



Procurement Policy

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Article 1. Intent and Purpose

The Board of Fire Commissioners (“Board”) adopts this Policy with the intention to:

- 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.

The Board may waive any requirement in this policy where allowed by law. The District will follow the statutes referenced in this Policy as they may be amended from time to time.

Article 2. Authority of the Fire Chief

The Fire Chief, or designee, is authorized to approve purchases of goods and services for invoices up to and including \$25,000 for unbudgeted expenditures as long as there are sufficient funds within the annual budget and \$50,000 for purchases that are included in the annual budget. **The Board must approve all purchases for any unbudgeted expenditure over \$25,000 or any annual budgeted expenditure above \$50,000 regardless of whether formal competition is or is not required under Article 3 below.**

The Fire Chief or designee may deviate from this policy when an emergency exists that requires expedited purchase of goods or services. The Fire Chief shall report any emergency purchase to the Board 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
< \$5,000	\$5,000 - \$100,000	> \$100,000

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 designee, who will confirm that the District has adequate funds for the purchase.

3.1 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 completed in accordance with the procurement handbook. The purchase must be approved by the Finance Director or designee, who will confirm that the District has adequate funds for the purchase. The Finance Director will prepare a monthly report for the Board describing all Category 2 purchases.

3.2 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 consider the past performance of vendors in the award of contracts.

3.3 Category 4: Professional Services

The District follows the procedures set forth in section 287.055, Florida Statutes, to procure professional services defined in that statute as well as other professional services described below.

- a. **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, for acquiring the services of architects, professional engineers, landscape architects, or registered surveyors and mappers. The statute sets forth dollar thresholds for when the District must use a formal competitive process. The Fire Chief shall designate a selection committee for each project or for the selection of consultants for a continuing contract library.
- b. **Other Professional Services.** The District may use a qualifications-based procurement method to procure other professional services that are not exempt in Section 4.3 or otherwise provided for in this Policy. The District will publicly announce each time it intends to acquire other services for amounts above the thresholds listed in this Policy and will inform service providers how they may apply for consideration.

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.

4.1 Emergencies

As provided in section 287.057(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, Florida Statutes, 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 twenty 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 following commodities and contractual services are not subject to competitive procurement requirements:

- a. Services for management studies, executive analysis, and related matters as directed by the Fire Chief.
- b. Legal services, including attorney, paralegal, expert witness, appraisal, or mediator services.
- c. Health services involving examination, diagnosis, treatment, prevention, medical

- consultation, or administration.
- d. Services or commodities provided by governmental entities.
- e. Other services and commodities listed in section 287.057(3)(e), Florida Statutes.
- f. Repairs based upon shop estimates for vehicles and equipment that have been deemed inoperable or malfunctioning.
- g. Technology, including software, professional services, and equipment.
- h. Personnel services; recruitment.
- i. Services for feasibility studies, rate, fee and/or charge studies, operational analysis, and related matters as directed by the Fire Chief.

The District may elect to competitively procure the above professional services but is not limited to the competitive threshold categories in seeking quotes or formal solicitation.

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, Florida Statutes, (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 District. This process is sometimes referred to as a piggyback process. Notwithstanding, if section 189.053, Florida Statutes, is amended, this section is automatically updated to reflect the revised statutory language. Also, the District is authorized under this section to price match when it purchases goods or services from a competitive procurement of a cooperative or the State of Florida, when such procurement does not qualify as piggybacking. The District staff must document in the project file that the process would have meet the procurement requirements of the District.

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, 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 Construction Services

The District may procure construction services based on submission of sealed bids (based on price alone from responsive and responsible bidders) or proposals as described in section 255.20, Florida Statutes, and as described in sections 5.3 or 5.4 below.

5.3 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), Florida Statutes).

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

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.

5.4 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 255.20(1)(d)3. provides that if the project is subject to competitive negotiations, the contract must be awarded in accordance with section 287.055, Florida Statutes (the Consultant's Competitive Negotiation Act).

5.5 Financial Auditing Services

The District is governed by and follows the process described in section 218.391, Florida Statutes, and the District's procurement handbook to hire a financial auditor.

5.6 Other Services Not Exempted Per Section 4.3

The District may use a qualifications-based procurement method to procure other services. The District will publicly announce each time it intends to acquire other services for amounts above the thresholds listed in this policy and will inform service providers how they may apply for consideration.

5.7 Communications Concerning Solicitations

Once the District has issued a solicitation, prospective respondents are prohibited from communicating with any District staff or board members until the selection process is complete and the board makes a final decision. This restriction is sometimes referred to as the “cone of silence.” In each solicitation, the District informs respondents of this restriction and if respondents violate it, they may become ineligible for selection.

5.8 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, which will be made accessible on or linked to 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 the 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 is 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.

5.9 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.

5.10 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. This limitation does not include when items are on backorder, which results in multiple invoices; and
- authorize the payment of freight and delivery charges that are not specifically identified on the purchase order.

