

PROPOSED

RESOLUTION NO.

1 A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD
2 COUNTY, FLORIDA, PERTAINING TO THE PROCUREMENT CODE; AMENDING
3 VARIOUS SECTIONS OF CHAPTER 21 OF THE BROWARD COUNTY
4 ADMINISTRATIVE CODE ("ADMINISTRATIVE CODE") RELATING TO
5 PROCUREMENT METHODS, PROCEDURES, EXEMPTIONS, AND AUTHORITY; AND
6 PROVIDING FOR SEVERABILITY, INCLUSION IN THE ADMINISTRATIVE CODE, AND
7 AN EFFECTIVE DATE.

8
9 WHEREAS, the Purchasing Division continually strives to improve its procurement
10 practices to facilitate the fair, efficient, and competitive procurement of goods and
11 services for Broward County;

12 WHEREAS, the Purchasing Division recommends a series of minor modifications
13 to the Broward County Procurement Code, Chapter 21 of the Broward County
14 Administrative Code ("Procurement Code"); and

15 WHEREAS, the Board of County Commissioners finds it appropriate to modify the
16 Procurement Code as recommended by the Purchasing Division, NOW, THEREFORE,

17 BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF
18 BROWARD COUNTY, FLORIDA:

19 Section 1. Section 21.5 of the Broward County Administrative Code is hereby
20 amended to read as follows:

21 **21.5. Exemptions from the Procurement Code.**

22 . . .

23 (b) Procurements of the goods and services listed below are exempt from the
24 requirements of this Code, but such goods and services may be purchased by the Director
25 of Purchasing, either competitively or noncompetitively, up to the Director of Purchasing's
26 award authority, if the Director of Purchasing determines that the purchase is in the best
27 interest of the County. The Director of Purchasing may also delegate the authority to
28 make such purchases to Directors of County Agencies. Any purchase that would exceed
29 the Director of Purchasing's award authority must be approved by the Board. The
30 exempted goods and services are:

31 . . .

32 (14) Services provided by nonprofit entities ~~up to the Mandatory Bid Amount;~~

33 . . .

34 Section 2. Section 2. Section 21.23 of the Broward County Administrative
35 Code is hereby amended to read as follows:

36 **21.23. Competitive Solicitations.**

37 . . .

38 (f) *Drug Free Workplace.* ~~The requirements of Section 1-71, et seq., Broward~~
39 ~~County Code of Ordinances (Procurement from Businesses provisions of~~
40 Section 287.087, Florida Statutes, regarding a preference to vendors with Drug-Free
41 Workplace Programs), shall apply to all competitive solicitations, unless specified
42 otherwise in that section; ~~provided, however, that the provisions of Section 440.102,~~
43 ~~Florida Statutes, shall apply to solicitations for construction goods or services to the extent~~

44 ~~these provisions are inconsistent with Section 1-71, et seq. prohibited by applicable law~~
45 or applicable funding restrictions.

46 . . .

47 (h) *Local Vendor Preference.* The provisions of Section 1-74, et seq., Broward
48 County Code of Ordinances (Bidding Preference for Local Vendors), shall apply to all
49 competitive solicitations as provided therein.

50 . . .

51 (k) *Performance and Payment Security.* The Director of Purchasing may
52 require vendors to post performance and/or payment bonds for any competitive
53 solicitation. Any required performance and/or payment bonds ~~is~~ are in addition to, and not
54 in lieu of, the bid security for competitive solicitations stated in Section 21.23(j). The
55 amount of the bonds shall be a percentage of the estimated total cost of goods or services
56 being procured. The required form of the bonds shall be ~~set forth~~ identified in the
57 solicitation. Such bonds shall be required for any solicitation for a construction project in
58 accordance with the requirements of Section 255.05, Florida Statutes, except that the
59 Director of Purchasing may reduce or waive the requirements for performance and/or
60 payment bonds for any solicitation to the extent permitted by Section 255.05, Florida
61 Statutes. ~~The Director of Purchasing may reduce the amount of a performance and/or~~
62 ~~payment bond required in a solicitation, except as prohibited by Section 255.05, Florida~~
63 ~~Statutes.~~

