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Chapter 1

INTRODUCTION

1.1 PURPOSE

To provide uniform processes for the procurement and contracting of commodities and contractual services in accordance with ***Chapter 287, Florida Statutes (F.S.)***, and ***Rule Chapter 60A-1, Florida Administrative Code (F.A.C.)***. This manual sets forth Department of Transportation (Department) processes which supplement law and rule and are followed by Departmental units when procuring and contracting for commodities and/or contractual services. It provides Department procurement personnel with the ability to use all of their procurement skills, and flexibility to help achieve the Department's goals and objectives while still complying with law and rules. Purchasing Card (Pcard) administration and Local Charge Accounts are addressed in ***Procedure No. 350-030-010, Purchasing Card***, however procurement matters and considerations for use of the Pcard are addressed in this manual.

This manual does not include procurement of services for:

- Road/Bridge Construction and Maintenance Services – ***Procedure No. 375-000-001, District Contracts***.
- Design-Build Procurement and Administration Services – ***Procedure No. 625-020-010***.
- Professional Services in accordance with ***Section 287.055, F.S. - Procedure No. 375-030-002, Acquisition of Professional Services***.
- Construction, renovation, repair, modification, or demolition services of buildings or structures pursuant to ***Chapter 255, F.S., Public Property and Publicly Owned Buildings*** and ***Chapter 60D-5, F.A.C.***

1.2 AUTHORITY

Section 20.23(3)(a)and 334.048(3), F.S.

1.3 SCOPE

This manual applies to all Department personnel involved in the procurement of and contracting for commodities and/or contractual services. Other affected offices include the Office of Inspector General, Office of the Comptroller, District Financial Services, and the Office of the General Counsel.

1.4 REFERENCES

- Sections 215.90-97, F.S., Florida Financial Management Information System Act.
- Sections 216.311-313. F.S., Unauthorized Contracts. Reporting Contract.
- Chapter 287, F.S., Procurement of Commodities, Insurance, and Contractual Services.
- Expenditures, Contract Appropriations.
- Rule Chapter 60A-1, F.A.C., Department of Management Services, Division of Purchasing.
- Rule Chapter 60DD, F.A.C., Department of Management Services, State Technology Office.
- Rule Chapter 60E, F.A.C., Department of Management Services, Blind and Handicapped Purchasing Commission.
- Rule Chapter 60EE, F.A.C., Department of Management Services, Enterprise Information Technology Services.
- DFS Reference Guide for State Expenditures
http://www.myfloridacfo.com/aadir/reference_guide/.
- DFS Numbered Memoranda
<http://www.myfloridacfo.com/Division/AA/Memos/default.htm>.
- Disbursement Operations Manual, Topic No. 350-030-400.
- Disbursement Operations Office (DOO) Handbook - available on DOO/OOC intranet site.
- DMS State Purchasing Numbered Memoranda
http://dms.myflorida.com/business_operations/state_purchasing/documents_forms_references_resources/purchasing_memos_rules_and_statutes/state_purchasing_numbered_memoranda.
- Mobile Equipment Procedures Manual, No. 400-000-001.
- Policy No. 001-010-020, Ethics Policy.
- Policy No. 001-260-001, Quality Assurance / Quality Control.
- Policy No. 001-275-015, Disadvantaged Business Enterprise Utilization.
- Policy No. 001-375-005, Confidential Information in MyFloridaMarketPlace.
- Policy No. 001-010-025, Participation in Public Meetings
- Policy 001-325-060, Security and Use of Information Technology Resources.
- Procedure No. 010-000-001, Membership Dues.
- Procedure No. 025-020-002, Standard Operating System.
- Procedure No. 050-020-025, Records Management.
- Procedure No. 050-030-001, Form Development and Control.
- Procedure No. 175-010-001, Warehousing and Distribution Operating Instructions.
- Procedure No. 275-010-010, Title VI Program & Related Statutes.
- Procedure No. 325-000-002, Information Technology Resources User's Manual
- Procedure No. 350-050-005, Federal Project Authorizations.
- Procedure No. 350-080-300, Receipt Processing.

- Procedure No. 350-090-005, Surplus Property Disposal.
- Procedure No. 350-030-010, Purchasing Card.
- Procedure No. 375-030-035, Contract Imaging for the Florida Accountability Contract Tracking System (FACTS).
- Procurement Office Infonet Website, “Reference Guides”.
- Procurement Office Infonet Website, MyFloridaMarketPlace Reference Guide.
- Procurement Office Infonet Website, “Procurement Samples”.
- Right of Way Manual, Topic No. 575-000-000.

1.5 BACKGROUND

Florida law recognizes that fair and open competition is a basic tenet of public procurement; that such competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically; and that documentation of the acts taken and effective monitoring mechanisms are important means of curbing any improprieties in the process by which commodities and contractual services are procured. It is essential to the effective and ethical procurement of commodities and contractual services that there be a system of uniform procedures to be utilized in managing and procuring commodities and contractual services; that detailed justification of Department decisions in the procurement of commodities and contractual services be maintained; and that adherence by the Department and the Contract Vendor to specific ethical considerations be required.

Chapter 287, F.S., gives the Department of Management Services (DMS), State Purchasing, the authority to adopt rules to govern the procurement of goods and services. State Purchasing has promulgated these rules in **Chapter 60A-1, F.A.C.**. These rules shall take precedence over this manual in the event the manual conflicts with the rule. The dollar limits shown in this manual correspond to the threshold limits established in **Section 287.017, F.S.**, and **Rule Chapter 60A-1, F.A.C.**. Any change to those thresholds shall result in a corresponding change in this Manual.

Section 287.042, F.S., and **Section 60A-1.002, F.A.C.**, give State Purchasing the authority to delegate to the agencies the conditional authority for the contracting for, or the purchase, lease, or acquisition of, commodities or contractual services. The Department has further delegated this procurement authority to the District Offices. This Manual provides instructions on how this procurement will be performed by the Districts and the Central Office.

1.6 DEFINITIONS

All definitions in **Section 287.012, F.S.**, and **Rule 60A-1.001, F.A.C.**, apply to this

Manual.

Agency (Department) Term Contract: An agreement executed by the Department with a Contract Vendor(s) to provide an indefinite quantity of specified commodities and/or services on an as-needed basis for a specified period of time.

Approval flow: A system that specifies which individual(s) reviews an action or request submitted in the MyFloridaMarketPlace (MFMP) eProcurement system. The system automatically assigns the approvers, based on information in the user's profile and the item(s) being procured.

Approver: An MFMP system role given to individuals who have the authority to approve some part of a Requisition before it continues through the system process and is ultimately sent to the Vendor as an order. In many cases, a set of Approvers with different responsibilities and levels of approval authority are required to approve a Requisition, as indicated in the MFMP approval flow.

Cardholder: A Department employee issued a Purchasing Card to make purchases within preset limits, on behalf of the Department.

Catalog Requisition: An MFMP Requisition created from a DMS State Term Contract that has been set-up in the system to provide item descriptions and unit prices.

Categories, Purchasing Threshold: Categories related to specific dollar amounts established by **Section 287.017, F.S.** Currently, the established threshold categories are:

Category One:	\$20,000
Category Two:	\$35,000
Category Three:	\$65,000
Category Four:	\$195,000
Category Five:	\$325,000

Commodity Code: An eight-digit code maintained by the DMS that is used to classify purchases of commodities and contractual services. This code is required on all written agreements, MFMP Requisitions, and Purchase Orders.

Competitive Solicitation: The process of requesting and receiving two or more sealed bids, proposals, or replies submitted by responsive Vendors in accordance with the terms of a competitive process authorized by **Section 287.057(1), F.S.**

Contract: An agreement between two or more parties that is enforceable by law.

Contract Funds Management (CFM) System: The Department system that is used to

validate funds availability and encumber/unencumber funds in the State's Accounting System for all commodity and contractual services contracts.

Contract Vendor (Vendor, Contractor, Consultant): A person or entity that agrees to provide commodities/services to the Department.

Cost Center Manager: The individual responsible for the expenditures of a cost center. The term refers to the highest level manager/supervisor or designee within a cost center or a higher-level manager.

Department: The Florida Department of Transportation.

Discretionary Purchase: A purchase of commodities/services in accordance with **Chapter 60A-1.002, F.A.C.**, that does not exceed the dollar amount of Category Two (currently \$35,000) and will not be acquired from any existing contract, PRIDE, RESPECT, or exempt source.

DMS State Term Contract: An indefinite quantity term agreement executed by DMS, State Purchasing, with a Contract Vendor(s) to provide specific commodities and/or services to agencies on an as-needed basis for a specified period of time.

Electronic Procurement (eProcurement): A term that applies to an Internet-based procurement system that is designed to streamline interactions between Contract Vendors and state government entities to contract for the purchase of commodities and/or services.

Emergency Purchase: A purchase of commodities or contractual services, in excess of the threshold dollar amount for Category Two, necessitated by a sudden unexpected turn of events (act of God, riot, fires, floods, accidents, or any circumstances or causes beyond the control of the Department in the normal conduct of its business) where an immediate danger to the public health, safety, or welfare, or substantial loss to the State requires emergency action.

Encumbrance: Reserving the funds for a particular procurement transaction. An encumbrance represents a financial commitment of the State of Florida.

eQuote: A tool in the MFMP system that allows Vendors to respond with an electronic price quotation for needed commodities and/or services.

Extension: Adding a period of up to 6 months to the ending date of a contract for commodities or contractual services. In accordance with **Section 287.057(12), F.S.**, contract extensions shall be in writing and subject to the same terms and conditions set forth in the initial contract and any written amendments.

Florida Accountability and Contract Tracking System (FACTS): A state contract management system created pursuant to **Section 215.985(11), F.S.**, and Chief Financial Officer (CFO) Agency Addressed Memo No. 37(2011-12), to provide public access to a statewide contract reporting system.

Informal Bid: A written or oral price quotation that does not exceed the threshold amount of Category Two (currently \$35,000) and does not require a public opening at a specified time or date.

Informal Proposal: A written technical and price proposal that does not exceed the threshold amount of Category Two (currently \$35,000) and does not require a public opening at a specified time or date.

Invitation to Bid (ITB): A competitive solicitation process that utilizes a written solicitation for competitive sealed bids. The ITB is used when the agency knows exactly what is required and is capable of specifically defining the specifications or scope of work. Bids are evaluated strictly against the terms and conditions of the ITB, and bid prices submitted. See **Section 287.057(1)(a), F.S.**

Invitation to Negotiate (ITN): A competitive solicitation process utilizing a written solicitation that is intended to determine the best method for achieving a specific goal or solving a particular problem and identifies responsive Vendors with which the agency may negotiate in order to receive the best value in the procurement of commodities or contractual services. See **Section 287.057(1)(c), F.S.**

Materials and Supply Inventory System (MSI): The Department's electronic warehouse inventory system. MSI operates on the Department's mainframe computer.

MFMP Contract (CR): A contract file in the MFMP system (formerly called Master Agreement) that is set-up by the Procurement Unit to organize and track contract activity and facilitate payments through MFMP.

Minority Business Enterprise (MBE): An African American, Hispanic, Asian/Hawaiian, Native American, Woman-owned or Service-Disabled Veteran business which is identified in the MFMP Vendor Administration System with a minority type of h, i, j, k, m or w (for certified businesses) or n, o, p, q, r or y (for non-certified businesses).

Mobile Equipment: Automobiles, vans, buses, trucks, heavy equipment, trailers, boats, outboard motors, tractors 18 h.p. and up, and aircraft. See **Mobile Equipment Procedures Manual, Topic No. 400-000-001.**

Multi-Function Device (MFD): An office machine which incorporates the functionality of multiple devices into one and which generally provides centralized document

management, distribution, and production in an office setting. MFDs may act as a combination of some or all of the following devices: printer, copier, scanner, fax, and in some cases store e-mails.

MyFloridaMarketPlace (MFMP): The name of the eProcurement system being utilized by the State of Florida.

MyFloridaMarketPlace (MFMP) Vendor Administration System: Vendor administration system that can be used to look up detailed information on a Vendor including: location, commodity codes, minority codes, etc.

Non-Catalog Requisition: A Requisition created for an item(s) not listed in a DMS state term contract catalog, nor a related "Punch-out" Internet website catalog linked to the MFMP system. When creating a MFMP non-catalog Requisition the user must manually enter the detail information for the desired items.

Office of Supplier Diversity (OSD): An office within DMS that certifies MBE Vendors, encourages greater accountability of state agencies on use of MBE Vendors, and provides appraisal and reviews on programs.

Outsource: the process of contracting with a Vendor to provide a service or an activity while a state agency retains the responsibility and accountability for the service or activity and there is a transfer of management responsibility for the delivery of resources and the performance of those resources.

PRIDE: Florida's prison industry program currently operated by Prison Rehabilitative Industries and Diversified Enterprises (PRIDE), a nonprofit corporation.

Printing: Includes "commercial printing services" and means any mechanical process whereby ink, wet or dry, is transferred to paper or other material; excludes internal copy reproduction.

Procurement Agent (Purchasing Agent, Contractual Services Agent): An employee of the Department who is authorized to engage in procurement activities on behalf of the Department, to issue and approve purchase orders, and to approve written agreements for execution by the Department.

Procurement Office: The Central Office Procurement Office.

Procurement Unit (Contractual Services Unit, Purchasing Office): A Department office, whether Central Office or District, established to provide the Department with designated sections responsible for the procurement of commodities and some services. These responsibilities include assuring that procurements of commodities

and services are accomplished in accordance with Department policies, procedures, and applicable state law.

District Procurement Manager (District Procurement Services Manager, Procurement Services Administrator): The manager of any Procurement Unit. The District Procurement Manager shall be responsible for ensuring that the acquisition of commodities/services is performed in accordance with these procedures, **Chapter 60A-1, F.A.C.**, and **Chapter 287, F.S.**

Project Manager: A Department employee responsible for enforcing performance of the contract terms and conditions, serving as liaison with the Contract Vendor, and ensuring that the contractual terms have been complied with prior to processing the invoice for payment.

Punch-out Catalog: A Vendor's website catalog that is linked to the MFMP system and provides details of available goods/services. The MFMP system allows users to punch out of the system to the website of a Vendor and purchase items directly from that website, even if the items are not loaded directly into the catalogs of the MFMP system.

Purchase Order (P.O.): A contract document issued by a Procurement Unit that is used to contract with a Vendor for the delivery of specified commodities/services at a specified price, location, and within a specified time period.

Purchasing Card (Pcard): A procurement and payment method established by the Department for low cost procurements made in accordance with the guidelines provided in this Manual. The Pcard is intended to serve as a prompt and convenient method of obtaining low cost materials, supplies, and/or services.

Receipt: Physical acceptance of an item.

Release: A document notifying a Vendor to make a specified delivery or authorize performance of services against a MFMP Master Agreement (MA) or Contract (CR). This term is used synonymously, in the MFMP system, with a Requisition/Purchase Order.

Renewal: Renewal means contracting with the same Vendor, under the terms and conditions established in the original contract and any written amendments, for an additional period of time after the initial contract period. This can only be done if the original contract terms include a provision specifying that the contract may be renewed.

Request for Information (RFI): A written request made by an agency to Vendors for information concerning commodities or contractual services. Responses to these requests are not offers and may not be accepted by the agency to form a binding

contract.

Request for Proposals (RFP): A competitive solicitation process that utilizes a written solicitation for competitive sealed proposals. The RFP is used when the purposes and uses for which the commodity, group of commodities, or contractual services being sought can be specifically defined and the agency is capable of identifying necessary deliverables. Various combinations or versions of commodities or contractual services may be proposed by a responsive Vendor to meet the terms and conditions of the solicitation document. See **Section 287.057(1)(b), F.S.**

Request for Quote (RFQ): A request for written pricing or services information from a DMS State Term Contract Vendor for commodities or contractual services available from that Contract Vendor on a DMS State Term Contract.

Requester: The MFMP user who creates the Requisition when a need to procure commodities or services is established, or a person requesting and/or processing the purchase of a commodity or contractual service.

Requisition: A form or electronic document that is used by all Department offices to identify desired commodities/services and provide notice to the Procurement Unit of a need to have a Purchase Order issued in accordance with applicable laws, rules, and procedures. A Requisition is required for the procurement (or leasing) of commodities that are not in a Department warehouse, and commodities/services that are not procured by Pcard. See **Procedure No. 175-010-001, Warehousing and Distribution Operating Instructions**, for ordering from the warehouse. The Requester must submit a properly completed Requisition in the MFMP system for all Purchase Orders.

RESPECT: Rehabilitative Enterprises, Services and Products of Florida (RESPECT), was established by the 1974 Florida Legislature to provide blind and other severely handicapped individuals with employment and the opportunity to lead rewarding lives.

Scrutinized Company: Pursuant to **Section 215.473, F.S.**, a company that is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Pursuant to **Section 287.135, F.S.**, a company that is on either of the Scrutinized Companies lists may not bid on, submit a proposal for, or enter into or renew a contract for goods or services of \$1 million or more.

Services: As used in this Manual, means ‘contractual services’ as defined in **Section 287.012, F.S.**, to be the rendering by a Vendor of its time and effort rather than the furnishing of specific commodities.

Signatories: Persons authorized to sign a contract on behalf of the Contract Vendor or the Department.

State Purchasing: An office within the DMS that establishes rules for purchasing commodities and services.

Unencumbered Purchase Order: A contract document issued by a Procurement Unit that may be utilized as a prompt and convenient means to procure commodities/services in a dollar amount of Category Two or less without the encumbrance of funds. The Purchase Order and/or Purchase Order number may be distributed to the Contract Vendor to procure specified commodities/services without the encumbrance of funds.

User Profile: The set of information in the MFMP system that contains a specific user's preferences and settings in addition to the user's roles and permissions in the system. When a user logs into the system, access to information is determined by the user's profile.

Vendor: A person or entity that may offer to provide commodities/services to the Department.

Vendor Bid System (VBS): The Internet site maintained by the DMS where advertisements for commodities and contractual services solicitations, notices of agency decisions, and other matters related to procurement are electronically posted and appear at.

http://www.myflorida.com/apps/vbs/vbs_www.search_r2.criteria_form

1.7 DISTRIBUTION

This Manual will be made available on the Department's Infonet website and the Procurement Office website.

1.8 REVISIONS AND ADDITIONS

1.8.1 The Department's Purchasing Director reviews and addresses requirements and recommendations from the DMS State Purchasing Office, the Department's Office of Comptroller, the Department of Financial Services (DFS), new legislation, and District Procurement Units on an on-going basis.

1.8.2 New Chapter/Section

When a new item or substantial change cannot be adequately addressed within the Manual's current chapter/section(s), a new section is written. The section is written by the affected Central Office staff and coordinated with other appropriate functional areas. After the writer drafts a proposed new chapter/section, the Department's

Purchasing Director processes the proposed new chapter/section in accordance with **Section 5** of the latest version of the **Standard Operating System Procedure No. 025-020-002**. After executive level approval, new sections of the **Manual** will be distributed in accordance with instructions in **Subsection I.7, Distribution**.

1.8.3. Revised Chapter/Section

The Department's Purchasing Director sends drafts of proposed chapters/sections to all District Procurement Managers, the Forms and Procedures Office; and other appropriate parties for comments. The District Procurement Managers coordinate the review of the proposed revisions with other affected district offices. The goal is to obtain a majority opinion before revisions are made.

Substantive revisions that result in policy change will be coordinated with the Executive Team Staff for concurrence.

Revisions and updates are adopted or rejected by the Director, Office of Transportation Support with recommendations by the Department's Purchasing Director. Requirements mandated by statute, rule, or DFS Memorandum will be coordinated with the District Procurement Managers and affected offices within the Central Office and are considered compulsory.

All revisions and updates will be coordinated with the Forms and Procedures Office prior to publishing to ensure conformance with and incorporation into the Department's **Standard Operating System**.

Notification of the adopted revisions and addenda will be distributed to registered users of the manual through the Department's Contact Management Database and made available to program partners by publication on the Office of Forms and Procedures website and the Central Office Procurement Office website.

1.9 TRAINING AND FORMS

1.9.1 Training is not required for this Manual; however, contact the Central Office Procurement Office for available training.

1.9.2 DEPARTMENT FORMS: The following agreements/forms are available from the Forms and Procedures Intranet Web site on the Infonet:

<http://infonet.dot.state.fl.us/tlofp/>

125-000-01, Record of Publication Printing Costs.

225-065-02, Expert Witness Contract.

225-065-03, Supplemental Agreement for Expert Witnesses and Outside Counsels.

225-065-06, Outside Counsel Agreement.

- 375-010-13, Quotation Tabulation.
375-030-50, Conflict of Interest Certification Form.
- 375-030-60, Vendor Certification Regarding Scrutinized Companies Lists.
375-030-91, Vendor Eligibility Check Prior to Contract Award.
375-040-02, Documentation for Items Not Purchased From State Contract.
375-040-2A, Bid Tabulation.
375-040-2B, Proposal Tabulation.
375-040-2C, Invitation to Negotiate (ITN) Posting Tabulation.
375-040-05, Assignment Agreement.
375-040-07, Written Agreement Modification.
375-040-12, Time Extension Letter.
375-040-13, Termination Agreement.
375-040-16, Contractual Services Agreement Continued Services Contract.
375-040-17, State of Florida Governmental Agencies.
375-040-18, Drug-Free Workplace Program Certification.
375-040-19, Standard Written Agreement.
375-040-24, MBE Planned Utilization.
375-040-27, Performance Bond.
375-040-28, Request for Procurement Action.
375-040-29, Appendix II, Information Technology Resources.
375-040-30, Procurement Requisition.
375-040-34, Contract Attestation Checklist
375-040-35, Contract Attestation
375-040-33, Acquisition of Tangible Personal Property within Contractual Services Contracts.
375-040-38, Request for Quotation.
375-040-39, Certification of Acceptable Driving Record.
375-040-40, Appendix I, Terms for Federal Aid Contracts.
375-040-43, Criteria for Evaluating Copying Requirements & Prices.
375-040-51, MyFloridaMarketPlace User Registration/Update for E-Procurement.
375-040-53, FDOT Description of Intended Single Source Purchase (PUR7776)
375-040-54, FDOT Notice of Intended Decision to Enter Into a Single Source Contract (PUR7778)
375-040-55, Purchase Order Terms & Conditions.
375-040-56, In-State Preference Form.
375-040-61, Emergency Contract (H-Contract).
375-040-62, Bid Opportunity List for Professional Consultant Services and Commodities and Contractual Services.
375-040-63, Anticipated DBE Participation Statement.
375-040-64, Master University Agreement
375-040-65, Contract Renegotiation/Reprocurement 3 Percent Savings Requirement.
375-040-66, Reasonable Determination for Items Not Purchased from RESPECT or PRIDE.

