



Subject: Procurement Policy

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PURPOSE

This Policy applies to the procurement and purchase of goods and services that support the Florida Concrete Masonry Education Council, Inc. (the "Council") in carrying out its responsibilities, objectives, and goals. The purposes of this Policy are to ensure that:

1. Prior to initiating a procurement, the Council's Administrative Entity ("AE") shall determine if the desired goods or services are available for lease or purchase under State Purchasing Agreements from the Florida Department of Management Services, Division of State Purchasing;
2. The Council will follow all applicable Florida statutes, rules and regulations to ensure procurement and purchase transactions occur in a practical, fair, open, competitive, and compliant manner.
3. Council funds are used in an efficient, prudent, reasonable, and allowable manner for the purchase or lease of goods and services;
4. The Council will only purchase goods and services that are prudent, reasonable, or necessary to carry out its statutory duties; and
5. Adequate records are created, maintained, and available for review of the procurements.

LEASE OR PURCHASE

For a given procurement, if there is an option to lease or purchase goods, an assessment will be made by the Executive Director to determine which option would be practical, economical, and in the best interest of the Council. The assessment may also include the impact of the lease or purchase on the Council's budget for the current fiscal year, obsolescence, maintenance, and presumptive salvage value.

EXEMPTIONS

According to Florida Statutes, the following partial list of purchases is exempt from competitive procurements:

1. Academic program reviews <\$50,000;
2. Lectures by individuals;
3. Legal Services; and
4. Services or commodities provided by other governmental agencies.

PROCUREMENT THRESHOLDS AND METHODS

The Council will adhere to the following procurement thresholds based on the price of the goods or services being leased or purchased:

Purchase Threshold	Purchase Method
< \$20,000	Two (2) quotes via telephone, electronic mail, facsimile, or other credible and documented means.
\$20,000 - \$35,000	Three (3) quotes via telephone, electronic mail, facsimile, or other credible and documented means.
\$35,001 - \$65,000	Three (3) written quotes on the bidder's letterhead and signed by an authorized representative of each bidder via electronic mail, facsimile, or other credible and documented means.
\$65,001 - \$195,000	Invitation to Bid ("ITB"), Request for Proposal ("RFP"), or Invitation to Negotiate ("ITN").
> \$195,001	Invitation to Bid ("ITB"), Request for Proposal ("RFP"), or Invitation to Negotiate ("ITN").

The Council will not divide its purchases or its purchasing operations to circumvent these thresholds. Determination of the threshold amount for leases or rentals is based on a twelve (12) month period of time.

Purchases greater than \$65,001 require program, financial, and legal reviews and approvals before a contract is executed. Single (Sole) Source purchases as described on page 4 and greater than \$195,000 require review and approval by the Department of Management Services.

Article VII, Section 7 of the Council's [Bylaws](#), shall govern the execution of all procurement contracts.

COMPETITIVE PROCUREMENT METHODS (≥ \$65,001)

For leases or purchases that are equal to or greater than \$65,001, the Council and its AE, acting on behalf of and at the direction of the Council, will adhere to the following methods of procurement:

1. Invitation to Bid ("ITB") - is a written solicitation for competitive sealed bids. The ITB is used when the Council is able to specifically define the scope of work for a contractual service or when the Council is able to establish precise specifications defining the actual product(s) required.
2. Request for Proposal ("RFP") – is a written solicitation for competitive sealed proposals. The request for proposals is used when the Council is unable to define the scope of work for which the products or contractual services are required and when the Council is requesting that a responsible vendor propose a product or contractual service to meet the specifications of the solicitation document.
3. Invitation to Negotiate ("ITN") – is a written solicitation for competitive sealed replies to select one or more vendors with which to start negotiations for the procurement of products or contractual services. The ITN is used when the Council determines that negotiations may be necessary to receive the best value.

A written solicitation, as described above, includes a solicitation that is electronically posted.

