



GREATER NAPLES FIRE RESCUE DISTRICT
BOARD OF FIRE COMMISSIONERS
Action Item Worksheet

NEW BUSINESS

Agenda Item: III. E.
Subject: Procurement Policy and Handbook
Meeting Date: November 13, 2024
Prepared By: Josh Bauer, Deputy Chief

Background

Staff has been working with the District's legal firm to create a procurement policy that is clear and concise, will maintain the integrity of the procurement process, and comply with all requirements set forth in Florida Statutes. A corresponding Procurement Handbook has been developed to provide staff with processes and procedures in carrying out the policy's direction.

Funding Source/Financial Impact

N/A

Recommendation

Staff recommends rescinding the current Purchasing Policy (#301) and adopting the new Procurement Policy (#301) as presented.

Potential Motion

I move to approve rescinding the current Purchasing Policy (#301) and adopting the new Procurement Policy (#301) as presented.

Attachments

1. Procurement Policy
2. Procurement Handbook

Greater Naples Fire Rescue District Procurement Policy

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Article 1. Intent and Purpose

The Board of Fire Commissioners adopts this Policy with the intention to:

- The maximize the purchasing value of public funds,
- maintain the integrity of the procurement process,
- promote accountability, ethics, impartiality, professionalism, service, and transparency,
- provide public confidence in the procedures used in public procurement,
- obtain in a cost-effective and timely manner the materials, services, and construction required to serve the residents of the District, and
- comply with the requirements of Florida laws and statutes as they may be amended from time to time.

The Board may waive any requirement in this policy where allowed by law.

Article 2. Authority of the Fire Chief

The Fire Chief is authorized to approve purchases of goods and services for invoices up to and including \$25,000. **The Board of Fire Commissioners must approve all purchases for invoices for any annual expenditure above \$25,000 regardless of whether formal competition is or is not required under Article 3 below.**

The Fire Chief or his or her designee may deviate from this policy when an emergency exists which requires expedited purchase of goods or services. The Fire Chief shall report any emergency purchase to the Board of Commissioners at its next regularly scheduled meeting.

The Fire Chief is authorized and directed to adopt a procurement handbook providing procedures and guidance to District staff implementing the District’s procurement program.

Article 3. Competitive Procurement Thresholds

The following chart summarizes the District’s purchasing categories for goods or services and the requirements for each category are described below.

Category 1 Purchase Order No Competition	Category 2 Good faith effort to obtain 3 quotes	Category 3 Formal competitive procurement required
< \$1,000	\$1,000 - \$50,000	> \$50,000

3.1 Category 1: No Competition Required

Category 1 purchases may occur without informal or formal competition by issuing a purchase order. The purchaser must make every effort to obtain the best price. The purchase order must be initiated by the section or division with a document describing the item or service to be purchased and the amount. The purchase must be approved by the Finance Director or his or her designee, who will confirm that the District has adequate funds for the purchase.

3.2 Category 2: Informal Competition

Category 2 purchases may occur by obtaining written quotes from qualified vendors. The purchaser must make a good-faith effort to obtain at least 3 competitive quotes (including all "no quote" responses) and may select the quote that best meets the District's needs. Category 2 purchases must be initiated by the section or division with a document describing the item or service to be purchased, the quotes obtained, and the reason for selecting the preferred quote. The purchase must be approved by the Finance Director or his or her designee, who will confirm that the District has adequate funds for the purchase. The Finance Director will prepare a monthly report describing all Category 1 and 2 purchases.

3.3 Category 3: Formal Competition

For all Category 3 purchases, the District will conduct a formal competitive solicitation process which may include competitive sealed bids, competitive proposals or competitive selection and negotiation. To promote delivery of quality goods and services the District will record and consider the past performance of vendors in the award of contracts.

3.4 Category 4: Professional Services

The District follows the procedures set forth in section 255.055, Florida Statutes to procure professional services defined in that statute as well as other professional services described below.

Professional Services as defined in the Consultant's Competitive Negotiation Act (CCNA). The District is governed by and follows section 287.055, Florida Statutes, the Consultants Competitive Negotiation Act, as it may be amended from time to time for acquiring the services of architects, professional engineers, landscape architects, or registered surveyors and mappers.

Other Professional Services. The District also follows the qualifications-based procurement method described in subsections 287.055 (3),(4), and (5), Florida Statutes to procure other services including but not limited to: audit and accounting services; consultants for planning, management, technology, or scientific services; and financial services including rating and underwriting, financial advisor, and investment services.

Article 4. Exceptions to Competitive Procurement

The following goods and services are not subject to competitive-solicitation requirements. This section is consistent with section 287.057(3), Florida Statutes and includes any applicable items or provisions of that statute as it may be amended from time to time.

4.1 Emergencies

As provided in section 287.087(3)(a), Florida Statutes, items the Fire Chief determines in writing are needed to address an immediate danger to the public health, safety, or welfare or other substantial loss that requires emergency action are exempt from competitive procurement. After the Fire Chief provides a written determination that the procurement is needed because of an emergency, the District may proceed with the procurement necessitated by the immediate danger, without receiving competitive sealed bids, competitive sealed proposals, or competitive sealed replies. However, the emergency procurement will be made by obtaining pricing information from at least two prospective vendors, which must be retained in the contract file, unless the District determines in writing that the time required to obtain pricing information will increase the immediate danger to the public health, safety, or welfare or other substantial loss to the District. In an emergency, the District may alter the procedures required in section 255.0525 concerning notice and advertising in any manner that is reasonable under the emergency circumstances.

