

## PROCEDURE

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<b>Series:</b>	<b>Procurement</b>	<b>COA:</b> FIN 7.04, RPM 2, ETH 2 <b>CFOP:</b> N/A
<b>Policy Name:</b>	Procurement of Commodities or Services – General	
<b>Policy Number:</b>	PR-901	
<b>Reviewed Date:</b>	1/14/13, 3/22/2019, 3/29/2023	
<b>Revision #/Date:</b>	9/12/11, 6/17/16, 3/1/17, 4/20/21, 6/27/21, 3/29/2023	
<b>Effective Date:</b>	12/15/08	
<b>Applicable to:</b>	All BFP Family of Agencies (BFP FOA) Staff, Contractors, Providers and Vendors	

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**SUBJECT:** Procurement of Commodities or Contractual Services

**PURPOSE:** This operating procedure provides guidance for an efficient and effective commodity and/or service procurement program. Products and/or services must be purchased as economically and expeditiously as possible, consistent with good purchasing practices. As stewards of public funds, employees who are authorized to procure services must develop clear, concise conditions and specifications; keep competition fair and open; and remain free from obligations to vendors.

### **PROCEDURE:**

#### **Scope**

Brevard Family Partnership (BFP) procures commodities and/or services that are responsive to the needs of the children and families in care. Procurement of these items is in accordance with state and federal laws, and Department of Children and Families contract requirements, and BFP policies and procedures as applicable.

BFP plans and coordinates purchases to ensure that quality products and/or services are obtained in a timely manner from responsible agencies on a competitive basis. BFP recognizes that fair and open competition is a basic tenet of public procurement, and that competition reduces the appearance and opportunity for favoritism and inspires public confidence.

All procurements are allowable and necessary for BFP operations. BFP avoids purchasing unnecessary or duplicative commodities or services.

**It should be noted that a summary of the BFP Procurement process has been flowcharted.**

#### **Reference**

BFP Policies/Procedures: AP-432, CG-302, GOV-201, GOV-202, GOV-203, PR-902, PR-903, PR-904, PR-905 and RQ-505  
2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

2 CFR Part 200.16 Prohibition on certain telecommunications and video surveillance services or equipment.

FAC 2005-44 (Federal Acquisition Regulation-Subpart 13, Simplified Acquisition Procedures)

Department of Children & Families Contract with BFP

Florida Statutes: 403.7065, 946

## **Definitions**

**Administrative Services:** Goods and/or services that are incurred for common or joint objectives and cannot be readily identified with a particular objective for a child or family being served by BFP.

**Applicant/Bidder:** A vendor, provider, or contractor which provides information to BFP to be selected to fulfill procurement.

**BFP Provider Network:** Vendors, providers and/or contractors residing in Brevard County that are approved to supply child and family services to clients of BFP.

**Child and Family Services:** Goods or services that are incurred for a specific purpose or to meet a specific objective identified for a child or family being served by BFP.

**Commodity/Good/Product:** A tangible article of trade or commerce; a product as distinguished from a service.

**Contract:** A written agreement between BFP and a vendor/provider/contractor for the doing or not doing of something specified which is enforceable by law.

**Cost Analysis:** The process of examining each element of the estimated or actual cost of a contract performance to determine the probable cost to the vendor.

**Large Purchase:** Any procurement greater than \$250,000.00.

**Micro-Purchase:** The purchase of goods or services which does not exceed \$10,000.00.

**Price Analysis:** The process of deciding if the asking price for a good or service is fair and reasonable, without using the specific cost and profit calculations of the provider used in arriving at the price.

**Service:** The performance of any duties or work for another; helpful or professional activity.

**Small Purchase:** Any procurement of value within the Small Purchase Threshold.

**Small Purchase Threshold:** Any procurement with a value between \$10,000.01 and \$250,000.

**Vendor and/or Subrecipient (Provider):** An individual or organization that sells goods or services defined in PR-902.

## **General Considerations for All Procurements**

Whenever possible, products or materials with recycled content will be procured in accordance with the provisions of Section 403.7065, Florida Statutes.

Whenever possible, products or materials should be procured from Prison Rehabilitative Industries and Diversified Enterprises Inc. (PRIDE) in accordance with Chapter 946, Florida Statutes.

Contracts are made only with responsible subrecipients/vendors that possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration is given to such matters as subrecipients/vendors integrity, record of past performance, financial and technical resources, or accessibility to other necessary resources essential to deliver the service(s) or product(s) being procured. BFP reserves the right to make this determination based on its staff's expertise, system of care requirements, etc.

