

**Proposed Business and Procurement
Code
Redlined Against
Current Master Procurement Code**

BROWARD HEALTH'S MASTER-BUSINESS AND PROCUREMENT CODE

I. INTRODUCTION, AND PURPOSE, SCOPE AND APPLICATION OF THIS CODE

~~The North Broward Hospital District d/b/a Broward Health ("Broward Health"), a special taxing district of the State of Florida, was originally established and created through its enabling legislation by the Florida Legislature in 1951 under chapter 27438, Laws of Florida, and such enabling legislation which was recodified in Chapter 2006-347, Laws of Florida, and subsequently amended by 2007-299, Laws of Florida as amended (collectively, the "District's Charter"). As a special taxing district, Broward Health is not necessarily subject to all Florida state laws and regulations relating to business and procurement matters. However, Broward Health must but must still, and it is the policy of Broward Health to, conduct its business efficiently, with integrity, and in compliance with all applicable laws and regulations. Accordingly, and consistent with the District's Charter, the Board of Commissioners of North Broward Hospital District (the "Board") establishes this Business and Procurement Code (the "Code") it is the policy of Broward Health, to provide guidance to Broward Health in its business affairs and the conduct of orderly administrative procurements under ordinary circumstances consistent with its Charter, to for the purposes of promote-promoting competitive, fair, open, and transparent Procurement-procurement processes for-to facilitate its-Broward Health's effective and efficient operation, to reduce the appearance of improprieties and opportunities of favoritism, and to establish public confidence in the process by which commoditiesCommodities and contractual services-Services are procured. To that endTo that end, the purpose of this Master Procurement Code (the "Code") is tothis Code shall govern and apply to the conduct of business and Procurement-purchase of goodCommodities and serviceServices by Broward Health, and to facilitate such goals and processes, except as otherwise provided in this Code, under applicable law, the terms of a particular grant or funding source, or to the extent a more specific Board resolution or other policy of the Board of Commissioners of North Broward Hospital District (the "Board") applies to the particular business affairs or the specific type s-of Procurement-procurements, including, but not limited to, those for design and construction services. Notwithstanding, nothing in this Code is intended to, nor shall it be construed or interpreted as, precluding the Board from engaging in its own independent competitive bidding process, waiving any irregularities or procedures of this Code as it pertains to a particular Competitive Solicitation, waiving the Competitive Solicitation Process, or otherwise waiving any bidding procedures, in whole or part, because of emergency or unusual circumstances or in accordance with federal and state law.~~

~~This Code is intended to provide guidance to Broward Health employees in the conduct of orderly administrative Procurements under ordinary circumstances. Minor or immaterial deviations from this Code shall not constitute grounds for a protest or appeal by the persons affected by the activity at issue. As a special taxing district, Broward Health is not necessarily subject to all Florida state laws and regulations relating to Procurement matters but must still conduct its business efficiently, with integrity, and in compliance with all applicable laws and regulations.~~

II.

II. DEFINITIONS AND ACRONYMS

The words and acronyms ~~defined-delineated~~ in this Section shall have the meanings set forth below wherever they appear in this Code, regardless of whether they are capitalized, unless:

~~(1a) — T~~the context in which they are used clearly requires a different meaning; ~~or~~

~~(2b)) — A~~different definition is prescribed for a particular ~~Section-section~~ of this Code.

Words not defined shall be given their common and ordinary meaning unless the context in which they are used requires otherwise. ~~When the context requires, the gender of all words consists of the masculine, feminine, and neuter, the number of all words includes the singular and plural, and, when appropriate, the form of a word includes the past tense, present participle, or gerund.~~

A. Definitions.

1. TERM DEFINITION

~~2.1. "Applicable Law"~~ means the ~~District's Charter, the Florida Constitution, and federal and state laws, rules, and regulations applicable to Broward Healthapplicable provisions of the Florida Constitution, and applicable Florida and federal laws, rules, and regulations, all as amended from time to time and then in effect.~~

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2. ~~“Bid” or “Proposal”~~ means any offer, bid, quotation, proposal, or reply submitted by a ~~vendor~~ Bidder in response to a ~~Request for Quote or a Request for Proposal~~ Competitive Solicitation issued by Broward Health under the Competitive Solicitation Process.
 3. “Bid Documents” means the documents developed for a Competitive Solicitation or other informal or formal competitive mechanism inviting Bids that contains the applicable terms and conditions and plans, specifications, information, elements, and description of the Commodities or Services being Procured.
 4. “Bid Bond” means a financial or contractual instrument issued by a surety that guarantees the Bidder will not withdraw its Bid.
 - 3-5. “Bid Waiver” means the waivers to the Competitive Solicitation Process delineated in Section VI.B. (Bid Waivers) of this Code.
 - 4-6. ~~“Bidder” or “Offeror”~~ means a ~~person~~ Vendor or entity submitting a ~~Bid, quote, or Proposal~~ to Broward Health ~~for the supply of goods or services~~ in response to a Competitive Solicitation as part of the Competitive Solicitation Process.
 5. ~~“Biomedical Equipment”~~ means all clinical, electrical equipment used to treat patients.
 - 6-7. ~~“Board”~~ means the Board of Commissioners of North Broward Hospital District.
 - 7-8. ~~“Broward Health”~~ means the fictitious name of the North Broward Hospital District, a special tax district established by the Florida legislature, and all of its departments, divisions, units, wholly-owned entities, and other fictitious names ~~means the fictitious name established in 2007 for North Broward Hospital District to promote and effectively target the services of North Broward Hospital District in the healthcare marketplace. The naming of Broward Health does not modify or amend any covenants, Contracts, or other obligations of North Broward Hospital District. References to Broward Health throughout this Code mean and refer to the North Broward Hospital District and all of North Broward Hospital District's other DBAs and wholly-owned~~ wholly owned entities now established and as further established from time to time by the Board. The term “Broward Health” shall specifically expressly exclude all joint ventures, cooperatives, or interlocal arrangements of North Broward Hospital District unless the governing documents or articles of such ventures, cooperatives, or interlocal arrangements the charter or articles of such joint venture indicate otherwise or unless the Board establishes a policy to subject such joint venture, cooperative, or interlocal arrangement to the provisions of this Code.
 8. ~~“Budgeted”~~ means the expenditures by of Broward Health which that the Board have has been approved by the Board at a regular or a special meeting called for that purpose following a Budget Workshop and/or revised through the Final Tax Hearing consistent with § 200.065, Fla. Stat., as well as any budgetary amendments adopted by the Board from time to time throughout the budget year.
 9. _____
 10. “Business and Procurement Code Policy Appendix” means the appendix to this Code that incorporates and contains all the Board ratified policies that supplement, relate to, or otherwise apply to this Code.
 11. “Business Day” means any day other than a Saturday, Sunday, or a legally recognized federal holiday ~~Monday through Friday from 9:00 a.m. to 5:00 p.m., excluding legal holidays that are recognized by the Broward County Government.~~
 - 9-12. “CFO” means the Chief Financial Officer who oversees and is responsible for all of Broward Health’s financial matters.
 10. ~~“Charter”~~ means North Broward Hospital District's enabling legislation, Chapter 2006-347, Laws of Florida, as amended by 2007-299, Laws of Florida, and any subsequent amendments or successor legislation thereof.

- ~~11. **“Chief Procurement Officer”** means the Broward Health employee acting as the principal public purchasing official for Broward Health that shall be responsible for the Procurement of goods, services, and materials in accordance with this Code.~~
- ~~12-13.~~ **“Code”** means this ~~Master Business and~~ Procurement Code.
14. **“Code of Conduct”** means Broward Health’s Code of Conduct, then in effect and as amended from time to time, as established by Broward Health’s Corporate Compliance and Ethics Program.
15. **“Collusive Bidding”** means an agreement among two or more Bidders to work together to gain an unfair market advantage, to engage in market manipulation, restraint of trade, or bid rigging, or to otherwise engage in any other conduct or conspiracy that violates or implicates the Sherman Antitrust Act or Clayton Antitrust Act, both as codified in 15 U.S.C. § 1, et seq., or any other federal or state law governing free market competition.
16. **“Commodity”** means any supplies, materials, goods, merchandise, equipment, Information Technology Systems, and other personal property Procured, purchased, leased, or otherwise Contracted for by Broward Health.
17. **“Competitive Conditions”** means engaging in formal or informal competitive solicitations for Procurements under the Millage Threshold that are not otherwise subject to the Competitive Solicitation Process and which may include telephonic bids, informal price quotations, Requests for Quotes, and any combination or all of the procedural Competitive Solicitation Process procedures.
18. **“Competitive Solicitation”** means a competitive solicitation for sealed Bids under the Competitive Solicitation Process.
19. **“Competitive Solicitation Process”** means the process through a Competitive Solicitation of requesting and attempting to receive two or more competitive sealed Bids from Responsible and Responsive Bidders for certain Procurements equal to or over the Millage Threshold as provided in this Code.
20. **“Cone of Silence”** is the period during the Competitive Solicitation Process where certain communications between Vendors and Broward Health are prohibited, as described in further detail in Section V.D.2. (Cone of Silence) of this Code.
- ~~13.—~~
- ~~14-21.~~ **“Construction Services”** means all labor and services provided in connection with the construction or improvement to real property the process of designing, building, altering, repairing, remodeling, renovating, modifying, improving, or demolishing any structure, or building any real property owned by or under the control of Broward Health.
22. **“Consulting Services”** means services rendered by an independent contractor with professed knowledge or professional expertise who provides specialized guidance for specialized services required by Broward Health. “Consulting Services” includes, but is not limited to, legal services, lobbyist services, management services, finance-related services, and accounting and audit services.
23. **“Contract”** means all any types of Broward Health contractual and written agreement binding Broward Healths, regardless of what they-it may be called or referred to, for the Procurement or disposal of goodCommodities and Services or services of any kind. The term “Contracts” also includes any amendments, modifications, supplemental agreements, addendums, exhibits, and attachments concerning thealso include amendments, modifications, supplemental agreements, addendums, exhibits, and/or attachments with respect to any of the foregoing. Every Contract must be duly authorized and approved prior to execution as provided within this Code.
- ~~15-24.~~ **“Contractual Service”** means the rendering of time and effort rather than the furnishing of specific Commodities by an independent contractor Vendor. The term “Contractual Service” does not include Professional Services, Consulting Services, Construction Services, Electrical Work, and Professional Design Services.