64 Section 3. Section 21.25 of the Broward County Administrative Code is hereby
65 amended to read as follows:

21.25. Sole Source Procurement.

(a) The Director of Purchasing may conduct a Sole Source procurement upon determining there is only one source or one reasonable source to meet the County's needs for ~~the specific~~ goods or services ~~required by the County~~, provided such procurement would not be inconsistent with applicable law, including, but not limited to, Sections 255.20 and 287.055, Florida Statutes, and further provided that nonstandardized Sole Source procurements above the award authority of the Director of Purchasing must be approved by the Board. Sole Source procurements may be conducted through any method authorized by this Code or by contracting directly with the ~~sSole sSource~~ vendor, as the Director of Purchasing determines to be in the best interest of the County. Sole Source procurements shall be exempt from all County preferences, including, but not limited to, those under Sections 21.23(d), (e), (h), and (i).

(b) Before conducting a Sole Source procurement that ~~has not been the subject of~~ is above the Mandatory Bid Amount and for which an Request for Information RFI has not been conducted within the preceding ~~six (6)~~ twelve (12) months, the Director of Purchasing shall post an ~~Notice of Intent to Designate Sole Source RFI~~ on the Purchasing Division's website indicating an intent to utilize a Sole Source method of procurement to meet the County's need. The ~~Notice~~ RFI shall identify the goods or services ~~sought to be procured~~ needed by the County. Vendors shall have five (5) business days, or longer if required by Florida or federal law, after the posting of the ~~Notice~~ RFI to submit a written explanation or other documentation contesting the proposed designation as a Sole Source or identifying alternate sources or solutions to meet the County's need. The Director of Purchasing shall consider such submittals and ~~notify all submitting vendors of~~

89 ~~the decision~~ determine whether to designate the procurement as a Sole Source, which
90 decision shall not be subject to objection, protest, or appeal under this Code.

91 Section 4. Section 21.26 of the Broward County Administrative Code is hereby
92 amended to read as follows:

93 **21.26. Sole Brand Procurement.**

94 (a) The Director of Purchasing may conduct a Sole Brand procurement upon
95 determining there is only one known brand or only one brand reasonably capable of
96 fulfilling a particular procurement need of the County, provided that such procurement
97 would not be inconsistent with applicable law, including, but not limited to,
98 Sections 255.20 and 287.055, Florida Statutes, and further provided that
99 nonstandardized Sole Brand procurements above the award authority of the Director of
100 Purchasing must be approved by the Board. Sole Brand procurements may be conducted
101 through any procurement method authorized by this Code that the Director of Purchasing
102 determines to be in the best interest of the County.

103 (b) ~~Before conducting a Sole Brand procurement that has not been the subject~~
104 ~~of a Request for Information within the preceding six (6) months, the Director of~~
105 ~~Purchasing shall post a Notice of Intent to Designate Sole Brand on the Purchasing~~
106 ~~Division's website. The Notice shall identify the goods or services sought to be procured.~~
107 ~~Vendors shall have five (5) days after the posting of the Notice to submit a written~~
108 ~~explanation or other documentation contesting the proposed designation as a Sole Brand.~~
109 ~~The Director of Purchasing shall consider such submittals and notify all submitting~~
110 ~~vendors of the decision whether to designate as a Sole Brand, which decision shall not~~
111 ~~be subject to objection, protest, or appeal under this Code.~~

Section 5. Section 21.39 of the Broward County Administrative Code is hereby amended to read as follows:

21.39. Rejection of All Responses.

The Director of Purchasing may reject all responses to a solicitation or, if expressly identified in the solicitation, to a group of goods or services within a solicitation, even when only one response is received to the solicitation or group, if the Director of Purchasing determines that doing so would be in the best interest of the County; provided, however, that only the Board may reject all responses to a solicitation or group where the issuance of the solicitation was approved by the Board, except as provided herein. For any RFP, RLI, or RFQ with an anticipated value of more than \$500,000 issued by the Purchasing Division pursuant to Section 21.33 without being placed on a Board agenda, the Purchasing Division shall provide written notice to the Board of the intent to reject all responses; if no County Commissioner requests, within five (5) business days after such written notice, that the rejection of all responses be presented to the Board for consideration, the Director of Purchasing may reject all responses to the solicitation.