375-040-67, Determination to Use an Invitation to Negotiate (ITN) Method of Procurement.

375-040-75, Florida Accountability Contract Tracking System (FACTS) Checklist.

375-040-80, Task Work Order for Master University Agreement.

375-040-81, Task Work Order for Master University Agreement Amendment.

1.9.3 DMS FORMS: the following DMS forms are available from the Internet at:
<http://dms.myflorida.com/dms/layout/set/print/content/view/full/732>

PUR 1000, General Contract Conditions.

PUR 1001, General Instructions to Respondents.

PUR 1010, Notice of Non-Compliance.

PUR 3778, Request for Transaction Fee Exemption.

PUR 7017, Complaint to Vendor.

PUR 7029, Request for Assistance.

PUR 7102, Agency Request for Review of Alternate Contract Source.

PUR 7662, Attestation of No Conflict.

PUR 7776, Description of Intended Single Source Purchase.

PUR 7778, Notice of Intended Decision to Enter into a Single Source Contract.

PUR 7800, Notice of Emergency Purchase.

PUR 9999, Notice of Default.

1.9.4 DFS FORMS: the following forms are available from the Internet at the links provided:

1) Checklist for Requesting Department of Financial Service's Approval to Lease Equipment at: <http://www.myfloridacfo.com/Division/AA/Forms/default.htm>.

2) Checklist for Requesting Department of Financial Service's Approval for Installment Purchase Contracts at: <http://www.myfloridacfo.com/Division/AA/Forms/default.htm>.

3) Summary of Contractual Services Agreement/Purchase Order Form is accessible at:
<http://www.myfloridacfo.com/Division/AA/Forms/default.htm>.

Chapter 2

PROCUREMENT AUTHORITY & ETHICS

2.0 Only authorized individuals can create or approve a Requisition. All authorized individuals shall have an approved ***MyFloridaMarketPlace User Registration, Form No. 375-040-51***, on file with the MFMP System Administrator in the Procurement Office.

2.1 The Cost Center Manager is responsible for ensuring that budgetary authority is available in the proper category before approving the Requisition.

2.2 The ***Conflict of Interest Certification - Form No. 375-030-50***, must be completed and signed by each individual involved in the development of the specifications or scope of work, the development or selection of criteria to be used for evaluation, the evaluation process, and the award process for all procurements of commodities/services that cost more than the dollar threshold amount for Category Two. For the Department, this applies to all procurements in excess of Category Two, not just to procurements accomplished without competition.

2.3 Employees and consultants/subcontractors performing work for the Department are expected to safeguard their ability to make objective, fair, and impartial decisions, and therefore may not accept benefits of any sort under circumstances in which it could be inferred by a reasonable observer that the benefit was intended to influence a pending or future decision of theirs, or to reward a past decision. Employees and consultants/subcontractors performing work for the Department should avoid or mitigate any conduct (whether in the context of business, financial, or social relationships) which might undermine the public trust, whether or not that conduct is unethical or lends itself to the appearance of ethical impropriety. Should a mitigation plan be developed due to a potential organizational conflict of interest that does not create an unfair competitive advantage as defined in ***Section 287.057(17)(b)2, F.S.***, the agency head or designee shall certify that the award is in the best interest of the state and specify the basis for the certification.

2.4 Persons serving in a public position with procurement responsibilities may be required to complete and file a ***Financial Disclosure Form*** with the State of Florida Commission on Ethics each year. Additional information is available at:
<http://www.ethics.state.fl.us/>.

Chapter 3

PROCUREMENT UNIT RESPONSIBILITIES

3.0 Each Central Office and District Procurement Unit shall have the responsibility to provide guidance, oversee the procurement function, and monitor the procurement activity, as applicable, within the Central Office or District to assure compliance with applicable law, rule, and Manual. The Procurement Unit responsibilities will include, but not be limited to, the following:

3.1 Reviewing Requisitions and determining the appropriate method of procurement - Each Procurement Unit shall be responsible for reviewing all MFMP Requisitions. The Central Office and District Procurement Units will semi-annually review the commodities/services procured by Pcard to determine if a more appropriate and/or cost effective method of procurement can and should be utilized in the future.

3.1.1 To assist in locating Vendors to provide the needed commodities/services, and soliciting price quotations.

3.1.2 Reviewing and verifying price quotations submitted with Requisitions.

3.1.3 Procuring all paper and other commodities with recycled content, whenever feasible.

3.1.4 Professional services activities pursuant to Section 287.055, F.S., shall not be procured under a contractual services contract, where price is a consideration. Professional services means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.

3.1.5 In accordance with the 2015-2016 General Appropriations Act, competitive solicitations budgeted from the Contracted Services and Expenses budget categories cannot proceed if the procurement requires a law change or changes to budget not authorized by Section 216.292(2) or (3), F.S.

3.2 Training - Each Procurement Unit shall be responsible for ensuring that Department personnel are informed about the purchasing Manual and for providing assistance and training.

3.3 Minority Business Enterprise (MBE) Program – The Department encourages the recruitment and utilization of certified and non-certified minority businesses, and should take all necessary and reasonable steps to ensure that minority business enterprises have an opportunity to compete for, and perform the contract work of the Department in a nondiscriminatory environment.

3.3.1 Each Procurement Unit shall be responsible for actively soliciting competitive solicitations and quotes from minority business enterprises in accordance with Department policy. The MFMP Vendor Administration System provides the MBE code.

3.4 Contract Vendor Relations/Complaints – Procurement is a service function. An integral part of the service function is to develop a thorough understanding and appreciation of the needs, problems, viewpoints, and methods of operation of the various Department offices that it serves. It is also essential to receive feedback from the offices served about problems encountered in delivery, quality, or service of commodities or performance of contractual services. The **DMS Complaint to Vendor Form, PUR 7017**, shall be used to report discrepancies on DMS State Term Contracts and Department contracts. Each Procurement Unit shall be responsible for follow-up if a Contract Vendor complaint is received.

3.5 Each Procurement Unit shall ensure that Contract Vendors are registered in MFMP, authorized to do business in the State of Florida, and licensed to conduct business in the State of Florida, when required by law or rule.

3.6 Vendor Eligibility Check Prior to Contract Award - In accordance with **Section 287.133(3)(f), F.S.**, public entities **may not** contract with firms that have been excluded from participating in the public contracting process. Before awarding a contract to a firm, agencies are required to check if the firm appears on the Department of Management Services (DMS) Convicted/Suspended/Discriminatory/Complaints Vendor Lists.

Additionally, **Federal law** requires agencies to check the Federal Excluded Parties List (EPL) for businesses that have been debarred, suspended, or otherwise excluded from federally funded contracts.

To facilitate and document the aforementioned vendor checks, **Form No. 375-030-91, Vendor Eligibility Check Prior to Contract Award**, should be completed by the Procurement Unit prior to contract execution and included in the contract file for all contracts established.

Chapter 4

PLANNING TIME FOR PROCUREMENT (LEAD TIME)

4.0 Planning for the amount of time to process a Requisition depends largely on the complexity of the procurement, the type of procurement method being pursued, the dollar value, the workload in the Procurement Unit, and the contracting document being utilized. Listed below is an average amount of processing time (weeks) for each method of procurement, including distribution of the contract document (does not include delivery time).

4.1 These time frames are estimates and assume that all necessary information is provided and the Requisitions are properly completed and approved. Processing time depends largely on receipt of necessary information and approvals, and assuming there are no formal protests:

Procurement Type	Number of Weeks
Exempt, PRIDE, and RESPECT	1 to 2
DMS State Term Contract	1
Procurements of Category Two or less: - quotes provided by Requester	1
- no quotes from Requester	2
Invitation to Bid (ITB)	8 to 10
Request for Proposals (RFP)	10 to 12
Invitation to Negotiate (ITN)	12 to 14
Single Source Procurement	8 to 12

Chapter 5

PROCUREMENT METHODS

5.0 The following should be considered by the Requester/Procurement Unit/cardholder to determine the procurement method used for the acquisition of the needed commodities/services:

- the cost and whether the procurement will be for a commodity or service.
- whether the commodity is available in a Department District warehouse.
- whether the commodity or service is available from another state agency.
- whether the commodity or service is available from RESPECT or PRIDE.
- whether the commodity or service is available on a DMS State Term Contract.
- whether the commodity or service is available on a Department term contract.
- whether the needed services could and should be acquired as EXEMPT services.

5.1 DEPARTMENT DISTRICT WAREHOUSE ITEMS

The Requester, Procurement Unit, or Cardholder shall first determine if the exact or similar commodities are available from the Department's Material Supply & Inventory (MSI) warehouse system before purchasing from another source. Commodities stocked in a Department District warehouse should be used prior to purchasing from an outside source.

5.2 OTHER STATE AGENCY

The Requester, Procurement Unit, or Cardholder will determine if the needed commodities or services are available from any agency of the state and if procurement from that agency is required under the provision of any law currently in effect.

5.3 RESPECT

In accordance with **Sections 413.032-.037, F.S.**, and **Rule 60E-1, F.A.C.**, it shall be the Department's policy to procure commodities or services through RESPECT if the product or service is available within a reasonable delivery time and the product or service meets the comparable performance specifications and comparable price and quality requirements as determined by the Department. When RESPECT is not used,

justification must be documented on **Form No. 375-040-66, Reasonable Determination for Items Not Purchased from RESPECT or PRIDE** and maintained in the purchasing file.

Visit the RESPECT web site at <http://secure.imarcsgroup.com/respect/>

5.4 PRIDE

Section 946.515, F.S., requires each state agency to purchase from PRIDE if the price and quality are comparable to other sources. When PRIDE is not used, a justification (Reasonable Determination) in accordance with **Rule 60A-7.005(2), F.A.C.**, must be documented on **Form No. 375-040-66, Reasonable Determination for Items Not Purchased from RESPECT or PRIDE** and maintained in the procurement file. When purchasing from PRIDE, competitive solicitation is not required with the exception of printing, as stated in **Section 283.33(4), F.S.**

Visit the PRIDE web site at <http://www.pride-enterprises.org>

5.5 DEPARTMENT OF MANAGEMENT SERVICES (DMS) STATE TERM CONTRACTS

5.5.1 For Commodities: In accordance with **Section 287.056(1), F.S.**, all agencies are required to use these contracts unless the contract specifically states that it is optional (or non-exclusive). When procuring commodities from a DMS State Term Contract, Procurement Agents, Requesters, and Pcard holders must consult the Florida Climate-Friendly Preferred Products List and procure the needed products from the list if the price is comparable. (see **Section 286.29(1), F.S.**) The available products on the Climate-Friendly list have been identified on the price sheet(s) of each DMS State Term Contract, when applicable.

5.5.2 For Services: In accordance with **Section 287.056(1), F.S.**, all agencies are required to use these contracts unless the contract specifically states that it is optional (or non-exclusive). When a contractual service being requested is covered under a DMS State Term Contract, the Requester or the Procurement Unit may contract those services with an MFMP contract document or by Pcard in accordance with **Section 7.1** of this **Manual** and **Procedure No. 350-030-010, Purchasing Card**. The unit rates are typically upper limit rates and are negotiable for each project based on volume of work, complexity, and the market. The time frame to complete an authorized service on an MFMP Purchase Order may not extend beyond the end date of the DMS State Term Contract. The MFMP Purchase Order or Pcard documentation shall provide a scope of work or description of the services required that clearly establishes all tasks that the Contract Vendor is required to perform, beginning and ending dates, method of compensation in accordance with the DMS State Term Contract Vendor's price schedule

or a negotiated unit rate(s), and a provision dividing the contract into quantifiable, measurable, and verifiable units of deliverables that must be received and accepted in writing by the Project Manager before payment. Each deliverable must be directly related to the scope of work and specify the required minimum level of service to be performed and the criteria for evaluating the successful completion of each deliverable. Documentation of negotiations, cost analysis, etc., shall be maintained in the procurement file.

5.5.3 Requesters may use a **Request for Quotes (RFQ)** with the DMS State Term Contract Vendor(s) to obtain written pricing or services information for commodities or contractual services available on DMS State Term Contracts. The MFMP eQuote tool may be used to solicit price quotes for the RFQ process on state term contracts. The RFQ process must be utilized if directed to in the DMS State Term Contract. The purpose of a request for quote from the DMS State Term Contract Vendor is to determine whether a price, term, or condition is available from that Vendor that would be more favorable to the Department than that provided in the DMS State Term Contract. For DMS State Term Contracts that have multiple Vendors, the RFQ is a tool to provide a current, competitive price and at least two (2) quotes should be solicited unless the term contract specifically contains other RFQ requirements. If less than two (2) quotes are solicited, the Requester shall include justification to document the procurement file accordingly. The use of the RFQ process involving Contract Vendors from DMS State Term Contracts do not constitute a decision that has to be posted in accordance with **Section 120.57(3), F.S.** The MFMP contract document or Pcard documentation shall provide a description of the services required, beginning and ending dates, and method of compensation that is in accordance with the DMS State Term Contract or a negotiated unit rate(s). Documentation should demonstrate that the DMS State Term Contract or negotiated unit rates and allowable expenses were utilized to arrive at the total dollar amount. Special procurement approvals, such as Information Resource Request (IRR) or Custom Network Solution (ARR) are required; however, single source approval is not required.

5.5.4 For Information Technology (IT) services that are procured from a DMS State Term Contract, the Requester must solicit quotes or proposals in accordance with the RFQ Requirements of the DMS State Term Contract. The MFMP eQuote tool may be used to solicit price quotes for the RFQ process on state term contracts.

5.5.5 Listings of DMS State Term Contracts can be found on the MyFlorida.com website at <http://dms.myflorida.com/purchasing>.

5.6 EXCEPTIONS TO DMS STATE TERM CONTRACTS

The exceptions to DMS State Term Contracts previously provided in **Rule 60A-1.044(3), F.A.C.**, have been repealed and purchasing from those contracts is therefore mandatory

unless the Requester documents the reason(s) why the DMS State Term Contract item will not meet the Department's need. Such determination may be due to factors such as, but not limited to: 1) the unavailability of the contract item within agency schedule or delivery requirements, 2) the need for compatibility with existing equipment or systems, or 3) the contract item fails to meet agency required specification, quality level, or technical requirements.

Procurements of commodities/services from sources other than the DMS State Term Contract Vendor shall be documented by the Department and properly procured. The Procurement Unit or Cardholder should prepare ***Form No. 375-040-02, Documentation for Items Not Purchased From State Contract*** to document the procurement. All documentation shall be attached to the Pcard file or the MFMP Requisition.

5.7 AGENCY (DEPARTMENT) TERM CONTRACTS

Commodities/services that are on contract with the Department of Transportation. Agency term contracts are initiated by the Requestor submitting ***Form No. 375-040-28, Request for Procurement Action***, and can be statewide, districtwide, area wide, or project wide and may be optional, depending on the contract language.

5.8 ALTERNATE CONTRACT SOURCES

The Procurement Office must request permission and receive approval from DMS State Purchasing to purchase commodities or services from term contracts competitively established by other governmental entities. ***DMS Form PUR 7102, "Agency Request for Review of Alternate Contract Source"*** must be utilized for the request and authorization. See ***Section 287.042(16), F.S.,*** and ***Rule 60A-1.047, F.A.C.,*** for more details.

On the DMS State Purchasing website there is a listing of Alternate Contract Sources that have been pre-approved by DMS and are available for use by all state agencies.

5.9 EXEMPT PROCUREMENTS

Procurements in excess of Category Two for certain contractual services and commodities are exempt from and not subject to competitive solicitations under ***Section 287.057, F.S.,*** and ***Rule 60A-1.002, F.A.C.*** For the following procurements, competitive quotes/proposals are not required but should be obtained whenever practical.

- Artistic services (does not include advertising or typesetting).
- Continuing Education Programs/Events offered to the general public.

- Services or commodities provided by governmental agencies.
- Health services.
- Lectures by individuals.
- Legal services, including attorney, paralegal, expert witness, appraisal, or mediator services (does not include court reporter services).
- PRIDE.
- Regulated utilities and government franchised services.
- RESPECT.

5.9.1 Procurements made from other governmental entities are exempt from the competitive requirements of the law (**Chapter 287, F.S.**).

5.9.2 Agreements with Vendors, State University System and Florida Community College Systems should be requested on **Form No. 375-040-28, Request for Procurement Action**, and must be procured in a manner that ensures a fair and reasonable price to the State and compliance with applicable laws, rules, and regulations.

5.9.3 When the requested contractual service or commodity is exempt from competitive requirements, a contract may be negotiated with one (1) Vendor of choice. However, in keeping with legislative intent, the Procurement Unit should acquire artistic and health services by utilizing the modified RFP process defined below. The Procurement Unit may consider utilizing the modified RFP process or modified ITN process defined below for services provided by state universities, community colleges, and eligible vocational schools.

5.9.3.1 Modified RFP Process - The Procurement Unit and/or Project Manager will:

- (a) Notify two (2) or more Vendors or advertise as needed. (Advertising is optional.)
- (b) Request informal proposals from two (2) or more Vendors, with due date as deemed necessary by the Project Manager. The MFMP eQuote tool may be used to request the informal proposals.
- (c) Evaluate proposals and document selection. For public meeting issues see **Section 5.12.9**.

5.9.3.2 Modified ITN process – The Procurement Unit and/or Project Manager will:

- (a) Notify two (2) or more Vendors or advertise as needed. (Advertising is optional.)
- (b) Request informal Letters of Interest from two (2) or more Vendors, with due date(s) as deemed necessary by the Project Manager.
- (c) Review Letters of Interest received and determine a short-list of respondents.
- (d) The respondents selected for the short-list will each be scheduled to meet with the Technical Review Committee (TRC) to provide an oral technical presentation of their capabilities and approach to the Scope of Services. The TRC will participate in all oral technical presentations and will complete a written summary evaluation of each respondent's technical approach, capabilities, and prior relevant experience.
- (e) Following oral technical presentations by all short-listed respondents, the TRC will review the summary evaluations, discuss, and come to consensus about ranking the respondents in order of preference.
- (f) The Department will negotiate and award a contract to the highest ranked respondent that reaches an acceptable agreement with the Department.

5.9.4 In accordance with **Section 287.057(4), F.S.**, the purchase of contractual services in excess of Category Two from non-competitive procurements must be supported by a detailed price and cost analysis that meets the requirements of **Section 216.3475, F.S.** The Requester/Project Manager must complete and provide a copy of the "**Cost Analysis for Non-Competitively Procured Agreements in Excess of Category II**" form from **CFO Memorandum No. 03 (2009-2010)** to the Procurement Unit to evidence their review of the individual cost elements to determine allowability, reasonableness, and necessity. The CFO Memo can be viewed at the following link: <http://www.myfloridacfo.com/aadir/docs/CFOM091003.pdf>

5.10 SINGLE SOURCES – in accordance with Section 287.057(3)(c), F.S., and Rule 60A-1.045, F.A.C.

5.10.1 Occasionally, a special requirement can be met only with a commodity or service available from one (1) Vendor, with no known competitors capable of satisfying the requirements. This situation must be documented by the Requester, and documentation submitted as a comment or attachment to the MFMP Requisition or Pcard file. The Requester and/or Procurement Unit shall request a quote and/or negotiate a price with the Vendor based on the ensuing scope of services/specifications, method of compensation, time frame, and all the terms and conditions of the contracting document. The Requester is responsible for preparing a memorandum justifying use of a Vendor as a single source and submitting the justification with a copy of the quote/negotiated price as an attachment to the MFMP Requisition. Procurements of Category Two or less that are made from a single source provider should be handled as Discretionary Purchases in accordance with **Section 5.11** of this **Manual**.

5.10.2 All procurements in excess of Category Two, that are available only from a single source, should be requested on **Form No. 375-040-28, Request for Procurement Action**, and must be electronically posted/advertised on the Florida Vendor Bid System (VBS) with a description of the needed commodities/contractual services for a period of at least seven (7) business days (which excludes Saturdays, Sundays, and state holidays). **Form 375-040-53 , FDOT Description of Intended Single Source Purchase (PUR 7776)** shall be used for this purpose and must be approved by the Central Office Deputy General Counsel prior to posting. The description must include a request that prospective Vendors contact the Procurement Unit to provide information regarding their ability to supply the described commodities/services, and should include the business name of the known single source provider. If the Procurement Unit, after reviewing any information received from prospective Vendors during the posting/advertising period, determines in writing that the commodities/services are available only from a single source, the Procurement Unit will proceed as outlined below. The written determination must address each prospective Vendor's submission and explain why such submission does not meet the Department's requirement(s).

5.10.2.1 In accordance with **Section 287.057(4), F.S.**, the purchase of contractual services in excess of Category Two from single source procurements must be supported by a detailed price and cost analysis that meets the requirements of **Section 216.3475, F.S.** The Requester/Project Manager must complete and provide the "**Cost Analysis for Non-Competitively Procured Agreements in Excess of Category II**" form from **CFO Memorandum No. 02 (2012-2013)** to the procurement unit to evidence their review of the individual cost elements to determine allowability, reasonableness, and necessity. The CFO Memo can be viewed at the following link:
<http://www.myfloridacfo.com/aadir/cm0/CFOM121302.pdf>

5.10.3 When the single source procurement is greater than Category Two, and the requirements of **Section 5.10.2**, above, have been met, the Procurement Unit must then electronically post notice of its intended decision on **Form 375-040-54, FDOT Notice of Intended Decision to Enter Into a Single Source Contract (PUR7778)**, for seventy-two (72) hours (excluding Saturday, Sunday, and state holidays) in accordance with **Section 120.57(3), F.S.** When posting is complete, the MFMP Purchase Order or written agreement may be approved and submitted to the Contract Vendor. Contracts for single source procurements must be executed within six (6) months of the completion of the posting period. All required single source documentation and evidence of posting shall be attached to the related Requisition(s) in MFMP.