~~"Contract Custodian" — Means the Broward Health employee designated in the Contract as the individual who is responsible for understanding the terms of the Contract and for insuring/monitoring the compliance of the Contract.~~

~~16. "Contract Modification" means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, term, delivery date, payment date or other dates, or any other provisions of any Contract accomplished by mutual action of the parties to the Contract, in accordance with the terms of the Contract.~~

~~17. "Contract Renewal" means the exercise of extending the term that a Contract is in effect.~~

~~"Contractor" — Means any person or entity having a Contract with Broward Health to provide goods or services of any kind.~~

~~25. "'Cooperative Purchasing Program/Piggyback Contracts'" means a Procurement process to procure Procure goods/Commodities or service/Contractual Services by where one or more Government Entities combine their buying requirements and aggregate demand into a single Contract to enhance their purchasing power/direct negotiation or another method from a supplier where the underlying purchasing agreement or Contract was competitively awarded by Broward Health or another public or government agency or entity (including, but not limited to, federal agencies or entities; tribal governments and entities; agencies, entities, counties, municipalities, special districts, boards, local governments, or other political subdivisions of the State of Florida; buying cooperatives; and other state and local governments) and which may also include shared Procurement programs and resources including as well as advice and assistance.~~

~~26. "CPO" means the Chief Procurement Officer, the principal public purchasing official for Broward Health, who is responsible for Broward Health's Procurement of Commodities and Services in accordance with this Code.~~

~~27. "CPO's Written Decision" shall have the meaning ascribed to such term in Section V.D.17(e)(iii) (Written Decision of CPO) of this Code.~~

~~28. "Design and Construction Code" means Broward Health's Design and Construction Code included as part of the Business and Procurement Code Policy Appendix.~~

~~29. "Direct Purchase from a Government Entity" shall have the meaning ascribed to such term in Section VI.B.1(b) (Direct Purchases from Government Entities) of this Code.~~

~~30. "District's Charter" means North Broward Hospital District's enabling legislation, ch. 2006-347, Laws of Florida, as amended by ch. 2007-299, Laws of Florida, and any subsequent amendments or successor legislation thereof.~~

~~18.31. "Electrical Work" means the installation and design of electrical wiring, fixtures, appliances, apparatus, raceways, conduit, or any part thereof, which generates, transmits, transforms, or utilizes electrical energy in any form.~~

~~32. "Emergency Purchase" shall have the meaning ascribed to such term in Section VI.B.1(c) (Emergency Purchases) of this Code.~~

~~33. "Exemption" shall have the meaning ascribed to such term in Article VI. (Exemptions, Waivers, and Emergency Purchases) of this Code.~~

~~19. —~~

~~20. "Formal Bid" means an RFP or RFQ as defined in this Code.~~

~~21. "Formal Bid Process" means the process of proceeding with the Procurement Procedures of an RFP or RFQ as provided in this Code.~~

34. **“Formal Advertisement”** means a formal advertisement inviting Bids that is published in a newspaper of general circulation in the North Broward Hospital District consistent with ch. 50, Fla. Stat., or on Broward County’s designated publicly accessible website consistent with the procedures of § 50.0311, Fla. Stat.
35. **“Government Entity”** means any government entity including, but not limited to, (a) any state, regional, county, local, or municipal government entity of Florida or another state; (b) any department, division, bureau, commission, public authority, board, local government, single-purpose or multipurpose special district, or political subdivision of Florida or another state, or any public agency, separate legal entity, or administrative entity of any the foregoing, whether executive, judicial, or legislative; (c) any public school, community college, state university, educational institution or body of government in Florida or another state; (d) any and all federal or tribal agencies or entities, whether executive, judicial, or legislative; (e) any public agencies or entities of any state, federal, or tribal governments; and (f) any other units of Florida government, the federal government, other state governments, or tribal governments.
36. **“Group Purchasing Organization”** shall have the meaning ascribed to such term in Section VI.B.1(d) (Group Purchasing Organizations) of this Code.
37. means an entity or organization that aggregates the purchasing volume of members, such as hospitals and other health care providers, to leverage discounts with manufacturers, distributors, and other vendors to realize administrative savings and efficiencies. Also referred to as a “Group Purchasing Plans.” **“Impracticality Waiver”** shall have the meaning ascribed to such term in Section VI.B.2(a) (Impracticality Waiver) of this Code.
38. **“Information Technology System”** means equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically, electronically, and wirelessly collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information of any kind or form.
39. **“Invitation to Bid”** means a written or electronically posted Competitive Solicitation for competitive sealed bids as defined in further detail in Section V.B.1. (Invitations to Bid) of this Code.
40. **“Invitation to Negotiate”** means a written or electronically posted Competitive Solicitation for competitive sealed replies to select one or more Vendors with which to commence negotiations for the Procurement of Commodities or Contractual Services as defined in further detail in Section V.B.3. (Invitations to Negotiate) of this Code.

22. —

~~“General Administration Services Contracts” or “GSA Contracts” Means Contracts entered into by the General Services Administration of the Federal Government (also known as GSA Schedules) that are multiple award contracts containing prices to be utilized by all federal government agencies. GSA Contracts also contain the most preferred customer clause, making the prices contained in GSA Contracts equivalent with those that are given to the most preferred customer of the vendor. For purposes of this Code, GSA Contracts are a form of Cooperative Purchasing/Piggyback Contracts.~~

~~“Informational Threshold” Means the threshold amount referenced within the Procurement Policy Table which requires Broward Health’s Senior Management to provide information to the Board regarding Broward Health’s Procurements and contractual engagements.~~

~~23.41. **“Legacy System Purchase”** shall have the meaning ascribed to such term in Section VI.B.2(b) (Legacy Purchases) of this Code. means systems including, but not limited to, computer software, computer hardware, and Biomedical Equipment that are integrated into the daily operations of one or more of Broward Health’s Departments, are considered strategic in nature, or are unique to the producer, manufacturer, distributor, and/or provider.~~

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- ~~24.42. **“Legal Counsel”** means the General Counsel in charge of Broward Health's the Office of the General Counsel's office of Broward Health, other all legal counsel employed by and working in the of Broward Health's General Counsel's Office of the General Counsel of Broward Health, and/or any other legal counsel reporting to or retained by Broward Health's Broward Health's Office of the General Counsel's Office of Broward Health.~~
- ~~25.43. **“Line Item Budget”** or "Line Item Budgeted" means a budget for the current fiscal year that was sorted by line item categories presented separately in the budget and approved by the Board. Such line items must be separated into categories and subcategories specific enough to identify the services to be rendered or goods to be Procured to be considered Line Item Budgeted. **“Millage Threshold”** means an amount equal to 1.5 mills of Broward Health's previous fiscal year total annual revenues.~~
- ~~44. **“Non-Professional Services”** means services that do not require professional licensure or professional expertise. **“Notice of Award”** means the formal notice of award to one or more Bidders under a Competitive Solicitation.~~
- ~~45. **“Open-Ended Contract”** means a Contract entered into with a Vendor with open and indefinite terms such as price, goods, quantity, or services.~~
- ~~46. **“Owner-Direct Purchases”** shall have the meaning ascribed to such term in Section VI.B.1(e) (Owner-Direct Purchases) of this Code.~~
- ~~47. **“P-Card”** means a corporate credit card for small dollar transactions made in the course of Broward Health's official business that affords the cardholder the convenience of purchasing without going through the purchase order or reimbursement process.~~
- ~~48. **“Payment Bond”** means a financial or contractual instrument issued by a surety that guarantees that subcontractors will be paid for labor and materials expended on the Contract.~~
- ~~26.49. **“Performance Bond”** means a financial or contractual instrument issued by a surety that guarantees satisfactory completion of a project or Contract.~~
- ~~27. **“Person”** means any business, individual, union, committee, club, other organization, or group of individuals.~~
- ~~50. **“Piggyback Contract-Contracts”** shall have the meaning ascribed to such term in Section VI.B.1(f) (Piggyback Contracts) of this Code.~~
- ~~28.51. **“Procurement”** or "Procuring" or "Procurement Procedures" means the buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, commodities, products, equipment, Commodities or service Services, and all functions that pertain thereto, including the description of requirements, selection, and solicitationsolicitation of sources and award of Contracts.~~
- ~~29. **“Procurement Policy”** or "Procurement Policies" means all of the Board's Procurement policies and procedures referenced in the Procurement Policy Table, GA-001-151 within Broward Health's electronic policy database.~~
- ~~30.52. **“Procurement Policy Table”** means the Broward Health Policy containing the list and incorporation of all Procurement Policies applicable to this Code. **“Professional Design Services”** means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping subject to the Consultants' Competitive Negotiation Act, § 287.055, Fla. Stat.~~
- ~~31.53. **“Professional Services”** and "Consulting Services" means non-Construction Services, non-Electrical Work, and non-Professional Design Services related services that require specialized knowledge and skill, usually of a mental or intellectual nature and usually requiring specialized degrees, professional licensure, certification, registration, or professional or specialized expertise, experience, and knowledge related to patents, proprietary information, or business acumen.~~

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54. **“Project Custodian”** means the individual or individuals(s) at Broward Health requesting the acquisition of Commodities or Services needed for Broward Health’s operations and who are ultimately responsible for the Procurement of such Commodities or Services.
55. **“Protest”** means a Bidder’s protest of a Competitive Solicitation or award pursuant to the process provided in Section V.D.17. (Bid Protests) of this Code.
56. **“Protester”** means the interested Bidder Protesting the terms of a Competitive Solicitation or a Competitive Solicitation’s award.
57. **“Protest Bond”** shall have the meaning ascribed to such term in Section V.D.17(d)(i) (Requirement of Protest Bond) of this Code.
58. **“Protest Procedures”** means the formal procedures governing the Protest process provided in Section V.D.17. (Bid Protests) of this Code.
59. **“Public Facility”** shall have the meaning ascribed to such term in Fla. Admin. Code R. 12A-1.094(1)(c).
60. **“Public Works Project”** shall have the same meaning ascribed to the term “public works” in Fla. Admin. Code R. 12A-1.094(1)(c).
61. ~~“Purchase Order”~~ means a purchaser’s document to formalize formalizing a purchase transaction with a vendor Vendor and conveying acceptance of a vendor Vendor’s Proposal or Bid or the Procurement of Commodities and Services unrelated to a Bid. The Purchase Order should contain statements as to quantity, description, and price of the supplies or services ordered, and applicable terms as to payment, discounts, date(s) of performance, transportation, and other factors or suitable references pertinent to the purchase and its execution by the vendor.
62. **“Qualifying Project”** shall have the meaning ascribed to such term in § 255.065, Fla. Stat.
- ~~32-63. **“Related Bidders”** means Bidders or the principals thereof which have a direct or indirect ownership interest in another Bidder submitting a Bid in the same Competitive Solicitation or in which a parent company or the principals thereof of one Bidder have a direct or indirect ownership interest in another Bidder submitting a Bid in the same Competitive Solicitation.~~
- ~~**“Qualified Contractor”** — Means an entity or person who: (1) has evidenced current qualifications to do business in the State of Florida; (2) possesses appropriate licensure; (3) maintains liability insurance in an amount determined to be adequate by Broward Health’s Risk Management Department; and (4) is registered in VRS.~~
- ~~— **“Renewal Term”** means any subsequent period of duration of a Contract following the expiration of the Contract’s term.~~
- ~~33-64. **“Request for Information”** means a written or electronically posted request to Vendors (which is not an offer and may not be accepted to form a binding Contract) for information concerning Commodities or Services, a request by Broward Health for specific information from a group of suppliers or the general public. An A Request for Information or “RFI” does not commit Broward Health to a purchase and is not a method of Procurement of goods or services by Broward Health. An RFI usually requests suppliers to provide qualifications, products, or services regarding interest in the general areas of the information requested. The information gathered may be used to assist in developing an RFQ or RFP or to simply validate the availability or interest level of suppliers responding to the specific RFI request.~~
- ~~34-65. **“Request for Proposal”** means a written or electronically posted Competitive Solicitation for competitive sealed proposals for the Procurement of Commodities or Services which is awarded to one or more Responsible and Responsive Bidders based on established criteria as defined in further detail in Section V.B.2. (Request for Proposals) of this Code. means a solicitation by Broward Health for Proposals and includes all documents, whether attached or incorporated by reference, utilized for soliciting Proposals.~~

