

**PROCUREMENT POLICY OF THE COUNTY OF CHESTERFIELD, SOUTH
CAROLINA (THE "COUNTY")**

Effective May 3, 2017

I. General Provisions

A. Purpose and Policies. The underlying purposes and policies of these Procedures are to adopt for the County procurement practices that are appropriately competitive and that serve the mission of the County.

B. Application of Procedures.

1. General Application. These Procedures apply only to contracts that are solicited or entered into after the effective date of these Procedures.
2. Reporting to County Council. It shall be the policy of the County that any annual contractual obligation of \$100,000 or greater will be reported to and/or ratified by County Council.

C. Definitions.

1. "Construction Management at-Risk" means a project delivery method in which the County awards separate contracts, one for design services to design a project and the second to a construction manager at-risk for both construction of the project according to the design and construction management services, which include but are not limited to those professional services associated with contract administration, project management, and other services provided in connection with the administration of a construction project.
2. "Design-bid-build" means a project delivery method in which the County sequentially awards separate contracts, the first for design services to

design a project and the second for construction of the project according to the design.

3. “Design Services” means those professional services associated with the practice of architecture, professional engineering, land surveying, landscape architecture, and interior design pertaining to construction, as well as incidental services that members of these professions and those in their employ may logically or justifiably perform, including without limitation studies, investigations, surveys, evaluations, consultations, planning, programming, conceptual design, plans and specifications, construction documents, cost estimates, construction observations, shop drawing reviews, sample recommendations, preparation of operating and maintenance manuals and other related services.
4. “Design-build” means a project delivery method in which the County enters into a single contract for design and construction of a project.
5. “Design-build-finance-operate-maintain” means a project delivery method in which the County enters into a single contract for design, construction, finance, maintenance, and operation of a project over a contractually defined period.
6. “Design-build-operate-maintain” means a project delivery method in which the County enters into a single contract for design, construction, maintenance, and operation of a project over a contractually defined period.

7. "Director" means the County Administrator or her designee.
8. "Operations and maintenance" means a project delivery method in which the County enters into a single contract for the routine operation, routine repair, and routine maintenance of a project.
9. "Procurement" means buying, purchasing, renting, leasing or otherwise acquiring any supplies, services, equipment or construction.
10. "Public Procurement Unit" means any County, city, town, or any other subdivisions of the state or public agency of any such subdivision, public authority, educational, health, or other institution, and any other entity which expends public funds for procurement of property, supplies, services, or construction.
11. "Responsible/responsive bidder" means a person or entity who (1) has the capability in all respects to perform fully the contract requirements, and has the integrity and reliability which, as substantiated by past performance and reputation, will assure good faith quality performance, and (2) has submitted a bid or proposal which conforms in all material aspects to the Invitation for Bids or Request for Proposals.
12. "Reverse Auction method" means a real-time bidding process taking place at a previously scheduled time and Internet location in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods.

D. Severability.

If any provision of these Procedures or any application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of these Procedures which can be given effect without the invalid provisions or application, and to this end the provisions of these Procedures are declared to be severable.

E. Effective Date.

These Procedures shall become effective on July 1, 2014.

II. Source Selection and Contract Formation

A. Methods of Source Selection. Except where noted herein, all County contracts shall be awarded by one of the following methods:

1. Invitation for Bids; (Paragraph II. B);
2. Request for Proposals (Paragraph II. C);
3. Emergency Procurement (Paragraph II. D);
4. Sole Source (Paragraph II. E);
5. Small Purchases (Paragraph II. F);
6. Qualifications Based Selection (Paragraph II. G).
7. Reverse Auction (Paragraph II, H).

B. Invitation for Bids.

1. Notice of Invitation for Bids. An Invitation for Bids shall include (or state where such information is to be made available) a project description, and

all contractual terms and conditions applicable to the procurement. The Invitation for Bids shall be publicly announced.

2. Receipt and Opening of Bids. All bids (whether or not sealed) received prior to the bid due date shall be kept secure and unopened. Bids will be opened in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as may be deemed appropriate by the Director, together with the name of each bidder, shall be tabulated by the Director. The ranking of each bidder, which need not include the dollar amounts of the bids, shall be made available to all bidders after contract award.
3. Bid Acceptance and Bid Evaluation. Subject to the County's right not to accept any bid, the selected bid shall be accepted unconditionally without alteration or correction, except as otherwise authorized in these Procedures or by the Director. The Invitation for Bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that is not set forth in the invitation for bids or addenda to such bids. Bids shall be evaluated based on the requirements set forth in the Invitation for Bids and addenda.
4. Correction or Withdrawal of Bids, Cancellation of Awards. Correction or withdrawal of inadvertently erroneous bids before bid opening, withdrawal of inadvertently erroneous bids after award, or cancellation of awards or contracts based on such bid mistakes, may be permitted within

the Director's discretion. After bid opening no changes in bid prices or other provisions of bids prejudicial to the interest of the County or fair competition shall be permitted.