No Conflict of Interest NOTE: In accordance with **Section 287.057(19), F.S.**, procurement of commodities/services without competition and in excess of Category Two requires individuals involved in the development or selection of criteria for evaluation, the evaluation process and the award process to attest in writing that they are independent of, and have no conflict of interest in the entities evaluated and

selected. Those individuals must sign the ***Conflict of Interest Certification, Form No. 375-030-50***, and provide it to the Procurement Unit for attachment to the procurement file.

5.11 DISCRETIONARY PURCHASES OF CATEGORY TWO OR LESS

When the requested commodities/services are less than or equal to Category Two, and will not be procured under any of the procurement methods listed above, the commodities/services may be acquired in accordance with ***Rule 60A-1.002, F.A.C.***, as Discretionary Purchases. The requirements of that section allow the agency to use discretion and to exercise professional judgment in making procurement decisions.

5.11.1 Informal bids or proposals are documented verbal quotations or written vendor price quotations obtained for procurements with a dollar value of Category Two or less. The ***Request for Quotation, Form No. 375-040-38***, available on the Procurement Office Infonet website, or the MFMP eQuote tool may be used to obtain price quotes. Competitive price quotes should be obtained from Minority Business Enterprises whenever possible. (Informal Bid and Informal Proposal samples are available on the Procurement Office Web page, under "Procurement Samples").

5.11.2 Below \$2,500: For procurements with a value less than \$2,500, competitive price quotes are not required but should be obtained whenever practical. Use good purchasing practices* which may include but not be limited to two (2) or more quotes/proposals. Written evidence of all price quotations/proposals received shall be attached to the Requisition in MFMP, maintained in the procurement file, or maintained in the Pcard file. The purchase may also be made directly from an MBE.

5.11.3 \$2,500 to Category Two: Use good purchasing practices* which must include, but not be limited to, two (2) or more price quotes or a statement as to why they were not received. If the commodities or services are only available from one Vendor, or if conditions warrant negotiation on the best terms and conditions, documentation of the conditions and circumstances shall be provided. Written evidence of all quotes/proposals received and documentation of conditions and circumstances to support a non-competitive award (single source or single quote) shall be attached to the Requisition in MFMP, maintained in the procurement file or maintained in the Pcard file. An explanation or justification should be provided if the low quote is not selected.

Offices requiring equipment maintenance service or repairs are encouraged to acquire such services from an authorized service representative and may forego soliciting the minimum number of informal price quotes, if there is only one authorized service dealer in the area. A statement to that effect must be included in the procurement file or in the Pcard file.

*Good purchasing practices may also include:

- (a) Providing Vendors with specifications or scope of services, quantity(ies), time requirements, and potential terms and conditions.
- (b) Providing Vendors with potential method of compensation and payment method (Maximum Amount or Budgetary Ceiling at Unit Rates, Lump Sum with or without partial progress payments, Advance Pay, etc., and Journal Transfer, or standard warrant) as these could impact quoted pricing.
- (c) Providing the same information to all Vendors.
- (d) Being fair and equitable in analysis of quotes/proposals and awards.
- (e) Notifying all Vendors of selection after award.

Special Note: Contracts less than or equal to Category Two may be renewed, as defined in **Section 9.5** of this **Manual**, as long as they are not coded, in MFMP or FLAIR, as single source or emergency procurements.

5.12 COMPETITIVE SOLICITATIONS GREATER THAN CATEGORY TWO

There are three (3) competitive solicitation processes authorized by Florida law: the invitation to bid (ITB), request for proposals (RFP), and invitation to negotiate (ITN). Refer to **Section 287.057(1)(a), F.S.**, for ITB requirements and guidelines, **Section 287.057 (1)(b), F.S.**, for RFP requirements and guidelines, and **Section 287.057 (1)(c), F.S.**, for requirements and guidelines unique to the ITN.

Procurements greater than the threshold amount of Category Two shall be advertised in the DMS Vendor Bid System (VBS) at http://vbs.dms.state.fl.us/vbs/vbs_main_menu. These procurements shall comply with the requirements of **Chapter 287, F.S.**, and **Rule Chapter 60A-1, F.A.C.**, as discussed in this section with the following exception:

Section 337.02(1), F.S., allows the Department to purchase parts and repairs valued at up to threshold Category Two for the repair of mobile road maintenance equipment, marine vessels, permanent vehicle scales, and mechanical and electrical equipment for movable bridges, toll facilities, and purchases up to the threshold amount of Category Three for parts and repairs for treatment plants and lift stations for water and sewage, and major heating and cooling systems, without receiving competitive bids.

5.12.1 Preliminary Activities

- (a) The Procurement Unit will secure a completed **Form No. 375-040-28, Request for Procurement Action** from the Requester, as well as the specifications or scope of services, the quantities, special conditions or requirements, time frames, estimated

cost(s), pricing information, budget authority and evaluation criteria, as applicable. The Procurement Unit will verify or obtain the ***Conflict of Interest Certification*** or ***Attestation of No Conflict*** forms, in accordance with ***Section 2.2*** of this ***Manual***. The Procurement Unit will determine the DMS Commodity Code(s) which best represents the commodities and/or services being sought. If the Procurement Unit is acquiring a commodity or service that is not shown in the DMS listing, contact the Central Office Procurement Office for proper classification.

(b) **Written Justification for RFP:** Before issuing an RFP, the Department must determine and specify in writing the reasons that procurement by ITB is not practicable. The written justification for not using an ITB shall be maintained in the RFP procurement file. In the event a Department procedure establishes the RFP process as the acquisition method for the services to be sought, the written justification shall identify the procedure and state that the RFP process was utilized in conformance with Department procedure.

(c) **Written Justification for ITN:** Before issuing an Invitation to Negotiate, the agency head must determine and specify in writing the reasons that procurement by an Invitation to Bid and a Request for Proposals is not practicable. (see ***Section 287.057(1)(c)1., F.S.***) The written justification shall be documented on the ***Determination to Use an Invitation to Negotiate (ITN) Method of Procurement, Form No. 375-040-67***, and shall be maintained in the ITN procurement file.

The ITN must describe the questions being explored, the facts being sought, and the specific goals or problems that are the subject of the solicitation. The ITN must also specify the criteria that will be used for determining the acceptability of the reply and guiding the selection of the Vendors with which the Department will negotiate. There are two general negotiation methods used:

1) Competitive Method A - Vendors are ranked based on technical qualifications and negotiations are conducted commencing with the first ranked Vendor.

2) Competitive Method B - Vendor qualifications are evaluated and Vendors may be short-listed. Negotiations of scope and price will be conducted with short-listed or all Vendors. An award is made to the Vendor with the best combination of proposal, qualifications, and price.

(d) Based on the information gathered above, the Procurement Unit and Requester will determine the proper procurement method for acquiring the commodities and/or services and initiate procurement in accordance with ***Section 287.057, F.S.*** (procurement of commodities or contractual services), ***Rule Chapter 60A-1, F.A.C.***, and this ***Department Manual***.

(e) All formal bids that exceed the threshold dollar amount for Category Two should be discussed with the Central Office Procurement Office to prevent duplication. This can be accomplished through E-mail.

(f) **Procurement Number:** All competitive solicitations will be assigned an identification number. The number will represent the type of procurement method, the agency designation for the Department, the fiscal year, and a district-unique 4-digit sequential number related to the number of that type of solicitation that has been issued by that office for that fiscal year. The Procurement Agent's initials should be added at the end of the number to indicate which agent was responsible for the solicitation. For example: RFP-DOT-15/16-9005-BB would represent an RFP issued by the Department during fiscal year 2015/2016, that is the fifth RFP issued by the 9th District (a.k.a., Central Office) during that fiscal year, and the Procurement Agent is identified by the initials BB.

5.12.2 Competitive Solicitation (ITB, RFP, ITN) Packages

The Procurement Unit is responsible for development of the ITB/RFP/ITN package in compliance with **Section 287.057(1), F.S.**, and the coordination of the procurement process. A sample ITB, RFP, and ITN package is available on the Procurement Office Web site under Procurement Samples.

Competitive solicitations shall include the following sections, forms and statements, as applicable and as provided in the procurement samples found on the Procurement Office Web site: <http://www.dot.state.fl.us/procurement/>

- (a) Introduction Section, including a Timeline.
- (b) Special Conditions Section.
- (c) Technical Specification or Statement of Work (Scope of Services) Section.
- (d) Public Entity Crime Statement.
- (e) Bid Preference Statement regarding Identical Tie Bids and the Drug Free Workplace (applicable to ITB packages).
- (f) In-state Price Preference (only applicable to commodity ITB packages).
- (g) Certification of Recycled Content (only applicable to commodity ITB packages).
- (h) Special Accommodations.
- (i) Non-Discrimination clause.
- (j) Unauthorized Alien Workers.
- (k) DMS Form PUR 1000, General Contract Conditions.
- (l) DMS Form PUR 1001, General Instructions to Respondents.
- (m) Notice of public meeting(s) in the Timeline / Schedule of Events and/or Posting of

Intended Award.

- (n) Scrutinized Companies Lists and ***Form No. 375-030-60, Vendor Certification Regarding Scrutinized Companies Lists.***
- (o) Evaluation Criteria and relative importance, including price and prior relevant experience (for RFPs and ITNs).
- (p) Agenda(s) for all public meetings with a specified period of time designated for public comment/input.
- (q) Notice of prohibition of contact with employees between the release of solicitation and the end of the 72 hour posting period.
- (r) MBE or DBE Utilization statement
- (s) Inspector General provision requiring compliance with ***Section 20.055(5), F.S.***

It is recommended that a checklist be prepared for the competitive solicitation package and completed to ensure all steps have been taken. See the Procurement Office Web site on the INFONET for a sample.

5.12.3 Advertisement Requirements: Competitive solicitations for commodities/services in excess of the dollar amount for Category Two must be advertised by electronic posting in the *DMS Vendor Bid System (VBS)* at http://vbs.dms.state.fl.us/vbs/vbs_main_menu, for no less than ten (10) calendar days prior to the submittal due date unless the Department determines in writing that a shorter period of time is necessary to avoid harming the interests of the state.

The Advertisement posted on the VBS must include the following:

- Procurement Number.
- Location where commodities/services are required (city, county, statewide).
- Brief description of commodities and/or services sought.
- Special requirements or licenses required.
- Notice that companies that are on either of the Scrutinized Companies Lists may not bid on, submit a proposal for, or enter into or renew a contract for goods or services of \$1 million or more.
- How and where ITB/RFP/ITN packages may be obtained.
- Date, time, and place bids/proposals/ replies are due.
- Date, time, and place of pre-bid/proposal/reply meeting (If applicable).
- Date, time, and place bids/proposals/replies will be opened.
- Right to reject any or all bids/proposals/replies.
- Title VI of the Civil Rights Act of 1964 provision

- Public Meeting Notices and Meeting Agendas statement
- Inspector General provision requiring compliance with s.20.055(5), F.S.

The Procurement Unit is responsible for the preparation of the advertisement to be posted on the VBS, the competitive solicitation package, and the subsequent installation of both in the VBS on the Internet.

Advertising in the VBS is a minimum requirement and does not limit further notice. To ensure receipt of multiple bids/proposals/replies, the Procurement Unit may notify vendors by other methods, such as:

- (a) Sending a copy of Advertisement to two or more appropriate vendors as requested by Project Manager.
- (b) Sending a copy of the Advertisement to vendors listed with the DMS for a particular catalog classification, group classifications, or geographic area. (Registered vendors with E-mail addresses on file with DMS are automatically notified if they have registered for Electronic Notification).
- (c) Placing the Advertisement in newspapers of general circulation.

5.12.4 Uploading to the Vendor Bid System (VBS): Competitive solicitation packages will be prepared and uploaded to the *DMS Vendor Bid System* at http://vbs.dms.state.fl.us/vbs/vbs_main_menu, unless justified in writing, and approved by the Procurement Office, as to the circumstances and conditions that prevented uploading the procurement package to the VBS. The VBS provides automatic electronic (Internet E-mail) notification to Vendors registered with corresponding class/group codes that the Bid, Proposal, Negotiation document is available to download. The FLAIR/MFMP Vendor files may also be researched to identify Vendors who are not registered for Electronic Notification, and those Vendors can be provided with a solicitation advertisement through the mail. For instructions to upload onto the VBS, see the Procurement Office Web site for Uploading Advertisements/Bids, under **Reference Guides**.

Competitive solicitation packages that are uploaded to the VBS must include a "Registration" page (see Procurement samples on the Procurement Office Web site) which advises Vendors of the Web site address for the **Vendor Bid System** and notifies Vendors that it is the Vendor's responsibility to monitor the VBS for any changing information about a particular ITB, RFP, or ITN.

5.12.5 Questions from Vendors: In accordance with **Section 287.057(23), F.S.**, each solicitation for the procurement of commodities or contractual services shall include the following provision: "Respondents to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the 72 hour

period following the agency posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement officer or as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a response."

5.12.6 Changes after Distribution: Changes that need to be made to the ITB, RFP, or ITN after it has been made available to Vendors shall be made by issuing an **Addendum** (sample on Procurement Office Web site, "**Reference Guides**").

The Procurement Unit will ensure that all recipients of an ITB/RFP/ITN are advised of any changes to the ITB/RFP/ITN. This is accomplished in the form of an Addendum, which must be posted on the VBS under the appropriate ITB/RFP/ITN number. The Addendum will require the Vendor to acknowledge receipt of the Addendum in their bid/proposal/reply, when so stated in the Addendum. If the Addendum should impact the opening or posting date, the Addendum will state the revised dates or how the Vendor will be notified of the new dates when determined. Addenda must be sequentially numbered. All addenda must inform Vendors of their protest rights by containing the following statement: "Failure to file a protest within the time prescribed in **Section 120.57(3), F.S.**, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under **Chapter 120, F.S.**"

The Procurement Unit will also ensure that all recipients of an ITB/RFP/ITN are provided written responses to written Vendor questions that are timely submitted. The Department's written response(s), with related question(s), will be posted on the VBS under the appropriate ITB/RFP/ITN number. This practice will prevent any one Vendor from gaining an advantage or benefit not enjoyed by other Vendors. The Requester/Project Manager and/or Procurement Unit will make a determination whether the Department's answer is only a matter of clarification of the information contained in the ITB/RFP/ITN or if the answer would provide an unfair advantage or benefit not enjoyed by others.

All addenda and questions/answers will be provided by posting on the VBS. Posting to the VBS is a minimum requirement. The Procurement Unit may as a courtesy, if deemed appropriate, notify potential Vendors by other means such as fax (with telephone confirmation), certified mail, or express delivery services. The Procurement Unit shall maintain documentation of all notifications in the file.

5.12.7 Pre-Bid/Proposal/Reply Meetings: At the option of the Requester/Project Manager or Procurement Unit, a pre-bid/proposal/reply meeting may be held to explain the terms and conditions of the proposed contract, so Vendors will have a full understanding of any responsibility they may assume under a contract. No information

or instructions that change any ITB/RFP/ITN requirements will be given unless an Addendum is also issued. Attendance at a pre-bid/proposal/reply meeting is not a prerequisite for submitting a bid/proposal/reply unless specifically stated in the advertisement and ITB/RFP/ITN package. When a mandatory pre-bid/proposal/reply meeting is held, only bids, proposals, or replies of those vendors represented at the pre-bid/proposal meeting will be considered. All attendees will be required to sign an attendance record and indicate the firm(s)/individual(s) they represent. The attendance record must be maintained in the original project file.

5.12.8 Receipt and Opening of Bids/Proposals/Replies

(a) It is the vendor's responsibility to assure that the bid/proposal/reply submitted in response to a solicitation is delivered on or before the due date and time specified, and at the location specified in the solicitation. Submittals which, for any reason, are not delivered accordingly will not be considered, but will remain in the care and custody of the Department. Documentation of the date and time that submittals are received by the Department must be maintained in the solicitation file. It is recommended that a separate log be maintained for each competitive solicitation indicating the solicitation title, date/time submittal received, and vendor (**sample “Log of Bids Received”** on Procurement Office Web site under **Reference Guides**). All submittals shall be date and time stamped with a time and date machine, or hand written note. All submittals in the care and custody of the appropriate District or Central Office at the specified time and due date will be opened and evaluated for award. Since these are SEALED bids/proposals/replies, offers by telephone, telegraph, or fax are not acceptable.

(b) Sealed Bids/Proposals/Replies received by the Department will be maintained, unopened, in a secure location until the scheduled Bid/Proposal/Reply Opening. The Opening will be public on the date, at the time and place specified in the solicitation. For RFPs, separate public openings may be conducted for opening of the technical proposals and price proposals, if the RFP so provided. For ITNs, the initial sealed reply must be received on time and requires a public opening. Subsequent submittals received during the ITN process should be received as requested, but do not require a public opening. The opening will be conducted by an employee of the Department and witnessed by at least one other employee of the Department. The **“Public Bid Opening Statement”** (see Procurement Office Web site, **Reference Guides**) should be posted, distributed, or read at the beginning of bid openings when visitors are present. All Vendors present at the opening will be listed on a Vendor sign-in sheet and will be advised that the reading of the prices received does not imply or constitute an award. A bid/proposal/reply tabulation form (**Bid Tabulation, Form No. 375-040-2A; Proposal Tabulation, Form No. 375-040-2B; or Negotiation Tabulation, Form No. 375-040-2C**, as applicable) will be completed simultaneously with the public reading of the prices and will be made accessible for inspection by any interested party.

(c) PUBLIC RECORD - Sealed bids/proposals are to remain under the supervision of

an employee of the Department. In accordance with **Section 119.071(1)(b)2., F.S.**, they are not public records until the Department provides notice of a decision or intended decision pursuant to **Section 120.57(3), F.S.**, or until thirty (30) days after opening the bids, proposals, or final replies, whichever occurs earlier. For RFPs, if there is a second opening for price proposals, the thirty (30) days are based on the second opening.

Exceptions to the public record laws and rules for:

ITBs, RFPs, and ITNs - If an agency rejects all bids, proposals, or replies and concurrently provides notice of its intent to reissue the competitive solicitation, the rejected bids, proposals, or replies remain exempt from the public records law until such time as the agency provides notice of an intended decision concerning the reissued competitive solicitation or withdraws the reissued competitive solicitation (**Section 119.071, F.S.**). A bid, proposal, or reply is not exempt from the public records law for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.

(d) PUBLIC RECORDS REQUESTS – Requests for public records will be handled in accordance with **Section 119.07, F.S.**

(e) COPYRIGHTED MATERIAL – Copyrighted material submitted as part of a technical proposal or as a contract deliverable is not exempt from the **Public Records Law, Chapter 119, F.S.**, but would be made available “for viewing only” in response to a Public Records request. These copyrighted documents cannot be copied or scanned into an electronic data base unless accompanied by a waiver allowing the Department to make copies as necessary to review and evaluate the submittal and to scan the document into an electronic data base.

It is recommended that the competitive solicitation package includes language requiring any copyrighted material submitted in response to be accompanied by a waiver that would allow the Department to make copies as necessary for the evaluation process and to scan the document into an electronic data base. The competitive solicitation samples on the Procurement Office Web Site include this language.

(f) CONFIDENTIAL MATERIAL - It is recommended that the Vendors are advised in the procurement solicitation that they must include any materials they assert to be exempt-from public disclosure under **Chapter 119, F.S.**, in a separate bound document labeled "Attachment to (Procurement Number #) - Confidential Material". The Vendor must identify the specific statute that authorizes the exemption from the public records law. The competitive solicitation samples on the Procurement Office Web Site include this language.

5.12.9 Public Meetings and Oral Presentations

PUBLIC MEETINGS: In accordance with **Section 286.0114, F.S.**, and **Policy No. 001-010-025, Participation at Public Meetings**, public meetings must be included in the "Timeline" or "Schedule of Events", and agenda(s) allowing a designated period of time for public comment/input, must also be included in the procurement package. The Procurement Samples that are available on the Procurement Office website have been set-up accordingly.

NOTE: The Procurement Unit should emphasize to the Project Manager, the importance of complying with the meeting schedule and agenda(s) provided on the VBS. Reasonable notice must be given at the earliest practicable time for any changes determined necessary and documented by the Project Manager. The schedule of events may need to be adjusted accordingly.

5.12.10 Evaluations, Selections, and Negotiations

ITBs: Bid openings are open to the public and an individual from the Procurement Unit shall review bids to ensure that the bids submitted are responsive to the mandatory requirements stated in the bid solicitation. The Requester will review the bid responses to determine if they are accurate and provided by a responsible and qualified Vendor. Award shall be made to the responsible Vendor that submits the lowest responsive bid. If there is no committee or team, no public meeting is required. The Procurement Unit is responsible for tabulating the bid prices and completing the **Bid Tabulation, 375-040-2A**.

RFPs: A Technical Review Committee (TRC) of at least three (3) persons, who collectively have experience and knowledge in the program area(s) for which commodities or contractual services are sought, shall be appointed by the agency head or designee to evaluate proposals for contracts in excess of the threshold amount provided in **Section 287.017, F.S.**, for Category Four. The authority to appoint these persons is delegated to Senior Management Level Directors and above, who may delegate such authority to other office heads in writing. For contracts of Category Four or less, at least two (2) persons shall participate in the evaluation. All meetings of these persons to discuss or evaluate proposals will be conducted as public meetings (see **Section 5.12.9**).

(a) The TRC is responsible for establishing the basis for award and the criteria for evaluation of the technical proposals and price proposals. (Typically, the evaluation criteria and their relative importance are determined by the Project Manager and/or TRC with assistance from the Procurement Unit and must include consideration of prior relevant experience of the Vendor.) The Project Manager, prior to the technical reviews, is encouraged to meet with the TRC as a group so that project requirements and major emphasis points can be discussed. The general evaluation criteria, including their relative importance, will be provided in the RFP.