- ~~35.66. **“Request for a Quote”** means a solicitation means a formal or informal electronic, written, or oral request for written pricing or services information by Broward Health for Bids, and includes all documents, whether attached or incorporated by reference, utilized for soliciting Bids for Commodities or Services from Vendors participating in or available through Cooperative Purchasing Programs, Group Purchasing Organizations, or State Term Contracts.~~
67. **“Responsible Bidder” or “Offeror”** means a Bidder or Offeror who, as determined by Broward Health, has the capability in all respects to fully perform fully the Contract requirements, and the integrity and reliability which that will assure good faith performance.
- ~~36.68. **“Responsible and Responsive Bidder”** means a Bidder that is a Responsible Bidder and a Responsive Bidder.~~
69. **“Responsive Bid”** means a Bid submitted by a Responsible Bidder that conforms in all material respects to the Competitive Solicitation.
70. **“Responsive Bidder”** means a Bidder or Offeror who, as determined by Broward Health, has submitted a Responsive Bid which that conforms in all material respects to a Competitive solicitationSolicitation.
- ~~37.71. **“Routine Expenditures”** shall have the meaning ascribed to such term in Section VII.6. (Direct Payments by Checks or Purchase Orders) of this Code.~~
72. **“Selection/ Evaluation Committee”** means a group of persons appointed by the Chief Procurement OfficerCPO or the CPO’s designee to evaluate ProposalBidss submitted in response to Broward Health’sa Competitive Solicitationcompetitive Procurement processes byof Broward Health.
73. **“Services”** means collectively the rendering of Contractual Services, Professional Services, Consulting Services, Construction Services, Electrical Work, and Professional Design Services.
- ~~— **“Senior Management”** means Broward Health’s President/CEO and certain other executives, vice presidents, directors, administrators, and management-level employees overseeing Broward Health’s operations.~~
- ~~38.74. **“Small Business Enhancements”** means strategies designed by Broward Health which that are intended to increase Procurement opportunities with Small Business Vendors, in accordance with the Procurement Policy TableBroward Health’s Economic and Small Business Development Initiative Policy in the Business and Procurement Code Policy Appendix.~~
- 39.75. **“Small Business Vendor”** means a Vendor recognized and certified as meeting the requirements of one (1) or more of the Small Business categories of Broward Health’s Economic and Small Business Development Initiative.
- 40.—
76. **“Sole Source” and Sole Brand Purchase”** shall have the meaning ascribed to such term in Section VI.B.2(c) (Sole Source and Sole Brand Purchases) of this Code.means the only vendor or the only reasonable vendor capable of providing a specific goods or services or commodity.
- ~~41.77. **“SOP”** means a Standard Operating Procedure established or prescribing methods and procedures consistent with best practices to be followed for the Procurement of Commodities and Services.~~
42. **“Solicitation”** means a Request for Proposals or a Request for Quote.
- 43.78. **“Spending Threshold”** means the threshold amount referenced within in Broward Health’s Authorized Official, Contract Execution, and Delegation of Authority Policy in the Business and Procurement Code Policy Appendix, Procurement Policy Table which permits authorized signatories to execute Contracts and requisitions without obtaining further Board approval.
79. **“Standardization Purchase”** shall have the meaning ascribed to such term in Section VI.B.2(d) (Standardization Purchases) of this Code.means the use (standardization) of the same, similar, or compatible

products or services providing consistency throughout Broward Health thereby reducing inventory of product, maximizing cost savings resulting in greater cost efficiencies, including, but not limited to, price, training, maintenance of equipment, etc.

~~44-80.~~ ~~or “SOP”~~ **“State Term Contract”** means a Contract competitively procured by the Florida Department of Management Services according to §§ 287.056 and 287.057, Fla. Stat.

~~81.~~ **“Supply Chain Services”** means the entire Procurement Department purchasing and procurement department overseen by the CPO and all of and includes all such its individual divisions of the department, including, but not limited to, Purchasing, Sourcing, Materials Management, IT Systems, Bids, and Value Analysis, Vendor Relations, and the Office of Economic and Small Business Development.

~~45-82.~~ **“Surplus Property”** means property of Broward Health that is obsolete or the continued use of which is uneconomical or inefficient or which serves no useful function.

~~46.~~ **“Threshold Category”** means the specific Threshold Category referenced within the Procurement Policy Table.

~~83.~~ **“Vendor”** or **“Supplier”** means any person—person, sole proprietorship, partnership, corporation, joint venture, joint stock company, any other business or legal entity (whether for-profit or not-for-profit), union, committee, club, any other organization or group, and any combination of the foregoing entity, other than a Broward Health employee, seeking to do or that is or potentially will be doing business with or providing providing any Commodities, Services a service or product, or personnel to Broward Health, or that otherwise seeks to do so.

~~84.~~ **“Written and Timely Appeal”** shall have the meaning ascribed to such term in Section V.D.17(f)(i) (Bid Protests) of this Code.

~~47.~~—

~~48.~~ **“Vendor Registration System”** means a Broward Health system where vendors and prospective vendors are required to register as a condition to providing goods or services to Broward Health.

~~B.~~ **Acronyms.** To the extent used in this Code, the acronyms below refer to the following:

~~TERM~~NAME/TITLE

- ~~1.~~ ~~CEO~~ — Chief Executive Officer of Broward Health
- ~~2.~~ ~~CFO~~ — Chief Financial Officer of Broward Health
- ~~3.~~ ~~CPO~~ — Chief Procurement Officer of Broward Health
- ~~4.~~ ~~GA~~ — General Administrative
- ~~5.~~ ~~GPO~~ — Group Purchasing Organization
- ~~GSA~~ — General Services Administration
- ~~6.~~ ~~OEM~~ — Original Equipment Manufacturer

~~“OESBD”~~ means the Office of Economic and Small Business Development

~~PSC~~ — Procurement Steering Committee

~~RFI~~ — Request for Information

~~RFP~~ — Request for Proposals

~~7.~~ ~~RFQ~~ — Request for Quotes

~~8.~~ ~~4VRS~~ **Vendor Registration System**

III. APPLICATION OF THIS CODE

This Code shall apply to the purchase of goods or services made by Broward Health, irrespective of the source of funds, except as otherwise provided by Applicable Law, the provisions of this Code, or any applicable and related policies. No provision of this Code shall be construed as conflicting with or exceeding Applicable Law. In the event of a conflict between this Code and Applicable Law, Applicable Law shall govern and control as if fully set forth herein. In the event of a conflict between this Code and any applicable and related Procurement Policies or other policies, the Procurement Policy or other policy or policies shall govern and control unless otherwise specifically provided in this Code or prohibited under Applicable Law.

If any one or more of the provisions of this Code, or the applicability of any provision to a specific situation, shall be held invalid or unenforceable, the provision shall be modified to the minimum extent necessary to make it or its application valid and enforceable, and the validity and enforceability of all other provisions of this Code and all other applications of any provision shall not be affected thereby. The headings contained in this Code are for reference purposes only and shall not affect in any way the meaning or interpretation of this Code.

IV. EXCLUSIONS

With the exception of Section XVI of this Code, (Information, Approval, and Execution Authority) and the Procurement Policy governing the administration of Contracts (Review, Approval, and Administration of Contracts), the provisions of this Code, as they pertain to the Procurement of goods and services and the Formal Bid Process, by Broward Health are not applicable to the following:

1. ~~(1)Accounting or Audit Services;~~
2. ~~(2)Employment Contracts, including Clinical and Staffing Agency Contracts, and Employment Matters Generally;~~
3. ~~(3)Finance Related Services;~~
4. ~~(4)Legal Services;~~
5. ~~(5)Lobbyist Services;~~
6. ~~(6)Managed Care Contracting;~~
7. ~~(7)Marketing and Advertising Services;~~
8. ~~(8)One Time Purchases of \$1,000 or less;~~
9. ~~(9)Pharmaceuticals and Products Specific to the Regional Pharmacy Departments;~~
10. ~~(10)Physician Services and Advanced Practice Provider Services;~~
11. ~~(11)Postage;~~
12. ~~(12)Products specific Specific to the Nutritional Services Department;~~
13. ~~(13)Professional Construction Services, Electrical Work, and Construction Related Design Services and Selection of construction contractors, Electricians, and Professional Design Services Providers;~~
14. ~~(14)Professional Services and Consulting Services (non-construction);~~
15. ~~(15)Purchases with Broward Health Procurement Cards;~~
16. ~~(16)Purchasing and Procurement of Federal Awards;~~
17. ~~(17)Real Estate Initiatives including the Purchase, Lease, or Rental of Real Property and Related Licenses;~~
18. ~~(18)Routine Expenditures Established Pursuant to a Written Policy in accordance with Section X.B.13 of this Code;~~
19. ~~(19)Subscriptions for Periodicals and Educational Material;~~

~~Travel and Entertainment Related Services including Broward Health Sponsored Events at Hotels, Restaurants, and other Entertainment Venues;~~

~~15. Utility Services; and~~

~~16. (16) Any other services and goods exempted from the Formal Bid Process as provided in this Code or referenced in a separate Procurement Policy as incorporated into the Procurement Policy Table.~~

~~The above items shall at all times follow the Procurement procedures established in the relevant and applicable Procurement Policy, Broward Health policy, separate Standard Operating Procedure (SOP) established by Supply Chain Services, or separate Standard Operating Procedure (SOP) established by another Broward Health department, division, hospital or facility and approved by Supply Chain Services as the procedures to be following when Procuring such items.~~

~~(Res. No. FY20-13, § 1(Exh. A), 1-29-20)~~

~~V. OTHER POLICIES RELEVANT TO PROCUREMENT~~

~~Notwithstanding any specific exclusions to this Code, the Board has established several policies and procedures complementary to this Code that pertain to the Procurement of supplies, materials, and services to ensure an open, transparent, and fair Procurement process. To that end, any and all Procurement Policies, as defined above, are hereby incorporated by reference as if full set forth herein. All such Procurement Policies are Board policies and may only be modified upon Board approval and any such modifications of these Procurement Policies absent Board approval are void ab initio.~~

~~Broward Health's officers, employees, agents, and personnel are responsible for reviewing and complying with all applicable Procurement Policies and for raising any issues of applicability or interpretation with the CPO as appropriate. In the event of a conflict between this Code and any Procurement Policy, the Procurement Policy shall control, unless otherwise explicitly stated in the Procurement Policy or this Code.~~

~~Supply Chain Services may establish a Standard Operating Procedure (the "SOP") that establishes further procedures pertaining to the Procurement of goods and services whether covered under this Code or excluded from this Code; provided, however, in no event may the SOP contain provisions that conflict with this Code or any Procurement Policies. Broward Health's officers, employees, agents, and personnel, in addition to reviewing and complying with this Code and any Procurement Policies, are also responsible for reviewing and complying with the SOP. In the event of a conflict between the SOP, this Code, or any Procurement Policy, this Code and such Procurement Policy shall control.~~

~~VIII. PROCUREMENT ORGANIZATION AND AUTHORITIES VI. CODE OF ETHICS, INTEGRITY, AND PROFESSIONAL CONDUCT~~

~~The conduct of Formal Bids shall always foster integrity and transparency and be consistent with Applicable Law, including, but not limited to, 42 U.S.C. § 1320a-7b, § 112.3148, Fla. Stat., § 112.313, Fla. Stat. and § 838.22, Fla. Stat. Accordingly, Broward Health and its officers, employees, and personnel agents, as well as persons, Vendors, or and entities who currently do or offer or intend to or do business or provide services for to at or on behalf of Broward Health, must shall at all times comply with Applicable Law, the foregoing statutes, and Broward Health's Code of Conduct, and shall conform their conduct and perform their responsibility responsibilities to Broward Health in an ethical and proper manner, consistent with the Code of Conduct.~~

~~In the event an officer, employee, agent, or current or future Vendor violates any of the foregoing Applicable Law or Broward Health's Code of Conduct, such individual may be subject to disciplinary action up to and including termination from employment, suspension or debarment from future Procurement opportunities, and such conduct may subject the individual to civil and/or criminal penalties.~~

~~Any questions or concerns related to a compliance issue under the Code of Conduct or Broward Health's Compliance and Ethics Program, please contact the Compliance Department at 954-473-7500 or contact the Compliance Hotline at 1-888-511-7370.~~

~~VII. PROCUREMENT ORGANIZATION AND AUTHORITIES~~

~~A. Chief Procurement Officer.~~ The President/~~Chief Executive Officer of Broward Health CEO~~ shall appoint a CPO ~~for Broward Health, which whose~~ role may be served by a current employee of Broward Health. The CPO shall perform the duties ~~of of~~ the principal public purchasing official for Broward Health and shall be responsible for the Procurement of ~~goods, Commodities and serviceServices, and materials~~ in accordance with this Code. Except as otherwise provided in this Code, the CPO shall be responsible for:

