

Public Procurement Best Practices for Managing Procurement Process from Solicitations to Contract Terms, Risk Assessments, & Vendor Evaluations

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Water Management District

What is Public Procurement

Procurement is the rulebook for how agencies spend taxpayer dollars.

- Structured process to buy goods, services, and construction
- Ensures fair competition and transparency
- Protects taxpayer dollars
- Balances cost, quality, and compliance



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Procurement vs. Finance

- **Procurement = process experts**

Procurement knows the laws, the thresholds, and how to run the process.

- **Finance = oversight and accountability**

Finance makes sure the money is there and that it's being spent the right way.

- **Shared responsibility for stewardship**

It's like a checks-and-balances system. Procurement runs the plays; finance keeps an eye on the scoreboard.



Core Functions of Procurement

- Planning & needs assessment
- Informal quotes vs. formal solicitations
- Evaluation & award
- Contract administration



Why Procurement Rules Exist

Ensure fairness

Promote competition

Comply with statutes

Build public trust



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Legal Framework



LAW



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I. Pre-Solicitation

- A) Ethics**
- B) Authorizing**
- C) Cone of Silence**
- D) Construction**
- E) Weird Ones**
 - 1) CCNA**
 - 2) P3**

II. Mid-Solicitation

- A) Public Records**
- B) Sunshine Law**

III. Post-Solicitation

- A) Prompt Pay**
- B) COs**
- C) Protests**

IV. Real Life Examples

V. Contracts



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I. Pre-Solicitation



Pre-Solicitation

General

- **Ethics: Comply with Ch. 112, Part III**
 - § 313(2) No solicitation or acceptance of a gift to influence.
 - § 313(3) No Purchasing Agent may do business with his/her PE.
 - § 313(7) No conflicting employment or contractual relationships.



Pre-Solicitation General

- No common law requirement.
- Public policy favors competitive procurement.
 - Prevents favoritism.
 - Ensures fair competition.



Pre-Solicitation Statutes

The 2024 Florida Statutes (including 2025 Special Session C)

Click a Title to View Chapters and Parts

TITLE I	CONSTRUCTION OF STATUTES	Ch.1-2
TITLE II	STATE ORGANIZATION	Ch.6-8
TITLE III	LEGISLATIVE BRANCH; COMMISSIONS	Ch.10-11
TITLE IV	EXECUTIVE BRANCH	Ch.14-24
TITLE V	JUDICIAL BRANCH	Ch.25-44
TITLE VI	CIVIL PRACTICE AND PROCEDURE	Ch.45-88
TITLE VII	EVIDENCE	Ch.90-92
TITLE VIII	LIMITATIONS	Ch.95
TITLE IX	ELECTORS AND ELECTIONS	Ch.97-107
TITLE X	PUBLIC OFFICERS, EMPLOYEES, AND RECORDS	Ch.110-122
TITLE XI	COUNTY ORGANIZATION AND INTERGOVERNMENTAL RELATIONS	Ch.124-164
TITLE XII	MUNICIPALITIES	Ch.165-185



Pre-Solicitation General

§ 287.057(1) – Applies to an “Agency”

- **For purchases of commodities or services over \$35K, authorizes:**
 - **ITB**
 - **RFP**
 - **ITN**
- **If procure over the threshold without competitive solicitation, must document.**



Pre-Solicitation General

§ 287.057(25) – Cone of Silence

- Who = “Agency”
- What = No contact w/ employee or officer of the exec. or legis. branch, re: solicitation.
- When = release of the solicitation and 72-hours past the NOID.
- Exception = can contact Procurement officer designated in the solicitation.
- Violation = rejection of Response.



Pre-Solicitation Construction



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Pre-Solicitation Construction

§ 255.20, Fla. Stat.

LG must competitively award to an appropriately licensed contractor any construction or improvement of a public building, structure, or other public construction works if:

- Each project is estimated to cost more than \$300K.
- Electrical work will exceed \$75K.



Pre-Solicitation

Public Bid Disclosure Act

§ 218.80, Fla. Stat.

- **Part of the LG Prompt Payment Act.**
- **LG shall disclose all of the permits or fees, including, but not limited to, all license fees, permit fees, impact fees, or inspection fees, payable by the Contractor to the LG or during construction.**



Pre-Solicitation

Bid Bonds

§ 255.051, Fla. Stat.

- Good faith deposit
- Bond, cert., cashier's, treasurer's ✓, or bank draft.

§ 336.41(3), Fla. Stat.

- May require for county road projects.

Check Procurement Code.



Pre-Solicitation

P&P Bonds

§ 255.05, Fla. Stat.