5.11 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 notices of its decisions regarding award of contracts pursuant to formal solicitations on or linked to the District's website.

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, 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 seventy-two hours after the posting of the solicitation. The formal written protest must be filed within ten 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 seventy-two hours after the posting of the notice of decision or intended decision. The formal written protest must be filed within ten 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: Fire Chief

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, 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, and the Board 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.

Invitation To Bid (ITB) means a solicitation using specific, detailed requirements and specifications, leaving little room for bidder innovation or alternative approaches. This should be used for standardized products or services, where price is the main deciding factor and there's a clear understanding of the requirements.

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, Bidder, or Consultant 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.

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.

Article 9. Federal Procurement Requirements

9.1 Applicability; Conflicts with Other Policy Provisions

When District expenditures for goods or services are paid for (in whole or in part) with federal grant funds, the District shall also comply with the applicable federal procurement

requirements set forth in 2 CFR part 200 (Uniform Guidance). If any portion of this Policy conflicts with 2 CFR part 200 when federal funds are used, the requirements of 2 CFR part 200 shall govern.

9.2 General Standards (2 CFR § 200.318)

- **Oversight.** The District must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
- **Standards of Conduct and Conflict of Interest.** No employee, officer, or agent of the District may participate in the selection, award, or administration of a contract supported by federal funds if he or she has a real or apparent conflict of interest. The District shall maintain written standards of conduct covering conflicts of interest in compliance with 2 CFR § 200.318(c).
- **Documentation.** The District shall maintain records sufficient to detail the history of procurements using federal funds, including rationale for the method of procurement, contractor selection/rejection, basis for contract price, and any other relevant information.

9.3 Methods of Procurement (2 CFR §§ 200.319 – 200.320)

The District's existing procurement thresholds remain in effect, except that for procurements involving federal funds, the federal methods of procurement must also be followed. Whichever rule (District or federal) is more stringent will apply. The key federal methods include:

1. **Micro-Purchases** ($\leq$ \$10,000). For purchases using federal funds at or below \$10,000 (or the current federal micro-purchase threshold), the District may award without soliciting competitive quotations if the price is considered reasonable and this determination is documented.
2. **Small Purchases** ($\leq$ \$250,000). For purchases using federal funds above \$10,000 but at or below \$250,000 (or the current federal simplified acquisition threshold), the District must obtain price or rate quotations from an adequate number of qualified sources.
3. **Sealed Bids** ($>$ \$250,000). For acquisitions beyond the simplified acquisition threshold, sealed bids are generally used when a complete and adequate specification is available and the District can award a fixed-price contract to the lowest responsive, responsible bidder.
4. **Competitive Proposals.** Used when conditions are not appropriate for sealed bids.
5. **Noncompetitive Proposals (Sole Source).** Permitted only under very limited circumstances (e.g., an item is available only from a single source, or a public

emergency) as specified in 2 CFR § 200.320(c).

9.4 Affirmative Steps to Use Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms (2 CFR § 200.321)

The District shall take affirmative steps to include small and minority businesses, women's business enterprises, and labor surplus area firms in federal procurements. At minimum, these steps must include:

1. Placing such businesses on solicitation lists whenever they apply;
2. Soliciting such businesses whenever they are potential sources;
3. Dividing total requirements, when feasible, to permit maximum participation;
4. Establishing delivery schedules, when feasible, to encourage their participation; and
5. Requiring the prime contractor to take these same steps if subcontracts are let.

9.5 Cost or Price Analysis (2 CFR § 200.324)

For procurements using federal funds in excess of the simplified acquisition threshold, the District must perform and document a cost or price analysis. The method and degree of analysis may vary, but it must comply with 2 CFR § 200.324.

9.6 Bonding Requirements (2 CFR § 200.326)

For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold and financed (in whole or in part) with federal funds, the District shall comply with the minimum bonding requirements of 2 CFR § 200.326 and Appendix II to Part 200, unless the federal agency or pass-through entity approves the District's own bonding policy in lieu of those requirements.

9.7 Contract Provisions (2 CFR § 200.327 and Appendix II to Part 200)

All federally funded contracts must include the applicable provisions required by Appendix II to 2 CFR part 200, which may include but are not limited to:

- Remedies and Termination
- Equal Employment Opportunity
- Davis-Bacon Act (if applicable)
- Contract Work Hours and Safety Standards Act (if applicable)
- Rights to Inventions Made Under a Contract or Agreement
- Clean Air Act and Federal Water Pollution Control Act (if the contract exceeds \$150,000)

- Debarment and Suspension
- Byrd Anti-Lobbying Amendment
- Procurement of Recovered Materials (if applicable)

9.8 Additional Requirements

The District will adhere to all other requirements under 2 CFR part 200, including those regarding domestic preferences for procurements (2 CFR § 200.322) and procurement of recovered materials (2 CFR § 200.323), as well as any other requirements specific to the funding source.