1. ~~(1)~~ Interpreting the provisions of this Code and resolving any ambiguities related to the interpretation of this Code;
 2. ~~(2)~~ Procuring or supervising the Procurement of all ~~Commodities goods, materials, and serviceServices~~ needed by Broward Health ~~in accordance with that~~ are subject to this Code, ensuring compliance with this Code by Broward Health and Vendors doing business with Broward Health, and taking reasonable steps to ensure that Commodities and Services are Procured in a manner that fosters and permits competition among businesses whenever practicable;
 - 2-3. Establishing policies, procedures, and SOPs governing the Procurement of Commodities and Services governed by or Exempt from this Code;
 4. ~~(3)~~ Soliciting and advertising Bids ~~and Proposals~~ for Commodities, Contractual Services, public improvements Construction Services, Electrical Work, and Professional Design Services, which are subject to the Competitive Solicitation Process by this Code or Applicable Law goods, materials and services;
 5. Performing pre-purchase analysis to ensure that Broward Health and its employees and departments are adhering to this Code, including the Competitive Solicitation Process requirements and any applicable and assigned Small Business Vendor participation;
 6. Reviewing and approving Small Business Enhancements made by Broward Health's Office of Economic and Small Business Development;
 7. Approving Emergency Purchases and Bid Waivers unless further Board approval is required;
 8. Establishing procedures for issuance and approval of Purchase Orders in accordance with the terms of a Contract, as applicable;
 3. —
 9. ~~(4)~~ Establishing and maintaining programs for the inspection, testing, and acceptance of ~~good~~ Commodities and serviceServices; ~~and~~
 10. Monitoring and supervising Vendor performance and taking appropriate action to address Vendor performance issues; and
 - 4-11. Any other duties and responsibilities reasonably determined by the CPO as appropriate to supervise Broward Health's Procurements consistent with this Code.
5. — ~~Unless otherwise stated in a Board policy, resolution, or Applicable Law, the authority to approve all Procurements for Commodities or Services subject to this Code is hereby vested in the CPO. (5) Ensuring compliance with this Code by reviewing and monitoring Procurements conducted by any person to whom the CPO has delegated authority under this Code.~~

The CPO may establish committees or maintain departments responsible for assisting the CPO with the CPO's respective duties as outlined herein and may further delegate in writing any of the authority assigned or delegated by vested in the CPO under this Code to designees within Broward Health. ~~Any committees, departments, or individuals designated delegated authority by the CPO shall be authorized to exercise such delegated authority to the same extent as the authority delegated to vested in the CPO in this under this Code, and any provision of this Code that references the CPO shall be deemed to include a reference to any committees, departments, or individuals~~

~~delegated such authority. Any Procurement decision by the CPO, or any applicable committees, departments, or individuals delegated such authority by the CPO shall be valid and binding on Broward Health and its employees, departments, and all Vendors wishing to do business with Broward Health. All Procurement transactions and commitments to vendor Vendors must be performed by the CPO or such designees.~~

IV. CODE OF ETHICS, INTEGRITY, AND PROFESSIONAL CONDUCT

~~The conduct of Competitive Solicitations shall always foster integrity and transparency and be consistent with Applicable Law, including, but not limited to, 42 U.S.C. § 1320a-7b, § 112.3148, Fla. Stat., § 112.313, Fla. Stat. and § 838.22, Fla. Stat. Accordingly, Broward Health and its officers, employees, and agents, as well as Vendors that currently do or offer or intend to or do business with or provide Services for or Commodities to Broward Health, shall at all times comply with all Applicable Law and Broward Health's Code of Conduct and shall conform their conduct and perform their responsibilities to Broward Health in an ethical and proper manner. In the event an officer, employee, agent, or current or future Vendor violates any Applicable Law or Broward Health's Code of Conduct, such individual may be subject to disciplinary action up to and including termination from employment or suspension or debarment from future Procurement opportunities, and such conduct may subject the individual to civil and/or criminal penalties.~~
~~**Procurement Steering Committee (PSC).** PSC performs pre-purchase analysis to ensure that Broward Health and its employees and departments are adhering to his Code, including the Formal Bid requirements and any applicable and assigned Small Business Vendor participation. Pre-purchase analysis by PSC is required when (a) requests for Procurements of Contracts exceed Threshold Category 3, or (b) in the event of multiple Contracts for one single Project, requests whereby the aggregate cost of the Contracts for a single Project exceeds Threshold Category 4. For the purposes of this Section, a "Project" shall be defined as a large or major undertaking, especially one involving considerable money, personnel, and/or equipment (e.g., construction, renovations, improvements to real or personal property, etc.).~~

~~The duties of PSC shall consist of the following:~~

- ~~1. *Formal Bids* – Reviewing and recommending to the CPO proper Procurement methods for purchases, including all requests for Formal Bids to Procure any goods or services exceeding Threshold Category 3, except those purchases made in Emergency Situations;~~
- ~~2. *Bid Waivers* – Reviewing and recommending to the CPO the approval of Bid Waivers except those purchases requiring Board approval of the Bid Waivers and those purchases made in Emergency Situations;~~
- ~~3. *Vendor Performance Issues* – Reviewing and recommending actions related to Vendor performance issues;~~
- ~~4. *Small Business Vendor Opportunities* – Reviewing and approving Small Business Enhancements made by the OESBD; and~~
- ~~5. *Other Duties* – Any other duties and responsibilities assigned by the CPO as the CPO determines to be in the best interests of Broward Health.~~

~~The CPO shall have the ultimate authority regarding decisions pertaining to Procurements, whether to accept or reject any recommendation of PSC, and the number and composition of members appointed to PSC. The CPO may also make Procurement decisions in the best interests of Broward Health without convening a PSC meeting and without any input from PSC, and, notwithstanding any references to PSC or anything requiring a decision from PSC in this Code or any Procurement Policy, any Procurement decision by the CPO in the absence of a meeting of PSC shall be valid and binding on Broward Health and its employees and departments. PSC's pre-purchase analysis includes, but is not limited to, focusing on and ensuring that Broward Health employees and departments are properly adhering to this Code and its Formal Bid requirements, and compliance with maximum Small Business Vendor participation as assigned by the OESBD and approved by PSC.~~

~~1. *Committee Membership*~~

~~PSC's membership is shall be as follows:~~

a. _____ Chairperson: _____ CPO

Ex Officio: Internal Audit representative

b. _____ Membership: _____ Procurement/Sourcing _____ representative;
Contracts Administration representative

c. _____ Director, _____ Supply _____ Chain _____ Services
Sourcing/Value _____ Analysis _____ representative;

d. _____ Vendor _____ Relations/Bids _____ representative;

e. _____ OESBD _____ representative;

f. _____ Clinical/Biomedical _____ Engineering _____ representative;

g. _____ Design _____ & _____ Construction _____ representative;

h. _____ CFO _____ or _____ designee;

i. _____ CIO or designee

Non-Membership Regular Invitees: These individuals receive meeting invitations, meeting agendas, and minutes of the PSC, but are not eligible to vote or participate in the PSC's deliberations:
Supply _____ Chain _____ Managers
Regional _____ CEOs
Regional _____ CFOs
Regional COOs

2. PSC Committee Meetings:

PSC's committee meetings shall be conducted as follows:

a. Meetings are scheduled on a monthly basis unless otherwise rescheduled due to extenuating circumstances. Special meetings may be called by the CPO.

b. Pre-meeting documents (i.e., agendas, exhibits and prior month's minutes) should be distributed via e-mail prior to the scheduled meeting.

c. A quorum for any meeting is fifty percent (50%) of PSC's members. A majority vote of the members in attendance at a meeting at which there is a quorum shall constitute an affirmative vote and recommendation of PSC to the CPO regarding the issues at hand. Members may attend meetings via telephone or videoconference and such attendance shall be counted towards the quorum and vote. Notwithstanding, in no event shall a PSC committee meeting be held unless the CPO or CFO are present; provided, however, the CFO can delegate temporary Chairperson authority in the CPO's and CFO's absence and, in such an event, a PSC committee meeting may be held.

d. The CPO shall be the ultimate authority regarding the decisions of the PSC. In making decisions and/or determinations, the CPO shall consider the recommendations and consensus of PSC's members, but the CPO's decision regarding a particular issue shall be the final decision unless otherwise overruled in whole or part by the CFO. In the event the CPO makes a final decision adverse to the consensus of PSC's members, the CPO shall indicate his or her reasoning on the record.

~~e. Because the CPO is the ultimate authority regarding the decisions of PSC, in the event PSC cannot meet—because of an inability to establish a quorum or otherwise—or the CPO decides it is within Broward Health's best interests, the CPO may make any decisions regarding Procurement methods, and/or Small Business Enhancements in the absence of a gathering of the PSC and without any input from the PSC. To the extent the CPO makes any such decisions in the absence of input from PSC, the CPO must properly shall document such decisions within the applicable arrangement in Broward Health's electronic contracting database. This exception to convening the PSC applies to any and all references of this Code requiring a decision or action of PSC.~~

~~f. The CFO may, in his or her sole discretion for good cause, overrule in whole or part any final decision of the CPO regarding Procurements, and/or Small Business Enhancements, and/or any other authority granted to PSC under this Code. The CFO may also make any decisions regarding Procurement methods, and/or Small Business Enhancements, and/or any other authority granted to PSC under this Code in the absence of a gathering of the PSC and without any input from the PSC due to PSC's inability to meet or if the CFO decides it is within Broward Health's best interests. To the extent the CFO makes any such decisions in the absence of input from PSC, such decisions shall be consistent with the provisions of this Code and the CFO must properly document such decisions within the applicable arrangement in Broward Health's electronic contracting database.~~

~~g. In the absence of the CPO, the CFO may assume the role or temporarily delegate the authority of Chairperson of the PSC to another responsible individual.~~

~~h. Minutes shall be taken for all PSC meetings. Following the preparation of draft minutes, such draft minutes shall be distributed to PSC's committee members via e-mail. All minutes shall be reflective of recommendations of PSC, decisions of the CPO, actions affected and approved, and will include any post-PSC action items such as Small Business Enhancements or any pending portions of the regular monthly meeting. All minutes shall be formerly approved at the following PSC meeting.~~

~~i. A master set of all agendas, minutes, exhibits, and supporting documentation shall be retained in Supply Chain Services as required under Florida law and its record retention schedules, as amended from time to time.~~

~~3. PSC's and CPO's Role in Procurement. PSC shall be tasked with reviewing and recommending, and the CPO for deciding and approving, proper Procurement methods (collectively, "PSC's Roles"). The following list contains PSC's Roles:~~

- ~~a. Formal Bids—Reviewing and approving all requests for Formal Bids to Procure any goods or services exceeding Threshold Category 3 except those purchases made in Emergency Situations (as defined below);~~
- ~~b. Bid Waivers—Reviewing and approving all Bid Waivers except those purchases made in Emergency Situations (as defined below);~~
- ~~c. Vendor Performance Issues—Reviewing and recommending actions related to vendor Vendor performance issues; and~~
- ~~d. Small Business Vendor Opportunities—Reviewing and approving Small Business Enhancements made by the OESBD.~~

VIII. ACQUISITION PROCEDURES

The CPO shall select or approve the method of Procurement based on the application of the guidelines set forth in this Code. Unless a Procurement is Exempt, a Bid Waiver applies, an Emergency Purchase needs to be made, or unless otherwise authorized by this Code, the District's Charter, or Applicable Law, all Broward Health Contracts subject to this Code shall be Procured in accordance with the methods outlined herein.

A. Procurements Less than the Millage Threshold. For Procurements and Contracts estimated to be less than the Millage Threshold, the CPO shall establish internal policies, procedures, and SOPs for Competitive Conditions that promote competition and govern the appropriate method of Procurement, and which contain a Procurement category that requires the solicitation from at least three different sources, unless three different sources are not available. Procurements and Contracts less than the Millage Threshold may, but are not

required to, be let via a Competitive Solicitation. Nor are such Procurements and Contracts required to be let following a Formal Advertisement. When determining the most appropriate Competitive Conditions for Procurements under the Millage Threshold that are not otherwise subject to the Competitive Solicitation Process, the CPO may employ any, all, or any combination of the Competitive Solicitation Process's procedures below. The CPO's decision to utilize any combination or all procedures of the Competitive Solicitation Process for Procurements that are not otherwise subject to the Competitive Solicitation Process does not in and of itself require strict compliance with all the Competitive Solicitation Process's requirements or entitle or create any right or privilege to a Vendor (such as a Protest) unless Applicable Law, an applicable policy, SOP, or the Procurement's Bid Documents explicitly indicate otherwise.

