

#### **60A-1.002 Purchase of Commodities or Contractual Services.**

(1) Agencies are delegated the conditional authority to purchase commodities or contractual services (except insurance, unless permitted pursuant to Section 287.022, F.S.). The conditions of this delegation are (i) that the agencies comply with the requirements of Section 287.042(12), F.S.; (ii) that State Purchasing retains the full supervisory authority provided by that subsection; and (iii) that State Purchasing reserves the right to rescind the authority delegated to all agencies by amendment to this rule and reserves the right to rescind the authority delegated to an agency for failure to comply with that subsection.

(2) Purchases with value below \$2,500 shall be carried out using good purchasing practices. Such practices include but are not limited to the receipt of written quotations or written records of telephone quotations.

(3) Purchases which meet or exceed \$2,500, but are less than or equal to the threshold for Category Two may be made using written quotations, written records of telephone quotations, or informal bids to be opened upon receipt, whenever practical. If the agency receives verbal quotations, the name and address of each respondent and the amount quoted shall be a part of the written documentation. If the agency receives less than two quotations, it must include a statement as to why additional quotes were not received. If the agency determines that commodities or contractual services are available only from a single source, or that conditions warrant negotiation on the best terms and conditions, the agency may proceed with the procurement. The agency shall document the conditions and circumstances used to determine the procurement method.

(4) In accordance with Chapter 287, F.S., all purchases for which the total contract value is in excess of the threshold amount for Category Two for a commodity or group of commodities or contractual service shall be made by first securing formal competitive solicitations, unless an exemption applies. The following purchases are not subject to competitive solicitation requirements.

(a) Regulated Utilities and government franchised services.

(b) Regulated Public communications, except long distance telecommunications services or facilities.

(c) Artistic services, which include any artistic work performed by an artist, as defined in Section 287.012(3), F.S., including cases in which the acquisition requires that the artist furnish a commodity created through the artistic work.

(d) An academic program review, defined as a structured evaluation of the relative merits of an established university or secondary educational program or program component conducted by recognized experts in the field of study and resulting in a written report with specific recommendations.

(e) Lectures by individuals. A lecture is a formal or methodical reading or presentation on any subject, but it is not intended to be used for the purpose of, or in connection with, training of personnel.

(f) Auditing services, which are services provided by a licensee under Chapter 473, F.S., in which the licensee attests as an expert in accountancy to the reliability or fairness of presentation of financial information or utilizes any form of disclaimer of opinion which is intended or conventionally understood to convey an assurance of reliability as to matters not specifically disclaimed.

(g) Promotional services and events purchased from donated funds by the Secretary of State for purposes provided in Section 15.18(7), F.S.

(h) Payments for membership dues pursuant to Section 216.345, F.S.

(i) Examinations approved in accordance with Section 455.217(1)(c), F.S.

(j) Adoption placement services licensed by the Department of Children and Family Services.

(k) Other purchases identified in Section 287.057(5)(f), F.S.

(l) Purchases from alternate contract sources, pursuant to Section 287.042(16), F.S.

(m) Purchases made by agencies pursuant to Section 287.056(1), F.S., from state term contracts competitively procured by the Department.

(5) When determining the amount or amounts of purchases for the purpose of applying the threshold categories, agencies shall follow the definitions and classes and groups of commodities or contractual services established by the Department. Acquisitions shall be reviewed and considered on an agency-wide basis, except that acquisitions by agencies with decentralized purchasing functions shall be considered and reviewed on the basis of each purchasing office that maintains full-time purchasing staff. A purchasing office shall not divide its purchases or its purchasing operations to circumvent these requirements. Determination of the threshold amount for Category Two for lease or rental is based on a twelve (12) month period of time. Extension of a contract for an additional period of time is not subject to this provision.

(6) In any procurement which exceeds the threshold amount for Category Two and is accomplished without competition, the

individuals taking part in the development or selection criteria for evaluation, the evaluation process, or the award process shall attest in writing that they are independent of, and have no conflict of interest in, the entities evaluated and selected. The attestation shall be placed in the agency file.

(7) All formal solicitations issued by an agency shall include the standard "General Contract Conditions" Form PUR 1000 (11/04), and the standard "General Instructions to Respondents" Form PUR 1001 (11/04), each of which is hereby incorporated by reference. The forms are available on the internet at <http://dms.myflorida.com/purchasing>. Except as modified by an agency pursuant to the following subsections, these instructions shall apply to all formal solicitations and these conditions shall be part of all resulting contracts.

(a) PUR 1001 contains instructions explaining the solicitation process and the actions necessary to respond. The agency shall attach additional materials specific to each particular solicitation, including but not limited to contact information, a solicitation timeline, a location for the public opening, evaluation criteria, required information regarding renewal of the contract, and any other necessary information. These additional instructions are commonly referred to as "Special Instructions to Respondents." In the event of any conflict between Form PUR 1001 and the additional instructions attached by the agency, the additional instructions shall take precedence over the Form PUR 1001 unless the conflicting term is required by any section of the Florida Statutes, in which case the term contained in PUR 1001 shall take precedence.

(b) PUR 1000 contains standard terms and conditions that will apply to the contract which results from the solicitation event. The agency shall attach additional contract terms and conditions specific to each particular solicitation. These additional terms are commonly referred to as "Special Conditions." In the event of any conflict between the PUR 1000 form and any Special Conditions attached by the agency, the Special Conditions shall take precedence over the PUR 1000 form unless the conflicting term in the PUR form is required by any section of the Florida Statutes, in which case the term contained in PUR 1000 shall take precedence.

(8) In addition to including the PUR 1001 and PUR 1000, all formal solicitations issued by an agency shall include an Introductory Section, a Special Conditions Section and a Technical Specifications or Statement of Work Section. The Introductory Section shall include an overview of the solicitation and a timeline or calendar of events relevant to the solicitation. As provided in paragraph (7)(b) above, the Special Conditions Section shall be used by agencies to supplement or supersede(d) the General Contract Conditions contained in PUR 1000. The Technical Instructions or Statement of Work Section shall be used by agencies to provide detail regarding the scope of contractual services sought or commodities to be procured by the agency through the formal solicitation.

(9) All contracts entered into as a result of a formal solicitation issued by an agency shall include a contractual condition requiring the vendor to comply with all laws and rules applicable to the vendor providing the commodities or services to the agency.

*Rulemaking Authority 287.042 FS. Law Implemented 287.042, 287.057 FS. History—New 5-20-64, Amended 4-4-67, Revised 2-6-68, Amended 2-8-69, Revised 5-20-71, Amended 7-31-75, 10-1-78, Revised 11-14-79, Amended 8-18-80, 8-6-81, 10-13-83, 3-1-84, 3-14-84, 11-12-84, 2-28-85, 12-17-85, Formerly 13A-1.02, Amended 6-5-86, 2-9-87, 11-3-88, 1-18-90, 4-10-91, 9-1-92, Formerly 13A-1.002, Amended 4-24-94, 1-9-95, 1-1-96, 3-21-96, 9-23-96, 7-6-98, 1-2-00, 10-3-04, 12-22-04, 10-15-06.*