Where appropriate, an analysis is conducted of lease and purchase alternatives to determine which would be the most economical and practical procurement for the Federal Government.

Per the State of Florida Executive Order 11-116 all subrecipients are required to verify the employment eligibility of all current and prospective employees through the E-Verify system. E-Verify is a federal program administered by the Department of Homeland Security and the Social Security Administration which allows employers to electronically check the identity and work eligibility of their hired employees.

Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities) shall not be procured or obtained, contracts shall not be extended or renewed to procure or obtain, or entered into a contract to procure or obtain equipment, services or systems that uses the aforementioned telecommunications entities' equipment or services as a substantial or essential component of any system, or as a critical technology as part of any system as described in Public Law 115-232, section 889.

Preference shall be given for the purchase, acquisition, or use of goods, products or materials produced in the United States.

Per Chapter 2010-151, Section 49, Florida Laws, procurements of goods and/or services from subrecipients and/or vendors that have a total value of \$5,000,000 or more will be given preference in the selection process that meet the following criteria:

- Principal place of business is within the State of Florida.
- Commit contractually to maximize the use of State of Florida residents, products and other Florida based businesses in fulfilling their contractual duties.

## **Solicitation Minimum Requirements**

Solicitations for goods and services provide for the following as outlined in 2 CFR Part 200 when applicable:

1. A clear and accurate description of the technical requirements for the material, product, or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.
2. Proposals are publicized, solicited from an adequate number of qualified sources, and identify all evaluation factors and their relative importance.
3. Requirements which the bidder/BFP must fulfill and all other factors to be used in evaluating bids or proposals.
4. A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
5. The specific features of "brand name or equal" descriptions that bidders are required to meet when such items are included in the solicitation.
6. The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.
7. Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

### **Conflict of Interest**

In conformity with the BFP Conflict of Interest Statement, all procurements require a disclosure from all Applicants of the name of any officer, director, or agent who is also an employee of BFP Family of Agencies or member of the BFP Family of Agencies Board of Directors. Further, all Applicants must disclose the name of any BFP employee or member of the reviewing BFP Family of Agencies Board of Directors who owns, directly or indirectly, any interest in the Applicant's firm or any of its branches. It should be noted that this disclosure may lead to reconsideration of the Provider/Vendor's selected.

In addition to the above conflict of interest requirements, BFP staff and/or community volunteers writing a solicitation and/or serving on a review team or similar selection capacity will be required to complete the Conflict-of-Interest Statement.

### **Risk Assessment**

A risk assessment of the commodities or services to be procured shall be performed as outlined in procedure RQ-505: Risk Assessment. If a risk assessment of the commodities or services to be procured was performed prior to initiating the procurement process (and subsequently made part of the procurement criteria), the authorized BFP staff will ensure the selected applicant mitigates any risks previously identified as required by policy GOV-203: Risk Management.

### **Utilization of Small, Minority Owned, and/or Women's Businesses**

Reasonable steps should be taken to ensure participation in BFP's Provider Network of the following types of organizations:

- Small business organization, as defined in the United States Code of Federal Regulation, Title 13 – Business Credit Assistance, Part 121.201 – Small Business Administration North American Industry Classification System Codes.
- Minority and women’s business enterprises certified and registered with the State of Florida Department of Management Services.

### **Internal Revenue Service Considerations**

If services are procured from an individual, a determination must be made whether they are an “employee” or an “independent contractor.” As outlined in the Internal Revenue Service (IRS) Publication 15-A:

“To determine whether an individual is an employee or an independent contractor under the common law, the relationship of the worker and the business must be examined. In any employee-independent contractor determination, all information that provides evidence of the degree of control and the degree of independence must be considered. Facts that provide evidence of the degree of control and independence fall into three categories: behavioral control, financial control, and the type of relationship of the parties. The general rule is that an individual is an independent contractor if you, the person for whom the services are performed, have the right to control or direct only the result of the work and not the means and methods of accomplishing the result.”

Documentation must be kept of the determination of the individual providing service in the procurement file as outlined below. If this individual is an “independent contractor”, included with this documentation should be a completed W-9 IRS form. A copy of this form should be forwarded to the Accounting Department for the calendar year end issuance of the 1099 IRS form.

### **Florida Sunshine Law**

All procurements must be made in compliance with the Sunshine Law as applicable.

