product or service and decides to purchase that good or service. The Purchasing and Contract Administration Division can provide a significant value-added service by working collaboratively with requesting departments in the early phases of the acquisition cycle. Such early coordination will minimize or even eliminate procurement pitfalls such as those addressed above. It is the Purchasing and Contract Administration Division's mission to ensure that City purchases are completed in the most effective and timely manner possible. The Purchasing and Contract Administration Division considers Advance Acquisition Planning to be a major element towards achieving that goal. Actions and policies intended to affect such planning are in progress and will be expanded in coordination with all City departments.

7. CONE OF SILENCE

Pursuant to the purchasing policies of the City of Delray Beach, all solicitations, once advertised and until the appropriate authority has approved an award recommendation or until rejection of all bids/proposals occurs, are under the "Cone of Silence". This limits and requires documentation of communications between potential bidders and/or bidders on City solicitations, the City's professional staff, and the City Commission members.

The Purchasing and Contract Administration Division may issue an addendum in response to any inquiry received, prior to the close of the solicitation period, which changes, adds, or clarifies the terms, provisions, or requirements of the solicitation. The vendor should not rely on any representation, statement, or explanation whether written or verbal, other than those made in the solicitation document or in the addenda issued. Where there appears to be a conflict between the solicitation and any addenda, the last addendum issued shall prevail. It is the vendor's responsibility to ensure receipt of all addenda, and any accompanying documentation. The vendor is required to submit with its bid or proposal a signed "Acknowledgment of Addenda" form when any addenda have been issued.

8. NON-COLLUSION AFFIDAVIT

Any vendor responding to a City solicitation shall submit an affidavit under the penalty of perjury, on a form provided by the City, stating either that the contractor is not related to any other parties bidding in the competitive solicitation or identifying all related parties with which it has colluded in offering a bid in the solicitation; or attesting that the contractor's proposal is genuine and not sham or collusive or made in the interest or on behalf of any person not therein named, and that the contractor has not, directly or indirectly, induced or solicited any other proposer to put in a sham proposal, or any other person, firm, or corporation to refrain from proposing, and that the proposer has not in any manner sought by collusion to secure to the proposer an advantage over any other proposer. In the event a recommended contractor identifies related parties in the competitive solicitation, its bid shall be presumed to be collusive, and the recommended contractor shall be ineligible for award unless that presumption is rebutted to the satisfaction of the City.

Any person or entity that fails to submit the required affidavit shall be ineligible for contract award. The Non-Collusion Affidavit will be included in all solicitations, and bidders or proposers may submit the executed document with their bid proposals, or during the bid evaluation period.

9. DISPUTE RESOLUTION

Any dispute arising out of or relating to City contracts shall be resolved by following the procedure below:

- i. The department and/or vendor shall bring details of dispute to the attention of the CPO or designee;
- ii. The CPO shall obtain details of the dispute from both parties and develop a reasonable and fair solution acceptable to both parties, which shall be incorporated into an agreement;
- iii. The agreement shall contain details as to the responsibilities of each party to include:
 - a. Actions to be taken;
 - b. Follow-up schedule;
 - c. Assessment of damages, penalties, or fees; and
 - d. Periodic monitoring must be done by City staff to ensure that disputes are dealt with in a timely manner and closed out.
 - e. If the dispute cannot be resolved through the previous steps, the City Attorney will be consulted for appropriate legal action (litigation, arbitration, mediation).

10. REQUISITIONS

When there is a need for goods or services which are not available from an existing City contract, and which exceed the dollar limits of a small purchase order (\$5,000), an electronically generated requisition must be submitted to the Purchasing and Contract Administration Division. Requesting department staff should evaluate the need for goods and services, determine expected usage, and plan their purchases to effectively meet program and operational demands.

Before submitting a requisition, the requesting departments must ensure that:

- a. Valid requirements have been established;
- b. Funds are available to cover the purchase;
- c. Sufficient data is available to determine the best method to secure the purchase;
- d. Quotations or contract information are attached;
- e. Specifications are available; and
- f. Estimated total dollar value of procurement should be identified.

The Purchasing and Contract Administration Division will review the requisition for accuracy and compliance with purchasing guidelines and procedures.

11. TECHNICAL SPECIFICATIONS, SCOPE OF SERVICES, AND STATEMENTS OF WORK

Technical Specifications, Scope of Services, or Statements of Work should be stated in terms of function, performance, or design. The type of specifications selected is to be based on the requesting department's minimum requirements and the market available to satisfy those requirements. Design specifications are the least desirable type of specifications. Functional or performance types of specifications are preferred to increase the potential for full and open competition.

Requesting departments should consider the following factors in developing specifications:

- a. Does it describe the needs in terms of function or performance required?
- b. Does it clearly state the minimum requirements acceptable to the City?
- c. Does it indicate the end usage or expected results?

- d. Is it clear, concise, and understandable?
- e. Does it encourage competition by considering more than one source of supply?
- f. Are standard specifications available?
- g. Are the specifications tailored to more than one vendor?
- h. If a specific brand and model are referenced, have you included the term "or approved equal"? If not, have you included a reason why an equal is not acceptable?
- i. Is there anything additional to be considered?

12. PURCHASING AUTHORIZATION LEVELS

*****All purchasing limits are based upon total expenditure for the contract term, or in the case of service authorizations off a continuing contract, per project*****

Written agreements of all dollar values shall be reviewed by the CPO, the City Attorney, and executed by the City Manager or designee or Mayor, including quotes submitted by vendors that contain terms and conditions.

When a City Contract is in place, a requisition, purchase order and invoice against the contract must be issued via the City's financial system. Exceptions to this process may only be authorized by the Chief Financial Officer or designee.

PURCHASES UP TO \$5,000.00

These acquisitions may be made by those city employees who have been delegated such authority in writing by the respective department heads. Single or multiple purchases of goods, commodities and services that are equal to or less than \$5,000.00 require departmental approval and may be made using the City of Delray Beach purchasing card, pay authorization, or procurement cards, without using a sealed competitive method or the written quotations method, and without City Commission or City Manager approval. These purchases are to be made from vendors who supply the item at Best Value, as determined by the Requesting Department and with an appropriate quality level, using sound purchasing practices and common sense. Best Value means the highest overall value to the City based on factors that include, but are not limited to, price, quality, design, and workmanship. These purchasing practices may include, but are not limited to, verbal quotations or written records of telephone/e-mail quotations.

PURCHASES ABOVE \$5,000 UP TO \$65,000

Department Head approval is required. Single or multiple purchases of goods, commodities, and services that are above \$5,000 and up to \$65,000 require a Purchase Requisition with a minimum of three (3) or more written quotes provided by the vendor are required. The quotes will be obtained independent of each other and may be obtained electronically. Staff will not share quotes with the competing bidders. If less than three (3) quotes are received, the department must record all agencies where quotes were requested and obtain approval from CPO prior to proceeding. A copy of each competitive quote should be uploaded to the purchase requisition. If other than the lowest quote is being recommended for purchase, the reasons shall be documented on the Purchase Requisition.

The completed Purchase Requisition shall be submitted to the Purchasing and Contract Administration Division or designee for approval and issuance of a Purchase Order prior to making the purchase.

Purchases ordered per an existing piggybacked contract must include the vendor name, contract number, and contracting entity on the Purchase Requisition (i.e., State of Florida, Other Governmental Entity, National Co-Operative, Southeast Florida Co-Operative, etc.)

The person responsible for receiving purchases must check vendor invoices to ensure that quantities match the purchase order prior to approving the invoice for processing.

PURCHASES OF \$65,000 OR GREATER

All purchases of \$65,000 or greater must be approved by the City Commission. Purchases pursuant to formal bids, proposals, or quotations shall be procured in accordance with the "Formal Solicitation Process" set forth within this manual, unless otherwise exempt.

A market research summary may be conducted by the Purchasing and Contract Administration Division for all purchases that fall within this authorization level. Requesting departments should also conduct their own market research to supplement the market intelligence that influences the purchasing decision.

Responses shall be solicited by publishing the notice of request for bids on a public website and if required to satisfy the requirements of a grant of other funding agency, in a newspaper of general circulation throughout the City.

Public notice of the solicitation shall be published on the City's website for a reasonable period prior to bid opening.

13. REVENUE GENERATING CONTRACTS

Contracts with any vendor where the City estimates the City will receive revenue in the amount of \$65,000 or greater over the term of the contract (including revenue during renewal periods) shall require approval by the City Commission and shall be subject to a Sealed Competitive Method unless the City utilizes one of the limited competition or direct acquisition methods as set forth herein below. This Section shall not apply to the sale or lease of the City's real or non-real property.