Section 6. Section 21.41 of the Broward County Administrative Code is hereby amended to read as follows:

21.41. Procedures for ITBs.

. . .

(h) *Criteria for Breaking Ties.* If two or more responses to an ITB are tied, the tie shall be broken and the successful vendor selected by the application of the criteria listed below in the order listed. Unless otherwise provided by law, the criteria shall be applied by the Purchasing Division based on the information provided in the responses

to the ITB or any additional information determined appropriate for consideration by the Director of Purchasing.

(1) The vendor that is a locally based business; if the foregoing does not resolve the tie, the vendor that is a locally based subsidiary; if the foregoing does not resolve the tie, the vendor that is a local business, as those terms are defined in Section 1-74 of the Broward County Code of Ordinances.

(2) If the foregoing does not resolve the tie, the vendor that provides domestic partner benefits, if required by the ITB.

(3) If the foregoing does not resolve the tie, the vendor that provides the most advantageous delivery time, provided that delivery time is an element of the solicitation.

(4) If the foregoing does not resolve the tie, the vendor that maintains a drug-free workplace program consistent with Section 287.087, Florida Statutes.

(5) If the foregoing does not resolve the tie, the vendor that has, based on the most recent information available, received the lowest dollar volume of payments from the County on contracts previously awarded to that vendor in the five (5) year period preceding the deadline for responses to the solicitation. The dollar amount shall be calculated based upon the amount paid by the County to the vendor, minus the total of the vendor's confirmed payments to County Business Enterprise (CBE) firms acting as subcontractors or subconsultants for the vendor on County contracts with established goals, as such amount is determined by OESBD.

...

Section 7. Section 21.42 of the Broward County Administrative Code is hereby amended to read as follows:

21.42. Procedures for RFPs, RLIs, and RFQs.

...

(d) *Criteria for Breaking Ties.* If an Evaluation Committee's scoring or ranking results in two (2) or more vendors being tied, the tie shall be broken by the application of the criteria listed below in the order listed. Unless otherwise provided by law, the criteria shall be applied by the Purchasing Division based on the information provided in the responses to the solicitation or any additional information determined appropriate for consideration by the Director of Purchasing.

(1) The vendor that is a locally based business; if the foregoing does not resolve the tie, the vendor that is a locally based subsidiary; if the foregoing does not resolve the tie, the vendor that is a local business, as those terms are defined in Section 1-74 of the Broward County Code of Ordinances.

(2) If the foregoing does not resolve the tie, the vendor that provides domestic partner benefits, if required by the solicitation.

(3) If the foregoing does not resolve the tie, the vendor that maintains a drug-free workplace program consistent with Section 287.087, Florida Statutes.

(4) If the foregoing does not resolve the tie, the vendor that has, based on the most recent information available, received the lowest dollar volume of payments from the County on contracts previously awarded to that vendor in the five (5) year period preceding the deadline for responses to the solicitation. The dollar amount shall be calculated based upon the amount

181 paid by the County to the vendor, minus the total of the vendor's confirmed
182 payments to County Business Enterprise (CBE) firms acting as
183 subcontractors or subconsultants for the vendor on County contracts with
184 established goals, as such amount is determined by OESBD.

185 (4) (5) If the foregoing does not resolve the tie, the Evaluation Committee shall
186 reconsider the responses and rerank the tied vendors.

187 (5) (6) If the foregoing does not resolve the tie, the vendor receiving the most
188 first-place votes from the Evaluation Committee's reranking.

189 . . .

190 Section 8. Section 21.45 of the Broward County Administrative Code is hereby
191 amended to read as follows:

192 **21.45. Evaluation Committees.**

193 . . .