B. Procurements Equal to or More than the Millage Threshold Subject to the Competitive Solicitation Process.

For those non-Exempt Procurements for which a Bid Waiver does not apply and that are estimated to be equal to or more than the Millage Threshold, Contracts may only be let after engaging in the Competitive Solicitation Process following the posting or publishing of a Formal Advertisement. The CPO shall select the most appropriate Competitive Solicitation. Such Competitive Solicitations include, without limitation:

1. **Invitations to Bid.** The Invitation to Bid may be used when Broward Health can specifically define the scope of work for which a Contractual Service is required or when Broward Health can establish precise specifications defining the actual Commodity or group of Commodities required. In an Invitation to Bid, the Contract or Contracts shall be awarded to the Responsible and Responsive Bidder or Bidders that submit the lowest Responsive Bid.
2. **Request for Proposals.** The Request for Proposals may be used when the purposes and uses for which the Commodity, group of Commodities, or Services being sought can be specifically defined and Broward Health can identify necessary deliverables. A Contract awarded under a Request for Proposals shall be made to the Bidder or Bidders determined most advantageous to Broward Health, taking into consideration criteria including, but not limited to, pricing and cost, the Bidders' capability, adequacy of personnel, experience, and past record of performance. Only non-material changes may be made to the statement of work following issuing a Notice of Award.
3. **Invitations to Negotiate.** The Invitation to Negotiate may be used to determine the best method for achieving a specific goal or solving a particular problem, and it identifies one or more Responsive Bidders with which Broward Health may negotiate to receive the best value. So long as the stated goals or questions of the Invitation to Negotiate remain unchanged, the statement of work may be negotiated and changed before or after issuing a Notice of Award.

C. General Acquisition Matters. The following general authority, rules, and tenets shall apply to the Procurement of Commodities and Contractual Services which are subject to this Code:

1. **Publication of Millage Threshold.** Due to the annual fluctuations in the Millage Threshold amount, it is important that Broward Health's officers, employees, and agents be informed of this figure. Accordingly, each year, after the Board approves the previous fiscal year's audited financial statements, the CFO shall provide the Millage Threshold amount to the CPO, and the CPO shall annually publish such amount for Broward Health's internal use.
2. **Determining the Threshold Categories for Procurement.** While the Spending Threshold is based on each separate Contract year, when ascertaining if Procurements are equal to or over the Millage Threshold and subject to the Competitive Solicitation Process, it shall be calculated based on the projected total Contract price over each consecutive five-year period of a Contract. The estimated total Contract price over subsequent five-year periods shall undergo independent evaluation and shall not be combined with previous five-year periods to make such a determination.
3. **Dividing Procurements.** Procurements or Contracts may not be divided with the intent to bypass or evade the provisions of this Code. Any Procurements or Contracts that are divided to circumvent the requirements of this Code shall be considered ultra vires and void ab initio.

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4. **Ultra Vires Procurements.** Except as provided in this Code, no officer, employee, or agent of Broward Health may Procure any Commodities or Services or enter into any Contract subject to this Code's provisions other than through the guidelines established in this Code. Any Purchase Order or Contract made contrary to the provisions herein shall be considered ultra vires, may not be approved, and, unless subsequently ratified by the proper authority, Broward Health shall not be bound thereby.
 5. **Temporary Extensions Pending Procurements.** To ensure continuity and avoid disrupting or interfering with Broward Health's operations, the CPO may grant temporary Contract extensions pending the proper Procurement of Commodities and Contractual Services subject to the provisions of this Code.
 6. **Requests for Information.** The CPO may issue Requests for Information seeking general information about Commodities, Contractual Services, or suppliers to assist the CPO in the Competitive Solicitation Process or in determining acquisition methodology. Requests for Information may not be treated as offers and may not be accepted by Broward Health to form a binding Contract. To the extent a Request for Information is issued, the CPO is not required to utilize any information gathered from the Request for Information, nor is a Vendor who responds to a Request for Information excluded from participating in any resulting Competitive Solicitation.
 7. **Qualified Short Lists and Requests for Qualifications.** The CPO may establish qualified short lists of Vendors, Commodities, and Contractual Services as the CPO determines, at his or her sole discretion, are in the best interests of Broward Health provided the establishment of such short lists are permitted under Applicable Law. When establishing such short lists, the CPO shall issue Requests for Qualifications or such other form of Competitive Conditions requesting Bids from Vendors to determine such Vendors' suitability for participation on such short lists and may enter into Open-Ended Contracts with the awarded Vendors chosen to participate in the short lists.
 8. **Other Governing Policies and Procedures.** Notwithstanding any specific Exemptions to this Code, the Board has established and promulgated policies and procedures complementary to this Code that pertain to the Procurement of Commodities and Services to ensure an open, transparent, and fair Procurement process. To that end, any policies governing such Procurements, including, without limitation, those in the Business and Procurement Code Policy Appendix, are hereby incorporated by reference as if fully set forth herein. In the event of a conflict between this Code and any resolution or policy established by the Board governing a specific Procurement, the applicable resolution or policy shall control, unless explicitly stated otherwise. The CPO may also establish internal policies and SOPs that the CPO deems necessary to administer, implement, and interpret this Code, including the establishment of additional procedures governing Procurements regardless of whether the Procurements are governed by this Code or Exempt from this Code; provided, however, in no event may any policies or SOPs contain provisions that conflict with the requirements of this Code or any policies established by the Board. Broward Health's officers, employees, and agents are responsible for reviewing and complying with all applicable procurement policies established by the Board and the CPO and raising any issues of applicability or interpretation with the CPO as appropriate.
- D. General Guidelines and Procedures Governing the Competitive Solicitation Process.** The following guidelines, standards, and procedures shall govern the Competitive Solicitation Process:
1. **Procedure of Competitive Solicitations.** The CPO has the ultimate authority to determine a Competitive Solicitation's proper form, format, method, and procedure.
 2. **Cone of Silence.** Beginning on the date when a Competitive Solicitation is Formally Advertised and continuing until the later of the date of the final award of the Competitive Solicitation, the date of rejection of all Bids in response to the Competitive Solicitation, or the date of final disposition by Broward Health of any Protest to the Competitive Solicitation, all communications between any actual or prospective Bidder, as well as any contractor, lobbyist, or consultant acting for or on behalf of such actual or prospective Bidder, and any member of the Selection Committee or other Broward Health officer,

employee, department, division, agent, or Board member concerning the particular Competitive Solicitation or Procurement are prohibited (“Cone of Silence”). In addition to any penalties under state law, breaching or violating the Cone of Silence during a Competitive Solicitation may, at Broward Health’s sole discretion, result in disqualification of the offending Bidder from the Competitive Solicitation, as well as possible suspension or debarment from participating in any future Broward Health Procurements or Competitive Solicitations, and may result in disciplinary action for the offending Broward Health officer, employee, or agent. The Cone of Silence shall not apply to (a) communications to or with the designated point of contact identified in any Competitive Solicitation; (b) presentations by any Bidder at a scheduled oral presentation; or (c) presentations at duly noticed Selection Committee meetings. All Competitive Solicitations shall include provisions describing the requirements and prohibitions of this Cone of Silence.

3. **Formal Advertising Procedures.** Unless otherwise provided under Applicable Law or this Code, a Formal Advertisement inviting sealed Bids shall be published consistent with ch. 50, Fla. Stat., for all Procurements that are estimated to be equal to or greater than the Millage Threshold and that are subject to the Competitive Solicitation Process.
4. **Bid Documents.** The ultimate authority as to what shall be included in the Bid Documents is hereby vested in the CPO, and the CPO shall be responsible for constructing and maintaining all Bid Documents and the terms and conditions therein for the solicitation of Bids. At a minimum, all Bid Documents used for Competitive Solicitations shall contain (a) a reference to this Code to put Bidders on notice that they are subject to its conditions; (b) the deadline for the submission of Bids; (c) the time and date of the public opening; (d) pertinent terms and conditions applicable to the Competitive Solicitation; (e) reference to relevant Bidder preferences applicable to the Bid under Florida law; (f) the requirement of form submittal for any forms or documents which under Applicable Law are required to be submitted; (g) the criteria that will be used to determine Responsible and Responsive Bidders and the acceptability and relative merit of a Bid; (h) the criteria that will be used and considered to select the Bidder or Bidders that will be awarded Contracts; and (i) a reference to the Protest Procedures outlined in this Code.
5. **Broward Health’s Economic and Small Business Initiative.** The Board reaffirms its commitment to the economic growth and well-being of small and local businesses, and Broward Health’s Economic and Small Business Development Initiative encourages and supports the participation of local and small businesses in Broward Health’s Procurements. To that end, Broward Health shall endeavor to support Small Business Vendors when engaging in the Competitive Solicitation Process consistent with the procedures outlined in Broward Health’s Economic and Small Business Development Initiative Policy in the Business and Procurement Code Policy Appendix.
6. **Special Preferences Under Florida Law.** The CPO shall ensure that any preferences required under Applicable Law are applied to the Procurement of Commodities and Services. Such preferences include, without limitation, preference to Florida businesses under § 287.084, Fla. Stat., preference to Commodities manufactured, grown, or produced in Florida under § 287.082, Fla. Stat., preference to state printing under § 283.35, Fla. Stat., and other preferences provided in chapter 287, Florida Statutes and other Applicable Law.
7. **Responsible and Responsive Bidders.** Contracts Procured under Competitive Solicitations, including Invitations to Bid, shall only be awarded to Responsible and Responsive Bidders, and the CPO is responsible for determining whether a Bidder responding to a Competitive Solicitation is qualified, submitted a Responsive Bid, and is a Responsible and Responsive Bidder. When deciding whether a Bidder is a qualified and Responsible Bidder, the CPO may consider multiple factors including, without limitation, a Bidder’s reliability, past performance, honesty and integrity necessary to a faithful performance of the Contract, skill and business judgment, experience and facilities for carrying out the Contract, previous conduct under other Contracts, and the quality of the Bidder’s prior work.
8. **Bid, Performance, and Payment Security.** The CPO may require Bidders responding to any Competitive Solicitation to post Bid Bond security to ensure that they will honor the terms of their Bid. The CPO may

also require Bidders responding to any Competitive Solicitation to post Payment Bond and Performance Bond, which may be in addition to any Bid Security. The amount of the Bond required to be posted shall be a percentage of the estimated total cost of Commodities or Services being Procured or such other amount fixed by Applicable Law and the required form of the Bond shall be set forth in the Bid Documents.

9. **Collusive Bidding.** Engaging in Collusive Bidding in Competitive Solicitations at Broward Health is prohibited. Bidders that engage in Collusive Bidding Practices may be precluded from participating in Competitive Solicitations or doing business with Broward Health. All determinations regarding Collusive Bidding and the current or future participation of Bidders suspected of engaging in such Collusive Bidding Practices shall be the responsibility of the CPO. Where two or more Related Bidders submit Bids pursuant to a Competitive Solicitation, such Bids shall be presumed Collusive, and the Related Bidders' Bids may be rejected. The foregoing presumption may be rebutted by credible evidence from all the Related Bidders that show independence and pro-competitive conduct, and such evidence may include, without limitation, documentation, attestations, or affidavits as to each Related Bidder's independence, the extent of ownership, control, and management of the Related Bidders' business entities, and other such credible evidence pertaining to the preparation and submittal of the Related Bidders' Bids.
10. **Minimal Bids and Extensions.** If the CPO determines it is in the best interest of Broward Health, the CPO may award a Contract to a sole Responsible and Responsive Bidder for Competitive Solicitations that receive only one Bid, and in any Competitive Solicitation that receives fewer than three Bids by the due date and time, the CPO may, at the CPO's discretion, proceed forward with the Competitive Solicitation or extend the deadline and seek additional Bids by issuing an addendum, posting the extension on Broward Health's website, and if the Competitive Solicitation is for a Procurement equal to or over the Millage Threshold, by Formally Advertising such extension. The CPO shall determine the length of any extension period(s).
11. **Cancellation of Solicitation, Rejection of Bids, and Waiver of Minor Irregularities.** Any Competitive Solicitation may be canceled, or any or all Bids may be rejected, in whole or in part, when it is in the best interests of Broward Health as determined by the CPO at the CPO's sole discretion. The CPO also is permitted and has the right to waive any or to request or require a Bidder to correct any minor irregularity, technicality, or omission of any Bid or Competitive Solicitation if the CPO determines, at the CPO's sole and absolute discretion, that doing so will serve Broward Health's best interests. Any waivers or requests for correction of minor technicalities, omissions, or irregularities shall be applied consistently to all Bidders in a particular Competitive Solicitation, and under no circumstances may a waiver be granted if the granting of such waiver would restrict competition or adversely affect competition by providing one Bidder with an unfair competitive advantage over another Bidder.
12. **Selection Committees.** With the exception of Invitations to Bid, Selection Committees shall be utilized to evaluate Bids subject to the Competitive Solicitation Process. The CPO is responsible for determining and approving the number and composition of voting and non-voting members of Selection Committees (which may consist of Broward Health and non-Broward Health employees), and the CPO may modify or substitute members or increase or decrease membership on a Selection Committee for any reason and at any time during the Competitive Solicitation Process. All appointed Selection Committee members shall be provided with appropriate instructions and training regarding their respective roles and responsibilities. Before serving on the Selection Committee, each appointed member shall execute a Conflict-of-Interest Certification Form and be reminded of the Cone of Silence.
13. **Effect of Award and Authority to Award and Rescind.** In all Competitive Solicitations, the CPO has the ultimate authority to determine the appropriateness of issuing an award to a Bidder based on the best interests of Broward Health. After an award is issued, Broward Health and the awarded Bidder shall enter into a Contract incorporating the requirements of the Competitive Solicitation with terms required under Applicable Law and other terms acceptable to Broward Health. No award is final until a Notice of Award is sent to the successful Bidder, and the issuance of an award shall not be deemed to create a binding

Contract of Broward Health until a written Contract has been duly executed by both the selected Bidder and Broward Health. The CPO may rescind an award at any time before the effective date of a Contract if the CPO determines, at the CPO's sole discretion, that such rescission is in Broward Health's best interests. In the event that the CPO rescinds all Bids and intends to reissue the Competitive Solicitation, the CPO shall concurrently provide notice of Broward Health's intent to reissue the Competitive Solicitation in accordance with § 119.071(1)(b), Fla. Stat.