14. SOLICITATION PREPARATION

Requesting departments shall be involved in the preparation of solicitations to ensure that project or product specific requirements are adequately addressed in the solicitation document. Requesting

departments may also be involved after solicitation issuance in the conducting of pre-bid (or pre-proposal) conferences, and the preparation of any requisite solicitation addenda. All solicitations shall be reviewed and approved by the City Attorney, or designee, prior to advertisement.

15. SOLICITATION ADVERTISEMENT

The CPO shall publish announcements and advertisements for solicitations falling within the Formal Solicitation purchasing authorization levels in accordance with City policies and procedures, and all related directives and ordinances.

16. PRE-BID AND PRE-PROPOSAL CONFERENCES

A pre-bid or pre-proposal conference may be scheduled for solicitations where it is deemed advisable to allow potential proposers to consult with City staff to ensure clarity of the required goods or services and, if applicable, to view the site where work is to be performed.

Attendance at pre-bid and pre-proposal conferences by vendors is generally optional. However, vendor attendance at such conferences may be made mandatory depending upon the specific requirements of the project. The "Cone of Silence" is not applicable during pre-bid and pre-proposal conferences and/or site visits.

17. ADDENDA TO SOLICITATION DOCUMENTS

There may be occasions when it will be necessary to change the specifications, terms, or conditions of a given solicitation during the course of the bid (or proposal) period. Such changes may be required in response to requesting department requests or clarifications, contractor questions (submitted in writing per the "Cone of Silence"), or other reasons. Such changes shall be formalized by the issuance of solicitation addenda by the Purchasing and Contract Administration Division. The addenda become part of, and supersedes, the solicitation document.

18. OPENING OF BIDS AND CLOSING OF PROPOSALS

Responses to solicitations shall be opened by the Purchasing and Contract Administration Division at the place, date, and time specified in the solicitation or any subsequent addendum. No further responses from a given vendor will be accepted after the first response from that vendor is opened.

19. LATE BIDS OR PROPOSALS

The City will not accept late bids or proposals. All late bids or proposals will be rejected.

20. OFFER (BID OR PROPOSAL) REQUIREMENTS

Each offer shall meet all the requirements of the specific solicitation, unless waived as an irregularity or informality by the Chief Financial Officer or designee. Affidavits mandated by City Ordinance(s) or Resolutions(s) can be waived only by provisions contained within the Ordinance(s) or Resolution(s) of the City Commission.

21. TIED BIDS

Tied bids are offers where one or more responsive and responsible bidders offer the same low price for an item or group of items, depending on the method of award. In such instances, the Purchasing and Contract Administration Division will request best and final offers (BAFOs) from the bidders that offered the same price. The BAFOs must be requested at the same time or soon after the preliminary bid

tabulation is provided to all responding bidders. This allows all bidders to see the prices that were bid, and the bidders that offered the same pricing.

Request for best and final offers must include a due date (close of business is acceptable) and may be emailed directly to the Purchasing and Contract Administration Division staff. In the event responses to best and final offers result in another tied bid, the tie shall be broken by the City Manager or designee flipping a coin in the presence of the Chief Financial Officer and/or the City Clerk.

22. RECOMMENDATION FOR AWARD

Recommendation for award(s) within the purchase authorization levels shall be made to the responsive and responsible vendor(s) offering the lowest price, whenever possible (note: qualitative solicitations are based on a “best value” evaluation). The City Manager or designee, subject to further delegation of authority, shall have the authority to recommend or award such contracts pursuant to purchasing authorization levels established herein. All such awards shall be completed in accordance with the City’s established internal purchasing policies and procedures.

23. AUTHORITY TO AWARD TO SECOND LOW BIDDER AFTER CANCELLATION OF CONTRACT

If within one hundred twenty (120) days after bids are opened, or any period bids are required to remain firm as prescribed in the Invitation for Bid, the Contract of the lowest responsible vendor is canceled, the City may elect to award the contract to the next lowest responsible bidder. After the one hundred twenty (120) day period or alternate period prescribed in the Invitation to Bid, the City may award to the next lowest responsible bidder provided:

1. A determination is made that it is in the best interest of the City to award based on the present bids rather than rebid, and
2. The next lowest responsible bidder agrees, in writing, to the extension of the bid price for the additional period of time.

24. APPEAL AND PROTEST PROCEDURES

BID/PROPOSAL PROTEST PROCEDURE

A bidder or proposer that has submitted a response to a Formal Solicitation and is adversely affected by the decision of award may file a formal written protest within three business days from the time of initial posting of the intended award. Notice of Intent to Award shall be posted in BidSync.

Note: Suspended or debarred vendors are ineligible to submit a bid protest.

Formal written protests shall not exceed fifteen (15) type-written pages (including exhibits and attachments) and in all other respects shall comply with the formatting requirements for an appellate brief as set forth in the Florida Rules of Appellate Procedure. A written protest is considered received by the City when it is delivered to and received by the City Clerk or designee. The City Clerk shall time/date stamp all written protest immediately upon receipt. Delivery to and receipt by any other City employee or staff member shall not constitute receipt by the City of Delray Beach. Protests submitted via email do

not meet the requirements of this Section. Protesters shall file their written protests with the City between the hours of 8:00a.m. and 5:00 p.m. Service of a protest by mail or courier shall not expand the time period allowed for delivery of a protest.

In computing any time period prescribed or allowed by this protest policy, the day of the act or event from which the designated time period begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, federal holiday, or holiday observed by the City, in which event the period shall run until the end of the next business day which is neither a Saturday, Sunday, federal holiday, nor a holiday observed by the City. A written protest shall not challenge the specifications, scope of work, relative weight of evaluation criteria, or a formula for assigning points.

FEE REQUIRED

The letter of protest shall be accompanied by a non-refundable protest application fee in an amount equal to one percent (1%) of the protestor's bid or five thousand dollars (\$5,000.00), whichever is less. The protest application fee must be a cashier's check, a certified check, or an attorney's trust account check made payable to the City of Delray Beach. Failure to provide the required protest application fee shall deem the protest as incomplete and invalid.

AUTHORITY TO RESOLVE PROTESTS

The City's consideration of a timely written protest shall not necessarily stay the award process, as may be in the best interest of the City. The Purchasing Director may recommend to the City Manager to render moot any written protest that is overtaken by events, in which case the City Manager may abate or dismiss such protest. Within ten (10) business days (excluding Saturdays, Sundays, legal holidays, and City observed holidays) of receipt of the formal written protest, the Chief Financial Officer and the City Attorney shall attempt to settle or resolve the dispute, at the City Attorney's sole discretion. A decision will be rendered in writing and shall: (1) state the reasons for the action taken; and (2) inform the protestor of its right to appeal as provided herein. A copy of the decision of the Chief Financial Officer and the City Attorney shall be mailed or otherwise furnished immediately to the protestor.

The protesting party may appeal the decision of the Chief Financial Officer and the City Attorney, by submitting the appeal to the City Manager within seven (7) days (excluding Saturdays, Sundays, legal holidays and City-observed holidays) from the date of the written decision. The appeal shall be in writing and shall state with specificity the grounds therefore and also the action requested of the City Manager. The City Manager shall attempt to settle or resolve the matter at his/her sole option. The City Manager shall render a decision, in writing, within 10 days (excluding Saturdays, Sundays, legal holidays and City observed holidays) following receipt of the appeal.

A decision of the City Manager under this section shall be final and conclusive on the protester.

Timely submittal of a protest or appeal required. Failure of a party to submit timely a written protest to the Purchasing Director within the time provided in this Section shall constitute a waiver of such party's right to protest pursuant to this Section.

Costs. Any and all costs incurred by a protesting party in connection with a protest pursuant to this Section shall be the sole responsibility of the protesting party.

Failure to follow the protest procedures or failure to meet any deadline set forth herein shall automatically nullify any protest or claim brought by an aggrieved bidder, offeror, or contractor. The City is not subject to or bound by the requirements and/or procedures set forth in Chapter 120, Florida Statutes.

25. FORMAL SOLICITATION PROCESS

All purchases to be made through a formal solicitation process shall be conducted at the discretion of the CPO.

All specifications must be reviewed and approved by the CPO.

Piggybacking on State, County, other municipality, and other government entity bids is permitted within the approval thresholds of the City Manager or City Commission, as applicable in accordance with the purchasing criteria set forth herein. The department must specifically identify the contract being piggybacked and include that information in the documents to be sent to the Purchasing and Contract Administration Division.