4.2 Repair or maintenance of an existing public facility

Subsection 255.20(1)(c)5., Florida Statutes exempts repairs or maintenance that do not include new construction or a substantial addition, extension, or upgrade. Additions, extensions, or upgrades are considered substantial if the estimated cost exceeds \$300,000 for construction or \$75,000 for electrical work and is more than 20 percent of the total cost of the repair or maintenance project. Repair and maintenance projects and any related additions, extensions, or upgrades may not be divided into multiple projects for the purpose of evading the requirements of this subsection.

4.3 Exempt services and commodities.

The District follows the exemptions listed in section 287.057(3)(e), Florida Statutes as it may be amended from time to time including the following commodities and contractual services which are not subject to competitive procurement requirements.

- a. Artistic services.
- b. Lectures by individuals.
- c. Legal services, including attorney, paralegal, expert witness, appraisal, or mediator services.
- d. Health services involving examination, diagnosis, treatment, prevention, medical consultation, or administration.
- e. Services or commodities provided by governmental entities.
- f. Other services and commodities listed in section 287.057(3)(e), Florida Statutes.

4.4 Purchases from agreements with other districts, cities, or counties

Section 189.053, Florida Statutes authorizes the District to purchase commodities and contractual services, other than services the acquisition of which is governed by section 287.055, (the Consultant's Competitive Negotiation Act) from the purchasing agreements of other special districts, municipalities, or counties which have been procured pursuant to competitive bid, requests for proposals, requests for qualifications, competitive selection, or competitive negotiations, and which are otherwise in compliance with general law if the purchasing of the other special district, municipality, or county was procured by a process that would have met the procurement requirements of the purchasing special district. This process is sometimes referred to as a piggyback process.

4.5 Sole Source Procurement

In order to include a sole source specification in any procurement, the District staff must document in a memorandum retained in the project file that:

1. The District, has considered all available alternative materials and systems, and has determined that the specification of a sole material or system is justifiable based upon its cost or interchangeability; and
2. For construction projects, the architect or engineer of record has recommended the sole source specification.

If the procurement requires approval of the Board of Commissioners, the board must approve the memorandum at the same time as it approves the procurement. This process meets the requirements of section 255.04, Florida Statutes.

Article 5. Other Procurement Matters

5.1 Owner Direct Purchasing

Florida law allows government entities to make certain tax-free purchases for public works projects under section 212.08(6) Florida Statutes and Rule 12A-1.094, Florida Administrative Code (F.A.C.). Purchasing commodities directly enables the District to save the cost of sales tax on certain tangible personal property needed for projects. Owner-Direct Purchases will be governed by the following:

- a. Requirements of Florida law.** All requirements of Rule 12A-1.094, F.A.C. and section 212.08(6), Florida Statutes must be met.
- b. Direct Purchase Order.** The District will issue its purchase order directly to the vendor supplying the materials or tangible personal property the Contractor will use and will provide the vendor with a copy of the District's Florida Consumer's Certification of Exemption. The District will issue to the vendor and to the Contractor a Certificate of Entitlement using the form provided in Rule 12A-1.094 (4)(c)4, F.A.C.
- c. Inspection by Contractor and Direct Invoice to District.** Upon delivery, the contractor shall inspect the materials or tangible personal property, and if it approves

them, Contractor shall provide a written statement from the Contractor's Project Manager to the District's Project Manager certifying that Contractor approves the materials or tangible personal property. The District will attach this certification to the invoice and the District will pay the invoiced amount directly to the vendor.

- d. Title.** The District will take title to the materials or tangible personal property at the time of purchase or delivery by the vendor and will retain title to all materials or tangible personal property it purchases. The District may require Contractor to obtain and manage warranties on the materials or tangible personal property in its contract with Contractor.
- e. Risk of Loss.** The District will assume the risk of loss for the direct purchase materials or tangible personal property upon delivery. The District may do this by being named as an additional insured on the Contractors Builder's Risk insurance policy, which shall continue to cover the direct purchase of materials. Alternatively, the District may purchase and maintain other insurance sufficient to protect against any loss of, or damage to owner-purchased materials. Responsibilities for care and safeguarding of the materials or tangible personal property and property insurance will be set forth in the contract with the Contractor.

5.2 Design-Build Services

The District follows the requirements in section 287.055(9), Florida Statutes for procurement of design-build services and adopts the definitions in subsection 287.055(2), Florida Statutes that apply to the procurement process to hire a design-builder. Section 287.055(9)(c), Florida Statutes requires special districts to adopt rules governing the award of design-build contracts. This policy contains the District's rules.

The process begins by engaging a design-criteria professional to prepare a design-criteria package (See subsection 287.055(9)(b)).

For a fixed-price design-build contract, the District may award a contract based on a competitive proposal selection process as described in 287.055(9) or may follow the qualifications-based selection process described in subsections 287.055(3)-(5).

The District will award a progressive design-build contract based on qualifications only following the process provided in subsections 287.055(3)-(5), Florida Statutes. The progressive design-builder will, after competitive negotiations, establish a guaranteed maximum price and guaranteed completion date.