- 14. Authority to Re-Award After Rescission or Termination.** If an award is rescinded or Contract is terminated that was the subject of the Competitive Solicitation Process, the CPO may award a Contract to one or more Responsible and Responsive Bidders (in the order of such Bidders' rankings) without issuing another Competitive Solicitation if the CPO determines, at the CPO's discretion, that it is in Broward Health's best interests not to resolicit Bids and if the rescinding or termination is within 12 months after the award was announced and the Selection Committee concluded its deliberations; provided, however, that any Bidder awarded a Contract following the rescinding of an award or termination of a Contract shall honor the price, offerings, and representations in such Bidder's Bid subject to changes and modifications of the price no greater than 20 percent as provided in Section V.D.15. (Authority to Negotiate Changes and Modifications of the Awarded Price) of this Code.
- 15. Authority to Negotiate Changes and Modifications of the Awarded Price.** Notwithstanding the type of Competitive Solicitation utilized, pursuant to the District's Charter, Broward Health may negotiate and agree with a successful Bidder in any Competitive Solicitation for changes and modifications to the successful Bid provided the total value of changes and modifications do not exceed 20 percent of the agreed/awarded price and such changes and modifications shall not be considered a material deviation or modification of the Competitive Solicitation.
- 16. Public Records and Sunshine Law.** All Bidders and Vendors are hereby put on notice that Broward Health is subject to Florida's Public Records Law (ch. 119, Fla. Stat.) and Florida's Government in the Sunshine Law (ch. 286, Fla. Stat.), and all Bids, documents, and other materials sent to Broward Health, as well as the Competitive Solicitation Process, are subject to such laws unless otherwise exempt under Applicable Law. It is the responsibility of all Bidders and Vendors, consistent with Applicable Law and any other directions or conditions contained in a Competitive Solicitation's Bid Documents, to protect such Bidders' and Vendors' trade secrets or proprietary information submitted to Broward Health. Broward Health shall not be responsible for protecting any Bidders' or Vendors' trade secrets or proprietary information. A Bidder's submission of a Bid under a Competitive Solicitation and a Vendor's entry into a Contract with Broward Health constitutes the agreement by such Bidders and Vendors to indemnify, defend, and hold Broward Health, its commissioners, officers, employees, and agents harmless from and against any actions concerning a public records request due to the Bidder's or Vendor's assertion of an exemption under Florida law. If a Bidder or Vendor has any questions regarding the application of these laws, such questions should be sent to Broward Health's Public Records Custodian at PublicRecordsRequest@browardhealth.org.
- 17. Bid Protests.** Broward Health aims to ensure the prompt and fair resolution of Protests. While a Bidder's ability to Protest enhances the accountability of the Procurement process, the Protest process must not interfere with the prompt and efficient acquisition of Commodities and Contractual Services needed by Broward Health to perform its health care operations. To that end, the Board has established the Protest Procedures applicable to Protests of Competitive Solicitations and awards under the Competitive Solicitation Process. Unless expressly required under Applicable Law or the conditions of a grant or funding source, or unless explicitly stated in the Bid Documents or a particular policy relevant to the Commodity or Service being Procured, Protests shall only be applicable to the Competitive Solicitation Process for Procurements equal to or over the Millage Threshold. Protests relating to Competitive Solicitations or awards below the Millage Threshold or otherwise not subject to the Competitive Solicitation Process are not required to be considered by Broward Health. A Bidder's ability to Protest Bids not subject to the Competitive Solicitation Process shall be determined by the CPO, and if deemed

appropriate, shall be delineated in the applicable Bid Documents. All Protests shall be limited only to Protests contending that the Competitive Solicitation or award is contrary to Applicable Law, the District's Charter, this Code, Broward Health's Policies and Procedures, or the Competitive Solicitation's specifications. Minor or immaterial deviations from this Code shall not constitute grounds for a Protest or appeal by a Bidder affected by the activity at issue. All Protests shall conform to the procedures herein and shall be directed to the CPO. Those Protests that are untimely or which do not strictly conform to the Protest Procedures below shall be dismissed unless waived by the CPO. The specific Protest Procedures are as follows:

(a) General Matters.

- (i) Exhaustion of Administrative Remedies. All Protests shall follow the procedures herein and all appeals shall be exhausted as an administrative remedy to be satisfied as a condition precedent to filing and initiating any civil action against Broward Health concerning a Competitive Solicitation or award.
- (ii) Guidance and Assistance. The CPO and CFO may consult and obtain guidance, advice, and assistance from Legal Counsel regarding any Protest and appeal.
- (iii) Settlements and Resolutions. The CPO, or his or her designee, shall have the authority, in consultation with Legal Counsel, to settle and resolve a Protest or appeal of an aggrieved Protester concerning the Competitive Solicitation or award prior to the commencement of an action in court or another venue of competent jurisdiction concerning the controversy.
- (iv) Intervenors. At the CPO's sole discretion, the CPO may allow an awardee to participate in a Protest as an intervenor if deemed advantageous to the resolution of the matter by the CPO.
- (v) Standard and Burden in Protests. The burden in any Protest of any Competitive Solicitation or award is on the Protester to credibly establish that the intended action by Broward Health is materially contrary to Broward Health's governing statutes, the District's Charter, this Code, Broward Health's Policies and Procedures, or the Competitive Solicitation's specifications. The burden in any appeal of the CPO's Written Decision of a Protest shall be whether the findings and conclusions of the CPO's Written Decision are arbitrary or capricious.

(b) Standing to Protest.

- (i) Standing to Protest Competitive Solicitations and Addenda. Any actual or prospective Bidder that is an interested party and is aggrieved in connection with a Competitive Solicitation's or issued addenda's specifications may challenge such specifications consistent with the requirements herein.
- (ii) Standing to Protest Bid Awards. Any actual Responsible and Responsive Bidder that is aggrieved in connection with an award of a Contract under a Competitive Solicitation may Protest such award consistent with the requirements herein.

(c) Time and Writing Requirements for the Submission of Bid Protests.

- (i) Protests of Competitive Solicitations and Addenda. Any actual or prospective Bidder who is an interested party and is aggrieved in connection with a Competitive Solicitation's or issued addenda's specifications may challenge such specifications by submitting a timely and written Protest to the CPO no later than 72 hours following the Formal Advertisement and release of the Bid Documents under a Competitive Solicitation, or, if any addenda are issued under a Competitive Solicitation, no later than 72 hours following the issuance of the addendum being challenged. The issuance of an addendum to a Competitive Solicitation shall not restart the time limitation Protest clock for Protesting the initial Competitive Solicitation's specifications or any previously issued addenda, and a Protest following the issuance of an addendum to a Competitive Solicitation shall only apply to the addendum specifically issued in the previous 72-

hour period. The written Protest shall: (1) adequately identify the Competitive Solicitation and number; (2) set forth a detailed statement of the legal and factual grounds of Protest, including copies of relevant documents; (3) provide a statement as to how the Protester is interested and aggrieved; (4) state the relief requested; and (5) be signed by an authorized official of the Protesting Bidder with proper contact information including an email address. THE FAILURE TO TIMELY SUBMIT A WRITTEN PROTEST OF A COMPETITIVE SOLICITATION OR ADDENDUM WITH ALL THE REQUIRED COMPONENTS CONSISTENT WITH THIS SECTION SHALL CONSTITUTE A WAIVER OF ANY AND ALL PROTEST RIGHTS OF THE APPLICABLE COMPETITIVE SOLICITATION AND/OR ADDENDA.

(ii) *Protests of Bid Awards.* Any actual Responsible and Responsive Bidder that is aggrieved in connection with an award of a Contract pursuant to a Competitive Solicitation may Protest such award by submitting a timely and written Protest to the CPO no later than five Business Days after the date Broward Health issues the Notice of Award. The issuance of an award shall not restart the time limitation Protest clock for the initial Competitive Solicitation or any previously issued addenda, and a Protest following an award to a Competitive Solicitation shall only apply to the award being Protested. The written Protest shall: (1) adequately identify the Competitive Solicitation and number; (2) set forth a detailed statement of the legal and factual grounds of Protest, including copies of relevant documents; (3) provide a statement as to how the Protester is aggrieved; (4) state the relief requested; and (5) be signed by an authorized official of the Protesting Bidder with proper contact information including an email address. THE FAILURE TO TIMELY SUBMIT A WRITTEN AWARD PROTEST WITH ALL THE REQUIRED COMPONENTS CONSISTENT WITH THIS SECTION SHALL CONSTITUTE A WAIVER OF ANY AND ALL PROTEST RIGHTS OF THE AWARD.

(d) Protest Bond.

(i) *Requirement of Protest Bond.* A precondition to any Protest is that a bond be posted payable to Broward Health by the Protester (“Protest Bond”). The amount of the Protest Bond shall be (a) \$5,000 for Protests of a Competitive Solicitation or issued addenda; or (b) \$5,000 or 1 percent of the total cost of the awarded Bid, whichever is greater, for Protests of awards. A Protester, in lieu of posting a Protest Bond, may submit a cashier’s check, official bank check, money order, or other noncancelable instrument in the amount of the required Protest Bond.

(ii) *Form of Protest Bond.* The Protest Bond filed pursuant to a Protest shall be substantially in the same form provided in Fla. Admin. Code R. 28-110.005(2).

(iii) *Purposes and Use of Protest Bond.* The Protest Bond shall be conditioned upon the actual costs incurred by Broward Health when addressing the Protest and payment of all costs adjudged against the Protester for any subsequent court proceedings, as applicable. After completion of the Protest or court proceedings as applicable, Broward Health shall recover all such costs and charges incurred when addressing the Protest and any other costs or charges ordered by a court, as applicable. The Protest Bond shall be returned to the Protester if the Protester prevails, or if the Protester does not prevail, after the Protester remits payment to Broward Health of any costs and charges incurred by Broward Health throughout the pendency of the Protest.

(iv) *Forfeiture of Protest Bond.* The entire amount of the Protest Bond shall be forfeited if the CPO reasonably determines that a Protest was filed for a frivolous or improper purpose, including, but not limited to, the purpose of harassing, causing unnecessary delay, or causing needless costs for Broward Health, other Bidders, or other parties.

(e) Procedure Following a Timely and Proper Protest. The following Protest Procedures shall apply following a properly qualified Protester’s timely Competitive Solicitation or award Protest.