- (b) The TRC is responsible for determining if Vendors are responsible and qualified to perform the requested services.
- (c) The TRC is responsible for rating all technical proposals: TRC members will strive to provide objective evaluations based on the evaluation criteria established in the RFP, so that value uniformity can be established. TRC members will conduct ratings individually, not in a meeting type environment where a consensus is determined. When each evaluator has completed his/her evaluation of each proposal, the raw scores will be transmitted to the procurement unit or Project Manager, who will calculate the average score for each proposal. All individual evaluations should be signed and dated by the evaluator and retained in the procurement file.
- (d) The Project Manager is responsible for assisting in the rating of all Price Proposals.
- (e) Public meeting notice(s) with agendas allowing a designated period of time for public comment/input, must be included in the RFP solicitation as part of the timeline schedule of events for the following (if applicable):
- 1) Short Listing.
 - 2) Opening of Price Proposals.
 - 3) Reading a summary of the technical scores. It is recommended that this “meeting” could be conducted during the opening of the price proposals. If possible, the pricing scores could be calculated right after opening all the price proposals and the final scores/ranking could be given at the same meeting to announce either the recommended award or the intended award decision.
 - 4) If the price evaluation will be too complex and/or time consuming to allow the final selection to be made during the previous meeting, another public meeting may be necessary if more than one person will be involved in the price analysis and selection of the intended award.
 - 5) The Procurement Unit is responsible for tabulating the scores and completing the ***Proposal Tabulation, Form No. 375-040-2B***. The contract shall be awarded to the Vendor whose proposal is determined in writing to be the most advantageous to the state and the procurement file shall contain documentation supporting the basis on which the award is made.

ITNs: The Procurement Unit and/or Project Manager shall review all information submitted to the Department to ensure that the Vendors were responsive to the ITN and are responsible and qualified. Evaluations/reviews/negotiations should be conducted by at least three (3) persons for contracts of the threshold amount provided in ***Section 287.017, F.S.***, for Category Four or less. For contracts in excess of Category Four, the agency head or designee shall appoint at least three (3) persons to evaluate replies and at least three (3) persons to conduct negotiations (can be the same) who collectively have experience and knowledge in negotiating contracts, contract procurement, and the

program areas and service requirements for which commodities or contractual services are sought. For any procurement which may exceed \$1,000,000 in any fiscal year, at least one committee member must be certified as a Contract Negotiator, certified by DMS. For any procurement which may exceed \$10,000,000 in any fiscal year, at least one committee member must be certified as a Project Management Professional as certified by the Project Management Institute. The authority to appoint these persons is delegated to Senior Management Level Directors and above, who may delegate such authority to other office heads in writing. The Procurement Unit is responsible for tabulating the scores and completing the ***Negotiation Tabulation, Form No. 375-040-2C.***

The Department shall evaluate replies against the criteria set forth in the ITN in order to establish a competitive range of replies to proceed in the negotiation process. The evaluation criteria must include consideration of prior relevant experience of the Vendor. One or more Vendors within the competitive range may be selected for negotiations. After negotiations are conducted, the award will be made to the responsive and responsible Vendor that the Department determines will provide the best value to the state based on the evaluation criteria. The procurement file for an ITN must contain a short, plain statement that explains the basis for the selection of the Vendor and that sets forth the Vendor's deliverables and price with an explanation of how these deliverables and price will provide the best value to the state.

Public meeting notice(s) with agendas allowing a designated period of time for public comment/input must be included in the ITN solicitation as part of the timeline/ schedule of events for the following (if applicable):

- (a) Meeting to Rank or Short List.
- (b) Ranking/Scoring (summary of evaluations and recommendation) for selection of the Intended Award.
- (c) Any meeting of the Technical Review Committee (TRC) to discuss replies.

5.12.11 Single Bid/Proposal/Reply or No Bids/Proposals/Replies

The Procurement Unit will follow the process detailed in ***Section 287.057(5), F.S.***, when less than two responsive bids, proposals, or replies are received.

5.12.12 Tie Bids/Evaluations

When evaluating Vendor responses to an ITB/ RFP/ ITN and there is identical pricing or scoring, the Procurement Unit will determine the intended award in accordance with ***Section 295.187(4), F.S.*** and ***Rule 60A-1.011, F.A.C.***

5.12.13 Posting of Intended Award

The Procurement Agent is responsible for the accuracy of the information on the Bid/Proposal/Negotiation Tabulation sheet(s).

(a) The Department's intended award will be indicated on the ***Bid Tabulation, Proposal Tabulation, or Negotiation Tabulation***, as appropriate, and shall be electronically posted on the myflorida.com website (VBS) no later than the date and time indicated in the ITB/RFP/ITN, for seventy-two (72) hours (excluding weekends and state holidays) for review by interested parties in accordance with ***Section 120.57(3), F.S.*** The posting time and date (beginning and ending) shall be noted on the tabulation sheet. If there is a short listing and/or ranking in the ITN process, the short listed Vendors and/or ranking of Vendors shall be posted accordingly.

(b) If a bid or proposal is rejected, the tabulation shall be noted and include a brief explanation as to why the bid/proposal was disqualified. Documentation shall be retained in the bid/proposal file with an adequate explanation for the rejection. The bid/proposal tabulation shall reflect all rejected bids/proposals.

(c) In the event of a timely notice of intent to protest or formal protest, no further postings should occur until the protest is resolved. If the intended award remains, no further posting is necessary.

NOTE: The notice of intended award shall also inform Vendors of their protest rights by containing the following statement: "Failure to file a protest within the time prescribed in ***Section 120.57(3), F.S.***, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under ***Chapter 120, F.S.*** If the notice advises of the bond requirement and a bond or statutorily authorized alternate is not posted when required, the agency shall summarily dismiss the petition."

(d) In the event that the award or intended award decision changes (tabulation error, Vendor withdraws bid, etc.), the notice of intended award must be posted again, as explained above, noting the change in the previous award and the new intended award decision. If an intended decision has to be reposted, or the anticipated posting date indicated in the ITB/RFP/ITN changes, all Vendors that are affected shall be notified by fax (with confirmation) or E-mail (with confirmation) of the future electronic posting date and time.

5.12.14 Vendors Withdrawing Bids/Proposals

(a) Upon notice of intended award or opening, bids/proposals may only be withdrawn upon demonstration of circumstances justifying withdrawal.

(b) If notice of request to withdraw a bid/proposal is submitted by the intended award Vendor and accepted by the Department, the Department may elect to contract with the next lowest responsive bidder for ITB or the next highest responsive proposer for RFP or ITN or re-solicit the project.

5.12.15 Handling Protests By Bidders/Proposers

(a) All protests shall be in accordance with **Rule Chapter 28-110, F.A.C., Bid Protests** and **Section 120.57(3), F.S.**

(b) Any person, as defined in **Section 1.01(3), F.S.**, who is adversely affected by a Department decision or intended decision concerning a bid/proposal solicitation or a contract award, may protest the decision or intended decision as provided by **Chapter 120, F.S.** To protest the terms, conditions, and/or specifications/scope of services contained in a competitive solicitation package, the notice of intent to protest must be filed in writing within 72 hours after the procurement package is posted and available on the VBS. In the event of a timely formal protest, the Department will not proceed with the solicitation or with the award of a contract in issue, until such dispute is resolved in accordance with the requirements of **Chapter 120, F.S.**, unless approved by the Department Secretary in accordance with **Section 120.57(3), F.S.** After receipt of a timely formal protest, no other actions, including printing of the Purchase Order, shall be conducted until the protest is resolved.

(c) Vendors shall be advised to send all protests to:

Florida Department of Transportation
Office of General Counsel, Clerk of Agency Proceedings
M.S. 58, Haydon Burns Building,
605 Suwannee Street
Tallahassee, Florida 32399-0450

(d) In the event that a notice of protest is received by any office other than the Clerk, the receiving office shall stamp the notice with the time and date received, and immediately contact the Office of General Counsel, Clerk of Agency Proceedings, in Tallahassee. Copies of the notice are to be given to the Clerk of Agency Proceedings in Tallahassee at the above address, and to the procurement unit involved.

Chapter 6

SPECIAL APPROVALS & ADDITIONAL REQUIREMENTS

6.1 ADVANCE PAYMENTS

All advance payments require prior approval and must be processed in accordance with the ***Disbursement Handbook for Employees and Managers***. A copy of the approval should be attached to the Requisition, written agreement, or Pcard file. When the advance payment invoice from the Vendor is included as part of the Purchase Order, the Procurement Agent shall send an e-mail notice, giving the Requisition number, the Vendor, and dollar amount, to notify the appropriate Financial Services Office or the General Payments section of the Disbursement Operations Office of the advance payment required, when the Procurement Agent has finalized the Requisition/Purchase Order.

6.2 VOICE-RELATED COMMUNICATIONS EQUIPMENT AND SERVICES

6.2.1 Requests for voice communications equipment and services should be based on need and proper utilization of such equipment in accordance with ***Chapter 10 of the Information Technology Resource User's Manual, Topic No: 325-000-002***. See "Mobile Communication/Computing Guide" in the ***Reference Guides*** of the Procurement Office Infonet site. Additionally, all requests for cell phones, smart phones, and Blackberrys shall include a statement/notice to the Contract Vendor to disable text messaging on the device.

6.2.2 Pursuant to ***Section 282.702, F.S.***, the Division of Telecommunications, within DMS, must coordinate and approve the purchase, lease, and/or rental of all voice-related communications equipment and services, including voice communications services provided as part of any other total system to be used by the State or any of its agencies, regardless of the dollar amount, excluding the purchase of desktop telephones or maintenance for existing systems. The Department's Office of Information Technology (OIT) in Central Office will review any purchases of a new telephone system (regardless of cost) originating in any of the Districts or Turnpike Enterprises prior to submitting the request to the Division of Telecommunications. The Department's OIT will coordinate and review issues with the Division of Telecommunications prior to submission of the ***Custom Network Solution*** request form to the Division of Telecommunications for approval.

The Division of Telecommunications has specific PRIOR review and approval authority for the following voice communications acquisitions:

- (a) Voice communications equipment, including telephone systems, move-add-changes including labor and/or equipment to modify and/or relocate existing systems regardless of cost.

6.2.3 Division of Telecommunications forms developed to "standardize" the review and approval process, are to be utilized for the procurement of all communications equipment and services requiring review and approval from the Division of Telecommunications, as follows:

(a) ***Custom Network Solution Submission***

- Telephone systems and related equipment requiring phone line service,

(b) ***Communications Services Authorization***

- New Telephone line service or changes to existing line service and telephone systems from regulated telephone companies.

6.2.4 Any voice communication equipment or services acquisition requires the prior written approval of the District Communications Services Authorization (CSA) Representative for district acquisitions, and the Central Office CSA Representative for Central Office acquisitions, on ***DMS Form, Communications Services Authorization***. The OIT in Central Office will review any purchases of a new telephone system (regardless of cost) originating in any of the Department's Districts or Turnpike Enterprise prior to submitting the request to the Division of Telecommunications. The OIT will coordinate and review issues with the Division of Telecommunications prior to submission of the Custom Network Solution form to the Division of Telecommunications for approval.

6.2.5 The review and approval of the appropriate CSA representative is required for the procurement of SUNCOM voice and network communication hardware, software, circuits, and services not provided by SUNCOM via MFMP workflow approval, E-mail or similar written approval. This approval will be a part of the workflow in MFMP or it will be provided by the Requester to the procurement unit or maintained in the Pcard file.

It is the responsibility of the CSA Representative to coordinate acquisitions requiring the specific review and approval of the Division of Telecommunications with said agency PRIOR to submission of Requisitions to the Procurement Unit.

6.2.6 Procurement of voice communications equipment and/or services shall be made from DMS State Term Contracts, whenever possible. Requests for exceptions, single source, or competitive bid acquisitions shall be submitted to the appropriate

Department Procurement Unit with detailed specifications and special conditions sufficient for processing.

6.2.7 The following types of voice communications equipment, related air time service agreements, and repair service/maintenance agreements require the specific review and approval of the appropriate Cost Center Manager:

- (a) Cellular/Wireless Telephone
- (b) Mobile Radio
- (c) Beepers/Pagers
- (d) Blackberrys; must also be approved by an SMS manager.
- (e) Smartphones must be approved by the Assistant Secretary for Engineering and Operations.

6.3 INFORMATION TECHNOLOGY RESOURCES (ITRS)

Information Technology (IT) purchases are unique and may require special approvals prior to procurement, which must be made in accordance with current policy from the Agency for State Technology. See ***Chapter 282, F.S., Rule 60EE-1.003 F.A.C., Electronic and Information Technology Procurements***, and ***Chapter 7 of the Information Technology User's Manual, Topic No: 325-000-002*** for the requirements for procuring Information Technology Resources (ITRs). If the purchase price is equal to or exceeds \$500,000, further approvals may be required by the Department Secretary or appropriate Assistant Secretary depending on the nature of the request. The requirement for further approval by the Department Secretary or appropriate Assistant Secretary will be determined by the Chief Information Officer. Appropriate approvals must be received prior to the procurement process. See ***Chapter 4 of the Information Technology User's Manual, Topic No: 325-000-002***.

6.3.1 All Pcard transaction files and MFMP Requisitions for ITRs shall include the necessary approvals as specified in ***Chapter 7 of the Information Technology User's Manual, Topic No: 325-000-002***. For questions about this procedure, contact the Office of Information Technology.

6.3.2 Equipment which, in any way, may be construed as electronic data processing equipment shall be subject to ***Chapter 7 of the Information Technology User's Manual, Topic No: 325-000-002***. This equipment may be identified as any electronic

equipment that is "source programmable," which means that the user must be able to issue instructions to alter the basic function performed by the equipment.

6.3.3 After all necessary approvals have been granted, the Requisition should be submitted to the Procurement Unit for bidding or other handling that may be required. Detailed specifications and any special conditions must be attached for bidding purposes. If considered a single source item, a single source justification and/or certification must be attached.

6.3.4 For the procurement of all IT commodities or services, the Requester shall provide an approved ***Information Resource Request (IRR)***, from the ***Technology Request System (TRS)***, to the Procurement Unit in accordance with ***Chapter 7 of the Information Technology User's Manual, Topic No: 325-000-002***, and retain in the Pcard file, attach to the MFMP Requisition, or provide to the Procurement Unit, as appropriate. For ITR equipment or services that involve local area network (LAN) or wide area network (WAN) interfacing, refer to **Section 6.2**, above, for coordination of the Communication Service Authorization process. All Data Communication Service Authorizations are to be completed and submitted by Central Office and District OIT staff authorized by the Manager of the District OIT.

6.3.5 Prior to procurement of ITRs, all necessary approvals shall be obtained and attached to the MFMP Requisition or maintained in the Pcard file.

6.4 MOBILE EQUIPMENT

Mobile Equipment requires certain approvals prior to procurement. The following outlines the requirements for purchasing Mobile Equipment. All acquisitions of vehicles, heavy equipment, boats, boat motors, all types of trailers and trailer mounted equipment, and aircraft are made pursuant to special rules governing Mobile Equipment. See ***Mobile Equipment Procedures Manual, Topic No. 400-000-001***.

All ***Procurement Requisitions*** for Mobile Equipment must be approved in MFMP by the State Maintenance Office (SMO), prior to a Purchase Order being issued.

The SMO will apply for DMS approvals, as necessary. Districts are not authorized to obtain Mobile Equipment purchase approval directly from the DMS. All approvals will be obtained through the SMO, in accordance with ***Mobile Equipment Procedures Manual, Topic No. 400-000-001***. Further instructions for requesting and receiving Mobile Equipment may be issued by the SMO.

6.4.1 Upon receipt of the Requisition for Mobile Equipment, the following must be checked:

- (a) SMO approval designated in the MFMP approval flow for the Requisition.
- (b) DMS, Bureau of Motor Vehicles and Watercraft, approval letter that is scanned and attached to the MFMP Requisition for Mobile Equipment not on a DMS State Term Contract.
- (c) Verify specification number and options against the approval letter. If an option is not on the approval letter, it cannot be purchased. Options can be deleted even though they have been approved by DMS.

The information shown on the "***Checklist for State Term Contract Vehicles & Mobile Equipment***" (see "***Reference Guides***" on the Procurement Office Web site) shall be on the Purchase Order. The "***Checklist for Vehicles, Trailers, and Mowers***" (also, a "***Reference Guide***" on the Procurement Office Web site) should be used for vehicles and Mobile Equipment.

6.5 COPIERS (INCLUDING MFDS WITH COPIERS)

Copiers require the evaluation of specific criteria prior to procurement. Before leasing any printing, duplicating, or reproduction equipment (walk-up convenience copiers), the Requester must document the criteria used to evaluate and determine copying requirements and to support the decision that a lease is economically prudent and more cost effective than an outright purchase. This documentation is required for copier leases by ***Comptroller/CFO Memoranda No. 4 (1995-96) and No.7 (1995-96)***, and must be completed by the Requester, approved by the Procurement Office, and either maintained in the Pcard file or scanned-in and attached to the MFMP Requisition prior to a Purchase Order being issued.

6.5.1 Copier leases or rentals in an amount of Category Two or less must be evaluated and documented on ***Form No. 375-040-43, Criteria for Evaluating Copying Requirements and Costs***, but do not require approval by the Division of Accounting and Auditing at the DFS. The purchase price, including the price for all needed options, must be included on the form to document the cost effectiveness of the lease decision.

6.5.2 Any lease of printing, duplicating, or reproduction equipment (walk-up convenience copiers) with an annual cost that exceeds Category Two must include approval from the DFS Division of Accounting and Auditing. The ***Checklist for Requesting Department of Financial Service's Approval to Lease Equipment*** must be approved by the DFS Division of Accounting and Auditing and attached to the Requisition (also see ***Section 6.9***).

6.5.3 It is recommended that the purchaser include a periodic maintenance agreement with the Contract Vendor. The conditions of the state term contract require the Contract Vendor to furnish service/maintenance to the purchaser at standard state rates.

(a) A maintenance agreement may be obtained by contacting the Contract Vendor for a written quote or price quote, listing those specific services required.

(b) Payment for a maintenance agreement may be accomplished by using a Purchase Order, or the Pcard, if the agreement is less than Category Two (\$35,000).

(c) If the annual agreement is greater than Category Two per year, see **Chapter 5, Section 5.13** of this Manual.

6.5.4 There are concerns associated with confidential or sensitive information that may be contained on the hard drives used to store document images on copiers, MFDs, or other electronic equipment with storage devices. As offices retire this equipment, either as a result of replacement purchases or new lease agreements, careful consideration should be given to ensuring that electronic media within the devices are properly sanitized in accordance with Department **Procedure No. 001-325-010, Electronic Device and Media Sanitization**. Cost centers should involve their District Information Systems Manager (DISM) or Central Office LAN administrator when retiring these devices.

6.6 PRINTING

Printing is unique and requires certain approvals prior to procurement. All requests to purchase printed forms must be approved by the Forms and Procedures Office prior to submission of the Requisition. Refer to **Procedure No. 050-030-001, Form Development and Control**.

In accordance with **Procedure No. 125-000-001, State Agency Printing Records, Form No. 125-000-01, Record of Publication Printing Costs**, must be completed for printing that exceeds Category Three. A copy of the form must be sent to the Central Office Reprographics Manager at Mail Station 63.

6.6.1 Bids for Printing

In accordance with **Section 283.32, F.S.**, bids for printing must specify a minimum percentage of recycled content for the material to be used for such printing and require all bidders to certify in writing the percentage of recycled content for the material they are offering in their bid response. It is acceptable for a bidder to certify that their material contains no recycled content.

6.6.1.1 Each printing bid will be evaluated to identify the lowest responsive bid and any other responsive bids in which it has been certified that the materials used in printing will contain at least the minimum percentage of recycled content specified in the bid. If no bidders offer materials for printing that contain the minimum prescribed recycled content, the contract shall be awarded to the responsible bidder that submits the lowest responsive bid.

6.6.1.2 In accordance with **Section 283.35, F.S.**, when awarding a contract to have materials printed, the agency shall grant a price preference to the lowest responsible and responsive Vendor having a principal place of business within this state. The preference shall be 5 percent if the lowest bid is submitted by a Vendor whose principal place of business is located outside the state and if the printing can be performed in this state at a level of quality comparable to that obtainable from the Vendor submitting the lowest bid located outside the state.

6.6.2 Time Frames until Receipt (Lead Time)

The time between submittal of a Requisition and delivery of the printed job will vary considerably. In general, time increases with the cost of the job and with the complexity of the work required.

- (a) After receiving a Purchase Order with camera ready copy, a printer can usually be expected to deliver as follows:

Flat forms: 2-6 weeks
Padded or booked forms: 3-7 weeks
Snap-out or continuous forms: 5-8 weeks
Booklets or books: 6-10 weeks

- (b) Additional requirements, such as typesetting, photographs, color, etc., will add to the production time required.

6.6.3 Quantity to Order

The printer's initial setup costs are essentially the same regardless of the quantity ordered. Therefore, the unit cost will be lower on larger orders. Unless it is anticipated that the item will be changed, it is recommended that at least a six-month or one-year supply is ordered at one time.

6.6.4 Specification Sheet, Samples, and Camera Ready Copy

Listed below are the various types of printing and their requirements.

(These need to be furnished with the Requisition. See Procurement Office Web site, "**Reference Guides**" for additional information.)

- (a) If the request is for an exact reprint of an existing item, "per attached sample" should be stated after the description. If for a reprint, with minor changes, state "per attached sample with text changes." Attach one copy of the sample showing the changes to be made. In either case, submit samples as required of the current item attached with the Requisition. Also, list the name of the printer who did the job last and, if available, the Purchase Order number and date.
- (b) If the request is for a new item which has not previously been printed, state "per attached specifications" and submit a typed specification sheet with the Requisition.
- (c) Camera-ready copy should be submitted with the Requisition. A camera-ready copy is a clean original of the item to be printed that the printer will use to produce negatives for the printing process. Assistance in producing camera ready copies is available from the Forms and Procedures Office (see **Procedure No. 050-030-001, Form Development and Control**). An order should not be considered complete until the printer returns the camera-ready copy.

For detailed printing instructions and special printing conditions see the Procurement Office Web site, "**Reference Guides**," for additional information.

6.7 PRIOR APPROVAL/JUSTIFICATIONS, PROHIBITED EXPENDITURES

State agencies may procure only items necessary to carry out statutory duties and should select such items on an economically prudent and cost effective basis. When the procurement of an item is necessary but could appear to be questionable or for personal use (rather than Department use), or may not have statutory authority, prior approval and written justification from the Cost Center Manager/authorized official is required prior to procurement. The written justification, explaining the necessity of the request and cost of the item(s), must be approved, attached to, and submitted with the MFMP Requisition or maintained in the Pcard file. If the Cost Center Manager/authorized official is unsure of or has questions about the appropriateness of the request, he/she should contact the Disbursement Operations Office (Quality Assurance Section) for advice and additional assistance. See "**Requirements for Certain Purchases**" in the **Disbursement Operations Office (DOO) Handbook** available on the DOO website, for additional guidelines.