5.3 Construction Management at Risk (CMAR)

The District may award a contract to a construction manager at risk or "CMAR." Subsection 255.20(1), Florida Statutes expressly allows contracts for construction management services, design/build contracts, continuation contracts based on unit prices, and any other contract arrangement with a private sector contractor permitted by any applicable municipal or county ordinance, by district resolution, or by state law. Subsection 255.30(1)(d) 3. provides that if

the project is subject to competitive negotiations, the contract must be awarded in accordance with section 287.055 (the Consultant's Competitive Negotiation Act).

5.4 Changes to Solicitations and the District's Reserved Rights

In connection with any procurement, including the receipt and review of bids, proposals, or replies and contract award, the District reserves to itself (at its sole discretion) all rights available to it under applicable law, including without limitation, the right to:

- Modify the specifications of a procurement or the procurement schedule by posting an addendum on the District's website.
- Cancel, suspend, withdraw, or terminate a solicitation, or the procurement process in whole or in part, at any time before the execution of a contract without incurring any obligations or liabilities.
- Waive or allow corrections to non-material deficiencies, informalities, and irregularities in a response and accept the response which is, in the District's judgment, in the District's best interest.
- Seek or obtain, from any source, information that has the potential to improve the understanding and review of responses.
- Conduct an independent investigation of any information, including prior experience, included in a response by contacting project references, accessing public information, conducting background checks, contacting independent parties, or any other means to determine that bidder's ability to perform is satisfactory.
- Request additional information from a respondent during the District's review of the response to determine respondent's capability to perform the work.
- Reject responses containing exceptions, additions, qualifications, or conditions not called for in the solicitation or otherwise not acceptable to the District.
- Reject responses where evidence submitted, or investigation and evaluation indicate an inability for the respondent to perform.
- Reject responses from respondents who are not responsive and responsible or if the District determines that it would not be in its best interest to make an award to that respondent.

5.5 Purchasing Card Program and Sales Tax Exemption

The Finance Director shall establish and manage a purchasing card program to provide specific employees with the ability to transact small purchases under \$5,000. When making purchases that are tax exempt, it is the responsibility of the purchaser/cardholder to provide the vendor with the appropriate tax exemption information when the card is presented for payment. If the vendor refuses to grant the tax exemption at the time of sale, the cardholder is authorized to continue the purchase and shall notify the Finance Director for assistance in getting the tax removed from the purchase.

5.6 Payment of Invoices

The Finance Director has the authority to establish and maintain procedures that:

- authorize minor payment variances between purchase orders and invoices where warranted. The authority to pay such variances must not exceed 5% of the purchase order amount, or \$1,000 dollars, whichever is less; and
- authorize the payment of freight and delivery charges that are not specifically identified on the purchase order.

5.7 Unauthorized Purchases

No District officer or employee may purchase any goods or services except as allowed under this Policy.

Article 6. Notice and Protest of District Procurement Decisions

6.1 Notices of Procurement Decisions

The District will post on its website notices of its decisions regarding award of contracts pursuant to formal solicitations.

District staff shall include the following statement in the notice: "Failure to file a protest within the time prescribed in the District's Procurement Policy adopted by its Board of Commissioners, or failure to post the bond or other security required by the District's Procurement Policy within the time allowed for filing a bond shall constitute a waiver of proceedings."

6.2 Notice of Protest and Formal Written Protest

By submitting a response to a District solicitation, respondents agree to the process for filing a protest set forth in this policy. No time will be added to the time limits provided below for service by mail.

- a. Protest of terms, conditions, or specifications of a solicitation

With respect to a protest of the terms, conditions, and specifications contained in a solicitation, including any provisions governing the methods for ranking bids, proposals, or replies, awarding contracts, reserving rights of further negotiation, or modifying or amending any contract, the notice of protest must be filed in writing within 72 hours after the posting of the solicitation. The formal written protest must be filed within 10 days after the date the notice of protest is filed.

- b. Protest of the District's decision or intended decision

Any person who is adversely affected by the District's decision or intended decision shall file with the District a notice of protest in writing within 72 hours after the posting of the notice of

decision or intended decision. The formal written protest must be filed within 10 days after the date the notice of protest is filed.

6.3 Contents of Formal Written Protest

The formal written protest must be printed or typewritten, and must contain:

- 1) The name and address of the person or firm filing the protest and an explanation of how the person or firm is adversely affected;
- 2) A statement of how and when the competitive solicitation, or notice of District decision or intended decision was received;
- 3) A statement of all disputed issues of material fact, and if there are none, a statement so indicating;
- 4) A concise statement of the ultimate facts alleged, as well as the rules or statutes which entitle the protestor to relief;
- 5) A demand for relief; and
- 6) Any other information material to the protest.

6.4 Filing

All notice of protests and formal written protests must be filed with the District by certified mail return receipt at the following address:

Greater Naples Fire Rescue District
14575 Collier Blvd., Naples, FL 34119
Attention: Kristy Ivanisevic, Public Records Custodian

A notice of protest or formal written protest is not timely filed unless received by the District within the prescribed time limit. Failure to file a notice of protest, if required, or a formal written protest within the time prescribed in this policy will constitute a waiver of all claims.