26. AUTHORITY TO EXERCISE OPTIONS TO RENEW (OTR)

An Option to Renew (OTR) contract contains a provision providing for the option to renew at the expiration of the initial term of the contract. The City Commission must authorize the award of any contract where the cumulative value of the initial term of the contract and any option to renew terms of Sixty-Five Thousand Dollars (\$65,000) or greater. Authorization for the City Manager or Designee to exercise future OTRs of contracts must be included in the language of the Agenda Summary or Resolution approving the contract, if applicable, or the contract itself.

27. REQUEST FOR INFORMATION (RFI)

A Request for Information (RFI) is a written solicitation prepared and issued for the purpose of seeking information, comments, or reactions from the industry by a certain date and time. A RFI may be used during the market research phase of an acquisition to assist the City in identifying potential proposers, approaches, prices, or other relevant information. The RFI precedes the issuance of a Request for Proposals or Request for Qualifications. Contract awards cannot be made on responses to an RFI.

28. REQUEST FOR QUALIFICATIONS (RFQ)

A Request for Qualifications (RFQ) is a qualitative solicitation used to obtain statements of qualifications from proposers when the scope of services cannot, or has not, been completely established by the City. That situation requires the identification of specific qualifications in order to evaluate responding proposers. A Request for Qualifications includes, but is not limited to, a brief explanation of the purpose of the Request for Qualifications, a description of the service to be purchased, required qualifications, instructions for response, and evaluation and selection criteria. These types of contract awards are generally not based solely upon price. Instead, there is an extensive evaluation, which may include such criteria as qualifications and experience of principals and staff, technical superiority, financial stability, experience and history of the firm, and references.

29. REQUEST FOR PROPOSALS (RFP)

A Request for Proposals (RFP) is a qualitative solicitation whose associated award evaluation and vendor selection process is predicated on a best value evaluation, rather than strictly upon award to the lowest priced responsive and responsible vendor. This type of evaluation is a sensitive and demanding process, and detailed guidelines have been developed to ensure such evaluations are conducted in an appropriate and accurate manner. The following section provides an overview of those procedures to enable departments to prepare for, and participate in, negotiated acquisitions in conjunction with the Purchasing and Contract Administration Division.

30. PUBLIC PRIVATE PARTNERSHIPS

The City of Delray Beach (City) encourages redevelopment of underdeveloped and underutilized properties through public/private partnerships (hereinafter "P3") where appropriate. The City recognizes properly structured P3s share risk and expense amongst public and private partners; encourage efficiencies and innovation in design, construction, operations, and maintenance; and maximize funding and cash flow initiatives. All proposals for Public Private Partnerships, whether through solicitation or through an unsolicited proposal, shall be submitted, reviewed, and evaluated in accordance the City's Standard Operating Guidelines on Public/Private Partnerships, Solicited and Unsolicited Proposals and Evaluation Process adopted on March 25, 2022, or as may be amended from time to time by the City.

31. UNSOLICITED PROPOSALS

All unsolicited proposals or offers shall be brought to the attention of the Chief Financial Officer for review and must accompany a fee of \$20,000.00. All Unsolicited Proposals that are Public Private Partnerships shall be submitted, reviewed, and evaluated in accordance with Florida Statutes and Section III. of the City's Standard Operating Guidelines on Public/Private Partnerships, Solicited and Unsolicited Proposals and Evaluation Process adopted on March 25, 2022, or as may be amended from time to time by the City.

32. FORMATION AND PERFORMANCE OF EVALUATION/SELECTION COMMITTEES

CPO is responsible for the review of all proposals for responsiveness before distributing them to the Selection Committee. However, responsiveness determinations may be made at any time prior to contract award. A proposer is considered responsive if the proposal conforms in all material respects to the terms and conditions in the solicitation.

SELECTION COMMITTEE TEAM MEMBERS

The City Manager or designee shall determine the number and makeup of the Selection Committee.

- a. Each member must have no personal or financial interest in any vendor or firm which has submitted a proposal to the City.
- b. Each member must have a professional interest that the recommendations of the Selection Committee can be supported and defended legally and ethically.
- c. Each member must have a professional interest that the recommendations of the Selection Committee will lead to the selection of a vendor which will provide goods or services that is the best value for the City.

The CPO or designee shall serve as the Selection Committee Chairperson and may not award points for proposals.

INITIAL MEETING OF THE SELECTION COMMITTEE

The CPO or designee may conduct an initial meeting (Kick-Off Meeting) with the Selection Committee to ensure that each member has a clear understanding of their duties and responsibilities in the selection process. A copy of these guidelines, the solicitation and any addenda, each proposer's submittal, and a copy of the evaluation criteria will be distributed to Committee members.

CONFLICT OF INTEREST

Once proposals have been received, each member of the Selection Committee will be informed. Each member will be asked if the member has a personal or financial interest in any proposer, and if the member understands and can perform impartially within the Selection Committee guidelines. If a conflict of interest exists or appears to exist, that member shall be disqualified from the Committee. A Selection Committee Agreement, indicating that the member does know have any known conflicts, must be signed by each Selection Committee member prior to the commencement of the evaluation of the proposals.

COMMITTEE RULES AND PROCEDURES

All evaluators on the Selection Committee are required to apply sound and unbiased judgment in awarding points to the proposals for the purpose of scoring proposals. It is very important that Selection Committee members read the solicitation thoroughly and have a clear understanding of the requirements and evaluation criteria before attempting to evaluate the proposals. All questions should be directed to the CPO, or designee.

- a. The Selection Committee meetings must follow the requirements of Florida Statute 286.011 for public meetings. Selection Committee meeting must be noticed in advance and the City shall endeavor to provide no less than 24 hours' notice of such meetings. These meetings are open to the general public, which may include proposers which have submitted responses to the City's solicitations. Meetings will be recorded, and all recordings are available for the general public to listen to upon scheduling an appointment with the City Clerk's office.
- b. Selection Committee members are prohibited from communicating with other committee members, either verbally or in writing, regarding the proposals, outside of the scheduled and publicly noticed Selection Committee meetings. Violations of FS 286.011 are very serious and have significant legal and ethical ramifications. If a vendor or proposer contacts a Selection Committee member, the member must refer the vendor or proposer to the Purchasing and Contract Administration Division. Selection Committee members are prohibited from participating in individual meetings, informal consultations, lunches, entertainment or any other direct or indirect contact with vendors or proposers.
- c. After receipt of proposals, each Selection Committee member must review and evaluate each proposal independently, without discussing their evaluation with other Selection Committee members.
- d. Evaluations must be based on the criteria established in the solicitation. All criteria shall be scored. If a member elects to score only some of the proposals or criteria, the evaluations completed by that member will be thrown out in order to prevent skewing of the final scores.

- e. Evaluations must be both qualitative and quantitative based on the evaluation criteria outlined in the solicitation. If a member scores a zero (0) in any category, that member must identify the deficiency and provide a written explanation for the zero (0) score. All scores and comments become part of the solicitation and contract file and are subject to disclosure under the Florida Public Records Law. Selection Committee members should have a reasonable, rational, and consistent basis for their scores, and be prepared to explain their scores in the event of a protest or inquiry.
- f. Prior to the Selection Committee meeting in a public forum, any questions, clarifications, or additional information requested from a proposer by a member may be submitted in writing through the Purchasing and Contract Administration Division. The Purchasing and Contract Administration Division is responsible for obtaining a written response from the proposer and sharing the response with all Selection Committee members.
- g. Score sheets must be completed prior to the Selection Committee meeting where rankings will be determined. After the Selection Committee members have independently completed the initial review and scoring of all proposals, the Selection Committee will convene at a publicly posted meeting to openly discuss the proposals. Members may adjust their initial scoring based on their interpretation of any additional information gained from the Selection Committee's discussions. After all discussions have been completed, each Selection Committee member shall finalize their scores. Each member is required to sign the score sheet and any note pages and submit them to the Chairperson as part of the public record.
- h. Score sheets will be tabulated and ranked from the highest to the lowest by the Chairperson.
- i. Depending on the outcome of the scoring, the Selection Committee will recommend one of the following:
 - 1. Award the contract to the highest ranked proposer; or
 - 2. Short-list the top ranked proposers and request scheduling of oral presentations
- j. If the Selection Committee recommends awarding the contract to the highest ranked proposal, no further action is required by the Selection Committee.
- k. If oral presentations are requested, the Selection Committee shall identify which proposers will be asked to provide oral presentations. The Selection Committee may request oral presentations from as many proposers as necessary; however, it is recommended that the Selection Committee come to a consensus and request presentations only from the top-ranked proposers.
- l. When oral presentations are requested by the Selection Committee, the members shall submit a written request to the Chairperson for specific areas needing additional explanation and/or clarification or any other information the Selection Committee would like the proposers to provide during the oral presentations.
- m. All proposers selected for oral presentations shall be notified in writing of the publicly posted meeting by the Selection Committee Chairperson or designee, identifying the date, time, location, and any specific questions or information requested by the Selection Committee to be addressed at the presentation.