6.7.1 Prohibited Expenditures: The Department of Financial Services' **Reference Guide for State Expenditures** prohibits certain expenditures from state funds unless expressly provided by law. Examples include but are not limited to:

- (a) Congratulatory telegrams.
- (b) Flowers, and/or telegraphic condolences.
- (c) Presentment of plaques for outstanding service.
- (d) Entertainment for visiting dignitaries.
- (e) Refreshments such as coffee and doughnuts.
- (f) Decorative items (globes, statues, potted plants, picture frames, etc.).
- (g) Promotional items unless specifically authorized by the Legislature. In accordance with the Department of Financial Services **Reference Guide for State Expenditures**, the purchase of promotional items must be authorized by statute or a specific reference in the approved appropriation bill.

6.8 MOVING DEPARTMENT EMPLOYEES

Payment of an employee's moving expenses, for personal property, must be approved by the Department prior to any move taking place. No commitment to expend state funds for the payment of moving expenses can be made without this approval.

The procedural requirements for the approval, procurement, and payment of moving expenses are described in the **FDOT Employee Handbook**, available on the Human Resources SharePoint site. Contracts with moving companies must not provide payment for ineligible moving expenses and must be procured in accordance with the procedures established herein and will be formally bid when the costs exceed Category Two (currently \$35,000).

NOTE: Moving expenses shall not be paid with the Pcard.

6.9 LEASES, RENTALS, AND LEASE PURCHASE AGREEMENTS

Leases, rentals, and lease-purchase agreements for commodities including financing are subject to the same procurement requirements as an outright purchase of a commodity. Regardless of the dollar amount, the DFS requires documentation of the evaluation and the criteria used by the procuring agency to support that a lease is more economically prudent and cost-effective than a purchase (**Comptroller/CFO Memoranda No. 4 & 7 (1995-96)**). This documentation must be provided by the Requester and maintained in the Pcard file or provided as an attachment to the MFMP Requisition.

6.9.1 Leases in an amount of Category Two or less do not require the DFS Division of Accounting and Auditing approval but must have the documentation supporting that a lease is more cost-effective than a purchase. The ***Checklist for Requesting Department of Financial Service's Approval to Lease Equipment*** should be used to document the cost-effectiveness. This checklist and preparation guidelines are available at: <http://www.myfloridacfo.com/Division/AA/Forms/default.htm>.

6.9.2 Any lease or lease-purchase agreement with an annual cost that exceeds Category Two must include approval from the DFS Division of Accounting and Auditing. The ***Checklist for Requesting Department of Financial Service's Approval to Lease Equipment*** must be approved by the DFS Division of Accounting and Auditing and attached to the MFMP Requisition.

6.9.3 Lease or lease-purchase agreements that run beyond the current fiscal year must contain the annual appropriations contingency statement used in the MFMP Purchase Order Conditions and Instructions. The encumbrance for each lease must be processed in the CFM system for the total time period and dollar amount of the lease, with reviewed funds approval for each future fiscal year.

6.9.4 For procurements that will be financed, the DFS Form for ***Installment Purchase Contracts (DFS-A1-1863, Form 21)*** must be approved by the DFS Division of Accounting and Auditing and attached to the Requisition (the Form and instructions for completing it are available on the DFS website at <http://www.myfloridacfo.com/Division/AA/Forms/default.htm>. For financing, DFS requires proof of competitive bid and exact cost data before requesting approval. Therefore, prices must be obtained before requesting approval from the DFS Division of Accounting and Auditing.

6.9.5 If financing is not through the State Consolidated Equipment Financing Program as described in ***Section 287.064(2), F.S.***, an exemption from the DFS Division of Accounting and Auditing is required.

6.9.6 When submitting invoices for payment, the DFS Division of Accounting and Auditing approval number must be included.

6.10 LEASE OF BUILDINGS

Sections 255.249 and 255.25, F.S., require that approval be obtained from the DMS, Division of Building Construction and Property Management, before leasing a building or building space. Contact the FDOT Support Services Office for additional information.

6.11 HAZARDOUS MATERIALS

6.11.1 Material identified as hazardous or that is suspected of being hazardous should not be requisitioned or purchased until it has been determined by the individual requisitioning or purchasing the material that no reasonable substitute is available that can accomplish the required function. The decision concerning the use of the hazardous material will be based upon safety, economics, and the potential for generation of hazardous waste.

6.11.2 It is the responsibility of individuals authorized to specify and/or requisition materials for the Department's use to determine if the materials to be acquired are hazardous materials.

6.11.3 Department employees responsible for ordering and receiving hazardous materials shall make sure that:

- (a) Copies of **Material Safety Data Sheets (MSDS)** are furnished with the hazardous materials ordered; these sheets are supplied by the Contract Vendor and identify specific safety information including proper use and storage of the materials, and disposal of any waste products including containers.
- (b) Containers are appropriately labeled with the identity of contents and appropriate hazard warnings.
- (c) No hazardous materials are issued to employees unless MSDS are available.
- (d) No hazardous materials are accepted without the appropriate labels and/or the required MSDS.
- (e) Non-hazardous materials are ordered, if at all possible.

6.11.4 All Requisitions for hazardous materials shall include:

- (a) The words "**MSDS REQUIRED**" or "**HAZARDOUS MATERIALS**" in capital letters shall be placed on the Requisition. (Do not put hazardous and non-hazardous materials on the same Requisition.)
- (b) The material safety information must accompany the material delivered as required by **Section 6.11.3** of this Manual, and should be placed on file by the manager of the facility/building/complex. If the material safety information is not delivered with the material, the material will not be used until the Contract Vendor provides this

information. The delivery will not be considered complete until this information is in hand.

6.11.5 Any materials requisitioned that have not been identified as hazardous but are suspected of being hazardous will be requisitioned with the instructions in **Section 6.11.4** of this Manual.

6.11.6 When an office acquires hazardous material by use of a Pcard, all of the above instructions will apply.

6.12 TRADE-IN ON REPLACEMENT EQUIPMENT

When replacing property, trade-in of the replaced property for consideration on replacement equipment may be pursued if doing so is in the best interest of the State. Prior approval from the Cost Center Manager or designee must be received before trading in property. Trade-In transactions and disposal of surplus property will be handled in accordance with **Procedure No. 350-090-005, Surplus Property Disposal**.

6.13 ASSESSMENT PROTOCOL FOR REPLACEMENT EQUIPMENT

In accordance with **Section 287.0831, F.S.**, any purchase of new equipment, machinery, or other inventory by state agencies as a result of damage caused by fire, smoke, water, or any similar incident shall be limited to purchases that are absolutely necessary because the damaged equipment, machinery, or inventory is in irreparable condition. The Department is required to assess such equipment, machinery, or other inventory to determine whether it can be repaired or restored before a request to purchase replacement equipment, machinery, or any other inventory can be approved.

The Cost Center must perform a damaged equipment replacement analysis using the assessment protocol steps below before approving the request for replacement equipment. This replacement analysis shall document how the cost center arrived at the decision to replace the damaged equipment, and why replacement was the most economical alternative for the State of Florida. The documentation, which shall be a memorandum to the contract file, shall include:

- 1) Description of damaged equipment that is being replaced with the new equipment procurement. Please provide Serial Number and Property Tag Number in the description where applicable.
- 2) Summary written record of scope and extent of damage, including photographs of damaged equipment if available.
- 3) Verification of cause of damage and/or record of equipment contamination (e.g., environmental contamination, fire, heat, smoke, water, electrical damage, etc.).

- 4) Estimate of restoration/repair costs to bring equipment to full functioning and/or operational level, where applicable.
- 5) Replacement cost (presumably this would be the amount of the new equipment purchase Requisition).
- 6) Describe any known safety issues or damage related defects that precluded repair of the damaged equipment.
- 7) If damaged equipment was destroyed or not salvageable, please record in the Memorandum. The damage assessor shall have sufficient knowledge to perform the equipment assessment.
- 8) Any other facts/assessment information that supports the justification to replace the equipment with a new purchase.

The memo documentation of the replacement analysis should be initiated by the procuring Cost Center Manager, and:

- a. A copy shall be stored in the contract file for the replacement equipment Requisition;
- b. A copy shall be scanned and attached to the contract Requisition;
- c. A copy shall be forwarded to Central Office Procurement who shall maintain a central file of replacement equipment analyses for Quality Assurance purposes.

Disposal of surplus property will be handled in accordance with **Procedure No. 350-090-005, Surplus Property Disposal**. Inventory requirements and other requirements referenced in the **Procedure No. 350-090-310, Tangible Personal Property** shall also be followed.

6.14 FEDERALLY FUNDED PROJECTS

Some contractual services contracts are eligible for federal-aid participation. Federal approvals shall be acquired in accordance with **Procedure No. 350-050-005, Federal Project Authorizations**, issued by the Federal Aid Management Office. This section supplements the process to be followed when federal funds may be utilized in a contract.

The Procurement Unit may proceed with the Contract Vendor hiring process up to, but not including, contract execution prior to being provided a copy of the executed FHWA Electronic Signature Document (ESD) indicating FHWA approval for federal aid participation. If the contract is executed prior to receipt of an approved ESD, then, at a minimum, services provided prior to approval will not be federally funded and such action will likely cause the contract to become ineligible for federal funding altogether.

6.14.1 Declared Emergencies - When an emergency is declared by the Department

Secretary for a project for which FHWA funds are to be requested, FHWA will be notified immediately by the Procurement Unit or Project Manager that the Department intends to deviate from its normal procurement process for emergency repairs. FHWA will be provided a copy of the emergency declaration and the preliminary scope of services. During an emergency declared by the Governor or the President, FHWA's prior approval (i.e., an executed ESD) will not be required for emergency repairs to restore traffic flow, but will be required for FHWA financial participation for work classified as permanent repairs. Funds from FHWA's Emergency Relief fund may only be requested for emergencies declared by the Governor or the President.

6.14.2 Processing of Federal Authorization Requests - All requests to FHWA for authorization will be initiated by the District Federal Aid Coordinators in the Department's Federal Aid Management System and processed through the Federal Aid Management Office. The Federal Aid Management Office will review the authorization request for accuracy and submit it electronically to FHWA's Fiscal Management Information System for FHWA approval. For Central Office administered projects, a copy of the approved ESD may be obtained from the Federal Aid Management Office's website. For District administered projects, the approved ESD may be obtained from the District Federal Aid Coordinator via the Federal Aid Management Office's website.

6.15 TANGIBLE PERSONAL PROPERTY

Contractual services that provide for a Contract Vendor to buy tangible personal property, as defined in **Section 273.02, F.S.**, for subsequent transfer to the state may be entered into only in accordance with **Rule 60A-1.017, F.A.C.** The Project Manager shall document in writing using **Form No. 375-040-33, Acquisition of Tangible Personal Property Within Contractual Services Contracts**, that there is an absolute and demonstrated need to acquire the property through the Contract Vendor, as opposed to direct acquisition by the Department. The method of compensation in the contract shall include a provision covering any Tangible Personal Property.

6.16 OUTSOURCING OF SERVICES

Procurements for the outsourcing of services or activities must follow the requirements outlined in **Section 287.0571, F.S.**

Chapter 7

CONTRACT DOCUMENTS

7.0 CONTRACT DOCUMENTS

There are four (4) types of contract documents used in the procurement of commodities and contractual services. The four types are identified below, as 1) the Purchasing Card (Pcard), 2) the MFMP Purchase Order, 3) the MFMP Contract, and 4) the standard two-party written agreement. Each type of contract document shall incorporate and include as appropriate, a commodity description, specification or Scope of Services, the needed date for delivery of commodities or a Time Frame (start and end dates) for performance of services, payment and freight terms and/or Method of Compensation, and other legally required statements and/or provisions.

The selection of the type of contract document to use is a decision that should be based on the guidelines provided below. Each type of contract document is explained in greater detail in the numbered subsections that follow, and the type of contract document utilized should remain the same throughout the life of the contract, including any subsequent renewals, change orders, or modifications.

- | | |
|-----------------------------|---|
| Category Two or less | <ul style="list-style-type: none">- procurement must be evidenced by a Purchasing Card transaction, an MFMP Purchase Order, MFMP Contract, or a Written Agreement. (Note: Pcard procurements must not exceed the cardholder's single transaction dollar limit). |
| Greater than Category Two - | <ul style="list-style-type: none">- procurement must be evidenced by an MFMP Purchase Order, an MFMP Contract, or a Written Agreement with approved encumbrance. If for contractual services, the contract document must contain the provisions of Section 287.058, F.S., and other provisions required by law, DMS, or DFS. Contractual service contracts greater than Category Three must have legal review. |

7.1 PURCHASING CARD (PCARD)

Purchasing card (Pcard) transactions are used to procure commodities or services that are less than or equal to the dollar amount for Category Two. Pcards are intended to serve as a prompt and convenient means of contracting for commodities/services. Purchasing Card (Pcard) administration and Local Charge Accounts are addressed in

Procedure No. 350-030-010, Purchasing Card, however, the procurement requirements and considerations for use of the Pcard are addressed in this Manual.

7.1.1 The cost center should use the Pcard, in accordance with **Procedure No. 350-030-010, Purchasing Card**, to procure commodities not available from a Department warehouse or needed services when the total dollar amount does not exceed the Pcard single transaction limit, with the following exceptions:

7.1.1.1 Do not use the Pcard if additional contractual terms are needed to limit the Department's potential for risk and liability. An MFMP Purchase Order, MFMP Contract, or written agreement should be used in those cases.

7.1.1.2 Do not use the Pcard when committing the Department to an amount greater than Category Two for services and/or commodities (regardless of the time to complete the services, deliver the commodities, or the dollar amount of each single transaction). An MFMP Purchase Order, MFMP Contract, or written agreement with funds approval must be utilized as the contracting document. .

7.1.1.3 Do not use the Pcard as a method of payment for an MFMP contract document.

7.1.2 If the vendor does not accept the Pcard, then an MFMP Requisition must be completed for the cost center and submitted for processing.

7.2 MFMP PURCHASE ORDER (P.O.)

Purchase Orders (P.O.s) are generally used for commodity procurements and simple, clearly defined contractual services procurements. Contractual services Purchase Orders in excess of Category Two must have the provisions of **Section 287.058, F.S.**, and other legally required provisions included, referenced, or attached to the P.O., and must include legal review when greater than Category Three. (see section 7.2.7, below). In accordance with DMS State Purchasing Memorandum No. 01 (2013-2014), and effective October 1, 2013, any contract or Purchase Order that will result in anticipated expenditures of \$1 million dollars or more during the term of the contract must include a completed **Contract Attestation Checklist, Form 375-040-34** and an executed **Contract Attestation, Form 375-040-35** as an attachment to the contract document prior to contract execution.

P.O.s issued against DMS State Term Contracts must include a provision specifying a scope of work that clearly establishes all tasks that the Contract Vendor is required to perform and a provision dividing the work into quantifiable, measurable, and verifiable units of deliverables that must be received and accepted in writing by the Project Manager before payment. Each deliverable must be directly related to the scope of

work and specify the required minimum level of service to be performed and the criteria for evaluating the successful completion of each deliverable.

Currently, the Department's Purchase Orders are created in the MFMP system and encumbered in the P.O. module of the Contract Funds Management (CFM) system.

See Section 7.2.5 for "Creating a Requisition and Purchase Order in MFMP"

7.2.1 An Unencumbered P.O. is a Department contract document that may be issued by the Requester or the Procurement Unit:

- (a) For procurements with a total dollar amount of Category Two or less, the P.O. will be generated without waiting for the verification of funds encumbrance. The Requisition for an unencumbered P.O. must be completed in MFMP and submitted with the required documentation (quotes, approvals, etc.).
- (b) For urgent unanticipated procurements that do not exceed \$2,500, following the purchase, the cost center must promptly create an unencumbered MFMP Requisition/order. The unencumbered Purchase Order that is created for these situations will be a confirming Purchase Order and a statement to that effect should be included, as a comment, on the MFMP Requisition. The box beside the statement "Do Not Send Purchase Order to Vendor?", in the header of the MFMP Requisition, should be checked.

7.2.2 An Encumbered P.O. is a Department contract document which may be used to:

- (a) Contract for commodities and/or services at any dollar amount. If the P.O. is intended for contractual services in excess of the threshold dollar amount of Category Two, and the procurement is not from an existing contract, the provisions of **Section 287.058, F.S.**, and other required provisions shall be included, referenced or attached. For contractual services in excess of Category Three and when the procurement is not from an existing contract, the P.O. must have legal review and approval. For contractual services contracts less than or equal to Category Three, as well as complex commodity contracts of any dollar amount, legal review and approval should be obtained for contracts that have the potential for high risk and high liability for the Department.
- (b) Authorize, encumber, and pay for commodities and/or service(s) under a Term Contract for an Indefinite Quantity. The Contract Number shall be referenced on the Purchase Order.
- (c) P.O. contracts issued after July 1, 2011 for commodities and/or contractual services in excess of \$5 million must identify the specific **Appropriation Bill** number of the state funds that will be used to make payment under the contract in the first year of

the contract. It is recommended that the **Appropriation Bill** number be included as a comment on the MFMP Requisition.

(d) All contracts established after July 1, 2011, for commodities and /or contractual services in excess of \$1 million must include a contractual provision that allows for termination of the contract if the Contract Vendor is found to have been on the

Scrutinized Companies Lists. It is recommended that the required provision be included as a comment on the MFMP Requisition or by including the **Purchase Order Terms and Conditions, Form 375-040-55**, as an attachment to the Requisition.

(e) Effective October 1, 2013, any contract or purchase order that will result in anticipated expenditures of \$1 million dollars or more during the term of the contract must include a completed **Contract Attestation Checklist, Form 375-040-34** and an executed **Contract Attestation, Form 375-040-35** as an attachment to the contract document prior to contract execution.

(f) When the P.O. exceeds the threshold amount of Category Two (currently \$35,000), **Form 375-030-91, Vendor Eligibility Check Prior to Contract Award**, should be completed by the Procurement Unit and attached to the Requisition in MFMP prior to contract execution.

7.2.3 Change Orders for Service and Commodity P.O.s: Change orders are revisions or modifications made to an existing P.O., as needed by the Requester or the Procurement Unit. In MFMP, change orders are denoted by sequential versions (V2, V3, etc.) added to the original Requisition and order number. Some revisions will necessitate that the Vendor receives notice of the changes by the MFMP system transmitting a “versioned” copy of the P.O., while others will not require the Vendor to be notified electronically. Those type of changes are usually transparent to the Contract Vendor, i.e., the Contract Vendor does not need to be advised of them, but are necessary for the Disbursement Operations Office or applicable District Financial Services Office to process payment. The Requester and/or Procurement Agent will determine if the revisions (change order) should be sent to the Vendor, or if revisions to the records in MFMP are only necessary for internal processes.

7.2.4 Confirming P.O.s: Occasionally a confirming P.O. may need to be issued for goods or services that have already been received or committed to, when the purchase is less than or equal to Category Two. While purchasing laws and rules do not prohibit this practice, in some circumstances, law and Department practices have certain restrictions that apply. **Section 339.135(6)(a), F.S.**, requires funds approval by the Department's Comptroller prior to making a commitment of funds. A blanket funds approval has been issued by the Department's Comptroller for purchases that do not exceed the threshold amount for Category Two.

The cost center should create a confirming, unencumbered MFMP Requisition/order using the quantities and prices from the invoice copy. It is very important for the MFMP Requisition/order to state in the item description that "this is a confirming Order for the commodities/services delivered on xx/xx/date - DO NOT DUPLICATE". The MFMP user/Requester will have the option of whether or not to send the order to the Vendor by checking or leaving blank the box on the first page of the Requisition that indicates "Do Not Send Purchase Order To Vendor?". For commodities, once the confirming MFMP Requisition has been submitted, approved, and is in "Ordered" status, the Requester must go into MFMP and record the receipt of that order to facilitate invoice processing.

7.2.4.1 Greater Than Category Two - Contract in Place

If commitments are made and/or commodities/services received in excess of Category Two prior to fund approval, but a contract has been established, a memorandum from the District or Assistant Secretary to the Department Comptroller requesting an after the fact funds approval is required. The memorandum should explain the circumstances, including the dollar amount, and the action to be taken to prevent recurrence. The memorandum should accompany the invoice when submitted for payment and be documented in the contract/P.O. file.

7.2.4.2 Greater Than Category Two - No Contract in Place

When commodities have been delivered or services rendered in excess of the threshold amount for Category Two without a contract in place, except in the case of a certified emergency, **DMS Form PUR 1010, Notice of Non-Compliance** must be completed and submitted to DMS State Purchasing in accordance with **Rule 60A-1.016, F.A.C.** A copy of the certified form must also be sent to DFS with the voucher authorizing payment.

Confirming contracts in excess of the threshold amount for Category Two will require a settlement agreement pursuant to the **Disbursement Handbook for Employees and Managers, available at the following URL:**

<http://cosharepoint.dot.state.fl.us/sites/OOC/DOO/HB/Shared%20Documents/Disbursement%20Handbook%20for%20Employees%20and%20Managers.pdf>

See the Contract Payment Grid in the Procurement Infonet site for further clarification.
<http://infonet.dot.state.fl.us/procurement/ccs/reference.htm>.

7.2.5 Creating a Requisition and P.O. in MFMP

Note: See **Chapter 8** of this Manual for information regarding attachments that must be attached to and submitted (if applicable) with the Requisition. See **Chapter 6** of this Manual for information about procurements that have Special Approval requirements.

7.2.5.1 Creating the Requisition

All Requisitions should be created in the State's electronic procurement system, MyFloridaMarketPlace (MFMP). New users must complete the required training and register for access to the MFMP system by completing **Form No. 375-040-51, MyFloridaMarketPlace User Registration/Update for E-Procurement**, and submitting to the Department's MFMP System Administrator in the Procurement Office.

7.2.5.1.1 MFMP training requirements and the web-based training lessons are available from a link on the Procurement Office website on the Department's Infonet. Contact the Procurement Office or District Procurement Unit in the event additional training is needed. The web-based training on the Procurement Office website is used for training new users, and is a reference resource for all users.