6.5 Protest Bond

Any person who files an action protesting a decision or intended decision of the District, shall at the time of filing the formal written protest provide a bond payable to the District, in an amount equal to 1% of the total base bid plus any alternate bids, or \$10,000, whichever is less. Failure to post the bond at the time of filing the written protest will constitute a waiver of a person's right to challenge the District's action. This requirement is consistent with the requirements for challenging a decision of a state agency or water management district set forth in section 287.042(2)(c), Florida Statutes.

6.6 Stay of Procurement

Upon receipt of a formal written protest that has been timely filed, the District will stay the bid solicitation or contract award process until the subject of the protest is resolved by final action by the Board of Commissioners, unless the Fire Chief, with the concurrence of the Board, sets forth in writing particular facts and circumstances that require the continuation of the contract

solicitation process through award without delay in order to avoid an immediate and serious threat or loss to the public health, safety, property, or welfare. The District will provide notice that a contract solicitation has been stayed either electronic mail or U.S. mail to all respondents.

6.7 Resolution of Formal Written Protest

The Fire Chief, or his or her designee, will consider and investigate all written protests in a timely manner. The District will provide an opportunity for the protestor to meet with the Fire Chief, or his or her designee, to resolve the protest by mutual agreement within seven (7) days, excluding Saturday, Sunday, and holidays, of receipt of a formal written protest. The District may grant extensions of time to conduct this meeting for good cause shown.

If the subject of a protest is not resolved pursuant to this meeting, the Fire Chief will state in writing that there was no resolution. The Fire Chief will make a recommendation to the Board of Commissioners, and the Board of Commissioners will then make a final decision to either uphold the recommendation, reject the recommendation, and send it back for further action, reject all proposals, or do something other than what the Fire Chief has recommended.

Article 7. Definitions

As used in this policy and in District solicitations the following definitions apply.

Bid means a firm price offer to provide specified goods or services. Bids are opened publicly and a responsive and responsible bidder is selected based on price alone.

Request for Qualifications (RFQ) means a solicitation requesting information from respondents to determine whether they have sufficient experience to be able to perform the work requested. An RFQ solicits information about a respondent's past performance on projects similar to the services needed.

Request for Proposal (RFP) means a solicitation requesting a proposed plan to perform a specific project. An RFP may also request information about a respondent's past performance on similar projects to evaluate the respondent's capability to perform.

Respondent means a person, firm, or business including a contractor or consultant offering to provide goods or services to a government owner in response to a solicitation.

Response means a bid, statement of qualifications, proposal, or reply submitted to a government owner in response to a solicitation.

Responsive bid, proposal, or reply means one that contains all information requested and conforms in all material respects to the requirements provided in the solicitation.

Responsible respondent means one that meets the minimum qualifications described in the solicitation and has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance.

Solicitation means a notice and request to prospective suppliers to provide goods or services and may be in the form of an Invitation to Bid, Request for Qualifications, or Request for Proposals.

Article 8. Repeal of Prior and Conflicting Policies

All resolutions and policies or parts of resolutions and policies in conflict with this policy are hereby repealed.

Date _____
Draft – Nov. 4, 2024

Greater Naples Fire Rescue District Staff Procurement Handbook

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Article 1. Intent and Purpose

The purpose of this Procurement Handbook is to provide District staff with processes and procedures to procure goods and services for the District. Staff should refer to and become familiar with the District’s Procurement Policy adopted by the District Board of Fire Commissioners and should use this handbook as a reference for how to carry out the policy’s direction. The Fire Chief may authorize updates to this handbook from time to time.

The District follows the statutes referenced in this handbook as they may be amended from time to time. This handbook provides the requirements in the statutes in effect at the time this document is published. Readers should check each statutory reference for updates.

Below is a list of key statutes containing requirements related to procurement:

Florida Statute	Title
112	PUBLIC OFFICERS AND EMPLOYEES
112.061 PART III	Per diem and travel Code of Ethics for Public Officers and Employees
119	PUBLIC RECORDS
119.0701 119.071	Contracts; public records General exemptions from inspection or copying of public records.
189	UNIFORM SPECIAL DISTRICT ACCOUNTABILITY ACT (Title VIII Planning and Development)
189.053	Purchases from purchasing agreements of special districts, municipalities, or counties. (Piggyback)
218	FINANCIAL MATTERS PERTAINING TO POLITICAL SUBDIVISIONS (Title XIV Taxation and Finance)
PART III PART VII	LOCAL FINANCIAL MANAGEMENT AND REPORTING LOCAL GOVERNMENT PROMPT PAYMENT ACT 218.70-218.80
255	PUBLIC PROPERTY AND PUBLICLY OWNED BUILDINGS (Title XVIII Public Lands and Property)
255.05 255.0518 255.0525 255.103 255.20	Bond of contractor constructing public buildings (or public work) Public bids; bid opening Advertising for competitive bids or proposals Construction management or program management entities Local bids and contracts for public construction works. . .
286	PUBLIC BUSINESS: MISCELLANEOUS PROVISIONS
286.0105 286.011 286.0113	Notices of meetings and hearings must advise that a record is required to appeal.— Public meetings and records; public inspection; criminal and civil penalties.— General exemptions from public meetings
287*	PROCUREMENT OF PERSONAL PROPERTY AND SERVICES (Title XIX Public Business)
287.055	CCNA – Consultants Competitive Negotiation Act