5. Award. If an award is to be made, the contract shall be awarded by written notice to the lowest responsible/responsive bidder. In the event two or more bidders are tied in price while otherwise meeting all of the required conditions, an award shall be determined in the discretion of the Director.
6. Right of Rejection and Resolicitation. The Director has the right, prior to award of the contract, to reject any and all bids for cause, or without cause, as it deems appropriate. The County has the right to determine not to award the contract to any bidder or to determine to re-solicit bids based upon modified terms and conditions.

C. Request for Proposals.

1. Selection Committee. For each project in which the Request for Proposal procurement selection method is used, the Director will establish a selection committee (the "Committee"). The Director may be a member of that Committee.
2. Notice of Request for Proposals. The Request for Proposals shall be publicly announced and shall include a description of the Project, enumerating all requirements for the Project (or state where such information is to be made available).
3. Receipt and Safeguarding of Proposals. All proposals (whether or not

sealed) received prior to the proposal due date shall be kept secure and unopened.

4. Evaluation Factors. The Request for Proposals shall state the relative importance of each evaluation factor but need not require numerical weightings for each factor. No other factors or criteria shall be used in evaluation and there shall be adherence to any weightings (if such are used) for each factor in the Request for Proposals. The contract file shall contain the basis on which the award is made. A determination of responsibility shall be made before award.
5. Negotiation. The Committee will review all submissions, hold interviews with the three most qualified proposers as deemed by the Committee, determine the most qualified proposer, and negotiate a contract with the most qualified proposer. In the event a satisfactory contract cannot be negotiated with the most qualified proposer, the Committee will negotiate a contract with the next most qualified proposer, and so on, until a satisfactory contract can be negotiated. Nothing contained herein will require the Committee to negotiate a contract with an unqualified proposer or with a proposer who submits an unresponsive proposal.
6. Right to Withdraw and Re-solicit. Until award, the Committee has the right to determine not to award the contract to any proposer or to determine to re-solicit proposals based upon modified terms and conditions.

- D. Emergency Procurement. Notwithstanding any other provision of these Procedures, the Director may make or authorize others to make emergency procurements when there exists an immediate threat to public health, welfare, critical economy and efficiency, or safety under emergency conditions and provided that such emergency procurements shall be made with as much competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. However, such written determination shall not be deemed to be a condition precedent to an award under this section.
- E. Sole Source. A contract may be awarded without competition when the Director determines in writing that there is only one appropriate, practicable source for the required supply, service, equipment or construction item.
- F. Small Purchases.
1. The Director may make any procurement not exceeding \$10,000 by the solicitations of written quotations from a minimum of three qualified sources (or, if in the Director's judgment, there are fewer than three qualified sources, from all qualified sources), and the award shall be made to the lowest responsible/responsive bidder.
 2. The Director may make any procurement between \$10,000.01 and \$49,999.99, upon written approval from the Council Chairman or Finance Committee Chairman by the solicitation of written quotations from a minimum of three qualified sources (or, if in the Director's judgment,

there are fewer than three qualified sources, from all qualified sources), and the award shall be made to the lowest responsible/responsive bidder.

G. Qualifications Based Selection.

1. Preparation of Project Description. The Director shall be responsible for developing a description of the proposed project, listing the required professional services for that project, and preparing a formal invitation to firms for submission of information
2. Public Announcement. The formal invitation shall be publicly announced. Nothing contained herein shall preclude the Director from directly inviting any person to submit information.
3. Selection Committee. The Director shall choose a selection committee whom the Director determines to be qualified to make an informed decision as to the most competent and qualified firm for the proposed project.
4. Interviews with Interested Firms. Following receipt of information from all interested persons and firms, the selection committee shall hold interviews with at least three firms who have responded to the committee's advertisement and who are deemed most qualified on the basis of information available prior to the interviews, or if less than three persons or firms have responded to the advertisement, the committee shall hold interviews with those that did respond. The purpose of the interviews shall be to provide such further information as may be required by the

agency selection committee to fully acquaint itself with the relative qualifications of the several interested firms.

5. Selection and Ranking of the Most Qualified. The selection committee shall evaluate each of the firms interviewed based upon criteria set forth in the invitation. Based upon these evaluations, the selection committee shall select the firms which, in its judgment, are the best qualified. The selection committee's report ranking the firms shall be in writing and will be made available to all firms interviewed upon written request from the interviewed firms.
6. Negotiation of Contract. The Director shall negotiate a contract for services with the most qualified firm at a compensation, which is fair and reasonable to the County. Should the Director be unable to negotiate a satisfactory contract with the firm, negotiations shall be formally terminated. Negotiations shall commence in the same manner with the second and then the third, until a satisfactory contract has been negotiated. If no agreement is reached with one of the three, additional persons or firms in order of their competence and qualifications may be selected after consultation with the selection committee, and negotiations shall be continued in the same manner until agreement is reached.