194 (f) ~~Responsibility of the Chair. The Chair of the Evaluation Committee shall~~
195 ~~maintain order at the meetings. Any person who interrupts or otherwise disrupts the~~
196 ~~Evaluation Committee's deliberations, or a vendor's presentation, may be removed from~~
197 ~~the meeting after being warned by the Chair.~~

198 (g) *Oral Presentations.* In accordance with Section 286.0113(2)(b), Florida
199 Statutes, any portion of an Evaluation Committee meeting during which a vendor makes
200 a presentation or answers questions specific to that vendor's response to a solicitation
201 shall be closed to the public, including to competing vendors. Such portions shall be video
202 recorded, and the video recording shall be posted on the Purchasing Division's website
203 prior to posting of the proposed ranking on the Purchasing Division's website.

Section 7. Section 21.47 of the Broward County Administrative Code is hereby amended to read as follows:

21.47. Award and Execution Authority.

...

(b) *Director of Purchasing.* In addition to any express delegation of authority by the Board in connection with a particular procurement, express delegation in a contract approved by the Board, or other express delegations in this Code, the Director of Purchasing is authorized to award solicitations and execute contracts (including agreements, amendments, work authorizations, change orders, and extensions and renewals thereof), subject to the following and any other applicable limitations stated in this Code:

...

- (2) The Director of Purchasing may award ITBs and execute the associated contract (if any) with a value over \$500,000, inclusive of any extensions or renewals, provided; more than one vendor has submitted a response; the Director of Purchasing determines that the ITB has resulted in adequate, fair, and open competition; ~~no~~ the apparent low vendor has been determined to be both ~~nonresponsive or~~ and ~~nonresponsive~~; no protests have been timely filed; and no County Commissioner objected to such intended award within five (5) business days after receiving notice from the Purchasing Division of the intent to award;
- (3) The ~~cumulative exercise of the~~ Director of Purchasing's has the authority to extend, renew, and amend (e.g., adjust pricing, scope, etc.) any contract,

227 regardless of the original awarding authority, provided the cumulative net
228 amount of all exercises of the Director of Purchasing's authority with respect
229 to any ~~the~~ contract ~~shall~~ does not exceed \$500,000; ~~provided, however, that~~
230 ~~the Board may specifically approve in connection with any consideration of~~
231 ~~an amendment, extension, or renewal of the contract that the full amount of~~
232 ~~the Director of Purchasing's authority (i.e., \$500,000) be restored with~~
233 ~~respect to that contract; and~~

234 . . .

235 Section 9. Section 21.51 of the Broward County Administrative Code is hereby
236 amended to read as follows:

237 **21.51. Contracts Resulting from Solicitations or other Procurements.**

238 . . .

239 (b) *Qualified Lists*. The Director of Purchasing may establish Qualified Vendor
240 ~~Lists of Vendors~~ or Qualified Products ~~Lists of Products~~ for various goods or services
241 utilizing any competitive solicitation method. The County may acquire those goods and
242 services by first awarding open-ended contracts to the qualified responding vendor(s),
243 issuing Quotation Requests to the vendors on the applicable qualified list (or through
244 other informal methods as may be established by the Director of Purchasing),₁ and then
245 executing individual purchase orders or other purchase documentation by the appropriate
246 awarding authority. Vendors may be added to the qualified list at any time utilizing such
247 competition as the Director of Purchasing determines appropriate, provided that the
248 qualifications utilized for adding new vendors or products to the applicable qualified list
249 are substantively identical to the qualifications utilized for vendors or products originally

included on the qualified list. Vendors or products may be removed from the qualified list at any time if the Director of Purchasing determines that the vendor is no longer qualified to provide the applicable goods or services, if the vendor has been suspended or debarred by the County or another governmental entity, or if the product no longer meets the specifications required by the County.