Florida Statute	Title
287.05701 287.132-133 287.135	Responsible Vendor Determination Public Entity Crimes Scrutinized Companies
448	GENERAL LABOR REGULATIONS
448.095	E-Verify
725	UNENFORCEABLE CONTRACTS (Title XLI Statute of Frauds . . .)
725.06 725.08	Construction contracts; limitation on indemnification Design professional contracts; limitation on indemnification

* The District is specifically required to comply with Sections 287.055, 287.05701, 287.132, 287.133 and 287.135, Florida Statutes. Other parts of Chapter 287 apply only to state agencies. However, where noted in this handbook, the District has elected to follow certain other provisions in Chapter 287 as required for state agencies.

Article 2. Ethics in Public Contracting

All employees who participate in preparing the content of any specification or procurement standard, or who participate in any advisory capacity in the procurement of contractual services or commodities must comply with the Code of Ethics for Public Officers and Employees contained in Chapter 112, Florida Statutes [as well as all District policies that are adopted from time to time](#)

Section 112.3148, Florida Statutes contains requirements concerning gifts from vendors doing business with the District, requires reporting to the Commission on Ethics, and imposes penalties for noncompliance.

Article 3. Competitive Procurement Thresholds

The District's Procurement Policy adopted by the Board of Fire Commissioners establishes thresholds for procurement by formal competition and by informal competition by obtaining quotes.

Article 4. The Solicitation Process

The following requirements apply to the stated types of District procurements.

4.1 All Goods or Services within the District's Category 3 Threshold

The District will make all competitive solicitations available simultaneously to all vendors, will include the time and date for the receipt of bids, proposals, or replies and of the public opening, and will include all contractual terms and conditions applicable to the procurement, including the criteria to be used in determining acceptability and relative merit of the bid, proposal, or

reply.¹ Solicitation contents are further described in Article 8 of this handbook. The District, at its option, may conduct a conference or written question and answer period to assist the vendor's full understanding of the solicitation requirements before the due date for receipt of bids, proposals, or replies.

Bid Bonds or Bid Security

At the District's option, the District may require bidders to provide a bid bond or other security as a guarantee that bidder will perform the work for the amount provided in the bid. The amount of the bid bond will be forfeited to the District if the District accepts the bid and the Bidder fails to execute a contract accompanied by the required bonds and certificates of insurance coverage and endorsements.

4.2 Construction Services within the District's Category 3 Threshold

District threshold exceeds Florida statutory requirement

The District's Procurement Policy requirement to competitively procure all items within its Category 3 procurement threshold meets and is more stringent than section 255.20, Florida Statutes which requires competitive award to an appropriately licensed contractor for public construction projects estimated to cost more than \$300,000.

4.3 Professional Services (District Category 4)

The District is governed by and follows section 287.055, Florida Statutes, the Consultants Competitive Negotiation Act (CCNA), as it may be amended from time to time for acquiring the services of architects, professional engineers, landscape architects, or registered surveyors and mappers as well as other professional services as listed in section 3.4 of the District's Procurement Policy. Certain other professional services listed in section 287.057(3)(e), Florida Statutes are exempt from competitive procurement.

4.4 Continuing Contracts

The District may request proposals from firms to provide a particular type of professional service on a continuing basis subject to the cost limits described in section 287.055(2)(g), Florida Statutes. The District may qualify a list of firms to provide those identified services and may enter into a contract with more than one of them to do so, subject to individual work orders for specified tasks. The District will select qualified firms using the process described in subsections 287.055(3), (4), and (5), Florida Statutes.

As of the date of this document, section 287.055(2)(g), Florida Statutes provides the following definition:

1. A "**continuing contract**" is a contract for any of the following:

¹ This process is described in section 287.057, Florida Statutes which governs state agencies and not special districts. Nevertheless, the District follows the processes described in it.

- a. Professional services entered into in accordance with all the procedures of this act between an agency and a firm whereby the firm provides professional services to the agency for projects in which the estimated construction cost of each individual project under the contract does not exceed \$7.5 million., Beginning July 1, 2025, and each July 1 thereafter, the department shall adjust the maximum amount allowed on the preceding June 30 for each individual project in a continuing contract by using the change in the June-to-June Consumer Price Index for All Urban Consumers issued by the Bureau of Labor Statistics of the United States Department of Labor. The department shall publish the adjusted amount on its website;
 - b. Study activity if the fee for professional services for each individual study under the contract does not exceed \$500,000; or
 - c. Work of a specified nature as outlined in the contract required by the agency, with the contract being for a fixed term or with no time limitation except that the contract must provide a termination clause.
2. Firms providing professional services under continuing contracts may not be required to bid against one another.

Article 5. Notice and Advertising

All goods and services. The District will publicly announce on its website all solicitations for Category 3 competitive procurements at least 21 days before the opening of bids, proposals or replies except that construction projects are subject to the requirements below.