### **Vendor/Subrecipient Determination**

A determination will have to be made if goods or services are provided by a “vendor” or “subrecipient.” This determination will be documented as outlined in procedure number PR-902: Subrecipient and Vendor Determination.

### **Contract Provisions**

At a minimum, BFP shall include, in addition to provisions to define a sound and complete agreement, the following provisions in contracts issued:

1. Contracts more than the small purchase threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which

a contractor violates or breaches the contract terms and provides for such remedial actions as may be appropriate.

2. All contracts more than the small purchase threshold shall contain suitable provisions for termination by BFP, including the manner termination shall be affected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.
3. All contracts more than the small purchase threshold awarded by BFP shall include a provision to the effect that BFP, the State of Florida and/or the United States of America, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts, and transcriptions.
4. All contracts, including small purchases, awarded by BFP and their contractors shall contain the contract provisions of Appendix II to 2 CFR Part 200, as applicable.

Implementation of these broad contracting provisions at BFP is outlined in detail in procedure CG-302: Contracting Procedures.

### **Cost or Price Analysis**

A price analysis is conducted at BFP by performing one or more of the following processes:

- Comparing quotations or published price lists from multiple vendors.
- Comparing a price quote with previous prices paid for similar goods or services.
- Comparing a price quote with the United States General Services Administration price lists.

The specific goal of this analysis is to compare the price submitted to provide the good or service with known indicators of reasonableness.

A cost analysis is conducted at BFP as follows:

Cost or pricing data is provided by the vendor/provider to BFP for analysis. Such data should provide information about the costs that the vendor/provider may incur when providing the commodity or service to BFP.

At a minimum, the cost elements examined for necessity, allowability and reasonableness will include:

- Material
- Labor
- Equipment
- Overhead

These costs will be compared with actual costs previously incurred for similar work, the cost or pricing data received from other vendors or independent cost estimate breakdowns.

The BFP officer initiating a procurement, or their designee will determine whether a price or cost analysis will be performed. Typically, a cost analysis should be performed in those situations where a price analysis does not yield a fair and reasonable measurement of the cost of providing a commodity or service to be purchased by BFP.

Each cost or price analysis **“must”** be documented in writing using at a minimum of two (2) written or verbal “price” quotations. If verbal price quotations are received, the name and contact information of the company and the amount quoted shall be part of the written documentation.

If available, it is recommended that a report be acquired from the Better Business Bureau concerning any vendor/provider selected to provide a commodity or service.

### **Appeals Procedures**

The Appeals Procedure for all procurements of commodities and/or services at BFP is documented in OP-1143, “Appeals and Complaint Process for Network Services”.

### **Procurement Documentation**

BFP will maintain a procurement file describing the actions taken and decisions made during **“all”** procurement processes. At a minimum, the files should contain the following documentation:

1. Basis for contractor selection.
2. Justification for lack of competition when competitive bids or offers are not obtained.
3. Basis for award cost or price.
4. Risk assessment form as applicable. Reference procedure RQ-505: Risk Assessment.
5. Subrecipient and Vendor Determination form. Reference procedure number PR-902: Subrecipient and Vendor Determination.
6. Conflict of Interest Statements as applicable.
7. If an individual (not a legal corporation), a determination memo of either an employee or independent contractor status.
8. If an independent contractor, a completed W-9 form.

It is further recommended that the following items be included in the procurement file when available:

- Documentation of all individuals involved in the process (writing solicitation, evaluating, and awarding).



- Copy of the solicitation document.
- Documentation of all posting activities.
- Record of all correspondence including letters of intent, official questions, and answers, and/or minutes of solicitation conference.
- Copies of bids/proposals/replies/offers.
- Record of the evaluation/scoring.
- Copy of the notification of award.
- If only a cost or price analysis is completed, a memo stating recommendation of the commodity or service to procure; including copies of bids/proposals/replies/offers, etc.
- Better Business Bureau report if available.

Each procurement file will be numbered as follows:

First Three Digits = PRC (for Procurement)

Second Three Digits = The Procurement Number: i.e., 001

Last Four Digits = The Fiscal Year

Example: PRC-001-2008

Contract files will be maintained by the BFP Contracts Department unless otherwise determined by the Executive Team.

BY DIRECTION OF THE PRESIDENT AND CHIEF  
EXECUTIVE OFFICER:



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PHILIP J. SCARPELLI  
President and Chief Executive Officer  
Brevard Family Partnership / Family of Agencies

APPROVAL DATE: 3/31/2023