- **P&P bonds required for constructing PE's public buildings exceeding \$200K.**
- **Discretionary for \$200K or less.**



Pre-Solicitation P&P Bonds

§ 180.24, Fla. Stat.

- **Munis must require a bond from a Contractor constructing or extending a utility.**



Pre-Solicitation Retainage

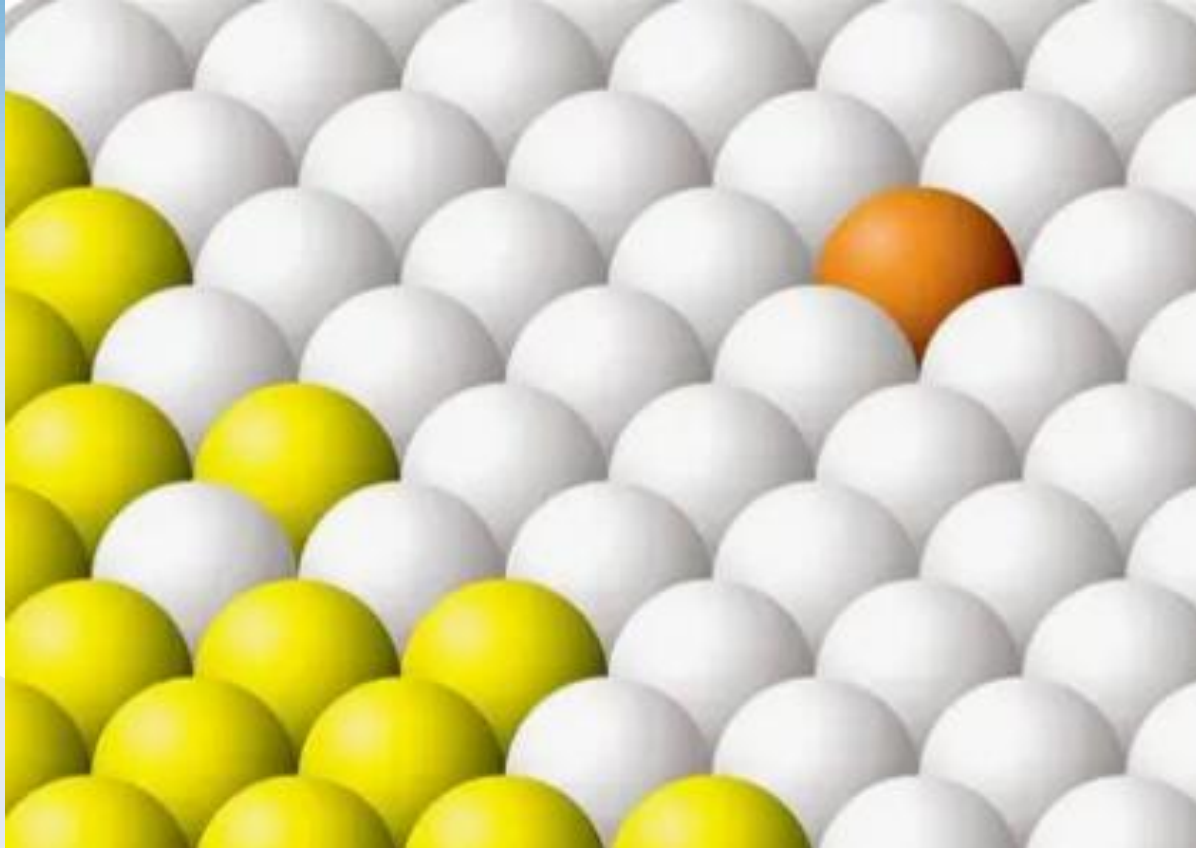
§ 255.078, Fla. Stat.

- If the total cost of the construction services in a contract exceeds \$200K, PE may withhold from each progress payment made to a Contractor an amount not exceeding 5% of the payment as retainage.
- Does not apply to \$200K or less.



Pre-Solicitation

The Weird Ones



Pre-Solicitation Professional Services

**§ 287.055, Fla. Stat.
Consultants Competitive
Negotiation Act or
“CCNA”**



Pre-Solicitation Professional Services

§ 287.055, Fla. Stat., applies to: PE's MEALS –

- Mappers,
- professional Engineers,
- Architects,
- Landscape architects, &
- registered land Surveyors.



Pre-Solicitation Professional Services



§ 287.055, Fla. Stat.

- Only applies if services are related to:
 - A project construction cost estimated to exceed \$325K or
 - Planning/study activity if the fee for professional services for each individual plan/study under the contract exceeds \$35K.



Pre-Solicitation

Professional Services



§ 287.055, Fla. Stat.

- **Allows for continuing contracts.**
- **Max for construction costs cannot exceed \$7.5M.**
- **Max for plan/study activity cannot exceed \$500K.**



Pre-Solicitation Professional Services

§ 255.103, Fla. Stat.