If the Council determines that the ITB method is not practicable, the Council shall document the reason for its use of an RFP. If the Council determines that neither the ITB nor the RFP methods are practicable, the Council shall document the reason for its use of the ITN method. This written determination must be approved in writing by the Council Chair or his or her designee, prior to

advertising the solicitation.

If the Council elects to employ the ITN method to solicit competitive sealed replies, the Council Chair shall appoint a contract negotiation team that collectively have knowledge and experience in negotiating contracts, contract procurement, and the program areas and service requirements for which commodities or contractual services are sought.

The Council will specify the grievance and complaint procedures that pertain to the respective ITB, RFP, or ITN procurements.

COMPETITIVE SOLICITATION PROCESS:

1. Invitation to Bid (“ITB”)

Bids are a publicly solicited procurement for which a firm fixed-price contract or other fixed-price arrangement is awarded to the most responsive bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price unless otherwise determined and documented by the Council.

2. Request for Proposal (“RFP”) or Invitation to Negotiate (“ITN”)

The RFP or ITN procurement documents will contain all information necessary for the responder to submit a complete and material response.

The process for selecting a product or service provider is as follows:

- A. The Council directs its AE¹ to develop a draft procurement document consistent with the Council’s prioritized vision, mission, goals, needs, objectives, and initiatives. The AE presents the draft document to a designated committee of the Council for review and approval. The committee may return the draft document to the AE for revision or recommend approval of the document by the Council.
- B. The Council’s Executive Director will perform a cost or price analysis in connection with the process. This analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices, reasonableness, allocate-ability, and allowability. In order to inform the Council that a reasonable and fair price can be established for a service, consideration will be given to the complexity of the service to be performed and the risk borne by the provider. The Council will accept or reject the methodology used and the results of the cost or price analysis, and direct the AE accordingly.
- C. After approval of the procurement document, notices of the type of procurement, e.g., RFP or ITN, will at a minimum be posted in local newspapers, the Council’s web site, and the Vendor Bid System of MyFloridaMarketplace. The document will be released to the public on the dates specified in the document’s Schedule of Events. Prior to the release of each document, the State of Florida Minority Business Enterprise database will be consulted to identify certified MBE’s/WBE’s to receive the document.
- D. The document will stipulate if a Letter of Intent to submit a response is or is not required. Instructions/information workshop(s), at which staff of the Council’s AE will answer questions

¹ When procuring a contracted Administrative Entity, the procurement activities that would otherwise be performed by the existing contracted Administrative Entity will be performed directly by the Council and/or other third parties designated by the Council.

and provide information to potential respondents, may be held. If so, this will be specified in the Schedule of Events. These workshop(s) may or may not require mandatory attendance. Questions, answers, and other information provided in a workshop or otherwise provided by a question submission process described in the document, will be posted on the Council's web site for subsequent review by all interested parties.

- E. A good faith attempt will be made to obtain complete and material responses from at least three (3) qualified sources.
- F. Staff of the Council's AE will mark the date and time responses are received or note the date and time attached to responses submitted by email or other means of delivery specified in the procurement document. Documents received by the deadline will be forwarded to the Council or designated Committee for review and rating. The ratings of the Committee will be produced, discussed, and compiled in a public meeting of that Committee or the Council. Representatives from responding agencies may be requested to attend the Committee or the Council meeting to respond to questions regarding their response.
- G. The Committee or the Council will review the ratings and shall, on the basis of such review, make recommendations regarding selection that will minimize or avoid a conflict of interest, duplication of services, or unnecessary services. If the Council rejects the document ratings outcomes presented, it will not make an award and will require initiation and completion of a new process. The Council makes final funding decisions.
- H. If the evaluation results in identical scoring, the Council shall follow state rules in making a determination based on ranking.
- I. Awards will be made to organization(s) possessing the demonstrated ability to perform successfully under the terms and conditions of their response and the proposed contract. Such awards shall be in writing and based on the goods and/or services procured.
- J. The Council reserves the right to not make an award if the Council determines that it is not in its best interest to do so.
- K. If directed by the Council, the Executive Director will initiate contract negotiations with the provider(s) selected by the Council. If the contract negotiations are unsuccessful, the Executive Director will notify the Council and at the direction of the Council, the Executive Director will contact the next highest rated eligible respondent and enter into negotiations on the Council's behalf to provide the proposed services.

