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
 <u>http://www.myfloridacfo.com/Division/AA/Memos/default.htm.</u>
- Disbursement Operations Manual, Topic No. 350-030-400.
- Disbursement Operations Office (DOO) Handbook available on DOO/OOC intranet site.
- DMS State Purchasing Numbered Memoranda
 <u>http://dms.myflorida.com/business_operations/state_purchasing/documents_forms_references_resources/purchasing_memos_rules_and_statutes/state_purchasing_numbered_memoranda.</u>
- 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.
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- 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:

\$20,000
\$35,000
\$65,000
\$195,000
\$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: <u>http://infonet.dot.state.fl.us/tlofp/</u>

- 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: <u>http://dms.myflorida.com/dms/layout/set/print/content/view/full/732</u>

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: <u>http://www.myfloridacfo.com/Division/AA/Forms/default.htm.</u>

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

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