- n. Prior to the oral presentations, the Chairperson will provide the evaluation criteria and score sheets to the Selection Committee.
- o. During the oral presentations, Selection Committee members shall be able to ask questions of the proposers for a clear understanding of each proposer's position.
- p. After oral presentations are completed, the Selection Committee shall have the opportunity to continue discussions among themselves. After discussions are completed, each member shall finalize their scores. Each member is required to sign the score sheet and any note pages and submit them to the Chairperson as part of the public record.
- q. Score sheets will be tabulated and ranked from the highest to the lowest by the Chairperson. The award recommendation will be for the proposer with the highest ranked score.
- r. The Selection Committee Chairperson shall work with the City department on a recommendation to award for processing through the City Manager and/or the City Commission, as appropriate.
- s. Florida Statutes require that all internal workings of the Selection Committee be kept confidential until the Committee has completed its work and all proposers have been officially notified of the selection.

33. NEGOTIATIONS

The CPO, or designee, shall manage the negotiation process for purchases valued at or greater than \$65,000, as applicable. However, this shall not preclude the use of consultants or legal assistance in developing negotiation strategy and conduct negotiations and discussions with vendors. In general, negotiations shall be conducted under the principle of "win-win", where the City and vendor share benefits from the process and subsequent contracts.

All negotiations shall follow the requirements of Florida Statutes, and must be conducted with the highest ethical standards, fairness, and equity; and with the understanding that the City shall not be placed in an unfair or unreasonable position to the vendors. All negotiation meetings with vendors must be recorded and conform to the public records requirements of applicable laws.

The Chief Financial Officer, in consultation with the City Manager or designee, has the option to appoint a Negotiation Team (Team) to assist with various aspects of developing negotiation strategy and conducting negotiations with the vendor(s). The Team shall comprise of stakeholders and individuals who are familiar with the project and have the ability to describe fully the scope of the project and clearly articulate the City's position. All negotiating team meetings at which negotiation strategies are developed or discussed shall be recorded in accordance with Section 286.0113 Florida Statutes.

In general, the ability to negotiate, and the process to be followed are restricted as follows:

- a. **INVITATIONS TO BID; INVITATIONS TO QUOTE; INFORMAL QUOTATIONS**
Negotiations on price only with the responsive and responsible bidder offering the lowest price. Authority to Reduce Scope of Construction Projects and Negotiate. In the event all bids for a construction project exceed available funds, as determined by the Chief Financial Officer, in consultation with the CPO, and the low responsible bid does not exceed such funds by more than 5%, the Chief Financial Officer or designee is authorized, where time or economic considerations preclude

re-solicitation of work of a reduced scope, to negotiate, or to designate a person to negotiate for the City, an adjustment of the bid price, including changes in the bid requirements of the low, responsive and responsible bidder, in order to bring the bid within the amount of available funds.

b. REQUESTS FOR PROPOSALS

Negotiations on price, scope, and terms, based on the conditions for negotiations established in the Solicitation.

c. REQUESTS FOR QUALIFICATIONS

Negotiations on price only, based on the procedures established in the Solicitation.

34. REJECTION OF BIDS OR PROPOSALS

The City Manager or designee may reject any and all bids or proposals or parts of all bids or proposals when such rejection is in the best interest of the City. A bid or proposal may be rejected if any of the following conditions exist:

- a. The bid or proposal does not conform to the technical specifications and/or solicitation documents;
- b. Insufficient financial resources and/or lack of technical ability, physical capacity and/or skill of the vendor to perform the contract or the service required;
- c. Inability of the vendor to perform the contract or provide the service within the time specified without delays or interference;
- d. Previous and existing non-compliance by the vendor with laws and ordinances relating to the contract or services;
- e. Inadequate quality or performance on previous contracts for goods and/or services;
- f. Vendor has been declared to be in default on any City or public entity contract, or debarred or suspended by any public entity;
- g. Taking exceptions to the terms, conditions and specifications of the bid or proposal;
- h. Non-conformance with minority business and/or disadvantaged business enterprise provisions and requirements, where applicable;
- i. When the City determines that the price quoted is not fair and reasonable;
- j. Insufficient competition;
- k. Any other cause in the best interest of the City.

35. VENDOR POOL CONTRACTS

Vendor Pool contracts are contracts that have been awarded to multiple vendors which have met the basic qualifying requirements established for the contract, but do not contain within the contract itself all

of the data needed to establish firm pricing for a specific product or specific service to be provided under the contract. Examples of these contracts include, but are not limited to:

- a. Pre-qualification contracts awarded by the City. These contracts simply specify a pool of contractors who are authorized to provide the required product or service to the City;
- b. Contracts awarded by the City that include pricing information relating only to hourly rates, or discount rates from catalogs or otherwise established commercial pricing sources, may be determined to be Vendor Pool contracts. Contracts structured in this manner often do not include all the information necessary to determine the firm price for a given product or service from the information contained in the contract. Contracts that do not contain sufficient information in that regard are considered to be Vendor Pool contracts;
- c. Contracts awarded by other Government Agencies and not-for-profit organizations that include pricing information relating only to hourly rates, or discount rates from catalogs or otherwise established commercial pricing sources, may be determined to be Vendor Pool contracts.

Vendor Pool contracts require additional competitive action prior to award of a specific purchase to a specific vendor listed on the contract. Specific quoting and award procedures (i.e.; a “road map”) for use of each Vendor Pool contract will be developed on a case-by-case basis by the Department in coordination with the requesting departments. These procedures shall be structured to provide the competitive structure and documentation necessary to clearly support the award of a specific purchase to a specific vendor.

ADDITION OF VENDORS TO POOL CONTRACTS

A pre-qualification contract that establishes a pool of vendors based on minimum requirements may allow for additional vendors to be added to the pool at any time during the contract term. If this is allowed, it must be specifically stated in the contract terms and conditions. Additional qualified vendors must meet the minimum qualifications established in the original solicitation to be added to the pre-qualified vendor pool.

36. ACCESSING CONTRACTS FROM OTHER GOVERNMENT AGENCIES AND NOT-FOR-PROFIT ORGANIZATIONS

The City may award a contract by accessing the goods or services from any State of Florida contract, contracts from any subdivisions, other County and municipal contracts, or from any other governmental entity (other than the Federal government, with the exception of GSA Schedule 70 for Technology, Schedule 84 for Security and Law Enforcement Equipment (alarm/signaling systems firefighting and rescue equipment, law enforcement and security equipment) and GSA Schedule 1122 Equipment for Homeland Security), and from Not-For-Profit Organizations; provided the item or service is not available through an existing City contract, and was competitively solicited.

Before any purchase controlled by this section can be made, vendors shall comply with all City requirements, (including but not limited to City affidavits), prior to recommendation of approval by the Chief Financial Officer, the City Manager, or the City Commission. A copy of the contract or award documents shall be obtained from the government agency. If these documents are not available, copies of specific pages with information on the contract number and its expiration date, terms and conditions, the item(s) description and price, warranty period, payment terms, FOB terms, and other pertinent information shall be obtained. Contracts awarded by other government agencies and not-for-profit

organizations, can be used on a direct award basis when those contracts were awarded based on full and open price competition. Use of pool-type contracts awarded by other governmental agencies (or not-for-profit organizations) is also authorized, but such contracts are subject to further competitive action by the Purchasing and Contract Administration Division on a case-by-case basis.

When accessing another entity's contract, staff is to carefully review the terms and conditions of that contract, noting that vendors can provide services only in those categories in which they were awarded on the competitively solicited proposal or bid.

37. ACCESSING AN EXISTING CITY CONTRACT (REFERENCE PO)

When a user department has no allocated funds, blanket purchase order (BPO), or authorization against an existing City contract, individual purchase orders may be used for purchase of goods and/or services (not to exceed the aggregate amount of \$5,000 in a fiscal year) against an existing City contract from a vendor awarded the specific item sought.