H. Reverse Auction.

1. Conditions for Use. In addition to the competitive sealed bid or competitive sealed proposal methods of procurement, contracts for the sale of

goods which exceed the sum of Ten Thousand (\$10,000) Dollars may be awarded by utilization of a Reverse Auction method as set forth herein.

2. Reverse Auction Procedures. In using the Reverse Auction method the Director shall follow the following procedures:

a. Invitation for Reverse Auction Bids. The Director shall issue an invitation for Reverse Auction Bids, which shall include all requirements for the bids, include the specifications for the required goods, the time of delivery and the quantities required.

b. Public Notice. Public notice of the bids shall be given not less than seven (7) days prior to the date set forth therein for the commencement of the Reverse Auction, and such notice shall be by publication in a newspaper of general circulation in Chesterfield County.

c. Receiving Bids. Bids shall be received online through a managed website specifically utilized for a Reverse Auction at a time and place designated in the invitation for bids, and pursuant to the time period allotted for the Reverse Auction and other rules applicable to the Reverse Auction as may be promulgated by the Director and designated in the invitation for bids. The final amount of each bid and such other relevant information, together with the name of each bidder, shall be recorded in writing. This record, and each final bid, shall be open to public inspection after award.

d. Bid Acceptance, Evaluation and Award. Bids shall be unconditionally accepted without alteration or correction except as authorized in this Policy. The bidder with the lowest responsive, responsible bid will be awarded the contract.

e. Correction or Withdrawal of Bids; Cancellation of Awards. Correction or withdrawal of erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate, but only upon the written approval of the Director. After final bids are entered, no changes in bid prices or other provisions of bids prejudicial to the interest of the County or fair competition shall be permitted.

f. Determination of Responsibility upon Award. Responsibility shall be determined by the bidder's demonstrated ability to provide the goods required in conformity with the invitation for bids. In making this determination the Director may examine such factors as may be appropriate and relevant to the peculiar requirements of the particular contract.

g. Prequalification of Bidders. The Director may prequalify all prospective bidders as set forth in Section II(I) below.

I. Prequalification of Bidders.

1. The Director may pre-qualify all prospective bidders or proposers.
2. Notice of pre-qualification shall be publicly announced and shall set forth

the criteria (or state where such criteria are to be made available) by which the qualifications and appropriateness of prospective bidders shall be determined. Only those criteria set forth in the pre-qualification notice may be considered in pre-qualifying bidders. The Director shall make all pre-qualification decisions in the exercise of her reasonable discretion, and shall make a written record of the bases for her pre-qualification determinations. Prior to issuance of the Invitation for Bids or Request for Proposals, all prospective bidders or proposers that were provided with pre-qualification notice will be notified of the Director's decisions relating to pre-qualification.

J. Exempted Items. The following services and/or procurements shall be exempt from the provisions of these Procedures.

1. County Council, upon recommendation of the Administrator, may exempt by ordinance specific items, services, or projects from these Procedures when County Council finds that such exemption is in the interest of the County.
2. Purchases \$1,000.00 and under. These Procedures do not apply to any procurement equal to or less than \$1,000.00 where funds for such purchases are included within the budget of the County.
3. Professional Consulting Services, including but not limited to the following:
 - a. Accounting services;

- b. Advertising and marketing services;
- c. Environmental remediation services;
- d. Environmental surveying and testing services;
- e. Financial feasibility services;
- f. Governmental relations services;
- g. Insurance consulting and procurement services;
- h. Legal services;
- i. Maintenance and equipment servicing services;
- j. Management and management consulting services;
- k. Master planning services, including but not limited to master planning design services;
- l. Public relations services;
- m. Underwriting and financial services; and
- n. Such other services as County Council shall from time to time determine should be subject to this Paragraph II(J).

Nothing herein shall preclude the Director from selecting any such professional consulting services pursuant to a competitive selection process.

- 4. Real Property. The purchase, leasing and/or sale of real property by the County.
- 5. Cooperative Purchasing. The Director may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the

procurement of construction or design services with one or more Public Procurement Units in accordance with an agreement entered into between the participants. Such cooperative procurement may include, but is not limited to, joint or multi-party contracts between Public Procurement Units.

6. State Contract Purchasing. County Council, upon recommendation of the Administrator, may exempt by positive majority vote the purchase of specific items or services from these Procedures when such items or services are purchased through the South Carolina State Fiscal Accountability Authority Procurement Services (also known as "State Contract").