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- (i) Issuance of Stay by CPO During Pendency of Protest. In the event of a timely Competitive Solicitation or award Protest, the CPO may decide, at the CPO's sole and absolute discretion, to stay the pendency of the Competitive Solicitation Process or award as applicable until a final decision on the Protest is issued by the CPO.
- (ii) Protest Preconditions. The preconditions to the consideration of any Protest are: (1) Protest Bond is posted and submitted concurrently with the Protest (or other noncancelable substitute instrument as provided herein); (2) the Protest was submitted timely within the time limits prescribed herein; (3) the Protest is being made by a properly qualified Protester with standing to Protest the Competitive Solicitation or award; and (4) the Protest is in writing, signed by an authorized official, and contains all the required components as outlined in this Section. Any Protest that fails to adhere to the foregoing preconditions shall be dismissed.
- (iii) Written Decision of CPO. If the Protest is not resolved by mutual agreement, the CPO, or his or her designee, shall endeavor to issue a written decision on the Protest within (a) 30 days after receipt of the Protester's written and timely Protest if the Protest is based on a Competitive Solicitation or the issuance of an addendum; or (b) 60 days after receipt of the Protester's written and timely Protest if the Protest is based on an award (collectively, the "CPO's Written Decision"). The CPO may extend the foregoing time limits for good cause, and any time extensions shall be communicated to the Protester. The CPO's Written Decision shall state the reasons for the action taken and advise the Protester of its right to appeal the decision in accordance with this Code. The CPO's Written Decision shall be provided to the Protester by email and/or by certified mail, return receipt requested, and if the Protest is based on an award, a copy of the CPO's Written Decision shall be provided to the intended awardee by email and/or by certified mail, return receipt requested. Such delivery through the foregoing methods shall be deemed sufficient delivery of notice of the CPO's Written Decision. In the event of delivery by email, such notice of the CPO's Written Decision shall be deemed received by the Protester upon sending the email.
- (f) Procedure for Appeal of CPO's Decision. The following procedures shall apply following a properly qualified Protester's Written and Timely Appeal.
- (i) Time and Form Requirements of Appeals. To the extent the Protester is dissatisfied with the findings and conclusions in the CPO's Written Decision, the aggrieved Protester may appeal the CPO's Written Decision by filing a written appeal with Broward Health's CFO within five Business Days of the date of receipt of the CPO's Written Decision from the CPO ("Written and Timely Appeal"). The Written and Timely Appeal shall: (1) adequately identify the Competitive Solicitation and number; (2) attach a copy of the CPO's Written Decision being appealed along with all supporting documents that were submitted with the original Protest; (3) set forth a detailed statement of the legal and factual grounds for the appeal; (4) state the relief requested; and (5) be signed by an authorized official of the appealing Protester with proper contact information including an email address. THE FAILURE TO SUBMIT A WRITTEN AND TIMELY APPEAL SHALL CONSTITUTE WAIVER OF ALL APPEAL RIGHTS AND THE CPO'S WRITTEN DECISION SHALL BE DEEMED AS FINAL.
- (ii) Issuance of Stay by CFO During Pendency of Appeal. If a Protester submits a Written and Timely Appeal, the CFO may decide, at the CFO's sole and absolute discretion, to continue or issue a stay to the pendency of the Competitive Solicitation Process or award as applicable until a final decision on the Protest is issued by the CFO.
- (iii) Written Decision of CFO. To the extent a Written and Timely Appeal is filed, the CFO shall endeavor to render a written decision on the Written and Timely Appeal within (a) 30 days after receipt of the notice of the Written and Timely Appeal if the Protest is based on a Competitive Solicitation or the issuance of an addendum; or (b) 90 days after receipt of the notice of the

Written and Timely Appeal if the original Protest is based on an award. The CFO may extend the foregoing time limits for good cause, and any time extensions shall be communicated to the Protester. The CFO's written decision shall state the reasons for the decision and actions taken, if any, and shall be provided to the appealing Protester by email and/or by certified mail, return receipt requested. The CFO's written decision shall be the final order on the Protest.

VI. EXEMPTIONS, BID-WAIVERS, AND EMERGENCY PURCHASES

Notwithstanding the Competitive Solicitation Process as delineated herein, Procurements that are exempt or waived shall not be subject to the Competitive Solicitation Process. An "Exemption" permanently exempts specific categories of Commodities or Services from the Competitive Solicitation Process due to their unique nature, while a "Bid Waiver" waives the Competitive Solicitation Process temporarily for a particular Commodity or Service because it meets certain conditions. With the exception of Construction Services, Electrical Work, and Professional Design Services, which are entirely Exempt from all the provisions of this Code (unless otherwise provided in the Design and Construction Code), for all other Procurements that are Exempt or meet the requirements of a Bid Waiver, while they may not be required to engage in the Competitive Solicitation Process, they are still subject to other applicable provisions of this Code as well as other policies, procedures, and guidelines established for Broward Health that govern the Procurement of Commodities and Services. A Contract may be awarded without following this Code's Formal Bid Process when a Bid Waiver applies in accordance with this Section or as otherwise required by Applicable Law.

The Board waives this Code's Formal Bid Process for the following types of Procurements even when the value of such Procurements exceeds Threshold Category 3. Notwithstanding the foregoing, with the exception of Procurements obtained through a GPO Contract, GSA Contract, Cooperative Purchasing/Piggyback Contract, or purchases made in an Emergency Situation (as defined below), the following Bid Waivers do not apply to Procurements of supplies, equipment, materials, or construction projects if the value of such Procurements, exceed one and one-half (1.5) mills of the total annual District revenues for the previous fiscal year. In such an event, such Procurements shall follow the Formal Bid Process.

A. Exemptions. Due to their unique nature, the following categories of Commodities and Services equal to or over the Millage Threshold are Exempt from the Competitive Solicitation Process: (1) accounting or auditing services; (2) general employment matters and employment contracts, including clinical and staffing agency contracts; (3) finance-related services; (4) legal services and experts retained by the Office of the General Counsel of Broward Health; (5) lobbying services; (6) managed care contracting; (7) marketing and advertising services; (8) pharmaceuticals and products specific to the regional pharmacy departments; (9) physician services, advanced practice provider services, and nursing services; (10) mail and postage; (11) products specific to the nutritional services department; (12) Construction Services, Electrical Work, and Professional Design Services; (13) Professional Services and Consulting Services; (14) purchasing and procurement of federal awards or other funding sources when required to engage in another competitive process; (15) real estate initiatives and services including the acquisition, lease, or rental of real property and related licenses; (16) Routine Expenditures established pursuant to a written policy in accordance with Section VII.6. (Direct Payments by Checks or Purchase Orders) of this Code; (17) subscriptions for periodicals and educational material whether in electronic or hard copy form; (18) travel and entertainment-related services, including Broward Health sponsored events at hotels, restaurants, and other entertainment venues; (19) utility services; (20) works of art, art design, and related artistic services; (21) services of investigators and other professionals related to a confidential investigation or special project of limited duration; and (22) any other Commodity or Service Exempted from the Competitive Solicitation Process as provided in this Code or referenced in any policy in the Business and Procurement Code Policy Appendix.

B. Bid Waivers. A Contract for a Procurement equal to or over the Millage Threshold may be awarded or entered into without following this Code's Competitive Solicitation Process when a Bid Waiver applies or as otherwise required by Applicable Law or the District's Charter, and the Board accordingly waives this Code's Competitive Solicitation Process and permits Broward Health to directly Contract for such Procurements meeting the

requirements or standards of one of the categories of Bid Waivers in this Section. The use of any applicable Bid Waivers in Section VI.B.1. (Bid Waivers not Requiring Further Board Approval or Action) of this Code for Procurements equal to or above the Millage Threshold do not need further Board approval; however, the use of any Bid Waivers in Section VI.B.2. (Bid Waivers Equal to or Above the Millage Threshold Requiring Further Board Approval) of this Code for Procurements equal to or above the Millage Threshold shall require further Board approval as delineated herein. The CPO shall determine the appropriateness of using any Bid Waivers for Procurements that are less than the Millage Threshold, and notwithstanding the applicability of a Bid Waiver for Procurements equal to or over the Millage Threshold, the CPO shall have the authority to determine that it is within Broward Health's best interests and require Broward Health to proceed with the Competitive Solicitation Process. Nothing herein shall be construed or interpreted as limiting the authority conferred to the Board or Broward Health under the District's Charter or Applicable Law, and nothing herein prohibits the Board from excepting a Procurement from the Competitive Solicitation Process for reasons outside of the following Bid Waivers when the Board finds that such exception is in the best interest of Broward Health. The use of any of the below Bid Waivers shall not entitle any Bidder to a Protest pursuant to Section V.D.17. (Bid Protests) of this Code. For Commodities or Services Procured through a federal grant or when using federal funds, the below Bid Waivers may be used only when such federal grant or conditions to use federal funds permit such use of the below Bid Waivers.

1. **Bid Waivers not Requiring Further Board Approval or Action.** The Board waives this Code's Competitive Solicitation Process without further Board approval or action when any of the following Bid Waivers apply to such Procurements regardless of whether such Procurements are equal to or above the Millage Threshold:

~~i. A. Group Purchasing Organizations & General Services Administration. The Board recognizes, in accordance with its Charter, that purchases made through a GPO and/or GSA Contract are best practices in hospital Procurements nationwide with associated efficiencies, savings, and speed. Purchasing completed utilizing GPO or GSA Contracts are exempt from the competitive acquisition or Procurement process; however, should the purchase be a GPO multisource contract, Supply Chain Services may obtain multiple GPO and/or GSA Contract quotes.~~

(a) ~~B~~**Cooperative Purchasing/ Piggyback Contracts Programs.** When it is in the best interest of Broward Health, and consistent with Applicable Law, Broward Health may Procure ~~good~~**Commodities or serviceContractual Services** through Cooperative Purchasing/ ~~Piggyback Contracts Programs.~~ Participation in a "Cooperative Purchasing Program" means and includes, without limitation, the use of State Term Contracts, cooperative state purchasing programs, buying cooperatives recognized or permitted under Florida law, buying cooperatives recognized or permitted under federal law (such as the General Services Administration), and any user access programs or other cooperative purchasing programs established by ~~whereby the Formal Bid Process or another process of competitive solicitations were consistent with the provisions of this Code and Procured by another government or public entity~~one or more Government Entities including, but not limited to, any state, regional, county, local, or municipal government entity of Florida or another state, whether executive, judicial, or legislative; any department, division, bureau, commission, authority, board, local government, special district, or political subdivision of Florida or another state; any public school, community college, or state university of Florida or another State; any and all federal or tribal agencies or entities, whether executive, judicial, or legislative; any public agencies or entities of any state, federal, or tribal governments; any buying cooperatives; and any other units of Florida government, other state governments, tribal governments, or the federal government. Notwithstanding the foregoing, When seeking Procurements from Cooperative Purchasing Programs, Broward Health may issue a Request for a Quote from the participating Vendors, and the use of a Request for a Quote does not constitute a Competitive Solicitation that is subject to any Competitive Solicitation Process formalities. Nor does the issuance of a Request for Quote entitle any responding Vendor to a Protest under Section V.D.17. (Bid Protests) of this Code. Broward Health may also, in at its sole and absolute discretion, negotiate

the terms and pricing of any Cooperative Purchasing/~~Piggyback Program~~ Contract, provided such negotiation is ~~in accordance consistent~~ with Applicable Law. ~~The CPO shall review and approve all requests for a Bid Waiver to Procure through a Cooperative Purchasing Program and the most appropriate Contract solicitation process for Procurements through a Cooperative Purchasing Program. All items presented to the CPO seeking Procurement through a Cooperative Purchasing Program shall be validated and approved as conforming to generally accepted public procurement standards before further action may be taken.~~

~~(b)~~ (b) Direct Purchases from Government Entities. When the CPO determines that it is in the best interest of Broward Health and consistent with Applicable Law, Broward Health may Procure Commodities or Contractual Services via a “Direct Purchase from a Government Entity,” which means and includes the Procurement of Commodities or Contractual Services directly from a Government Entity that is in the business of providing or that is otherwise capable of directly providing the Commodities or Contractual Services sought.