Note:

1. the terms, conditions and prices stated on the contract shall not be changed or modified by the user department
2. when applicable, the contract item number shall be listed together with the description of the item, and
3. the contract number shall be identified on the purchase order

For anticipated purchases over \$5,000, user departments must request authorization for an allocation of funds against an existing City contract through the Purchasing and Contract Administration Division.

38. LIMITED OR NO COMPETITION ACQUISITIONS

POLICY

It is the policy of the City of Delray Beach to purchase its goods and services through a full open and competitive process. However, when competition is not available or when it is determined in the best interest of the City to utilize other than full and open competition, City legislation authorizes the execution of purchases by other methods, such as a Bid Waiver, Sole Source or Emergency basis (specific guidance on emergency actions is contained in a separate section of this guide - this section pertains only to bid waiver and sole source acquisitions).

One of the Purchasing and Contract Administration Division's primary goals is to foster full and open competition in the acquisition of goods and services for the City departments. The Chief Financial Officer will review all Sole Source, Bid Waiver, and City Standard purchase requests to determine the appropriate acquisition approach. The Requesting Department will also perform industry and product market research to determine if alternative sources of supply are available. The Purchasing and Contract Administration Division will work closely with requesting departments to ensure that contract scope and work requirements are expressed in terms of performance or functionality whenever practical.

When the requesting department has decided internally that full and open competition is not in the City's best interests, the appropriate justification for that decision must be submitted to the Purchasing and

Contract Administration Division for approval to waive the competitive process. The requesting department must indicate the purpose of the acquisition, the uniqueness of the item or service, why waiving the competitive process is in the City's best interests, that market research has been performed by the requesting department to support its decision, and what proposed actions will enhance competition in future acquisitions.

DEFINITIONS

A sole source purchase is the acquisition of a good or service for which there is only one source that can provide the good or service, and an equal product or service is not available from any other source. A bid waiver is a purchase of a good or service without formal competitive bidding, when it is determined to be in the best interest of the City. In a non-competitive bid waiver only one quote is sought. In a competitive bid waiver (limited informal competition) more than one quote is sought.

A city standard purchase is the acquisition of a good when the City has determined that a particular style, brand, make, or model is the only type that meets the City's requirements for performance, consistency, compatibility, or other salient characteristics, and such determination has resulted in there being only one manufacturer/producer of the particular product(s).

The City may negotiate with the vendor(s) to obtain the best possible contractual arrangements for the City.

PROCESS

The Purchasing and Contract Administration Division will review all justifications to determine the appropriate acquisition approach. This will include evaluating specifications and statements of work to ensure that no artificial barriers or unnecessary restrictions prohibit or reduce competition. The Purchasing and Contract Administration Division will work closely with requesting departments to ensure that minimum requirements are expressed in terms of performance or functionality. The Department shall perform product and industry market research in order to determine if alternative sources of supply may be available to meet the requirements.

To make the administration of non-competitive acquisition effective and efficient, and to avoid redundant efforts, requesting departments must submit a completed sole source, bid waiver, or city standard justification form to the Purchasing and Contract Administration Division for review and approval prior to entering into any type of negotiations with a proposed supplier. Both advance acquisition planning, and early involvement of the Purchasing and Contract Administration Division in the planning process, are key to a successful procurement, competitive or otherwise.

It is the responsibility of the requesting department to justify in writing to the Purchasing and Contract Administration Division why it is in the City's best interest to waive the competitive process. For all sole source, bid waiver, or city standard requests, the requesting department must submit a fully completed justification form to the Purchasing and Contract Administration Division supported by:

- a. Specifications or statement of work that clearly establishes the minimum performance or functional requirements of the product(s) or service(s);
- b. Description of the requesting department's unique need that precludes full and open competition;

- c. For sole source requests, evidence that the supplier is the exclusive distributor or authorized repair or service center or has exclusive territorial rights (if applicable);
- d. Evidence of proprietary rights (if applicable);
- e. Vendor proposal and quote (if any); and
- f. Any other supporting documentation.

SOLE SOURCES

Upon receipt of a signed Sole Source Approval Request Form, the Purchasing and Contract Administration Division shall make a determination, through a review of the material and appropriate market research. If it is determined that more than one source is present in the market, the Purchasing and Contract Administration Division will provide the requesting department with a recommendation on the appropriate procurement process to follow. If the Purchasing and Contract Administration Division determines that there is only one source, and competition is not available, and the dollar value of the action is less than \$65,000, the Purchasing and Contract Administration Division, with the support of, and in collaboration with the requesting department, will negotiate a contract with the vendor that represents the best interest of the City, including terms and conditions, and price. The Purchasing and Contract Administration Division will then issue the appropriate contract award, subject to the applicable authorization levels.

BID WAIVERS

Upon receipt of a signed Bid Waiver Acquisition Approval Form, the Purchasing and Contract Administration Division shall make a determination, through a review of the material and appropriate market research. If it is determined that a bid waiver is appropriate, the Purchasing and Contract Administration Division with the support of and in collaboration with the requesting department, negotiates a contract with the vendor in the best interest of the City, including terms and conditions, and pricing. Upon completing negotiation, the Purchasing and Contract Administration Division will then issue the appropriate contract award, subject to the applicable authorization levels.

CITY STANDARD

Upon receipt of a signed City Standard Approval Form, the Purchasing and Contract Administration Division shall make a determination, through a review of the material and appropriate market research. If it is determined that a city standard purchase is appropriate, the Purchasing and Contract Administration Division with the support of and in collaboration with the requesting department, negotiates a contract with the vendor in the best interest of the City, including terms and conditions, and pricing. Upon completing negotiation, the Purchasing and Contract Administration Division will then issue the appropriate contract award, subject to the applicable authorization levels.

AWARD

When all requirements are met, and the Chief Financial Officer or designee is satisfied that there is only one source of supply or determines that a non-competitive situation exists for goods or services to be purchased, full and open competition may be waived by the Chief Financial Officer. When the expenditure is \$65,000 or greater, the Chief Financial Officer shall forward an appropriate recommendation to the City Manager. If the City Manager is satisfied that a no competition or limited competition purchase request is in the best interests of the City, he/she shall forward the subject request to the City Commission for award. All vendors must comply with all City requirements prior to award. Additional funds and/or

extensions of time that may be requested during the resultant contract period are subject to the authority levels for all such contract modifications.

In addition to the above-described limited competition actions, there may be certain exceptional situations where full and open competition procedures cannot be used in association with a given administrative requirement. Such actions are hereby identified as “Administrative Purchases”. The only administrative situations that justify processing “Administrative Purchases” on a limited competition basis are as follows:

- a. **Post-expiration fund disbursement:** This authorized Administrative Purchase is defined as an administrative function which allows for the disbursement of funds after the expiration date of a contract period, or which allows additional funds to be allocated in order to effectuate previously executed lease agreements. This category of Administrative Purchase shall only be approved by the Chief Financial Officer in consultation with the City Attorney in accordance with the authority limits established herein and only then to satisfy a financial commitment made under a previously approved contract that has expired. Administrative Purchases are necessary primarily to facilitate lease agreements and other type arrangements that may outlive the original contract term.

Unauthorized/Confirmation purchases: This administrative purchase is defined as a ratification of an unauthorized purchase executed by a requesting department that is not in compliance with the policies contained in the City’s purchasing and contracting policies and guidelines.

An unauthorized purchase occurs when any employee of the city orders, contracts for or buys any services, materials, or supplies outside the purview of the city charter and/or this policies and procedures manual. Any individual making an unauthorized purchase may be subject to disciplinary actions as appropriate, which may include termination and/or prosecution. The following are unauthorized purchasing practices:

1. Artificially dividing purchases into multiple segments in an attempt to issue single orders below the dollar threshold requirements as established herein (also known as “stringing” or “splitting purchase orders” is prohibited.
2. Purchasing any supplies or services above the thresholds delineated herein directly from a vendor, bypassing the Purchasing and Contract Administration Division.
3. Committing to a purchase without issuance of an authorized purchase order when one is required.
4. Obtaining items available on an existing city term contract from a supplier that does not hold the contract.
5. Providing false information such as false quotes (without actually contacting and obtaining a quotation, bid or proposal from a vendor).
6. Adding unauthorized purchases to previously approved purchase orders without approval of the appropriate approval authority and subsequent modification of the purchase order.