7.2.5.1.2 Additional guidelines, specific to the Department, are available in the "**MyFloridaMarketPlace Reference Guide**", also available on the Procurement Office Infonet website. MFMP users may find it beneficial to keep a printed copy of the **Reference Guide** at their desk for quick reference when working in the MFMP system. All Requisitions submitted by the Department should be created in accordance with this **Reference Guide** and the web-based training lessons. The Requisition title field should begin with the initials DOT and the cost center number.

7.2.5.2 Encumbering the Requisition

Procurements for commodities or contractual services in excess of the threshold amount for Category Two must have the funds encumbered through the P.O. module of the Department's Contract Funds Management (CFM) system, before the Requisition is submitted in the MFMP system. The MFMP user should create the Requisition in MFMP, but not "submit" it until the funds encumbrance has been approved in the CFM system. The Requisition should be "Saved" in MFMP while the CFM funds encumbrance approval is obtained. After receiving the approved encumbrance, the user returns to the 'saved' Requisition to input the encumbrance information in the "DOT Encumbrance Number" and "DOT Encumbrance Line Number" fields to complete and submit the Requisition in the MFMP system.

Purchase Orders that become effective July 1 may be submitted and approved prior to the actual funds encumbrance date when the encumbrance request has been "reviewed-approved" and the Purchase Order contains the following message: "Funds Approval is Contingent Upon Annual Appropriation by Legislature." This statement requires the requesting office to be responsible for verifying that funds were encumbered for the Purchase Order effective July 1.

However, for an unencumbered Purchase Order, the MFMP user may submit and the Procurement Unit may approve the Requisition without funds encumbrance (see **Section 7.2.1, Unencumbered P.O.s**).

7.2.5.3 Approving the Requisition

Requisitions in MFMP will follow the standard approval workflows established by the Department for “catalog” and “non-catalog” Requisitions. The approvals required by these workflows are determined by such factors as the dollar amount of the procurement, the commodity code used, and whether procurement is being made from a DMS State Term Contract (i.e., a “catalog” purchase) or from a non-DMS State Term Contract source (i.e., “non-catalog” purchase). Approvals in the system will move the Requisition along to the next Approver and ultimately generate the P.O. that is electronically transmitted to the Vendor.

7.2.5.3.1 Approvers should review the Requisition for the proper completion of basic information and all other special requirements or documentation before approving.

7.2.5.3.2 The Procurement Unit will determine if the information provided with the Requisition is sufficient. If not sufficient, it is recommended that the Requester is contacted for clarification and additional information or that the Requisition be denied, with a comment, and returned by the MFMP system to the Requester.

- (a) The Procurement Unit will examine cost center authorization, cost distribution information, fiscal year funding, and the encumbrance information designated on the Requisition. The Procurement Unit will verify that an object code and a Batch number are provided.
- (b) For commodities, the Procurement Unit will determine if the description and/or specifications are adequate and if the commodity is available with recycled content. The Procurement Unit will ensure the item description on the Requisition is clear and specific in order to procure the proper commodity.
- (c) For services, the Procurement Unit will determine if the description/scope of services, the beginning and ending dates of performance and method of compensation are adequate to procure the needed service(s).
- (d) The Procurement Unit will determine if all applicable attachments, comments, special approvals (see **Chapter 8**), etc., are included prior to approving the Requisition.
- (e) The Procurement Unit will review and ensure that no confidential information is part of any MFMP attachment or comment. If confidential information is discovered, the Procurement Agent will redact the confidential information or reject the Requisition and

so indicate the correction(s) required of the requisitioner.

(f) The Procurement Unit will determine if the transaction is exempt from the MFMP Transaction Fee, in accordance with **Rule 60A-1.032, F.A.C.**, and if the reason for exemption is identified correctly on the Requisition.

7.2.5.4 Generate P.O. and send to Contract Vendor

When the final approval is given to an MFMP Requisition, the system will generate a P.O. number and transmit the order to the Contract Vendor in the manner specified by the Vendor (either Fax or E-mail) when they completed their Vendor registration in the MFMP system. The Requisition/order status changes at this time from "Submitted" to "Ordered".

7.2.5.5 Archiving Requisitions

MFMP Requisitions that have been created and submitted but are no longer needed, should be archived and not deleted. This allows the history of that Requisition, which would reflect the work effort, individuals involved, problems, and time frames, to be retained for any future reference.

7.2.5.6 Deleting Requisitions

MFMP Requisitions that have not been submitted for approval may be deleted if the user no longer needs that information and the Requisition has never progressed beyond the "Composing" status. Once submitted, however, the history of the time, efforts, individuals, problems, etc., for each Requisition should be retained in the system by "Archiving" the Requisition, rather than "deleting". All record of the efforts and history is removed from the system when the Requisition is deleted.

7.2.5.7 Receiving an Order for Commodities

When commodities ordered have been delivered or picked up, a "Receipt" for the commodities received must be recorded in the MFMP system to facilitate invoice processing and payment to the Vendor. A MFMP receipt should be completed as soon as the goods are physically received. An invoice cannot be paid without a completed receipt. Each MFMP Requester is responsible for recording the "Receipts" for their orders in the system. If a partial order is received, the actual quantities received should be recorded in the MFMP system as a partial receipt. See the MFMP website training lessons on the Procurement Office Infonet website, under **Exclusive MFMP Training Tours**, for more information.

7.2.5.7.1 Shipments delivered: Before signing the carrier's delivery receipt, the individual receiving the shipment/delivery (the "Receiver") must make sure the delivery address is correct, the number of cartons, etc., indicated on the receipt is correct, and that the cartons do not show any damage. If the shipment is incomplete or appears damaged, the Receiver must make a note to that effect on the delivery receipt, sign it, and ask the deliverer to sign. (see **Section 7.2.5.7.4** for details on noting damage.) A copy of the delivery receipt should be retained with the Receiving records.

7.2.5.7.2 Shipment inspection: After the deliverer has left, the Receiver should open the shipment and compare the items delivered to the items listed on the order and check for damages. (see **Section 7.2.5.7.4** of this procedure.)

7.2.5.7.3 Incorrect items received: If the wrong item is received the Receiver or someone from the requesting cost center should contact the Contract Vendor and inquire why the shipment is not as requested on the order. Then one of the following steps should be taken:

(a) If the item is different from that ordered, but is both similar and acceptable, the Requester should make note of the discrepancy and contact the Procurement Unit with information to make any necessary changes to the Purchase Order. Contact the Procurement Agent when the Purchase Order references a contract item. If the unit price difference is not in the Department's favor, then contact the Procurement Unit. If Mobile Equipment is not as specified on the Purchase Order, contact the Fleet Manager.

(b) If the item is different from that ordered and is UNACCEPTABLE, the Requester should immediately call the Contract Vendor to correct the problem. The problem and the call to the Contract Vendor should be documented and retained with the Receiving records. The item should not be used and the Receipt recorded in MFMP under item quantity "rejected". If the problem cannot be resolved, the Requester should immediately call the Procurement Agent.

7.2.5.7.4 Damaged shipments: In order to avoid confusion and unnecessary delays, the procedures listed below should be followed for all shipments received to detect damage. The individuals receiving shipments/deliveries should become familiar with the following procedures.

(a) Document any evidence of visible or concealed damage on all copies of the carrier's delivery receipt. Concealed damage can be noted as an unusual rattle within a carton or physical damage to the outside of the carton which might indicate concealed damage.

(b) Open the carton(s) and inspect the item(s) immediately after delivery, even if the items may not be used right away.

- (c) Report damages (visible or concealed) to the Contract Vendor immediately. The Purchase Order number, carrier name, copy of the carrier's delivery receipt, and a description of the extent of damage should be included in this report. Documentation of the damage and communications with the Contract Vendor should be retained with the receiving records.
- (d) Retain the item and its shipping container, including inner packing materials, until an inspection by the Contract Vendor has been performed.
- (e) Contact the Procurement Unit if assistance is needed.

7.2.5.8 Receiving Services with an Invoice Reconciliation (IR)

There is no "Receipt" recorded in the MFMP system for services. The satisfactory performance of services is acknowledged and recorded in MFMP after the invoice is received from the Contract Vendor. The Contract Vendor's invoice is routed through the MFMP system to the appropriate Requester via an ***Invoice eForm*** which generates an ***Invoice Reconciliation (IR)***. The IR must be approved before payment is made to the Contract Vendor.

7.2.5.9 Invoicing

Contract Vendors should submit invoices directly to the Disbursement Operations Office in Tallahassee or to the District Financial Services Office, whichever is specified on the MFMP procurement document.

7.2.6 Blanket P.O.s are indefinite quantity term contracts that are used to authorize the procurement of specified commodities and/or services at specified pricing, for a specified time period, in estimated quantities as called for, not to exceed a specified total cost. This type of P.O. must accurately state the term (time period, i.e., beginning and ending dates) of the Purchase Order, the contract terms, a specific quantity (estimated) for each line item (commodity/service) described, the line item unit rate/price, and the maximum amount of money. Funds approval/encumbrance, for the maximum amount on the P.O., must be obtained in accordance with **Section 7.2.5.2** prior to submitting the Requisition in the MFMP system. It is recommended that the term of a **Blanket P.O.** be one (1) fiscal year and is stated so that it will expire at the end of a fiscal year. Funds for this type of Purchase Order may not be certified forward unless the goods/services have been received by June 30 of the fiscal year.

NOTE: This type of contract document (**Blanket P.O.**) must be managed at the line item level by increasing or decreasing the quantity for each line item, as needed, throughout the term of the P.O. In some situations, the use of a Supplier Level MFMP Contract as the contract document, with Releases (P.O.s) issued against that Contract

will be more efficient to manage because the Supplier Level MFMP Contract can be managed at the contract level rather than the line item level.

- (a) **Blanket P.O.s** function like an open account. They are particularly useful for frequently needed items not available in a Department warehouse. When there is more than one line item or items with more than one price, separate line items must be included on the Requisition to create the P.O. so that the invoice and the procurement document will match and facilitate invoice processing.
- (b) Establishing **Blanket P.O.s** minimizes paper work and expedites delivery time, since the user will have authority to telephone the Contract Vendor directly for Releases against the Purchase Order without going through the Procurement Unit. The Requester should maintain a record of all procurements made against each **Blanket P.O.** to ensure that the total procurements do not exceed the specified dollar amount or continue beyond the term specified.

7.2.7 Contractual Services P.O. Documents

MFMP contractual services P.O.s should not contain a signature of acceptance from the Vendor. When the contractual services contract contains a signature from the vendor to evidence or acknowledge acceptance, DFS considers it a two party written agreement and would require the contract to utilize an updated Contract Summary Form with every invoice and be put into FACTS.

7.2.7.1 Specific examples of contractual services agreements that work well on a P.O. in MFMP are provided on the Procurement Office website, under the Reference Guide entitled "**Guidelines for Contractual Services Contracts**", at the following address:
http://infonet.dot.state.fl.us/procurement/files/ccs/MFMP_Guidelines_for_services_contracts.pdf

7.2.7.2 An MFMP P.O. for contractual services must include:

- a) a beginning and ending date for the period of services,
- b) a clear, detailed, and specific description of the scope of services to be performed for each line item created or scan in and attach a separate Exhibit "A", Scope of Services document to the Requisition,
- c) a Method of Compensation (MOC) statement on the Requisition or scan in and attach a separate MOC Exhibit "B" document to the Requisition.
- d) legal review when the contract dollar amount is greater than Category Three.
- e) users may scan and attach the "**Purchase Order Terms & Conditions**", (**Form 375-040-55**) if appropriate, for contracts that may have higher risk and liability considerations for the Department and when additional legal terms and provisions are needed to provide adequate protection.

- f) Funds encumbered in the CFM system to the Requisition (PR) number when the contract \$amount exceeds category two (currently \$35,000).
- g) when applicable, a check in the “Transaction Fee Exempt” box and the appropriate exemption code on the PR when the purchase is exempt in accordance with Rule 60A-1.032, F.A.C.
- h) a completed ***Contract Attestation Checklist, Form 375-040-34*** and an executed ***Contract Attestation, Form 375-040-35*** as an attachment to the contract document prior to contract execution for any contract (including P.O.s) that will result in anticipated expenditures of \$1 million dollars or more during the term of the contract.
- i) When the P.O. exceeds the threshold amount of Category Two (currently \$35,000), ***Form 375-030-91, Vendor Eligibility Check Prior to Contract Award***, should be completed by the Procurement Unit and attached to the Requisition in MFMP prior to contract execution.

7.2.7.3 Contractual Services agreements that should not be put on a P.O. in MFMP include:

- a) encumbered agreements that use discounts or credits,
- b) agreements that use percentages (percent complete) anywhere in the contract,
- c) agreements that may require adjustments and/or ‘true-ups’,
- d) agreements that include liquidated damages or other financial consequences for non-performance,
- e) agreements that include both encumbered services and unencumbered services.
- f) agreements for utilities or that involve a grant for services.
- g) agreements that have more than 12 line item/services types that may be invoiced.
- h) agreements that include or allow mark-ups/multipliers, indirect costs, or retainage.
- i) agreements that use a journal transfer to a State agency.
- j) agreements that have a multiple year 08XXXX category encumbrance.

NOTES: The types of agreements listed in the section above must be processed with the appropriate standardized two-party written agreement form in accordance with Section 7.4 of this chapter, which will include two-party signatures, the Contract

Summary Form, and listing in the FACTS system.

Purchases that are exempt from the MFMP 1% transaction fee in accordance with **Rule 60A-1.032, Florida Administrative Code (F.A.C.)**, should be put in MFMP unless they are listed in **Section 7.2.7.3**, above.

7.2.8 Services P.O. Contracts and the Contract Summary Form

Contractual services P.O. contracts require written certification by the Project Manager prior to payment processing that contract deliverables have been received as specified in the contract. In accordance with Chief Financial Officer **Memorandum No. 01 (10-11), Form 350-060-02, “Summary of Contractual Services Agreement/Purchase Order”**, is required to be properly completed and submitted with all contractual services payment requests.

7.3 MFMP CONTRACT (FORMERLY CALLED MASTER AGREEMENT)

An MFMP Contract can be used as the contracting document to procure commodities and/or contractual services by creating a Contract Request (CR) in MFMP and including a commodity description or a Scope of Services, the need date for the commodities or a Time Frame with beginning and ending dates for the services, payment and freight terms and/or method of compensation, Unit rates/Price Sheet, all legally required contract terms, conditions, and provisions, as well as any other approval letters or procurement documentation that may be required to show compliance with law, rule, and procedure.

In accordance with DMS State Purchasing Memorandum No. 01 (2013-2014), and effective October 1, 2013, any contract (including Purchase Orders) that will result in anticipated expenditures of \$1 million dollars or more during the term of the contract must include a completed **Contract Attestation Checklist, Form 375-040-34** and an executed **Contract Attestation, Form 375-040-35** as an attachment to the contract document prior to contract execution.

7.3.1 Transmission to Vendor

Upon final approval of the CR, the MFMP system will generate the MFMP Contract with the same contract number as was used for the CR number but the system will not electronically transmit the Contract to the vendor. Therefore, a copy of the MFMP Contract document should be sent by the Procurement Unit to the Vendor with an acceptance letter, indicating the Department's acceptance of the Vendor's response and offer to provide the needed commodities and/or services.

7.3.2 MFMP Contracts Types

MFMP Contracts should generally be created at the Line Item level with a description for each of the commodities/services to be acquired from the Contract Vendor as a separate line item on the contract with the related unit rate/price. However, if Releases (aka, Requisitions/authorizations/orders) will be issued that will specify and describe the commodities/services being ordered/authorized with the related unit rates/prices, etc, the MFMP Contract could be created at the supplier level or commodity level. When there will be no Releases issued, the MFMP Contract must be created at the line item level and contain line item descriptions and associated unit rates/prices for all contract commodities/services the Contract Vendor will include on their invoice(s).

NOTE: MFMP Contracts do not require a quantity for each line item, which allows them to be managed at the contract level by total dollar amount (Maximum Commitment Amount), rather than at the line item level as is necessary for P.O. contracts.

7.3.2.1 Unencumbered MFMP Contract with Releases – Used for indefinite quantity term contracts that will be utilized by multiple cost centers with each Release/Requisition to be encumbered at the time issued. This type of MFMP Contract may, also, be created at the supplier level or commodity level for commodity and/or services contracts with many line items, if each Requisition (Release) issued will contain the line item descriptions and details to facilitate invoice processing.

7.3.2.2 Encumbered MFMP Contract with Releases - Used by one cost center to encumber a maximum commitment (budgetary ceiling) dollar amount but the performance of services or delivery of goods will be authorized when the Requester/Project Manager issues an unencumbered Release(s) (Requisition/Purchase Order) against the contract during the term of the agreement. This type of MFMP Contract may, also, be created at the supplier level or commodity level because each Requisition/authorization (Release) issued will contain the line item descriptions and details necessary to facilitate invoice processing.

7.3.2.3 Encumbered MFMP Contract with no Releases – Used by one cost center to encumber a maximum commitment (budgetary ceiling) dollar amount with no further Releases or authorizations needed. The amount of encumbered funds may be increased or decreased, and the maximum commitment amount changed accordingly, with a change order to the CR. It is the responsibility of the Requester/Project Manager to ensure that sufficient funds are encumbered prior to authorizing additional work in excess of the original amount of encumbered funds. This type of MFMP Contract must be created at the line item level to facilitate invoice processing and should only be used for contractual services.

7.3.2.4 Use an “Item Level” CR with Releases when:

- a) the number or types of items/services is relatively few (recommend 12 or less) and each item/service can be well defined and has a fixed unit rate.

7.3.2.5 Use a "Supplier Level" CR with Releases when:

- a) the types and quantities of services required during the term of the contract will vary from month to month and/or by written authorizations issued for services to be performed during a specified period of time.

- b) the contract/agreement may be used by multiple cost centers.

7.3.3 MFMP Contract Provisions

All MFMP Contracts established after July 1, 2011, for commodities and/or contractual services in excess of \$1 million must include a contractual provision that allows for termination of the contract if the Vendor is found to have been on the **Scrutinized Companies Lists**. It is recommended that the required provision be included by including the **MFMP Contract Terms and Conditions, Form No. 375-040-44**, as an attachment to the CR in MFMP.

7.3.3.1 All MFMP Contracts created after July 1, 2011 for commodities and/or contractual services in excess of \$5 million must identify the specific **Appropriation Bill** number of the state funds that will be used to make payment under the contract in the first year of the contract. It is recommended that the **Appropriation Bill** number be included as a comment on the MFMP CR.

7.3.3.2 Effective October 1, 2013, any contract or purchase order that will result in anticipated expenditures of \$1 million dollars or more during the term of the contract must include a completed **Contract Attestation Checklist, Form 375-040-34** and an executed **Contract Attestation, Form 375-040-35** as an attachment to the contract document prior to contract execution.

7.3.3.3 When the MFMP Contract will exceed the threshold amount of Category Two (currently \$35,000), **Form 375-030-91, Vendor Eligibility Check Prior to Contract Award**, should be completed by the Procurement Unit and attached to the **Contract Request** in MFMP prior to contract execution.

7.3.4 MFMP Contracts for Services

MFMP Contracts should not contain a signature of acceptance from the Contract Vendor. When the contractual services contract contains a signature from the Contract Vendor to evidence or acknowledge acceptance, DFS considers it a two party written agreement and would require the contract to utilize an updated **Contract Summary Form** (Office of Comptroller) with every invoice and be put into FACTS.

7.3.4.1 Specific examples of contractual services agreements that work well as an MFMP Contract are provided on the Procurement Office website, under the Reference Guide entitled “**Guidelines for Contractual Services Contracts**”, at the following address:

http://infonet.dot.state.fl.us/procurement/files/ccs/MFMP_Guidelines_for_services_contracts.pdf

7.3.4.2 An MFMP Contract for contractual services must include:

- a) a beginning and an ending date for the period of services,
- b) a completed “**MFMP Contract Terms and Conditions**” (**Form 375-040-44**), to be scanned in and attached to the MFMP Contract Request (CR),
- c) an Exhibit "A", Scope of Services, to be scanned in and attached to the MFMP CR,
- d) an Exhibit "B" Method of Compensation, to be scanned in and attached to the MFMP CR, and
- e) if applicable, an Exhibit "C", Unit Rates, to be scanned in and attached to the MFMP CR.
- f) legal review when the contract dollar amount is greater than Category Three.
- g) written authorizations (previously done with LOAs or TWOS) are issued in MFMP by creating a “Release” (a Requisition/PO) against the MFMP Contract.
- h) that funds are encumbered in the CFM system for the entire Contract (use the CR number with an “MA” prefix) or will be encumbered by Releases (which are encumbered in the CFM system to the PR number).
- i) when applicable, a check in the “Transaction Fee Exempt” box and the appropriate exemption code on the CR when the contract is exempt in accordance with **Rule 60A-1.032, F.A.C.**
- j) a completed **Contract Attestation Checklist, Form 375-040-34** and an executed **Contract Attestation, Form 375-040-35** as an attachment to the contract document prior to contract execution for any contract (including Purchase Orders that will result in anticipated expenditures of \$1 million dollars or more during the term of the contract).

7.3.4.3 Contractual Services agreements that should not be put on an MFMP Contract include:

- a) encumbered agreements that use discounts or credits,
- b) agreements that use percentages (percent complete) anywhere in the contract,
- c) agreements that may require adjustments and/or ‘true-ups’,

- d) agreements that include liquidated damages or other financial consequences for non-performance,
- e) agreements that include both encumbered services and unencumbered services.
- f) agreements for utilities or that involve a grant for services.
- g) agreements that have more than 12 line item/services types that may be invoiced.
- h) agreements that include or allow mark-ups/multipliers, indirect costs, or retainage.
- i) agreements that use a journal transfer to a State agency.
- j) agreements that have a multiple year 08XXXX category encumbrance.

NOTES: The types of agreements listed in the section above must be processed with the appropriate standardized two-party written agreement form in accordance with Section 7.4 of this chapter, which will include two-party signatures, the Contract Summary Form, and listing in the FACTS system.

Purchases that are exempt from the MFMP 1% transaction fee in accordance with Rule 60A-1.032, Florida Administrative Code (F.A.C.), should be put in MFMP unless they are listed in section 7.3.4.3, above.