Construction projects. The District will advertise solicitations for competitive bids, proposals, or replies in newspaper of general circulation in the county where the project is located:

1. for construction projects >\$200,000 – at least 21 days before bid opening and at least 5 days before any prebid conference.
2. for construction projects >\$500,000 – at least 30 days before bid opening and at least 5 days before any prebid conference.²

Professional Services as defined in CCNA. As required by section 287.055, Florida Statutes, the District will publicly announce, in a uniform and consistent manner, each occasion when professional services must be purchased for projects exceeding the statutory thresholds provided in section 287.017, Florida Statutes. The legislature may change those dollar thresholds from time to time. As of the date of this document the thresholds are: (1) construction projects estimated to be more than \$325,000 and (2) planning or study activities estimated to be more than \$35,000. When undertaking a new procurement, staff should check the current statute to determine whether the threshold amounts have changed. The notice will include a general description of the project and how interested consultants may apply for consideration.³

² The District follows this process as provided in section 255.0525(2), Florida Statutes as amended from time to time.

³ The District is required to follow this process as set forth in subsection 287.055(3)(a)1., Florida Statutes as amended from time to time.

Article 6. Exceptions to Competitive Procurement

The District's Procurement Policy sets forth the following exceptions to competitive procurement and the requirements for implementing them.

- Emergencies
- Repair or maintenance of an existing public facility
- Exempt services and commodities
- Sole Source Procurements
- Contracts based on purchasing agreements from other special districts, municipalities or counties.

Article 7. Public-Private Partnerships

Public-Private Partnerships

Section 255.065, Florida Statutes provides procedures for a government entity to enter into a partnership with a private person or developer – for example, to finance and construct a new fire station. Such a partnership may occur as a result of a developer submitting an unsolicited proposal or by the public entity issuing a solicitation for proposals for a specified project from interested parties.

Unsolicited proposals

When the District receives an unsolicited proposal and wishes to execute a contract for the project described in the proposal, the District must have a design professional review of the proposal and any competing proposals. If the District does not have in-house professional architectural or engineering staff to undertake this review and evaluation as described in the law, there are two initial steps to this process as follows:

Step 1 – Hire a design professional to act as the District's agent⁴

The District must hire a design professional (typically an architect or engineer) through the competitive solicitation process described in section 287.055, Florida Statutes. This is required whether the District undertakes public bidding or not. The design professional must review the unsolicited proposal and all other proposals and serve the District through completion of the design and construction of the project.

Step 2 Option A – If the District chooses to proceed with the project without a public bidding process⁵

The District may proceed with the project without engaging in a public bidding process if: 1) it holds a public meeting at which the proposal is presented and affected public entities and

⁴ § 255.065(3)(a)5., Florida Statutes.

⁵ § 255.065(3)(c), Florida Statutes.

members of the public are able to provide comment and 2) it holds a second public meeting and determines that the proposal is in the public's interest. Section 255.0065(3) provides the factors the District must consider in determining the public's interest and additional requirements.

If the District decides to proceed without engaging in a public bidding process, it must publish in the Florida Administrative Register a report that includes information on the public entity's public interest determination.⁶

Step 2 Option B – If the District chooses to entertain competing proposals through a public bidding process⁷

The District must publish notice that it received a proposal and will accept other proposals for the same project.⁸ The timeframe for allowing other proposals must be at least 21 days, but no more than 120 days after initial publication. The District's agent/ architectural advisor must prepare a design criteria package to include in the solicitation for competing proposals,⁹ and must review the competing proposals received in response to the solicitation.¹⁰

If the unsolicited proposal is for design and construction of a project under the design-build project delivery method, the solicitation will need to specify that the competing proposals must be submitted by design-build firms as defined in § 287.055(2)(h), Florida Statutes.

Also of note, the District may charge the unsolicited proposer a reasonable fee to cover the costs of processing, reviewing, and evaluating the request, including attorney fees and fees for financial and technical advisors or consultants and for other necessary advisors or consultants.¹¹

Solicited proposals

The District may, on its own, solicit proposals from qualified respondents for a specific project.¹² If this is the selected approach, the District must have a design criteria package prepared by a design professional (architect or engineer) that will be part of the solicitation.

Article 8. The Solicitation Process

8.1 Steps to Initiate a Formal Competitive Procurement

1. Prepare and publish the advertisement for the solicitation following the timeframes and requirements described in Article 5 above.
2. Post the solicitation on the District's website.

⁶ § 255.065(3)(d), Florida Statutes.

⁷ § 255.065(3)(d), Florida Statutes.

⁸ § 255.065(3)(b), Florida Statutes.

⁹ § 255.065(3)(c), Florida Statutes.

¹⁰ § 255.065(3)(a)5., Florida Statutes.

¹¹ § 265.055(5)(f), Florida Statutes.

¹² § 265.055(3), Florida Statutes.

3. Respond to properly submitted questions by respondents by posting addenda on the District's website.
4. Follow the process for award provided in Article 9 below.

