

Procurement Code Revisions

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General Approach

- Review Code for the following:
 - Organization and Readability
 - Consistency with State and Federal Law, and Case law on Employment Matters
 - Consistency with BRAA operational needs.
- Multiple discussions with BRAA staff and met with Engineering Consultants regarding construction procedures.

In the following slides, blue text will indicate recommended changes in policy.



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Organization and Readability

- Section 5 - Methods of Procurement of Commodities and Services -
 - Separated out the procedures for each procurement method, rather than having the procedural information primarily in the definition.
 - Separated and added detail to the QEC process.
- Created separate headings for added readability and ease of use.
 - Section 6 - Inadequate Responses
 - Section 7 Change Orders and Contract Provisions
 - Section 8 - Unsolicited Proposals.



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Consistency with State and Federal Law

- Section 1 - Definitions:
 - (2) - clarified that QEC members for the selection of auditors will comply with Section 218.391, Fla. Stat.
 - (17) - added definition for “Design Criteria Professional Services,” consistent with Section 287.055(2)(k).
 - (25) - added definition for “Planning Services,” to reflect the distinction made in Advisory Circular 150/5100-14(e) between planning and construction management engineering services.
 - (30) - updated definition of “Professional Services” to bring it in line with Section 287.055, Florida Statutes.
 - (42) - added statutory reference to Service Contract.



Consistency with State and Federal Law

- Section 3 - updated monetary levels for purchasing categories to track federal micro-purchase thresholds (Category 1) and state purchasing categories for Categories 2-4.
- Section 4(4) - Reference state and federal requirements for procurement of consultant services.
- Section (5) - Clarified that Best Price may not be used for an RFQ, consistent with Advisory Circular 150/5100-14e.
- Section 22 - Updated conflict of interest policy language to reflect federal procurement conflict of interest requirements.
- Section 24 - Added section on preferences in procurement for Drug-Free Businesses, as per Section 287.087, Fla. Stat.
- Section 25 - Added section on Florida business preference, consistent with Section 287.84, Fla. Stat.
- Section 26 - Added section on prohibited businesses, reflecting statutory requirements in Sections 287.133 and 287.135, Fla. Stat.



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Consistency with Best Practices in Procurement and Current BRAA Operations

- Section 1 Definitions -
 - In Best Price and Best Value definitions (5) and (6), specified that vendor history of performance may be considered, regardless of a finding of responsibility.
 - (38) Definition of Responsible clarified that vendor's past performance, complaint history, and history of litigation can be considered as part of a finding of responsibility.
- Section 2 - clarified delegation of authority to Executive Director in procurement matters.
- Section 5 - Methods of Procurement.
 - (3), (4), and (5) - clarified when a QEC is discretionary or mandatory.
- Section 6 - Inadequate Responses. Clarified the Executive Director's authority where inadequate responses to a solicitation are received.



Consistency with Best Practices in Procurement and Current BRAA Operations

- Section 7 - Clarify that change orders, which require Board approval, do not include changes to the work that are within the allowances provided for in the contract, and do not include extensions of contract time that do not change the overall price of the project.
- Section 15 - Protests
 - clarified procedure to lodge a protest;
 - added non-responsibility finding as grounds for protest;
 - limited protests to Category Four awards.
- Section 16 - Limitations to Protests and Appeals
 - included protests and appeals to the Cone of Silence provisions;
 - added a right to intervene to the protest procedure.



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Consistency with Best Practices in Procurement and Current BRAA Operations

- Section 17 - Appeals
 - clarified that appeals are handled as a record review, rather than a new evidentiary hearing;
 - clarified basis of review - clearly erroneous; arbitrary and capricious; fraudulent; or without basis in law or fact.
 - clarified remedies available on appeal to a protesting party - cancellation of contract or instruction to re-bid, but does not include automatic award of contract.
 - Made recovery of costs available to Authority only.
- Section 18 - Removed reference to a list of hearing officers; included credentials for hearing officers.
- Section 20 Added QEC members to Cone of Silence and clarified that interviews are not subject to the Cone of Silence.



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