7.3.5 MFMP Contracts for Services and the Contract Summary Form

Contractual services contracts require written certification by the Project Manager prior to payment processing that contract deliverables have been received as specified in the contract. In accordance with Chief Financial Officer **Memorandum No. 01 (10-11), Form 350-060-02, “Summary of Contractual Services Agreement/Purchase Order”**, is required to be properly completed and submitted with all contractual services payment requests.

7.4 WRITTEN AGREEMENT

A written agreement is a Department contracting document which may be used to contract for services at any dollar amount and will include two-party signatures, the Contract Summary Form, and listing in the FACTS system.. If the threshold amount of Category Two is exceeded, the provisions of **Section 287.058, F.S.**, and other legally required provisions shall be included, referenced, or attached, as well as legal review when the contract is greater than Category Three (currently \$65,000). Written agreements are encumbered in the Contracts module of the CFM system.

In accordance with DMS State Purchasing Memorandum No. 01 (2013-2014), and effective October 1, 2013, any contract or purchase order that will result in anticipated expenditures of \$1 million dollars or more during the term of the contract must include a completed **Contract Attestation Checklist, Form 375-040-34** and an executed **Contract Attestation, Form 375-040-35** as an attachment to the contract document prior to contract execution.

7.4.1 Guidelines for Written Agreements

Written agreements are generally used for contractual services procurements that do not meet the guidelines for contracting in MFMP. Specific examples of contractual services agreements that should not be put in MFMP are provided on the Procurement Office website, under the Reference Guide entitled "**Guidelines for Contractual Services Contracts**", at the following address:

http://infonet.dot.state.fl.us/procurement/files/ccs/MFMP_Guidelines_for_services_contracts.pdf

The following types of contractual services agreements should be processed with the appropriate standardized two-party written agreement form in accordance with this Section:

- a) encumbered agreements that use discounts or credits,
- b) agreements that use percentages (percent complete) anywhere in the contract,
- c) agreements that may require adjustments and/or 'true-ups',
- d) agreements that include liquidated damages or other financial consequences for non-performance,
- e) agreements that include both encumbered services and unencumbered services.
- f) agreements for utilities or that involve a Grant for services.
- g) agreements that have more than 12 line item/services types that may be invoiced.
- h) agreements that include or allow mark-ups/multipliers, indirect costs, or retainage.
- i) agreements that use a journal transfer (JT) to a State agency.
- j) agreements that have a multiple year 08XXXX category encumbrance.

7.4.2 Standardized Written Agreement Forms

All of the standard contractual services agreements listed below contain the legally required provisions and have been approved following an established legal review process. The overall preparation of the written agreement, including the method of compensation and other applicable attachments, is the responsibility of the Procurement Unit. The development of the Scope of Services and other applicable technical attachments are the responsibility of the Requester/Project Manager.

STANDARD WRITTEN AGREEMENT – Form No. 375-040-19

A two-party written agreement document which embodies all provisions and conditions of the procurement of contractual services, including standard language with provisions required in **Section 287.058, F.S.**, and **Rule Chapter 60A-1, F.A.C.**, and other provisions to adequately protect the Department, and provide a scope of services and method of compensation. This is the recommended contract document for contracts established by an ITN. This standard agreement format may, at the option of the Project Manager, be necessary to use for Work Program contracts (using 08 category funds) that have special tracking and reporting requirements.

STATE OF FLORIDA GOVERNMENT AGENCIES - Form No. 375-040-17

A standard agreement for services provided by Florida governmental entities or in-state universities. This agreement does not contain ownership of works language. The Procurement Unit shall require Project Managers to consider and provide appropriate language in the scope of services/specification.

MASTER UNIVERSITY AGREEMENT – Form No. 375-040-64

A standard agreement for services, information and items to be provided by an in-state university as described in specific, separate Task Work Orders issued under the terms and conditions of the Agreement.

TIME EXTENSION LETTER – Form No. 375-040-12

A standard amendment letter which may be used when the extension involves only a time extension with no change in compensation or services. The "**Extension Letter**" is restricted to a period not to exceed six (6) months and shall be signed and dated by authorized signatories of the Department and Contract Vendor.

WRITTEN AGREEMENT MODIFICATION – Form No. 375-040-07

A standardized form used to modify a written agreement by:

- 1) Amendment - to raise or lower the budgetary ceiling.
- 2) Amendment – other, as may be applicable (modify a contract term or condition, time extension with no additional funding, clarify the scope of services, change names, addresses, or project identification data, etc.).

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- 3) Supplement – Revising/adding to the scope of services.
 - 4) Time extension - with additional funding.
 - 5) Renewal.

EXPERT WITNESS CONTRACT – Form No. 225-065-02

A standard agreement used to contract for expert witness services.

OUTSIDE COUNSEL CONTRACT – Form No. 225-065-06

A standard agreement used to contract for outside legal counsel. The Attorney General's Office must approve the use of all outside legal counsel services for each fiscal year.

SUPPLEMENTAL AGREEMENT FOR EXPERT WITNESSES AND OUTSIDE COUNSEL – Form No. 225-065-03

A standard amendment used to modify Expert Witness or Outside Counsel contracts.

CERTIFICATE OF COMPLETION – Form No. 375-040-25

A standard agreement used to certify that services are complete and to document a final billing amount on maximum amount contracts. Used for contracts completed early and/or in an amount less than the maximum amount established in the contract. Once work has been satisfactorily completed, this agreement may be executed to document the completion of the contract and final contract amount prior to the release of the performance bond.

TERMINATION AGREEMENT – Form No. 375-040-13

A standard agreement used to terminate a contract and document a final billing amount for the completed services. A termination letter by the Project Manager should be provided to the Contract Vendor, indicating the stop date and requesting the Contract Vendor's final bill, prior to executing the ***Termination Agreement***. The Termination Agreement needs to be executed before payment of the final bill.

AGREEMENT OF ASSIGNMENT – Form No. 375-040-05

A standard agreement used to transfer a contractual obligation from an original contract vendor to another Contract Vendor.

CONTINUED SERVICES CONTRACT – Form No. 375-040-16

A standard agreement used to re-procure and re-contract for services when the original contract provides for additional years of service. The procurement unit will follow all applicable procurement laws and procedure requirements before this agreement is processed for execution.

APPENDICES: The following Appendices are attached to the above contracts, as applicable.

APPENDIX I Terms for Federal Aid Contract – Form No. 375-040-40

A standard appendix attached to the services contract document when Federal funding may be involved.

APPENDIX II Information Technology Resources – Form No. 375-040-29

A standard appendix attached to services contracts for the purchase or maintenance of computer hardware/software or licensed programs.

7.4.3 Negotiation of Contract Language and Coordination with Legal

Standard language in contracts that were procured by competitive bids or proposals will not be negotiated. For other procurement methods and upon the request of the Vendor and the Department's Project Manager, and when it is in the best interest of the state, the standard contract language may be negotiated with a Vendor. The negotiated language must be reviewed by the Office of the General Counsel.

7.4.4 Methods of Compensation

The method of compensation to be included in a written agreement should be developed by the Procurement Unit with input from the Project Manager. This will assure that consistent language is used in all methods of compensation developed by the Department and reviewed by DFS offices when processing payment to the Contract Vendors. Sample Methods of Compensation are provided on the Procurement Office Web site for use by the Procurement Units and Project Managers in the development of the method of compensation for their contract.

7.4.5 Encumbrance of Written Agreements

Written agreements are encumbered in the Contracts module of the CFM system. The CFM will assign a prefix to the contract number to facilitate tracking and reporting on the following specific program areas:

- "B" - for contractual services under **Section 287.057, F.S.**
- "D" - for Right of Way services.
- "X" - for pre-event contracts for commodities and contractual services.
- "H" - for emergency contracts executed under a Governor Declared Emergency.

7.4.6 Execution of Written Agreements

The Department's contract document review and approval process will be followed to comply with the required program, financial, and legal review and approval required by **Section 287.057(18), F.S.** The "Guidelines for Email Execution of Contracts & Modifications" (available as a "Reference Guide" on the Procurement Office website) should be followed.

(a) Contract Document Review and Execution Process

- 1) Legal Review - This step in the execution process provides for legal review of the contract document and is required for all contractual services contracts in excess of Category Three. For contractual services contracts less than or equal to Category Three, legal review and approval should be obtained for contracts that have the potential for high risk and high liability for the Department.
- 2) Vendor Execution - The contract document should be executed by the Vendor prior to Department execution. The contract must be executed by the appropriate officer of the Vendor, and if the appropriate officer is unable to execute the contract document, then a signatory authorized by the officer is acceptable. If the Vendor is a corporation, the appropriate officer is the President or Vice President; if the Vendor is an LLC, the appropriate officer is the Managing Member; if the Vendor is a general or limited partnership, the appropriate officer is the General Partner. If the appropriate officer is unable to execute the contract document, a written delegation by the officer must be provided to the Department. Should the Vendor make any changes to the contract the Vendor's signatory shall initial all changes. Any of these changes may have legal implications, and therefore, may require an additional Department legal review.
- 3) Procurement Unit Approval - The procurement unit will approve all contractual services contracts prior to execution of the contract by the Department. This signature indicates that:
 - a. The contract was procured in accordance with all applicable laws and rules.
 - b. Funds have been properly encumbered by the Department's Comptroller.
 - c. The contract has had proper legal review.
 - d. When required, the Vendor has presented proof of insurance with a company or companies authorized to do business in Florida.
 - e. If any changes were made to a previously approved contract, that the changes were reviewed and resolved with appropriate offices.
 - f. When the contract exceeds the threshold amount for Category Two (currently \$35,000), ***Form 375-030-91, Vendor Eligibility Check Prior to Contract Award, has been completed by the Procurement Unit and included in the contract file.***
- 4) The Department Secretary, or authorized designee, will sign the contract on behalf of the Department. Signature authority is delegated to Senior Management Level Directors and above, who may delegate signature authority to other office heads in writing.

If changes to the contract were made by the Vendor and accepted by the Department, such changes must be initialed by the Vendor and by the individual who signs the contract on behalf of the Department. The Procurement Unit will designate the date of execution on the contract in ink or type.

7.4.7 Written Agreements and the Contract Summary Form

Contractual services contracts (Purchase Order, MFMP Contract, and/or written agreement) require written certification by the Project Manager prior to payment processing that contract deliverables have been received as specified in the contract. In accordance with Chief Financial Officer **Memorandum No. 01 (10-11), Form 350-060-02, “Summary of Contractual Services Agreement/Purchase Order”** is required to be properly completed and submitted with all contractual services payment requests.

7.4.8 Distribution of Executed Written Agreement

The procurement unit should distribute the executed contract document in the following manner:

- * Send a scanned .pdf copy of the executed contract to the Contract Vendor, the FDOT Contract Payments section, and the Project Manager.
- * Retain the original contract document in the Procurement Unit contract file.
- * FACTS – Upload executed contract image into system.

7.4.9 Modifications to Written Agreements

A written agreement modification is a legally formatted document used to change or revise an existing written agreement. The **Written Agreement Modification, Form No. 375-040-07**, should be used to document changes or revisions to written agreements such as: (1) additional services to assure satisfactory completion of the project that are within the intent of the original agreement, (2) initiation of subsequent phased services in the original agreement, (3) contract renewal, (4) time extensions (up to six months), (5) scope clarifications, corrections of typos, etc., (6) address changes, (7) project identification changes, or (8) to increase or decrease a budgetary ceiling on a Term Contract for an Indefinite Quantity. Modification forms to a written agreement must be sequentially numbered for the life of the contract (not by fiscal year) and must be scanned and attached to the MFMP Contract. The MFMP Contract must be updated to reflect the modification(s) made.

The Requester/Project Manager will request modifications to written agreements in writing using **Form No. 375-040-28, Request for Procurement Action**. The request

shall include adequate explanation and justification for the modification requested (i.e., supplemental services, change in scope of services, change in time frames, single source justification, modified compensation and budget authority, as applicable). The Requester/Project Manager and/or Procurement Unit shall evaluate all cost factors with due consideration given to the original and/or previous modification rates and reconcile variances between the Department's and the Contract Vendor's agreement terms, scope of services, and estimate of work effort and fees. The negotiated fee shall be that which the Department determines is fair and reasonable considering the scope and complexity of the modified services.

The Procurement Unit is responsible for the preparation of all ***Written Agreement*** modifications and the resulting revisions to the MFMP ***Contract Request (CR)***. The contract file attached to the CR must contain the request form. Modifications to federal-aid projects are subject to the same basic requirements as those imposed on the initial agreement.

Execution - The execution process for written agreement modifications is the same as for the original agreement. Modifications need not be executed by the same individuals who signed the original agreement, but need only be signed by individuals authorized to execute contracts.

Written agreement modifications must be executed prior to performing the work covered in the modification and prior to termination of the agreement.

Distribution - The distribution of executed written agreement modifications is the same as the original agreement. Modifications will be retained with the official agreement files.

FACTS – Upload executed contract modification image into system.

7.4.10 Letter of Authorization (LOA) and Task Work Order (TWO)

A Department term contract for services for an indefinite quantity is a contract whereby the Contract Vendor agrees to furnish contractual services during a prescribed period of time. Services are provided on an as-needed basis and are authorized in writing by an LOA or a TWO. The LOA or TWO is a written authorization issued by the Department's Procurement Unit or Project Manager, as applicable, to a Contract Vendor to perform services contracted for under a Department term contract. Each LOA or TWO must be consecutively numbered during the term of the contract. The written authorization (LOA or TWO) should contain a description of the services to be provided, the limiting and/or lump sum cost, and the time frame for completion of the authorized services. The scope of services and cost for each written authorization cannot exceed any of the limits of the Department term contract, and the timeframe authorized by the LOA or

TWO cannot extend beyond the ending date of the contract.

NOTE: When the funds are not encumbered prior to execution of the Department term contract, each LOA or TWO must be accompanied by an approved encumbrance.

7.5 RIGHT OF WAY INVOICE TRANSMITTAL

The use of Right of Way Invoice Transmittals for certain procurements may be authorized by the Department's Comptroller and/or the ***Right of Way Manual, Topic No. 575-000-000.***

7.6 CONTRACT MANAGEMENT

Contractual services contracts are to be managed in accordance with the provisions of Section **287.057(14), F.S.**

7.6.1 Contract Manager Training

Each contract manager who is responsible for contracts in excess of the threshold amount for Category Two (currently \$35,000), must attend training as prescribed in **Section 287.057(14)(a), F.S.**

7.6.2 Contract Manager Certification

Effective 12/01/14, contract managers responsible for agreements greater than \$100,000 annually must become a certified contract manager within 24 months after establishment of the training and certification requirements by the Department of Management Services (DMS) and the Department of Financial Services (DFS) in accordance with **Section 287.057(14)(b), F.S.**

7.7 FACTS REPORTING REQUIREMENTS FOR CONTRACTS

All agencies are legislatively mandated (Section 215.985(14), F.S.) to report their contracts through the contract tracking system developed by the Department of Financial Services (DFS), known as the "Florida Accountability Contract Tracking System" (FACTS). FACTS is an integral part of the plan to provide greater transparency and accountability in state government spending. The public will be able to download reports from the website and search for contracts by agency, Vendor, or service type.

Information and guidance for using FACTS is available on the Procurement Office website at the following link: <http://infonet.dot.state.fl.us/procurement/>

Chapter 8

ATTACHMENTS TO PROCUREMENT REQUISITIONS

8.0 SUPPORTING DOCUMENTATION

8.1 CONFIDENTIAL INFORMATION

The Requester shall review and redact all confidential information from supporting documentation prior to attaching in a MFMP Requisition. If confidential information was included in the supporting documentation and redacted, the Requester shall maintain the original document in a confidential paper file.

8.2 DETAILED SPECIFICATIONS OR SCOPE OF SERVICES

It is the responsibility of the Requester to prepare detailed and complete specifications, description, and/or scope of services for the items and/or services requested. The Procurement Unit will provide assistance, if needed. All specifications will be reviewed by the Procurement Unit for clarity, accuracy, and to assure that competitive procurement requirements are followed.

Commodity descriptions containing brand names must be followed by either the phrase "or approved equivalent," or "No Substitutions." If "No Substitutions" is stated on the Requisition, justification should accompany the Requisition as either a comment or an attachment. The exception will be single source items which must be accompanied by a justification for single source procurement (see **Section 8.4**, below).

8.2.1 Guidelines for Developing Specifications and Scope of Services: See the Procurement Office Web site for "**Reference Guidelines**" that provide detailed information on the "**Development of Specification**" and "**Scope Development Guidelines**".

8.3 INFORMAL QUOTES/BIDS/PROPOSALS

Vendor quotes/proposals should be obtained by the Requester and maintained in the Pcard file or submitted as an attachment to the MFMP Requisition. Quotes from MBEs should be solicited in accordance with current Department policy. A copy of all quotes/proposals received must be maintained in the Pcard file, attached to and submitted with the Requisition in MFMP or maintained in the procurement file.

8.4 SINGLE SOURCE JUSTIFICATION

A **Single Source Justification** is a written explanation prepared by the requesting office and signed by the office manager explaining why the requested

commodity/service is available only through a single source provider in lieu of pursuing the competitive bid/proposal process. All required single source documentation and evidence of posting shall be attached to the related Requisition(s) in MFMP.

8.5 DMS STATE TERM CONTRACTS

The DMS State Term Contract pricing sheet/pricing information should be maintained in the Pcard file or attached to and submitted with the MFMP Requisition. It is not necessary to provide the Procurement Unit with a copy of the complete contract. Requesters may issue an RFQ (must use if directed to in the state term contract) to the Vendors on a particular DMS State Term Contract to obtain written pricing or services information about the commodities or contractual services available on that DMS State Term Contract. The purpose of issuing an RFQ to Vendors on a specific DMS State Term Contract is to determine whether those Vendors will provide a more favorable price, term, or condition to the Department than what is provided in the state term contract. For DMS State Term Contracts with multiple Vendors, the RFQ is a tool to provide a current, competitive price. See **Chapter 5, Section 5.5.3** for more information about RFQs.

For **Information Technology (IT) services** that are procured under a DMS State Term Contract, the Requester must solicit quotes or proposals in accordance with the RFQ requirements stated in the contract. For other (non-IT) DMS State Term Contracts for services that do not have specific RFQ requirements, at least 2 quotes or proposals are recommended.

8.6 CONTRACT ATTESTATION

In accordance with DMS State Purchasing Memorandum No. 01 (2013-2014), and effective October 1, 2013, any contract (including Purchase Orders) that will result in anticipated expenditures of \$1 million dollars or more during the term of the contract must include a completed **Contract Attestation Checklist, Form 375-040-34** and an executed **Contract Attestation, Form 375-040-35** as an attachment to the contract document prior to contract execution.

8.7 VENDOR ELIGIBILITY

When the P.O. will exceed the threshold amount for Category Two (currently \$35,000), **Form 375-030-91, Vendor Eligibility Check Prior to Contract Award**, should be completed and attached to the Requisition in MFMP prior to contract execution.

Chapter 9

SPECIAL REQUIREMENTS

9.1 EMPLOYEES, FORMER EMPLOYEES, OR RELATIVES AS INDEPENDENT CONTRACTORS

Procurement staff and other Department employees will strictly adhere to **Sections 112.313 and 112.3185, F.S.**, and the Department Ethics Policy (see **Policy No. 001-010-020, Ethics Policy**).

9.2 INSURANCE AND BONDS

9.2.1 General Liability Insurance - Based on the type of services provided, the Department may require the Contract Vendor to carry and keep in force a general liability insurance policy or policies with a company or companies authorized to do business in Florida. Minimum amounts which are typically utilized are combined bodily injury limits of at least \$ 200,000 per person and \$300,000 each occurrence, and property damage insurance of at least \$ 200,000 each occurrence. The Project Manager or Procurement Unit may require higher amounts based on the type of service to be provided. Policies that include Self Insured Retention (SIR) will not be accepted.

All insurance policies shall be with insurers qualified and licensed to do business in the State of Florida. The Vendor shall provide to the Department certificates of insurance showing the required coverage to be in effect with endorsements showing the Department to be an additional insured prior to commencing any work under this Contract. The certificates and policies shall provide that in the event of any material change in or cancellation of the policies reflecting the required coverage, thirty days advance notice, or notice as provided in accordance with Florida law, shall be given to the Department.

9.2.2 Professional Liability Insurance - In accordance with **Section 337.106, F.S.**, the Department will require any person or firm rendering legal, architectural, engineering, or other professional services, except for services of a research or training nature, to have and maintain during the period the services are rendered, a professional liability insurance policy or policies with a company or companies authorized to do business in Florida affording professional liability coverage for the services rendered in an amount deemed sufficient by the Department. The requirement for professional liability insurance may be waived by the Department if the person or firm providing services obtains and maintains an unexpired, irrevocable letter of credit, established pursuant to **Chapter 675, F.S.**, in an amount not less than the minimum

insurance coverage required by the contract with the Department.

9.2.3 Other Specialized Insurance - Based on the type of services being provided, the Project Manager or Procurement Unit may require the Contract Vendor to carry and keep in force other special insurance policies such as:

- Fidelity Insurance
- Pollution Control Insurance
- Full Value Protection Insurance

9.2.4 Performance Bonds - Based on the type of commodities and/or services provided, the Project Manager or Procurement Unit may require the Contract Vendor to supply to the Department and keep in force a bond provided by a surety insurer authorized to do business in Florida. Performance bonds should only be required when it is in the best interest of the State considering the cost of bond and the type of commodities and/or services required. See **Form No. 375-040-27, Performance Bond**.

NOTE: Since the performance bond is usually purchased after contract execution and must be received by the Department prior to the rendering of services by the Contract Vendor, the written agreement shall require a "**Notice to Proceed**", which can be issued by the Department after receipt of the bond.

9.2.5 Retention of Bonds and Proof of Insurance

Bid Bonds and Performance bonds received will be processed in accordance with **Procedure No. 350-080-300, Receipt Processing**. Proof of Insurance should be maintained in the contract file.

9.3 PROCUREMENT WITH MBE UTILIZATION

The Department encourages minority, women, service-disabled veteran, and small businesses to compete for Department contracts, both as "Vendor" and as subcontractors. The Department, its Vendors, suppliers, and consultants should take all necessary and reasonable steps to ensure that minority, women, service-disabled veteran, and small businesses have the opportunity to compete for and perform contract work for the Department in a nondiscriminatory environment. However, use of MBE subcontractors is not mandatory and no preference may be given in the evaluation and selection process for MBE participation.