Sealed bids, proposals, or replies are exempt from public records disclosure until such time as the District provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier.¹³

8.2 Information Provided in a Solicitation

Solicitations including Invitations to Bid (ITB), Requests for Proposal (RFPs), or Requests for Qualifications (RFQs) will provide the following information:

- Background and description of goods or services sought
- How to obtain the solicitation documents and addenda
- How to submit questions concerning the solicitation
- Whether the District will hold a pre-bid or pre-response meeting, and if so, whether it is mandatory or optional for all respondents
- Procurement schedule including deadlines for submitting questions and responses
- Directions for submitting a response and response format
- Minimum qualifications for submitting a response
- Required contents of the bid or response¹⁴
- Process for bid opening (for bids) or evaluation and selection process (for RFPs and RFQs)
- A copy of the contract the successful respondent will execute (if applicable)
- Notice to respondents that they must comply with the District's Procurement Policy including procedures for protest of district decisions and protest bonds
- Other provisions required by Florida Statutes:
 - Public Records § 119.0701(1)(b)
 - Scrutinized Companies – § 287.135
 - Public Entity Crimes – §§ 287.132 – 287.133
 - E-Verify – § 448.095
 - Responsible Vendor Determination – § 287.05701

8.3 Changes to Solicitations and District Rights

Section 5.4 of the District's Procurement Policy adopted by the Board states that the District may modify the specifications of a procurement or the procurement schedule by posting an addendum on the District's website. It also reserves rights to the District concerning other changes to a procurement process. This information should be stated or referenced in all District solicitations.

8.4 Respondent Communications with the District

The following statement will be included in District solicitations. *"After the District issues a*

¹³ § 119.071(1)(b) 2., Florida Statutes.

¹⁴ § 119.071(1)(c), and § 119.0715 Florida Statutes provides public records exemptions for financial information and trade secrets provided by bidders or respondents to a solicitation.

solicitation for purchase of goods or services, prospective respondents or their agents, representatives or persons acting at the request of respondents are prohibited from contacting any member of the District Board of Commissioners or the Fire Chief or any staff member except as specifically directed in the solicitation. This prohibition remains in effect until the Board makes a final determination concerning the solicitation. Failure to adhere to this requirement may make the person or team ineligible for selection.” This follows the requirement for state agency procurements in section 287.057(25), Florida Statutes.

Article 9. Process for Award

9.1 Bid Opening

The District will follow these steps when opening and awarding bids:

1. The District will open the bids at a public meeting.¹⁵
2. At the meeting, staff will read the names and amounts submitted by each bidder.
3. After the meeting, staff will review each bid to determine whether the bidder is qualified and the bid is responsive according to the requirements of the solicitation. This is an objective pass/fail test. Therefore, it is important that the solicitation clearly states the minimum qualifications for bidders and the required contents of the bid.
4. District staff will post on its website a notice of intent to award the bid to the lowest qualified and responsive bidder¹⁶ and will include the ranking of all qualified and responsive bidders.
5. At the next regular board meeting, the board will consider and vote to approve or deny the staff’s recommendation of award. Staff will post the board’s final decision on its website.

9.2 Request for Qualifications and Requests for Proposals

The process for evaluating and selecting a firm to provide services selected based on qualifications rather than price is described below. For all procurements selected based on qualifications rather than price, the District follows the requirements for selecting a firm under the Consultant’s Competitive Negotiation Act (CCNA) for architectural, engineering, landscape architectural, or surveying and mapping services. The steps are:

1. District staff will review each response to determine whether it is responsive to the solicitation and whether the respondent is responsible.
2. The District will distribute the responses received to the evaluation committee.
3. Each evaluation committee member will score each response according to the criteria described in the solicitation.
4. Evaluation criteria may include:¹⁷
 - a. an evaluation of the firm’s capabilities
 - b. adequacy of personnel

¹⁵ § 255.0518, Florida Statutes.

¹⁶ See § 255.20 (d)1., Florida Statutes, governing construction projects.

¹⁷ § 287.055(3)(e) and § 287.055(4)(b), Florida Statutes.

- c. the ability of professional personnel
 - d. experience of the firm or individual
 - e. past performance
 - f. willingness to meet time and budget requirements
 - g. location
 - h. recent, current, and projected workloads of the firms
 - i. the volume of work previously awarded to each firm by the agency with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms
5. The District will conduct discussions with and may require public presentations by at least the 3 top-ranked firms¹⁸
 6. The District may select the top-ranked respondent by simply compiling the scores of the committee members.
 7. If the District requires public presentations or interviews, any portion of a meeting at which a negotiation with a vendor is conducted, or at which a vendor makes a presentation or answers questions as part of a competitive solicitation is exempt from the public meeting requirements of section 286.011, Florida Statutes and section 24(b), Art. I of the State Constitution,¹⁹ but must be recorded.²⁰
 8. For example, District staff may convene a public meeting about the competitive solicitation and announce the process for conducting individual interviews or discussions with each respondent separately without the public being present. **District staff must record each interview.**²¹ The recording becomes a public record once the District posts its notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier.²²

Invitations to negotiate would also follow the steps outlined in this section 9.2. This procurement method is described in section 287.057(1)(c), Florida Statutes, but is infrequently used by special districts. Before issuing an invitation to negotiate, the Fire Chief must determine and specify in writing the reasons that procurement by an invitation to bid or a request for proposal is not practicable.

Article 10. Protest of District Decisions

Any substantially affected person wishing to protest a District procurement decision must follow the procedures and requirements contained in the District's Procurement Policy adopted by the Board of Fire Commissioners.

¹⁸ § 287.055(4)(a), Florida Statutes.

¹⁹ § 286.0113(2)(b)1., Florida Statutes.

²⁰ § 286.0113(2)(c), Florida Statutes.