Section 10. Section 21.53 of the Broward County Administrative Code is hereby amended to read as follows:

21.53. Duration of Contracts.

(a) *Five-Year Limitation.* Unless otherwise provided by law or excepted herein, a County contract shall not exceed five (5) years in duration, inclusive of any renewals or extensions provided for in the contract, without the express approval of the Board. This five-year limitation shall not apply to the following:

(1) ~~Any additional extension period expressly provided for in the original contract to avoid a gap in services, provided such additional extension period does not exceed twelve (12) months.~~

(2) An award of an ITB by the Director of Purchasing under Section 21.47(b)(2), including the exercise of any extensions or renewals provided for in the ITB as advertised, provided the notice to the Board under Section 21.47(b)(2) prominently notes any duration exceeding five (5) years.

(3) (2) Any contract award, renewal, or extension within the authority of the Director of Purchasing under Section 21.47(b)(3).

...

(d) *Extension of Contracts.* Notwithstanding the limitation stated in Section 21.53(a) above, any contract may be extended by the Director of Purchasing for a specified period, not to exceed twelve (12) months in the aggregate, upon mutual consent of the County and the vendor if the Director of Purchasing determines such extension is necessary to competitively solicit a new contractor or to avoid a gap in critical services, provided the total cost to the County for such aggregate extension period does not exceed \$500,000 and provided the Purchasing Division reports at least quarterly to the Board on the exercise of any extension under this section and the status of the applicable competitive solicitation.

(e) *Reinstatement of Expired Contracts.* The Director of Purchasing may, through a contract amendment, reinstate an expired contract in connection with the exercise of any authority delegated to the Director of Purchasing by the Board or under Section 21.47.

Section 11. Section 21.74 of the Broward County Administrative Code is hereby amended to read as follows:

21.74. Cause for Suspension.

The Director of Purchasing may suspend a party when the Director of Purchasing has probable cause to debar the party. A vendor may not be suspended for longer than ~~three (3)~~ twelve (12) months unless the County has commenced debarment proceedings against the vendor, in which case the suspension may last until the debarment proceedings are concluded.

Section 12. Section 21.94 of the Broward County Administrative Code is hereby amended to read as follows:

21.94. Definitions.

...

Amendment is a method of changing the terms and conditions or requirements of an agreement.

Apparent Low Vendor means a vendor that provided the lowest price in response to an ITB.

Award means the County's selection of a vendor to provide goods or services pursuant to a solicitation or other method of procurement set forth in this Code.

...

Qualified Products List ~~of Products~~ (QPL) means a list of products that meet the specifications for products that the County may require on an as-needed basis.

Qualified Vendor List ~~of Vendors~~ (QVL) means a list of vendors the County determines are qualified to provide goods or services to the County on an as-needed basis.

...

Section 13. Severability.

If any portion of this Administrative Code Resolution is determined by any court to be invalid, the invalid portion will be stricken, and such striking will not affect the validity of the remainder of this Administrative Code Resolution. If any court determines that this Administrative Code Resolution, in whole or in part, cannot be legally applied to any individual, group, entity, property, or circumstance, such determination will not affect the

applicability of this Administrative Code Resolution to any other individual, group, entity, property, or circumstance.

Section 14. Inclusion in the Broward County Administrative Code.

It is the intention of the Board of County Commissioners that the provisions of this Administrative Code Resolution become part of the Broward County Administrative Code as of the effective date. The sections of this Administrative Code Resolution may be renumbered or relettered and the word "resolution" may be changed to "section," "article," or such other appropriate word or phrase to the extent necessary to accomplish such intention.

Section 15. Effective Date.

This Administrative Code Resolution is effective upon adoption.

ADOPTED this day of , 2025.

PROPOSED

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By: /s/ Fernando Amuchastegui 05/07/2025
Fernando Amuchastegui (date)
Senior Assistant County Attorney

By: /s/ René D. Harrod 05/07/2025
René D. Harrod (date)
Chief Deputy County Attorney

FA/cv
Procurement Code Amendment Reso
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Coding: Words ~~stricken~~ are deletions from existing text. Words underlined are additions to existing text.