A Confirmation Purchase requires retroactive approval (if appropriate) of an unauthorized purchase. A confirmation purchase requires retroactive approval by the City Manager for actions over \$5,000 up to \$64,999.99, and by the City Commission for commitments exceeding that amount. Payment for any unauthorized purchase may be the responsibility of the person placing the order. The department director having responsibility over the unauthorized purchase shall provide to the Purchasing and Contract Administration Division a complete written justification for the specific unauthorized purchase and the corrective action intended to prevent recurrence of the incident.

39. EMERGENCY PURCHASES

An emergency purchase shall be defined as an unforeseen or unanticipated urgent and immediate need for equipment, supplies, or services where the protection of life, health, safety or welfare of the community or the preservation of public properties would not be possible using normal purchasing procedures.

EMERGENCY PURCHASES

Before any purchase controlled by this section is made, the requesting department shall contact the Purchasing and Contract Administration Division for concurrence, explain the nature of the emergency, and provide a written certification of the emergency. Unless precluded by the nature of the emergency situation, vendors are to comply with all City purchasing requirements, including but not limited to City affidavits, prior to recommendation of approval by the Chief Financial Officer, City Manager or the City Commission.

If the item or service cannot be obtained from a vendor with an existing City contract, the requesting department should obtain four (4) quotations, whenever possible, from active City vendors. The requesting department shall be responsible for obtaining from the contracted vendor the necessary affidavits, insurance certificates, proof of proper licenses, trade certificates, permits, etc., as the emergency work may require.

As soon as possible, the requesting department shall submit to the Purchasing and Contract Administration Division the following documentation:

- a. Emergency input document with appropriate signatures;
- b. Vendor written quotation(s);
- c. Department's justification and/or explanation of circumstances for emergency purchase, to include a clear definition of the products and/or services sought and how and where it will be used; and
- d. Any other supporting documentation, as may be applicable.

AUTHORITY TO AWARD EMERGENCY PURCHASES

In the event a Department Director, or an authorized designee, determines that an emergency situation exists which requires an immediate response, a contract may be awarded regardless of the amount of expenditure upon receiving City Manager approval. A purchase order will be issued by the Purchasing and Contract Administration Division upon receipt of acceptable supporting documentation from the requesting department. If the expenditure is \$65,000 or greater, the City Manager shall present the circumstances to the City Commission for ratification.

MONITORING EMERGENCY PURCHASE REQUESTS

The Purchasing and Contract Administration Division shall report to the City Manager, through the Chief Financial Officer, any department requesting procurement practices that reflect poor operational planning or management and have the potential effect of defeating the purpose of the procurement process.

EMERGENCY DISASTER PURCHASES

Emergency disaster purchases are those purchases needed due to unforeseen acts of nature, civil unrest, riot, terrorism or force majeure, including but not limited to hurricanes, tornados, floods, fire, etc.; and

only when the Federal, State, County, or City governments declare or the City Manager declares that a state of emergency exists.

For acquisitions of this type, the following procedures apply:

- a. The Requesting Department Director or designee, after verbal consultations with the Chief Financial Officer and the City Manager, shall have the authority to enter into any contract when the Requesting Department Director determines, based on his/her expertise, that such work is necessary to preserve the life and safety of City residents and the wider community;
- b. The Requesting Department Director or designee shall first contract with vendors which are already on City contracts for the goods or services needed;
- c. All disaster purchases that are acquired without full and open competition or under an existing contract must be subsequently ratified by the City Manager or City Commission, as appropriate.

40. REQUEST TO MODIFY A CONTRACT OR PURCHASE ORDER

When a requesting department requires a change to a purchase order or to modify a contract, the request must be submitted to the Purchasing and Contract Administration Division for review and approval. Before submitting a request to modify a purchase order or contract, the requesting department should review the following conditions:

- a. Valid requirements have been established;
- b. Funds are available to cover the purchase; and
- c. Appropriate justification is included with the request package.

The requesting department shall submit its request, together with all supporting documentation, to the Purchasing and Contract Administration Division for review and determination as follows:

- a. Justification and/or explanation for request to modify the purchase order or contract. If goods and/or services are going to be used for the first time, state what the department was using before; and
- b. Any other supporting documentation as may be applicable.

Modifications and change orders to contracts and purchase orders require approval at the established authorization levels. Requesting departments may not proceed with any action on modified contracts or purchase orders until approval has been received from the Chief Financial Officer, the City Manager, or the City Commission, as appropriate.

41. MONITORING AND REPORTING VENDOR PERFORMANCE

Vendor performance is any action or inaction by a vendor under a contract, purchase order or other binding agreement with the City of Delray Beach. Any action or inaction by a vendor, which does not comply with the contractual terms and conditions, will be considered nonperformance and is to be documented and reported to the Purchasing and Contract Administration Division. Nonperformance includes but is not limited to, late or non-deliveries, substandard or unacceptable goods and/or service levels, habitual under or over shipments, and unauthorized subcontracting or contract assignments.

The requesting department shall appoint contract managers, who are responsible for monitoring vendor performance as it relates to the terms and conditions of the contract(s) or purchase order(s) issued. Vendor nonperformance actions are to be documented and reported to the Purchasing and Contract Administration Division for appropriate action aimed at correcting vendor performance, placing the vendor on probation for a period of time, suspension from bidding on City contracts, vendor debarment, or contract termination.

ACTION BY REQUESTING DEPARTMENT

The non-performing vendor should first be contacted by telephone to discuss the problems being experienced. A mutual understanding should be reached, if possible, and a time frame for corrective action established.

The requesting department should convene a meeting with the vendor to help resolve problems, whenever possible. Should the vendor continue to not meet the requirements, the requesting department should submit a memo to the Chief Financial Officer, attach any available documentation to substantiate the problem, including a copy of any letters sent to the vendor or records of meetings (as applicable).

After receiving the vendor nonperformance, the Purchasing and Contract Administration Division will review the documentation to determine the appropriate course of action. This action may include calling the vendor, sending vendor a "Notice to Cure", or scheduling a meeting with the vendor.

Where progressive steps aimed at correcting vendor performance have proven futile, the Purchasing and Contract Administration Division may hold a hearing to determine the next course of action. The vendor and the requesting department will be invited to this meeting, where the Chief Financial Officer or designee will act as a hearing officer. After listening to all parties, the hearing officer may:

- a. Establish a probation period for the vendor to correct all noncompliance problems;
- b. Terminate the contract for default;
- c. Terminate the contract for convenience;
- d. Suspend or Debar the vendor; or
- e. Find no action necessary.

A copy of all written actions or documents will be provided to the requesting department. The final decision and formal action will be filed in the contract e-folder for future use in determining vendor responsibility in future award recommendations. The Chief Financial Officer may terminate the vendor for convenience or default in accordance with the relevant provisions of the contract or Purchase Order.

For contracts up to \$65,000, the Purchasing Director may terminate the vendor for convenience or default in accordance with the relevant provisions of the contract. For contracts greater than \$65,000, the City Manager will recommend to the City Commission the best course of action to safeguard the interests of the City.

42. SUSPENSION AND DEBARMENT

A. Authority. The Chief Financial Officer may suspend or debar, the right of a vendor to be included on a vendor database and prohibit such vendor to bid or propose on any city competitive solicitation or quote,

and any bid or response from that vendor shall be rejected; provided however, the City Commission shall have the power to waive or lift such suspension or debarment.

B. Suspension. A vendor may be suspended for a period not to exceed two (2) years as determined by the Chief Financial Officer and approved by the City Manager based upon the following:

1. Vendor has terminated, defaulted, failed to perform, or failed to fully comply with the conditions, time frames, performance, specifications, drawings, or terms of a contract with the City; or
2. Vendor commits any fraud or misrepresentation in connection with any competitive solicitation or contract with the City; or
3. Vendor or its officer(s) is charged by a court of competent jurisdiction with a criminal offense in an incident related to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract; or
4. Vendor is charged by a court of competent jurisdiction with any of the following: 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 is determined to currently, seriously, or directly affect responsibility as a city government contractor. If charges are dismissed or the vendor found not guilty, the suspension shall be lifted upon written notification and proof of final court disposition provided by the vendor to City; or
5. Vendor becomes insolvent, has proceedings in bankruptcy instituted, or compounds its debts, or assigns over its estate or effects for payment thereof, or has a receiver or trustee appointed over its property; or
6. Vendor violates the ethical standards set forth in local, state, or federal law; or
7. Any other cause the Chief Financial Officer determines to be so serious and compelling as to materially and adversely affect responsibility of a business as a city contractor, including but not limited to suspension.