²¹ § 286.0113(2)(c), Florida Statutes.

²² § 119.071(1)(b) 2., Florida Statutes.

Article 11. The Contract with the Selected Respondent

The District will include a contract containing scope of work and terms and conditions for completing the work. The following issues will also be addressed for each specified contract type.

11.1 Issues Specific to Construction

Performance and Payment Bonds

Section 255.05, Florida Statutes requires that contractors performing construction or repairs of a public building or public work must execute and record a payment and performance bond equal to the contract price to guarantee performance of the work under the contract. The statute contains a bond form that may be used. Section 287.0935 provides the minimum requirements for surety companies issuing bonds in connection with public projects less than \$500,000.

Insurance in Construction Contracts

The District will require that the contractor obtain and maintain the types of insurance listed below. The contractor must deliver to the District certificates of insurance or other evidence of insurance acceptable to the District when the contractor executes the contract. The insurance must provide protection from claims which may arise out of contractor's performance of the work and other obligations under the contract, whether it is to be performed by the contractor, contractor's employees or the contractor's subcontractors, suppliers, and anyone for whose acts any of them may be legally or contractually responsible. The District will determine the coverage amounts required based on the cost of the work to be performed and other factors.

1. Worker's Compensation
2. Commercial or Comprehensive General Liability
3. Contractor's General Liability
4. Comprehensive Automobile Liability
5. Property Insurance for the work
6. Excess or Umbrella Liability
- 7.

11.2 Issues Specific to Professional Services

Statutory requirements

In each contract for professional services, the District will include provisions addressing the following issues. As required by subsection 287.055(5)(a), Florida Statutes, consultants must agree that their execution of the contract constitutes a truth-in-negotiation certificate certifying that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. In addition, as required by subsection 287.055(6), Florida Statutes, consultants must warrant that he or she has not retained anyone and has not paid anyone a contingency fee to solicit or secure the contract.

Insurance in professional services contracts

Consultants must purchase and maintain the following types of insurance that will provide protection from claims which may arise out of consultant's furnishing of the services, whether it is performed by the consultant or its subconsultants including:

1. General Liability
2. Excess or Umbrella Liability
3. Automobile Liability
4. Watercraft/Aircraft Liability (if applicable)
5. Workers Compensation
6. Professional Liability

11.3 Contract Provisions Addressed in Florida Statutes

Florida statutes require that every contract between a vendor and the District must contain provisions addressing the following issues to ensure that public vendors are in compliance with applicable Florida laws.

1. Scrutinized Companies – § 287.135
2. Public Entity Crimes – §§ 287.132 – 287.133
3. E-Verify – § 448.095
4. Public Records – Chapter 119

The following topics are also addressed in Florida Statutes and should be included in the contract. The Local Government Prompt Payment Act in Chapter 218 PART VII (§ 218.70-218.80) provides procedures for prompt payment of vendor invoices and procedures and timeframes for local governments to require vendors to correct invoice deficiencies. Florida law also contains prescribed contractual indemnification language for construction contracts (§ 725.06) and for contracts for professional services (§ 725.08).

Article 12. Payment of Invoices

12.1 Staff Submittal of Invoices

As provided in section 5.6 of the District's Procurement Policy adopted by the Board of Commissioners, the Finance Director may establish and maintain procedures concerning payment of invoices. Staff must send all Invoices to accountspayable@gnfire.org.

12.2 Local Government Prompt Payment Act

The District follows the procedures set forth in the Local Government Prompt Payment Act contained in Part VII of Chapter 218 Florida Statutes which generally provides as follows.

For payments for construction services the following procedures apply. The District will identify the agent or employee to which the contractor may submit its payment request or invoice. If an agent (including an engineer or architect) must approve the payment request or invoice before the payment request or invoice is submitted to the District, payment is due 25 business days after the date on which the payment request or invoice is stamped as received. If no

agent is involved, the payment is due 20 business days after the date on which the payment request or invoice is stamped as received.²³

The payment due date for non-construction services is 45 days after receipt of a proper invoice. See sections 218.73 and 218.74, Florida Statutes for more details.

Disputed invoices are addressed in section 218.76, Florida Statutes which requires that if the District receives an improper invoice, the District must notify the vendor, in writing, that the payment request or invoice is improper and indicate what corrective action on the part of the vendor is needed to make the payment request or invoice proper. See section 218.76 for more details about disputed invoices and dispute resolution requirements.

12.3 Retainage in Construction Contracts

The District may withhold from each progress payment made to the contractor for construction services an amount not exceeding 5% of the payment as retainage.²⁴ The District will specify the amount of the retainage in the construction contract. As required by section 218.735(7), Florida Statutes, the District will provide in the construction contract a process and deadlines for developing a punch list of items to satisfactorily complete the project. Within 20 business days after the list is created, the District must pay the contractor the remaining contract balance that includes all retainage previously withheld less an amount equal to 150 percent of the estimated cost to complete the items on the list.

Article 13. Forms

The District may require that respondents provide the following forms with the response to the solicitation or the contract:

- Public Entity Crimes Statement
- E-Verify
- Human Trafficking Affidavit
- Bid Bond
- Payment and Performance Bond

²³ See § 218.735, Florida Statutes for more details.

²⁴ This is authorized by § 255.078, Florida Statutes.