- LG may select a construction management entity pursuant to the process provided in CCNA.



Pre-Solicitation

Public-Private Partnerships

§ 255.065, Fla. Stat.

- **Public-Private Partnerships or “P3s.”**



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Pre-Solicitation

Public-Private Partnerships

§ 255.065, Fla. Stat.

- **Allows LGs to accept unsolicited proposals to develop, operate, or maintain public infrastructure and facilities.**
- **The public infrastructure or facilities must serve a public purpose.**



Pre-Solicitation

Public-Private Partnerships

§ 255.065, Fla. Stat.

- If deemed in the public interest, LG can enter an agreement or competitively solicit for others.



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Public-Private Partnerships

§ 255.065, Fla. Stat.

- Evaluation must include:
 - Cost-benefit analysis.
 - Technical & financial feasibility.
 - Public need & benefit.
 - Quals & experience of private partner.
 - Compatibility with local plans & policies.



Pre-Solicitation

Public-Private Partnerships

§ 255.065, Fla. Stat.

- Agreements must include:
 - Risk allocation.
 - Performance standards.
 - Revenue-sharing or payment terms.
 - Ownership/lease terms and reversion of the asset to LG.



II. Mid-Solicitation



Mid-Solicitation Public Records

§ 119.07, Fla. Stat.

—With very limited exceptions, procurement documents are public records.



Mid-Solicitation Public Records

§ 119.071(1)(b), Fla. Stat.

- Responses are exempt until:
 - (1) PE posts its NOID, or
 - (2) 30 days after opening, whichever is earlier.



Mid-Solicitation Public Records

§ 119.071(1)(b), Fla. Stat.

- If PE rejects all & concurrently notices intent to re-solicit, Responses are exempt until
 - (1) new NOID or
 - (2) PE withdraws the reissued solicitation.
 - But no longer than 12 months after PE noticed the rejection.



Mid-Solicitation Public Records

§ 119.071, Fla. Stat.

- **Bank account numbers and debit, charge, and credit card numbers are exempt if part of a procurement file.**



Mid-Solicitation Public Records

§ 255.065, Fla. Stat.

- **P3 unsolicited proposals are exempt for 120 days after receipt.**



Mid-Solicitation Sunshine Law



§ 286.011, Fla. Stat.

**–Applicable to
bid evaluation
committees.**



Mid-Solicitation Sunshine Law

§ 286.0113, Fla. Stat.

–Temporary
exemption for
contract
negotiation
processes.



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III. Post-Solicitation



Post-Solicitation

LG Prompt Pay Act

§ 218.70 - .080, Fla. Stat.

§ 218.735 – Construction.

- Approval: due 25 business days.
- No approval: due 20 business days.



Post-Solicitation

LG Prompt Pay Act

§ 218.70 - .080, Fla. Stat.

§ 218.73, .74 - Non-Construction.

- **45 days from invoice received.**
- **If no invoice received, 45 days from date goods accepted, services completed, rental begins, or date agreed by parties.**



Post-Solicitation

§ 218.755, Fla. Stat. ***7/1/25***



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Post-Solicitation

§ 218.755, Fla. Stat.

For construction services contracts entered after 7/1/25:

1. If LG receives from its Contractor a price quote for,
2. A CO requested or issued by LG for construction services, &
3. The price quote conforms to all statutory and contractual requirements, then
4. LG must:
 - (a) Approve or deny the price quote, &
 - (b) Send written notice of the decision within 35 days after receipt of the price quote.



Post-Solicitation

§ 218.755, Fla. Stat.

Any denial must:

1. Specify the deficiencies in the price quote,
AND
2. State the actions necessary to remedy those deficiencies.



Post-Solicitation

§ 218.755, Fla. Stat.



If fail to provide the notice:

1. The CO & price quote are deemed approved.
2. LG must pay Contractor the amount stated in the price quote upon the completion of the CO.

Post-Solicitation

§ 218.755, Fla. Stat.

The parties to the construction contract may not waive or alter the terms of this new statute.



Post-Solicitation

§ 218.755, Fla. Stat.

***County of Brevard v. Miorelli Eng'g,
Inc., 703 So.2d 1049 (Fla. 1998)***



Post-Solicitation

§ 218.755, Fla. Stat.

Without a written change order the doctrine of sovereign immunity precludes recovery of the extra work that was totally outside the general scope.

Miorelli at 1051.



Post-Solicitation

§ 218.755, Fla. Stat.



If waiver & estoppel were allowed to defeat express contract terms, then

“An unscrupulous or careless government employee could alter or waive the terms of the written agreement, thereby leaving the sovereign with potentially unlimited liability.”