C. Debarment. A vendor may be permanently debarred for the following:

1. Termination, default, failure to perform, or fully comply with the conditions, time frames, performance, specifications, drawings, or terms of a contract with the City two (2) times within any ten (10) year period; or
2. Conviction by, or judgment obtained, in a court of competent jurisdiction for those offenses in connection with the vendor's commercial enterprise. If the conviction or judgment is reversed through the appellate process, the debarment shall be removed upon written notification and proof of final court disposition; or
3. Conviction of a public entity crime as defined by F.S. § 287.133, shall result in debarment to transact business with the City.

4. Debarment of any vendor shall require City Commission approval.

D. Process.

1. Suspension: After the Chief Financial Officer has determined that there is cause to suspend a vendor, and the City Manager has approved the recommended suspension, the Chief Financial Officer shall notify the vendor in writing of the period of suspension and the reasons for the action taken. The suspension shall be final and conclusive.
2. Debarment: Notice of the charge for which debarment is proposed shall be delivered to the vendor and thereafter, an opportunity to be heard and present evidence in opposition shall be afforded to the vendor before the City Manager. The debarment shall be final and conclusive.

43. OFFER GUARANTEE, PERFORMANCE AND PAYMENT BONDS, AND INSURANCE

BID OR OFFER GUARANTEE

A bid deposit to guarantee the vendor's intention to enter into a contract with the City, not to exceed ten percent (10%) of the estimated total bid price, may be required by the Purchasing and Contract Administration Division. If a bid or offer deposit or bid or offer bond is required, it shall be in the form and amount specified in the solicitation.

PERFORMANCE AND PAYMENT BONDS

The Purchasing and Contract Administration Division may require performance and payment bonds from the vendor selected for contract award in such amounts as may be deemed reasonably necessary to protect the best interests of the City. The bonds shall be in the form supplied by the City (no other form will be accepted) and in the amounts required by the solicitation.

INSURANCE

The Purchasing and Contract Administration Division may require insurance coverage from the vendor selected for award as may be deemed reasonably necessary to protect the best interest of the City. The insurance coverage shall be in the form and amount(s) as required by the solicitation.

Awards may be contingent upon submission of required insurance coverage and performance and payment bonds. If the vendor selected for award fails to fulfill these requirements the following default actions will be followed:

- a. For contracts of less than \$65,000, the City Manager or designee, in consultation with the City Attorney, may declare the vendor in default, terminate the contract, re-award the contract to the next lowest responsive/responsible vendor, and subject the defaulted vendor to re-procurement charges or to forfeiture of the bid/offer bond, or any other provided security in an amount equal to the damages sustained by the City as a result of the default.
- b. For contracts of \$65,000 or greater, the City Manager or designee, in consultation with the City Attorney, may declare the vendor in default and terminate the contract. The City may re-award to a new vendor who participated in the solicitation but was not awarded any portion of the contract. City Commission approval is required to re-award the contract unless the contract provides for another method.

44. MARKET RESEARCH

Market research must be conducted in anticipation of City procurement in order to ensure that specifications are suitable for fair and open competition. Market research is the foundation for developing an effective solicitation and successful contract that includes terms and conditions consistent with sound business practices and procurement laws.

PURPOSE OF MARKET RESEARCH

The primary purpose of market research in public procurement is to determine the availability of sources of supply or alternative solutions that will meet minimum requirements. Market research should always begin with the intent to satisfy a legitimate City requirement or need. The need should be stated in terms of performance or functionality whenever practical. This means that the minimum requirements must be clearly understood and defined before market research can begin. Once the need has been established, market research must be conducted in order to determine the capability of the marketplace to meet the need of the City.

Market research includes identifying the attributes of existing products, processes or services that meet minimum requirements, or identifying the characteristics that a yet to be identified product, process or service must possess. Effective market research should provide adequate information regarding existing products or services, qualified sources, industry trends, pricing, and what other entities are doing to meet the same or similar requirements. Failure to conduct thorough market research may result in requests for sole source or bid waiver purchases that cannot be adequately justified.

It is extremely important that the integrity of the procurement process be sustained at the highest standards and that suppliers are given a fair opportunity to compete for City business. In anticipation of a City procurement, market research must be conducted to ensure that specifications are not exclusionary, restrictive or favor any one vendor or proposer.

WHEN TO CONDUCT MARKET RESEARCH

When planning for a purchase (prior to or during the development of specifications or statements of work) of any dollar amount, the requesting department should conduct market research. Contact, whenever possible, a minimum of three different sources to determine if existing products or services are available to meet requirements or if existing products or services can be modified to meet requirements.

MARKET RESEARCH TECHNIQUES

Research should include, whenever practical:

- a. The industry trends and customary terms and conditions regarding warranties, acceptance, and inspection;
- b. Buyer financing – method and best practices;
- c. Standard maintenance support;
- d. Capable sources (including small businesses);
- e. General pricing information and availability of product(s);
- f. Competitive factors such as quality, product features, speed of technology and typical lead time;

- g. Commercial practices, the practices of other government entities; and industry support capabilities and practices; and
- h. Environmental issues – recovery and disposal of products and energy efficiency standards as might be appropriate.

EXTENT OF MARKET RESEARCH

As indicated before, a minimum of three potential sources must be sought prior to or during the planning of a pending acquisition. However, the extent of market research may vary depending on factors such as urgency, the estimated dollar value, complexity, past experience and the amount of information already available. In some circumstances, the Purchasing and Contract Administration Division may perform the market research. It is important to remember that market research is not a substitute for full and open competition. It is not to be used to determine which product or service, supplier or proposer is best. Market research is conducted to determine the availability of products or services that meet the City's minimum requirements and to ensure that specifications are not exclusionary or otherwise restrictive.

SOURCES OF RESEARCH DATA

There are a variety of sources for information. However, perhaps the first place to start is with the City's (or Bidsync's) database of vendors. Using commodity codes, departments may find firms with the ability to meet their requirements. Departments may also contact one or more of the following:

- a. Subject matter experts within the City, other governments, or private industry;
- b. Industry publications and trade journals;
- c. Marketing organization, professional associations, and tradeshow;
- d. Colleagues from other jurisdictions;
- e. NIGP website: www.NIGP.org; or
- f. Web searches using Internet search engines like Yahoo, Google, etc.

45. BLANKET PURCHASE ORDERS

A blanket purchase order is utilized for the recurring acquisition of particular goods from a particular vendor for multiple small purchases (generally not exceeding \$5,000 each) and may be established within the guidelines below. This purchase method is typically utilized for the acquisition of goods or services on an "as needed" basis (a requirements contract) with vendors who do not accept P-cards.

- a. The blanket purchase order must indicate the maximum permitted expenditure for the particular budgeted line item. The blanket purchase order may not exceed the total amount budgeted for that line-item account.
- b. Blanket purchase orders expire on September 30, at the end of the fiscal year.
- c. Blanket purchase orders are subject to the same review process outlined for all other purchase orders.

46. COOPERATIVE PURCHASING

The City Manager or designee shall have the authority to join with other units of government in cooperative purchasing plans when the best interests of the City would be served thereby, subject to the purchasing authorization levels defines herein.

47. PURCHASE OF USED EQUIPMENT

Used equipment may be purchased within the following guidelines.

a. PURCHASE AT AUCTION

The appropriate Department Head shall submit a written request to the Chief Financial Officer and City Manager requesting authority to purchase an item at auction. The request shall include:

- i. An estimated cost and a maximum bid amount;
- ii. A justification for purchasing used, rather than new equipment;
- iii. The result of an inspection by a mechanic or other qualified technician, indicating the condition of the equipment, estimated repair cost if not operational, annual maintenance costs, and expected life of equipment after acquired by the City.

If the maximum bid is expected to be \$65,000 or more, the City Commission must approve a bid waiver prior to the auction.

If the maximum bid amount is expected to be less than \$65,000, the CPO must approve the request in writing and indicate the approved maximum bid amount prior to the auction.

After approval, the Department Head may bid up to the maximum bid amount to purchase the equipment.

A purchase requisition must be prepared as part of this procedure.

b. PURCHASE FROM OTHER AGENCIES/ENTITIES

The Department Head shall submit a written request to the Chief Financial Officer and City Manager or designee requesting authority to negotiate the purchase of an item from another agency or entity. The request shall include:

- i. An estimated cost and a maximum offer amount;
- ii. A justification for purchasing used, rather than new equipment; and
- iii. The result of an inspection by a mechanic or other qualified technician, indicating the condition of the equipment, estimated repair cost of not operational, annual maintenance costs and expected life of equipment after acquired by the City.