SOLE SOURCE (NON-COMPETITIVE) OR EXIGENCY (EMERGENCY) PROCUREMENTS

Sole source or exigency procurements may be made when the above purchase methods are not possible or successful. Sole source or exigency procurements will comply with all state procurement requirements. Circumstances under which sole source or exigency procurements are permitted include:

1. Goods and services to be procured are available from a single source only;
2. Public exigency or emergency when the urgency for the requirements will not permit a delay incident to competitive procurement;
3. Competition is determined to be inadequate after competitive solicitation of a number of sources;
4. The awardee is a local educational agency, which is defined as public elementary, secondary or vocational schools, Community College, and the State College/University System;
5. The purchases of utilities when only one source of utilities is available;
6. On-the-Job Training; or

7. Purchases made from another governmental unit in accordance with the Florida Statutes, which provides for the purchase of such services without the necessity of procurement.

The Council will minimize the use of sole source or exigency procurements. The use of these procurement methods will be justified and documented. In any procurement that exceeds \$2,500 and is accomplished without competition, the individuals taking part in the development or selection criteria for evaluation, the evaluation process, or the award process shall attest in writing that they are independent of, and have no conflict of interest in, the entities evaluated and selected. The attestation shall be placed in the Council's procurement file.

UNSOLICITED PROPOSALS

The Council will consider unsolicited proposals from prospective providers or recipients. To be considered, the requesting organization must submit its request to the Council's Executive Director. The Council's Executive Director with the assistance of the Council's AE will review unsolicited proposals. The review of an unsolicited proposal does not commit the Council to fund the proposal.

The Council's Executive Director will make a funding recommendation to the Council committee designated by the Chair to review unsolicited proposals. This committee will evaluate the proposal against the Council's established priorities for funding in order to determine whether the proposal augments already funded services, provides a desired unfunded service, replicates or is an already funded service, or is not a service that is consistent with the Council's priorities. If the committee's analysis indicates support for the proposal, the committee will rank the proposal(s) for inclusion in a list of priorities. If any changes to approved budgets are needed in order to facilitate funding, the Council's Finance committee will review such budget amendments. The updated priority list, along with any necessary budget amendments, will then be presented to the Council's Executive Committee for review and approval for funding. All proposals approved by the Executive Committee will then be presented to the full Council for ratification.

CONFLICT OF INTEREST

Governing conflicts of interest, the Council and its members shall conduct themselves in accordance with applicable State of Florida legislation and regulations, Council Bylaws, and the Council's Code of Ethics.

PROCUREMENT FILES

Paper or electronic procurement files will be maintained by the AE on behalf of the Council, remain the property of the Council, and will include documentation pertinent to the specific procurement activity. As appropriate, these files will include all solicitations, bids, proposals, responses to an invitation to negotiate, lease information, selection process documentation, cost/price analysis, and awards. The files may also contain the budgets, cost allocation plans, and other materials that goods and/or service providers submit to The Council as part of the specific procurement process. Such information may become the basis for line item costs and overall contract price.

As determined by the nature of the procurement, The Council will maintain in the minutes of all The Council meetings, The Council committee meetings, content of workshops, including any meetings that determine the procurement method, decisions regarding selection, procedures, proposals, proposal evaluations, request for proposal instructions, and proposal rating forms.

PROCUREMENT BY A CONTRACTED SERVICE PROVIDER

Any Council procurement for Council goods or services being done by a contracted service provider must be authorized in the contract between the Council and the service provider.

Adopted by the Council on March 29, 2016.

Council Chair: s/ Troy Maschmeyer
Troy Maschmeyer

Council Secretary: s/ Monica Manolas
Monica Manolas

Council Executive Director: s/ Jim Painter
Jim Painter

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