Miorelli at 1051.



Post-Solicitation

§ 218.755, Fla. Stat.

What if the extra work is arguably within?

If the extra work was encompassed in the original scope, then the public entity should have issued a change order for which the Contractor can recover.

*W&J Constr. Corp. v. Fanning/ Howey
Assocs.*, 741 So.2d 582 (Fla. 5th DCA 1999)



Post-Solicitation

§ 218.755, Fla. Stat.

1. 35-days to in writing approve or deny a price quote for a requested or issued CO.
2. If the notice is not properly provided, LG will be responsible for the requested or issued CO.
3. Generally, the contract's stated prerequisites for a CO will govern.



Post-Solicitation Protests



§ 120.57(3), Fla. Stat.

- Governs an “Agency.”
- Step 1: Informal.
- Step 2: Formal.
- Step 3: STOP & Mediate.
- Step 4: DOAH.
- Check LG governance.

Post-Solicitation Protest Bond

§ 287.042(2)(c), Fla. Stat.

- At the time of filing formal protest, Protestor must file a bond in an amount equal to 1% of the estimated contract amount.
- Most LGs require a bond.



IV. Real Life Examples



Real Life Examples

Liberty County v. Baxter's Asphalt, 421 So.2d 505
(Fla. 1982)



- Must both roads be taken?

Real Life Examples

Liberty County v. Baxter's Asphalt, 421 So.2d 505 (Fla. 1982)

“Public body has wide discretion in soliciting and accepting bids ... and it’s decision, when based on an honest exercise of this discretion will not be overturned by a court.”



Real Life Examples

GTECH Corp. v. Dept. of the Lottery,
822 So.2d 1243 (Fla. 2002)



- Is it luck or is it math?

Real Life Examples

City of Jacksonville (2017)

- It's a Fire Sale!



Real Life Examples

State of Florida Auditor General Operational Audit, City of
North Miami Beach 2025-004 (07/24/24)



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Real Life Examples

The Marshall Project, “How Fake Cops Got \$1.2 Million in Real Weapons” (07/21/2017)



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Real Life Examples

Lessons Learned



V. Contracts

Key Provisions



Contracts

TITLE	STATUTE
Sovereign Immunity & Indemnification	768.28
Annual Appropriations	216.311 (State) 129.07 (Counties) 166.241(13) (Munis) 1011.06 (School Bds)
LG Prompt Payment Act	218.70 - .080



Contracts

Key Provisions

TITLE	STATUTE
Convicted Vendor	287.133
Discriminatory Vendor	287.134
Scrutinized Companies or Other Entities that Boycott Israel	287.135



Contracts

Key Provisions

TITLE	STATUTE
No Lobbying	216.347
E-Verify	448.095
Human Trafficking Attestation	787.06



Contracts

Key Provisions

Public Records Obligations. § 119.0701

- IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT ____(telephone number, e-mail address, and mailing address) .



Contracts

Key Provisions

§ 119.0701.(2)(b):

1. Keep and maintain the public records.
2. Provide the PE with a copy or allow them to be copied.
3. Ensure exempt or confidential and exempt status is maintained.
4. Upon completion of the contract, transfer the records to the PE or keep them as required to perform the service.



Congrats!
You Made It!



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Your Oversight Role



- Ensure thresholds are followed
- Review documentation
- Monitor budgets and encumbrances
- Ask: ‘Does this make sense?’



Common Red Flags

- ⚠ Splitting purchases to avoid competition
- ⚠ Frequent sole source/emergency use
- ⚠ Overuse of blanket POs
- ⚠ Excessive change orders
- ⚠ Missing documentation



Finance + Procurement Collaboration



Align budgets early



Joint review of big purchases



Monitor vendor performance



Build trust between departments



Example: IT Equipment Purchase

Scenario A (Good)

“IT needs laptops. Procurement does an RFP, gets bids, makes an award. Finance confirms budget. Everyone’s happy.”

Scenario B (Red Flags)

“IT just buys laptops directly in batches of 20 so it looks smaller. No bids, no contract, no oversight. Finance sees money going out but nothing to back it up—that’s when you need to step in.”



Key Takeaways

- 1. Procurement = fairness, compliance**
- 2. Finance = oversight**
- 3. Watch for red flags**
- 4. Collaboration protects taxpayer dollars**



Questions for Your Procurement Manager

- How do we track purchases vs. thresholds?
- What's our process for sole sources?
- Do we monitor vendor performance?
- How do we ensure compliance with statutes and policy?



Q&A / Discussion

- What procurement challenges have impacted your finance role?
- Share one best practice you will take back to your agency.



Phone-A-Friend

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Thank You



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