If the maximum offer is \$65,000 or more, the City Commission must approve a bid waiver.

If the maximum offer is less than \$65,000, the Chief Financial Officer must approve the request in writing and indicate the approved maximum offer amount prior to the commencement of negotiations.

After approval, the Department Head shall negotiate a price with the agency or entity, not offering more than the maximum as approved above.

The Department Head shall prepare a purchase requisition as part of this procedure.

Under no circumstances shall an unauthorized employee offer to purchase used equipment from an individual, including an employee of the City.

48. CHANGE ORDERS AND AMENDMENTS

The City Manager or Designee is authorized to issue change orders for contracts previously approved by the City Commission in an amount not to exceed 20% cumulatively of the original contract value. The City Manager or designee may also approve amendments that do not materially expand or alter the scope of work. In the event that the change order exceeds \$65,000, it shall be presented at the next soonest available City Commission meeting for ratification.

The City Manager or Designee may extend expiring contracts, with prorated dollar value, to ensure continuity of City services while a new contract is awarded, not to exceed a total of one hundred eighty (180) days.

49. SALES AND USE TAX EXEMPTION

The City of Delray Beach is exempt from paying Florida State Sales and Use Tax. All employees who purchase goods or services on behalf of the City shall supply each vendor with a copy of the City's tax exemption certificate or number to avoid being assessed state sales taxes. Employees will not be reimbursed for the payment of state sales and use tax, except for travel outside the State of Florida.

The Sales Tax Exemption privilege is for the purchase of goods exclusively for use of the City of Delray Beach. City employees are expressly prohibited from purchasing goods or supplies for personal use using the City's tax exemption number/certificate.

50. REFERENCES AND ENDORSEMENTS

Only Department Heads or senior management staff may provide references for City vendors. These vendors must be very general in scope and information and should provide information in a non-emotional and non-inflammatory manner. Department Heads and senior management staff may decline to provide a reference on any City vendor for any reason whatsoever.

City staff shall not give endorsements or make statements on behalf of the City to vendors for use in vendor advertising, sales brochures, website promotions, etc. Such requests must be referred to the Chief Financial Officer for review and discussion with the City Manager.

51. VENDOR FILE MAINTENANCE

All City of Delray Beach personnel initiating the purchase of goods or services shall ensure that vendors are active within the City's financial accounting software (Tyler New World). If the vendor is not in the system, the vendor must become active in the system before placing any order or initiating any work.

Requesting New Vendors

All City employees initiating the purchase of goods or services shall obtain a completed and signed vendor application package and W9 from the vendor. The Vendor application package and W-9 must be forwarded to the Purchasing and Contract Administration Division so that a vendor record can be added into the financial system.

Adding New Vendors

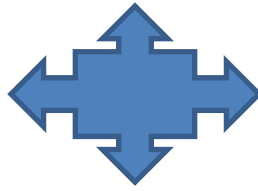
- a. The vendor must submit the following documents to the Purchasing and Contract Administration Division before the vendor registration can be completed:
 - 1) Completed and signed Vendor Application
 - 2) W-9 or applicable IRS form
- b. The Purchasing and Contract Administration Division shall verify the following:
 - 1) That the company is registered to do business in Florida on the Florida Department of State, Division of Corporations website (Sunbiz), if required. That the company is in an active status and has a valid Federal Employer Identification Number (FEIN)
 - 2) If the company is not listed on Sunbiz, the vendor should provide a Certificate of Incorporation in the state where the vendor is registered or incorporated
 - 3) Verify the registered business name and DBA name, if applicable, is the same as listed on the W-9 and vendor application.
- c. If the business is inactive, the vendor information package will be returned to either the requesting department or the vendor, informing them that the City cannot do business with the vendor until such time as their business is active. The following should be uploaded to the vendor file in the System:
 - 1) Completed and signed W-9
 - 2) Completed and signed Vendor Application
- d. Purchasing shall review the application and report to the Chief Financial Officer or Designee any instances where the vendor has disclosed a relationship with City Employees on the application. Should a disclosure be submitted on the vendor application, the Chief Financial Officer or Designee shall review the information and determine if the vendor may be entered into the System.
- e. System for Award Management("SAM") Exclusions. Prior to registering a vendor, Purchasing and Contract Administration Division staff shall check the System for Award Management's Website (<https://www.sam.gov>) to determine if an individual or entity (or any of its principals) is currently listed as an active exclusion. An exclusion is a suspension or debarment of an individual or entity that is prohibited, restricted, or otherwise excluded from doing business with the federal government. Those entities or individuals reflected as active exclusions on sam.gov are ineligible from transacting business with the City.

Maintaining Vendor Records

- a. Any request for changes to the vendor record must be accompanied by a revised W-9 and revised Vendor Application.
- b. The updated documentation shall be uploaded to the vendor file in the System.

Vendor Responsibilities

- a. It is the vendor's responsibility to ensure the City has the most current information on file at all times.
- b. Any changes to the vendor's information (e.g., change of corporate status, name change, merger, FEIN Number, address, etc.) must be provided to the City as soon as possible.
- c. Any vendor information changes that have not been provided to the City and properly entered into the System may cause delays in placing orders or processing payments to the vendor.



EXCELLENCE IN PUBLIC PROCUREMENT – CODE OF ETHICS

The Purchasing and Contract Administration Division of the City of Delray Beach embraces and subscribes to the professional standards of the Code of Ethics of the National Institute for Governmental Purchasing. Those professional standards are:

- Seeks or accepts a position as head (or employee) only when fully in accord with the professional principles applicable thereto and when confident of possessing the qualifications to serve under those principles to the advantage of the employing organization.
- Believes in the dignity and worth of the service rendered by the organization, and the societal responsibilities assumed as a trusted public servant.
- Is governed by the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and inspire the confidence of the organization and the public being served.
- Believes that personal aggrandizement or personal profit obtained through misuse of public or personal relationships is dishonest and not tolerable.
- Identifies and eliminates participation of any individual in operational situations where a conflict of interest may be involved.
- Believes that members of the Institute and its staff should at no time, or under any circumstances, accept directly or indirectly, gifts, gratuities, or other things of value from suppliers, which might influence or appear to influence purchasing decisions.
- Keeps the governmental organization informed, through appropriate channels, on problems and progress of applicable operations by emphasizing the importance of the facts.
- Resists encroachment on control of personnel in order to preserve integrity as a professional manager.
- Handles all personnel matters on a merit basis, and in compliance with applicable laws prohibiting discrimination in employment on the basis of politics, religion, color, national origin, disability, gender, age, pregnancy, and other protected characteristics.
- Seeks or dispenses no personal favors. Handles each administrative problem objectively and empathetically, without discrimination.



HOW TO DO BUSINESS WITH THE CITY OF DELRAY BEACH

Each year, the City of Delray Beach contracts with various vendors for more than \$20 million of different types of goods, services, and commodities for the benefit of the residents of Delray Beach. The Purchasing and Contract Administration Division is the City's central purchasing unit with the responsibility for managing the City's purchasing and contracting processes. The City welcomes and encourages qualified vendors and contractors, including local businesses, minority-owned firms, small business enterprises, veteran-owned companies, to respond to solicitations by submitting offers and proposals.

Delray Beach does not require vendors or any firm, individual or organization to register with the City in order to do business. However, vendors are encouraged to visit the City's website at www.mydelraybeach.com and join the Vendors List to receive email notifications when solicitations are advertised. City solicitations are advertised in the Palm Beach Post and are also available on Demand Star and Public Purchase. Vendors are encouraged to visit the Demand Star and Public Purchase websites at www.bidsync.com to register with those companies to receive notices of City solicitations. When a vendor is awarded a contract with the City, the Purchasing and Contract Administration Division contacts the vendor to obtain a copy of the vendor's W-9 and to register the vendor in the financial system for invoice processing and payment. Vendors may choose direct-deposit for payments, as this process results in quicker payment of invoices.

Delray Beach awards contracts and agreements to responsible and responsive bidders and proposers, and whose offers or proposals represent the lowest price or best value for the City. The City has a strict **No Gifts Policy** and observes a **Cone of Silence** on all advertised solicitations. The Purchasing and Contract Administration Division also reviews vendor performance on City contracts, and other public entity contracts, in arriving at a determination if a bidder or proposer meets the definition of a responsible vendor and may be recommended for award.

For more information on the City's purchasing policies and procedures, and to learn more about doing business with Delray Beach, please visit City's website at www.mydelraybeach.com or telephone (561) 243-7161 to speak directly with the Purchasing and Contract Administration Division.