Section 287.09451, F.S., requires agencies to report their minority business expenditures to the Office of Supplier Diversity. The Procurement Office is responsible for preparing the reports each month by district, including payments to sub vendors.

If a vendor intends to utilize MBEs on their contract, they should submit the ***MBE Planned Utilization, Form No. 375-040-24***, with their Bid Sheet or Price Proposal. The Contract Vendor will be asked to submit ***Minority Business Enterprise Payment Certification, Form No. 375-030-31***, with each payment request to certify payments made to MBE subcontractors.

Procurement Units are responsible for notifying the Procurement Office Minority Programs Coordinator of any contract awards where the Vendor intends to use MBEs as subs.

Project Managers are required to forward the payment certification to the Procurement Office Minority Programs Coordinator for inclusion in the monthly report of minority business expenditures.

9.4 PROCUREMENT WITH DBE CONSIDERATIONS

DISADVANTAGED BUSINESS ENTERPRISES (DBEs) will be utilized in accordance with ***Rule Chapter 14-78, F.A.C.***, Department ***Policy No. 001-275-015, Disadvantaged Business Enterprise Utilization***, and the procurement considerations listed below.

REQUEST FOR PROPOSALS (RFP) & INVITATION TO NEGOTIATE (ITN) - The Department encourages DBE firms to compete for contractual services contracts and for non-DBE proposers to use DBE firms as subcontractors. However, use of DBE subcontractors is not mandatory and no preference points will be given in the evaluation and selection process for DBE participation. Proposers will be requested to indicate their intentions regarding DBE participation by submitting the following two (2) forms with their proposal/reply:

- (a) Anticipated DBE Participation Statement - Form 375-040-63.
- (b) Bid Opportunity List - Form 375-040-62.

9.4.1 DBE Reporting

Central Office and District Procurement Units/responsible offices are required to report DBE utilization to the Equal Opportunity Office.

9.5 CONTRACT RENEWAL

In accordance with ***Section 287.057(13), F.S.***, and ***Rule 60A-1.048, F.A.C.***, contracts for commodities/services may be renewed for a period that may not exceed three (3)

years or the term of the original contract, whichever is longer. Accordingly, renewals can be done on an annual basis, every six months, every 18 months, for two (2) years, or whatever combination works best as long as the total cumulative renewal period does not exceed the longer of three (3) years or the original contract period.

9.5.1 The cost center must provide documentation justifying that the renewal is in the best interest of the State and such justification will be maintained in the contract file. Renewals are contingent upon satisfactory performance evaluations, must be authorized by mutual agreement in writing, and are subject to the same terms and conditions set forth in the initial contract and any written amendments signed by the parties. The execution process and distribution of the executed renewal agreements is the same as for the original agreement.

9.5.1.1 Contract renewals shall be renegotiated with the Contract Vendor in an effort to reduce contract payments by at least 3 percent without affecting the level and quality of service.

9.5.2 Renewal of an existing agreement will be accomplished in accordance with appropriate laws and rules and should retain the original contract document type. Change orders should be used to renew Purchase Orders and written agreements should be renewed by using the renewal option in the **Standard Written Agreement Modification, Form No. 375-040-07**. Contract renewals must address the related dollar amount(s), the fiscal year(s) to be encumbered, and budgetary issues for the renewal period, on the renewal document.

9.5.3 Contracts less than or equal to Threshold Category Two and exempt service contracts may be renewed.

9.5.4 Contracts procured formally and awarded based on a single bid response may be renewed if the original contract document or purchase order terms specifically provided for such renewal option.

9.5.5

In accordance with **Section 287.057(13), F.S.**, contracts initially procured as an Emergency or a Single Source may not be renewed.

9.5.6 Contracts for goods or services of \$1 million or more may not be renewed unless the contract contains a termination clause for false certification regarding the Scrutinized Companies Lists. If the original contract did not include such a termination clause, the contract must be amended to add the termination clause to the contract and a completed **Form 375-030-60, Vendor Certification Regarding Scrutinized Companies Lists**, must be obtained from the Contract Vendor prior to contract

renewal.

9.6 CONTRACT EXTENSION

In accordance with **Section 287.057(12), F.S.**, contracts for commodities and contractual services may be extended for a period not to exceed 6 months. The contract extension shall be in writing and subject to the same terms and conditions set forth in the initial contract and any written amendments signed by the parties.

9.7 TERMINATION AND DEFAULT

Commodity and contractual services contracts may be terminated in accordance with the contract documents. The project manager shall document the circumstances related to the termination.

The default process for commodity and contractual services contracts will be *handled in accordance with Rule 60A-1.006(3), F.A.C.*

9.7.1 Notice of Non-Compliance: If a Contract Vendor is in breach of contractual terms and conditions or performance is unsatisfactory and is not legally excusable, and it is not in the best interest of the Department to immediately terminate the contract, the Contract Vendor shall be notified in writing of the occurrence(s) and given time limitations to remedy the situation. This time limit is usually ten (10) days but may be more or less based on the situation. The notification will also provide that, should it fail to perform within the time specified, the Contract Vendor will be found in default and removed from the agency's approved vendor list. If the Contract Vendor fails to remedy the situation, or if it is in the best interest of the Department to immediately terminate the contract, the Project Manager shall find the Contract Vendor in default and terminate the contract in writing.

9.7.2 Termination: When termination of the contract is necessary, the Requester/Project Manager or other applicable Department personnel shall initiate a termination letter. The Project Manager shall coordinate the termination letter and any further actions with the Procurement Unit and legal office. The letter must be reviewed by the Central Office General Counsel's Office before the letter is sent to the Contract Vendor. The termination letter should include at a minimum:

- (a) reason for termination,
- (b) the effective date of the termination,
- (c) the required disposition of Department property (equipment, works in progress, plans, data, reports, files, etc.),
- (d) that the Contract Vendor shall provide a final invoice for commodities delivered

- and accepted and/or a written quote for services satisfactorily performed,
- (e) that a Change Order or Termination Agreement, as appropriate, will be issued to finalize termination of the contract.

After termination of the services, and before final payment is made, a **Termination Agreement, Form No. 375-040-13**, should be executed with the Contract Vendor which defines the final compensation due the Contract Vendor or Department. However, if there is no longer any encumbered money remaining on the contract and nothing is owed, a **Termination Agreement** should not be prepared. If an encumbrance still exists, notification to remove the encumbrance should be sent to the individual(s) in the District Financial Services Office or the Central Office Disbursement Operations Office that have been granted the authority to update a contract's status in the CFM system. The notification must clearly state that the final invoice has been paid and to close the contract.

9.7.3 Declaration of Default: When a Contract Vendor fails to adhere to contract terms and conditions and does not correct its failure to perform within the time provided, and is not legally excusable, the Contract Vendor should be declared in default and notified of the declaration of default in the letter terminating the services. The Requester/Project Manager, Cost Center Manager, or other applicable Department personnel should initiate a default letter if notice has not been previously given to the Contract Vendor. Default letters must be reviewed by the Central Office General Counsel's Office before the letter is sent to the Contract Vendor. The default letter should include at a minimum:

- (a) the reason(s) the Contract Vendor is being found in default,
- (b) that the Department will re-procure or has re-procured the commodities/services, and the differential dollar amount of re-procurement if known,
- (c) that the defaulting Contract Vendor will not be eligible for award of any future contracts by the Department until such time as the Department is reimbursed by the defaulting Contract Vendor for all re-procurement costs and satisfies the Department that further instances will not occur through a corrective action plan addressing the grounds for default.

All termination or default letters should be mailed certified U.S. Mail Priority or other express delivery service, return receipt requested, or hand delivered, with confirmation of date and time received.

9.7.4 Removal from the Approved Vendor List: After the declaration of default has been issued and the contract has been terminated, the defaulted vendor should be sent a letter notifying them of their removal from the Department's approved vendor list. A copy of all default actions and notices to remove vendors from the Department's

approved vendor list shall be provided to the Central Office Procurement Office. The Central Office Procurement Office will remove the Contract Vendor from the Department's approved vendor list and provide a copy of the defaulting action to DMS State Purchasing.

9.7.5 Reprocurement after Default: In accordance with ***Rule 60A-1.006(3)(c), F.A.C.***, reprocurement of substitute commodities or contractual services may be accomplished by first attempting to contract with the next eligible awardee under the original solicitation, when applicable. Alternatively, the Project Manager may elect to reprocure the commodity or contractual service.

9.8 TRAINING SERVICES

9.8.1 When a contractual services contract is requested to provide training services for use by the Department, the training services will be procured and contracted for in accordance with this Manual.

9.8.2 When training services are requested that are offered to the general public and for which fees (registration) have been collected that pay all expenses associated with the event or program, it is exempt from competitive bidding and the registration form may serve as the invoice and payment may be processed with the Pcard or may be processed for payment directly through the Disbursement Operations Office or the District Financial Services Office. A Purchase Order is not required.

9.9 CONTRACT EMPLOYEES DRIVING DEPARTMENT VEHICLES

The ***Certification of Acceptable Driving Record, Form No. 375-040-39***, must be used with any procurement in which the scope of services involves driving Department owned vehicles by the Contract Vendor or its employees. The certification must be signed and returned by the Vendor and will become a part of the contract. Refusal by the Vendor to sign the certification may result in a non-responsive formal bid or proposal.

9.10 USE OF DEPARTMENT SPACE BY CONSULTANTS

The Department may allow consultants and other service providers to share Department office space and use available Department office equipment if done in accordance with the guidelines and objectives provided in ***Policy No. 001-375-025, Use of Department Space and Equipment by Outside Providers***. The decision to provide Department space and use of available Department office equipment should be made prior to procurement and be defined in the scope of services, to allow the Department to realize maximum cost benefit in negotiated or bid prices.

Chapter 10

SECRETARY DECLARED EMERGENCY PURCHASES

Note: This Chapter does not cover Governor Declared emergencies or emergencies determined by the Agency head in accordance with **Section 337.11(6)(a), F.S.**, regarding the repair or restoration of state transportation facilities (roads, bridges, etc.). Governor Declared emergency purchases for commodities and contractual services are to be handled in accordance with **Procedure No. 375-040-130, Emergency Procurement During Governor Declared Emergencies**.

10.1 A District Secretary or Assistant Secretary will prepare a **Declaration of Emergency** and forward to the Central Office for approval by the Secretary or authorized designee. The **Declaration of Emergency** will certify that an immediate danger to the public health, safety, welfare, or other substantial loss to the state requires an emergency purchase of commodities or contractual services in excess of \$35,000.00. The description of the circumstances surrounding the unexpected event will include complete details of the conditions that created the emergency and provide adequate written determination and justification that an emergency exists.

10.2 The **Declaration of Emergency** will be sent to the Central Office General Counsel who will review, sign, and forward to an Assistant Secretary for approval and execution and forwarding to the Secretary, or authorized designee, for final approval and execution in compliance with **Section 287.057(3)(a), F.S.**

10.3 When an emergency is declared by the Secretary for a project for which FHWA funds are to be requested, the FHWA will be notified immediately by the Procurement Unit or Project Manager that the Department intends to deviate from its normal procurement process for emergency repairs. FHWA will be provided a copy of the emergency declaration and the preliminary scope of services. During a declared emergency, FHWA's prior approval (i.e., an executed ESD) will not be required for emergency repairs to restore traffic flow, but will be required for FHWA financial participation for work classified as permanent repairs.

10.4 Upon the Secretary's or authorized designee's approval, the Department may proceed with the procurement necessitated by the immediate danger and execute a contract document without formal competition. In accordance with **Section 287.057(3)(a), F.S.**, such emergency procurement will be made by obtaining pricing information from at least two prospective vendors, unless the agency 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 state.

10.5 After execution of the ***Declaration of Emergency***, the District/Central Office personnel requesting the emergency declaration should submit a request for fund approval no later than the next business day. If extenuating circumstances prevent receiving next business day funds approval, the Comptroller's Office will work with the Requester on a case by case basis. Under no circumstances should the encumbrance process hold up executing an agreement/contract document that is intended to resolve a safety hazard or meets a critical need of the traveling public.

10.6 The original ***Declaration of Emergency*** will be forwarded to the Central Office or District Procurement Unit. The Procurement Unit will prepare and complete **PUR Form 7800, Notice of Emergency Purchase**, for submission to DMS State Purchasing. The Department is required to file **Form PUR 7800** (original), with a transmittal memorandum, a copy of the contracting document, copies of all written determinations and any other documents relating to the emergency action with DMS, State Purchasing within thirty (30) days after execution of the contracting document. The supporting documentation for the emergency declaration will be maintained in the purchasing file.

10.7 The originator of the request for a ***Declaration of Emergency*** is responsible for submitting a copy of the declaration and transmittal memorandum to the Disbursement Operations Office or District Financial Services Office when the invoices are submitted. The Disbursement Operations Office or District Financial Services Office will submit these copies to the Department of Financial Services with the copies of the contract and the invoice.

10.8 Contract Renewal – In accordance with **Section 287.057(13), F.S.**, contracts initially procured as an emergency cannot be renewed.

Chapter 11

GOVERNOR DECLARED EMERGENCY PURCHASES

When a state of emergency is declared by an ***Executive Order*** or a ***Proclamation of the Governor***, and the Secretary of the Department executes an ***Emergency Order*** suspending procurement procedures as necessary to cope with the emergency, purchases of commodities and contractual services may be acquired in accordance with ***Procedure No. 375-040-130, Emergency Procurement During Governor Declared Emergencies.***

Pre-event Contracts - The Department may formally procure and execute term contracts for commodities and contractual services that may be utilized before, during, and after a ***Governor Declared Emergency*** to support the Department in the emergency situation. These pre-event term contracts for commodities and contractual services must be acquired in accordance with law, rule, and this manual. The Contract Funds Management System (CFM) will assign a "X" contract number to pre-event contracts acquired under ***Chapter 287, F.S.***, to facilitate tracking, reporting, records retention and federal reimbursement requirements

Existing contracts for commodities and contractual services may be used to provide for emergency services and the purchase of commodities during a ***Governor Declared Emergency***, if the required emergency service or commodity falls within the original intent of the contract, or the scope of services/specification specifically addressed providing for emergency situations.

An H-Contract must be used to authorize services and purchases of commodities from existing contracts if federal reimbursement is to be requested in order to facilitate tracking, reporting, records retention and federal reimbursement requirements. See ***Procedure No. 375-040-130, Emergency Procurement During Governor Declared Emergencies*** for additional requirements which may apply.

Chapter 12

OTHER PROCUREMENT UNIT RESPONSIBILITIES

12.1 APPROVED VENDOR LIST

The Department's approved vendor list will be the statewide MFMP Vendor Database.

12.1.1 Public Entity Crimes Convicted Vendor Requirements:

Section 287.133(2), F.S., provides requirements and restrictions specific to convicted Vendors doing business with public entities in the State of Florida.

12.1.2 Convicted Vendor Reporting

Section 287.133(3)(b), F.S., requires that any public entity which receives information that a person has been convicted of a public entity crime shall report that information to the Department of Management Services (DMS) in writing within 10 days.

12.2 MONITORING VENDOR PERFORMANCE

The selection of the Vendors to supply the Department with commodities/services is one of the most important functions of the Procurement Unit. In order to adequately evaluate bids, the Procurement Unit needs information on the performance of Vendors who have done business with the Department in the past. The best sources of such information are the people involved in receiving, inspecting, and utilizing the materials, equipment, and supplies purchased. All staff involved in these activities should be familiar with the procedure for documenting any problems encountered in delivery or quality of commodities or the performance of services provided.

12.2.1 The DMS **Form PUR 7017, Complaint to Vendor**, shall be utilized to report Vendor complaints regarding commodities/services procured from DMS State Term Contracts and from Department contracts. DMS **Form PUR 7017, Complaint to Vendor**, is available on the Procurement Office website under **Reference Guides**. A **Complaint to Vendor** form shall be used to report any discrepancies from the standards and specifications stated in contracts and Purchase Orders. The following procedures should be followed to report discrepancies between contract specifications and Vendor performance:

- (a) As soon as a problem occurs with an order in regard to delivery, quantity, quality, performance, service, or invoicing of materials, equipment, or supplies, the Requester or staff discovering the problem should first contact the Contract Vendor, explain the

problem, and request that it be remedied. Documentation of the problem and communications with the Contract Vendor should be retained in the procurement file.

(b) If the Contract Vendor is unable or unwilling to resolve the problem immediately, a **Complaint to Vendor Form (PUR 7017)** should be completed by the Requester and sent to the Contract Vendor. This does not prohibit the Contract Vendor from resolving the problem, but serves as notice to all concerned that a problem exists and needs to be corrected. Copies of the complaint should also be forwarded to DMS State Purchasing (if it relates to a DMS state term contract), to the Procurement Unit that issued the contract, and if the Contract Vendor is a Certified MBE, to the Office of Supplier Diversity.

(c) If a Requester/Project Manager has any doubt as to whether the problem or discrepancy constitutes a material deviation from the requirements of the specifications, contract, or Purchase Order, the Procurement Unit should be contacted.

(d) If the problem is not resolved after issuing the **Complaint to Vendor** form, the Procurement Unit should be notified in writing or through email. If the complaint was in regard to a DMS State Term Contract, a **Request for Assistance (PUR 7029)** should be completed and forwarded to DMS State Purchasing, to request its assistance in settling the matter. The Requester should send the form to the DMS and provide a copy to the Procurement Unit.

12.3 ANNUAL REVIEW OF PROCUREMENTS

The Central Office and District Procurement Units should annually review all commodities/services procurements to determine if more appropriate and/or more cost effective procurement methods can and should be utilized in the future.

12.4 LOCAL CHARGE ACCOUNTS

Establish a System for Local Charge Accounts in accordance with **Procedure No. 350-030-010, Purchasing Card**.

12.5 MFMP SYSTEM

MFMP access, accountability, and training.

12.6 QUALITY ASSURANCE

The Procurement Office is responsible for quality assurance reviews in accordance with the Performance Management Office **Policy No. 001-260-001, Quality Assurance / Quality Control**.

12.7 QUALITY CONTROL

Procurement Units are responsible for conducting quality control reviews of purchasing card transactions for commodities and contractual services. Reviews are conducted to ensure compliance with critical procurement law, rule, and procedure. Each cost center should be reviewed every other year unless more frequent reviews are necessary to ensure compliance. Results are reported to the Cost Center Manager and entered into the Purchasing Card QAR Database for the quality assurance review by the Procurement Office.

12.8 PROCUREMENT TRAINING

The Procurement Office is responsible for training on the acquisition of commodities and contractual services. Training is accomplished through annual statewide meetings, quarterly statewide procurement videoconferences, as well as individual training provided to the Districts on an as-needed basis. In addition, various sample documents which serve as training materials are available to the Procurement Units and Requesters/Project Managers at the Procurement Office Web Site on the Infonet .

12.9 ANNUAL REPORT

In accordance with **Section 287.042(10), F.S.**, and **Rule Chapter 60A-1, F.A.C.**, the Procurement Office will be responsible for preparing an annual report on the procurement of commodities and contractual services, as directed by DMS.

Chapter 13

PURCHASE ORDER AND CONTRACT PROCUREMENT FILES

File Retention - Contract files must be retained for the length of time required in the Department's **Records Retention Schedule**, pursuant to **Procedure No. 050-020-025, Records Management**. According to the most recent retention schedule all non-capital competitive solicitation files shall be kept for five (5) fiscal years. Purchase Orders, Requisitions, and other backup needed shall be kept for five (5) fiscal years. It is recommended that general office files, all procurement records and Purchase Order files be kept in the Procurement Unit for three (3) years or in the MFMP system, as applicable.

13.1 PURCHASE ORDER FILES

The Procurement Unit will maintain a numeric file of Purchase Orders with the related Requisitions and all pertinent documentation of the procurement, contracting, and administrative phases attached or referenced in a related procurement file or the MFMP system, as applicable. The purchase order documentation must contain copies of all appropriate approvals (IRR forms, ARR forms, approved encumbrance, advance pay, etc.), justifications (reasonable determination, etc.), change order requests, Notice to Proceed (when applicable) and, at a minimum, the following:

- (a) If procured with informal quotes/proposals, a copy of all quotes/proposals received or a statement as to why only a single quote with the selection documentation.
- (b) If procured as a single source, a copy of appropriate approvals, no conflict of interest form, cost analysis (if applicable), evidence of any required posting(s), and documentation of all negotiations.
- (c) If procured as an emergency, a copy of the Declaration of Emergency, procurement process, and negotiations.
- (d) If procured as an exempt commodity/service, documentation of the procurement process, and negotiations.
- (e) If procured as a formal ITB, RFP, or ITN, the purchase order or MFMP Contract file must reference the related Procurement File.
- (f) If in excess of Category Two (currently \$35,000), a completed **Form 375-030-91, Vendor Eligibility Check Prior to Contract Award**.

13.2 CONTRACT PROCUREMENT FILES

The Procurement Unit will maintain files pertaining to the competitive solicitation (ITB/RFP/ITN) of commodities/services which include the following documentation at a

minimum:

- (a) A copy of the advertisement.
- (b) Vendor list.
- (c) ITB/RFP/ITN package (including addenda).
- (d) Approvals (if applicable).
- (e) Exceptions (if applicable).
- (f) Specifications/scope of services.
- (g) Addenda and Questions & Answers.
- (h) All bids/proposals received from vendors.
- (i) Log of bids/proposals received or envelopes with time/date stamp.
- (j) Bid/proposal tabulation.
- (k) Vendor sign-in sheet.
- (l) Evaluation of bids/proposals.
- (m) Determination and notice of intended award with posting period noted.
- (n) Public records, public meeting minutes and recordings of negotiation sessions.
- (o) Conflict of Interest forms, .
- (p) If procured as a formal RFP or ITN, the written justification for the procurement method utilized in accordance with **Chapter 5, Section 513.1(b) and (c)** of this Manual.

13.3 GENERAL OFFICE FILES

It is recommended the following files be maintained:

- (a) General correspondence files on a yearly basis.
- (b) Exceptional purchase file (exceptions and single source) on a current basis.
- (c) Department memoranda on a yearly basis.

13.4 SIGNATURE AUTHORIZATION FILE

Maintain an updated list of authorized personnel to approve:

- (a) Requisitions.
- (b) Purchase Orders.

- (c) Written Agreements.
- (d) Single Source Authorizations.