III. Delivery Methods

A. Project Delivery

The following project delivery methods are authorized:

1. Design-Bid-Build;
2. Construction Management at-Risk;
3. Operations and Maintenance;
4. Design-Build;
5. Design-Build-Operate-Maintain;
6. Design-Build-Finance-Operate-Maintain;
7. Vendor List
8. Such other project delivery method that the Director may approve combining one or more aspects of the delivery methods in items 1-6 above in this Section III(A).

B. Source Selection

Except as provided in Sections II(D) (Emergency Procurement) and II(F) (Small

Purchases), source selection methods applicable to procurements for the project delivery methods identified in Section III(A) above shall be as follows:

1. Design-bid-build:
 - a. Design. Request for Proposals in Section II(C) above or the Qualifications Based Selection Process in Section II(G) above must be used to procure architect, engineer, and other design or professional services (including construction management where the construction manager serves as the Owner's Agent).
 - b. Construction. Invitation for Bids or Request for Proposals must be used to procure construction in design-bid-build procurements.
2. Construction Management at-risk. Invitation for Bids or Request for Proposals must be used to procure contracts for construction management at-risk.
3. Design-build. Request for Proposals must be used for the procurement of design-build.
4. Design-build-operate-maintain and Design-build-finance-operate-maintain. Request for Proposals must be used for the procurement of contracts for Design-build-operate-maintain and Design-build-finance-operate-maintain.
5. Operations and Maintenance. Invitation for Bids or Request for Proposals must be used to procure contracts for operations and maintenance.
6. Vendor's List. The Director is authorized to select a group or groups of pre-qualified firms to provide services and/or supplies to the County for one or more types of projects over an extended

period of time (not to exceed two years).

- a. Such group(s) of pre-qualified firms shall be selected pursuant to a Request for Proposals or Request for Qualifications process as set forth in this Policy.
- b. The Director may procure services from such group(s) of pre-qualified firms through Sealed Bids or Request for Proposals, except that:
 - (1) Public notice shall not be required; and
 - (2) Where necessary the Director may require bids or proposals on an expedited basis (as early as Twenty-Four (24) hours).

7. Other. Invitation for Bids or Request for Proposals must be used to procure contracts for other project delivery methods authorized pursuant to Section II(A).

C. Bond and Security.

1. Bid security shall be required for all Invitations to Bid for construction contracts entered into pursuant to Article II(B). Bid security shall be one or more bonds provided by one or more surety companies meeting the criteria established by the Director. Bid security shall be in an amount equal to at least five percent of the bid unless a higher percentage is specified in the invitation for bids. Any bid, which does not comply with the bid security requirements, shall be rejected.
2. When a contract to improve real property exceeding \$50,000 is awarded,

the following bond security shall be delivered to the County upon or within a reasonable time after the execution of the contract and shall be binding on the parties:

- a. A performance bond satisfactory to the County, executed by one or more surety companies meeting the criteria established in the invitation for bids or otherwise secured in a manner satisfactory to the County, in an amount equal to 100% of the contract price;
 - b. A payment bond satisfactory to the County, executed by one or more surety companies meeting the criteria established in the invitation for bids or otherwise secured in a manner satisfactory to the County, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in the amount equal to 100% of the contract price.
3. Nothing in subparagraph 2 above shall be construed to limit the authority of the County to require a performance bond or other security in addition to the bonds specified above.
 4. Bonding requirements may be waived for any emergency procurement.

IV. Disposal of Surplus Supplies.

All surplus supplies, materials and equipment which are considered salvage or surplus, may be sold to the highest responsive bidder in accordance with and upon such terms and conditions as the Director shall require with respect to such surplus supplies and materials, provided, however, that the Director may sell, lease, or dispose of any supplies, materials, or junk which has a value of less than Two Thousand (\$2,000) Dollars. The use of GovDeals.com or some other

similar internet-based auction site may be used to sell surplus supplies, materials or equipment.

V. Resolving Protests

- A. Right to Protest. Any actual or prospective bidder, proposer or contractor, who is aggrieved in connection with the solicitation or award of a contract, may protest to the Director. The protest, setting forth the grievance and the grounds therefor, shall be submitted in writing within ten days after such aggrieved person knows or should have known of the facts giving rise thereto, but in no circumstance after fifteen days of notification of award of contract.
- B. Authority to Resolve Protests. The Director shall have the authority to settle and resolve a protest of an aggrieved bidder, proposer or contractor, actual or prospective, concerning the solicitation or award of a contract. If the protest is not resolved by mutual agreement within five calendar days of the notice of protest, the parties shall submit the dispute to non-binding mediation, which shall be concluded within ten calendar days of the notice of protest.
- C. Decision. Should the parties fail to resolve the protest in mediation, the Director shall promptly issue a decision in writing, stating the reasons for the action taken. A decision of the Director shall be final and conclusive, and a copy of the decision shall be mailed or otherwise furnished immediately to the protestor and any other party intervening.