~~(c)~~ (c) Emergency Purchases. The Board recognizes that from time to time, emergency situations arise, and the immediate Procurement of Commodities or Contractual Services is necessary for the proper, safe, and efficient operations of hospitals, medical centers, and non-acute health care facilities that provide patient care. Accordingly, the Board, consistent with the authority conferred to it by the District’s Charter and notwithstanding any other provision of this Code, hereby waives the Competitive Solicitation Process for bona fide Emergency Purchases following the CPO’s determination that it is necessary to make such an “Emergency Purchase,” which means an actual or perceived emergency exists or will exist that may (1) threaten Broward Health’s continued compliance with regulatory requirements; (2) pose a threat, danger, or loss to the life, health, safety, or welfare of patients, employees, the public, or to Broward Health’s properties or infrastructure (including its Information Technology Systems); or (3) cause disruption to Broward Health’s operations, thereby necessitating the immediate Procurement of certain Commodities or Contractual Services to address, eradicate, or ameliorate the emergency without following the Competitive Solicitation Process. Any Emergency Purchases equal to or above the Millage Threshold shall be reported to and ratified by the Board as soon as practicable following the Emergency Purchase.

~~(d)~~ (d) Group Purchasing Organizations. The Board recognizes, in accordance with the District’s Charter, that Procurements made through Group Purchasing Organizations are best practices in hospital Procurements nationwide with associated efficiencies, savings, and speed. Accordingly, the Competitive Solicitation Process may be waived for Procurements of Commodities or Contractual Services when utilizing a “Group Purchasing Organization,” which means a for-profit or not-for-profit organization created by or on behalf of groups of buyers of related categories and markets to combine and form a purchasing consortium to obtain cost-saving and efficiency advantages of volume purchases. Broward Health may issue a Request for a Quote from the participating Vendors of a Group Purchasing Organization when seeking Procurements from such Group Purchasing Organization, and the use of a Request for a Quote does not constitute a Competitive Solicitation that is subject to any Competitive Solicitation Process formalities. Nor does the issuance of a Request for Quote entitle any responding Vendor to a Protest under Section V.D.17. (Bid Protests) of this Code.

~~(e)~~—

~~(d)~~—

(e) Owner-Direct Purchases. Rather than reimburse a contractor for the costs of materials or supplies used in a Public Works Project, which would include sales and use tax, Broward Health may determine, at its sole and absolute discretion, that it is in its best interest to use its tax-exempt status by engaging in an “Owner-Direct Purchase,” which means the direct purchase of materials or supplies that will be affixed to a Public Facility as part of a Public Works Project. Owner-Direct Purchases do not need to follow the Competitive Solicitation Process; provided, however, that all Owner-Direct

Purchases shall adhere to and be Procured according to the procedures set forth in § 212.08(6), Fla. Stat. and Fla. Admin. Code R. 12A-1.094, and such Owner-Direct Purchases (1) may only be for the purpose of Broward Health benefiting from its tax-exempt status as a Government Entity; (2) may only be for tangible personal property, supplies, and materials that will be installed, affixed, incorporated into, or that become a part of a Public Facility under a Public Works Project; (3) may not be prohibited by Applicable Law; and (4) shall contain all the proper documentation required under Applicable Law. To the extent the Owner-Direct Purchase Bid Waiver is used by Broward Health, Broward Health may deduct from the applicable awarded Contract the cost of the materials and supplies and the amount of sales and use tax that would have been incurred and owed if the contractor purchased the items or materials or the amount stipulated in the Contract for such materials or supplies. The Owner-Direct Purchase Bid Waiver may not be used to Procure any tangible personal property that is freestanding and can be relocated without tools, equipment, or need for adaptation. The CPO is responsible for deciding and approving Owner-Direct Purchases, and the CPO shall confirm that the foregoing requirements and the requirements of Applicable Law are followed.

(f) Piggyback Contracts. When it is in the best interest of Broward Health and consistent with Applicable Law, Broward Health may Procure Commodities or Contractual Services without engaging in the Competitive Solicitation Process through a “Piggyback Contract,” which means utilizing an existing and competitively awarded Contract of a Government Entity to acquire the same Commodities or Contractual Services as the Government Entity at the same or lower price. The use of a Piggyback Contract is only permitted when: (1) the Competitive Solicitation Process or other competitive process consistent with the provisions of this Code were utilized by a Government Entity to Procure the original Contract; (2) one or more Government Entities is a party to the original Contract; and (3) the use and piggybacking of such Contract is consistent with § 189.053, Fla. Stat. and other Applicable Law. Notwithstanding the foregoing, Broward Health may, at its sole and absolute discretion, negotiate the terms and pricing of any Piggyback Contract, provided such negotiation is in accordance with Applicable Law. The CPO shall review and approve all requests for a Bid Waiver to Procure through and enter into a Piggyback Contract. All items presented to the CPO seeking entry into Piggyback Contracts shall be validated and approved as conforming to generally accepted public procurement standards before further action may be taken.

~~(e)~~

2. **Bid Waivers Equal to or Above the Millage Threshold Requiring Further Board Approval.** The Board hereby waives this Code’s Competitive Solicitation Process for Procurements equal to or above the Millage Threshold following the Board’s determination, via resolution, that such Procurements meet the standards necessitating a Bid Waiver within one of the following categories. Following the Board’s Bid Waiver determination, such Bid Waiver shall be continuing in nature without needing further Board approval, provided the circumstances that necessitated or contributed to the Bid Waiver have not changed and the Procurement, Contract, system, or expenditure applicable to such Bid Waiver is specifically identified (as determined by the CPO) as a line item in the Budget. If the Procurement, Contract, system, or expenditure applicable to the Bid Waiver is not specifically identified as a line item in the Budget, then the approved Bid Waiver shall remain effective for a five-year period from the date such Bid Waiver was approved unless the Board expressly approves a greater time.

(a) Impracticality Waiver. ~~The Competitive Solicitation Process is waived for Procurements that meet the requirements of an Impracticality Waiver. An “Impracticality Waiver” means waiving the Competitive Solicitation Process for the Procurement of Commodities or Contractual Services when adhering to such competitive procedures for such Procurements would otherwise be impractical or impracticable. Prior to submitting an Impracticality Waiver for Board consideration and approval for Procurements equal to or more than the Millage Threshold, the CPO shall~~ When PSC reasonably determines and properly documents the CPO’s findings and conclusions that Procuring the items or services without following the Formal Bid Process is ~~(a1) Procuring the Commodities or Contractual~~

~~Services without following the Competitive Solicitation Process is necessary for the continued business and operations of Broward Health; (b) and is in the best interests of Broward Health; (2) Procuring the Commodities or Contractual Services without following the Competitive Solicitation Process does not violate Applicable Law or any federal or state requirements regarding competitive procurements; and (e3) that adherence to or following the Formal Bid Process Competitive Solicitation Process is otherwise impractical or impracticable because one or more of the following applies: (a) that the transitional costs of engaging in the Competitive Solicitation Process and moving to a new Vendor would be unreasonable or cost-prohibitive; (b) because of the particular circumstances, following the Competitive Solicitation Process for Procuring the Commodity or Contractual Service, or category thereof, would be redundant and unnecessary and not advance or foster the purposes and transparency of conducting public Competitive Solicitations (e.g., where purchases or rates are fixed by law or ordinance); (c) Applicable Law expressly permits waiving the Competitive Solicitation Process and it is in the best interests of Broward Health to do so (e.g., unsolicited proposals for public-private partnership projects); (d) the need to waive the Competitive Solicitation Process is necessary to advance the competitive and non-public strategic initiatives of Broward Health and following the Competitive Solicitation Process would otherwise undermine such initiatives; (e) waiving the Competitive Solicitation Process is reasonably necessary because no competition exists or the particular Commodity or Contractual Service, or category thereof, is needed to advance a particular operational need that can only be accomplished by one particular Vendor (e.g., utility services, patented items, unique professional or artistic services not governed under § 287.055, Fla. Stat., or only one Commodity or Contractual Service is compatible with Broward Health's systems and equipment and only one Vendor provides such Commodity or Contractual Service, etc.); (f) only one Bidder responded to a Competitive Solicitation that was released but the Bidder's response contains material defects and Broward Health still desires to enter into a Contract with such Bidder; or (g) any other reason that under the circumstances would render the Competitive Solicitation Process as unnecessary, superfluous, or redundant. Notwithstanding the satisfaction of the criteria for using the Impracticality Waiver, Broward Health shall, where appropriate, pursue the maximum amount of competition available under the circumstances, which may include telephonic bids and informal price quotations. When determining whether the Impracticality waiver is applicable to an item or service, or a particular category or service line of an item or service PSC may consider the following non-exclusive factors:~~

~~PSC, consistent with its procedures as set forth in this Code, shall review and approve all requests for procurement by virtue of a Cooperative Purchasing/Piggyback Contract status. All items presented to PSC as a Cooperative Purchasing/Piggyback Contract must be validated and approved before further action may be taken.~~

- ~~C. (1) That the transitional costs are unreasonable or cost prohibitive following the results of a cost-benefit analysis;~~
- ~~(2) Because of the particular circumstances, following the Formal Bid Process for Procuring the item or service, or category thereof, would not advance or foster the purposes and transparency of conducting public competitive solicitations;~~
- ~~(3) Applicable Law permits waiving the Formal Bid Process (e.g., unsolicited proposals for public-private partnership projects) and it is in the best interests of Broward Health to do so;~~
- ~~(4) The need to waive the Formal Bid Process is necessary to advance the competitive and non-public strategic initiatives of Broward Health and following the Formal Bid Process would otherwise undermine such initiatives; and/or~~

~~(5) Waiving the Formal Bid Process is reasonably necessary because the particular item or service, or category thereof, is needed to advance a particular operational need that can only be accomplished by one (1) particular Vendor (e.g., utility services, patented items, etc.).~~

~~The use of the Impracticality Bid Waiver may only be used in limited circumstances in accordance with Applicable Law, and whenever such Bid Waiver is used, the findings necessitating and approving such Bid Waiver shall be properly documented and open for public inspection. All expenditures that exceed the Spending Threshold in a single fiscal year and which a Bid Waiver based on impracticality is being sought require the Board's approval and a determination that the goods, equipment, and/or services should be Procured without following the Formal Bid Process based on the above-mentioned criteria. The impracticality status shall be maintained for the expenditure for a period of five (5) years unless a longer time is granted by the Board for good cause.~~

~~(b) Legacy Systems Purchases. The Competitive Solicitation Process is waived for Procurements that meet the requirements of a Legacy Purchase. A "Legacy Purchase" shall mean the Procurement of Commodities and Contractual Services or the expansion of an existing and integrated system where competition is unavailable, impractical, or constrained as a result of the need to continue to operate an existing Broward Health system which may not be replaced without substantial expenditure. Before submitting a Legacy Purchase for Board consideration and approval for Procurements equal to or more than the Millage Threshold, All determinations regarding the status of systems as Legacy Systems and all requests for the support, maintenance, and expansion of Legacy Systems including, but not limited to, computer software, computer hardware, and Biomedical Equipment shall be decided, reviewed, and approved by PSC. The criteria used to identify and determine whether a system is deemed a Legacy System includes, but is not limited to, the following: the CPO shall make all preliminary determinations regarding the appropriateness of engaging in a Legacy Purchase.~~

~~(c) Sole Source and Sole Brand Purchases. The Competitive Solicitation Process is waived for Procurements that meet the requirements of being a Sole Source and Sole Brand Purchase. A "Sole Source and Sole Brand Purchase" shall mean the Procurement of specific Commodities or Contractual Services where there is only one source or one reasonable source for the specific Commodities or Contractual Services or where there is only one known brand or only one brand reasonably capable of fulfilling a particular Procurement need of Broward Health. Before submitting a Sole Source and Sole Brand Purchase for Board consideration and approval for Procurements equal to or more than the Millage Threshold, the CPO shall make all preliminary determinations regarding a Procurement's status as a Sole Source and Sole Brand Purchase.~~

~~1. Standardization Purchases. The Competitive Solicitation Process is waived for Standardization Purchases. "Standardization Purchases" shall mean the establishment of the uniform use of a Commodity or Contractual Service throughout Broward Health, or a department thereof, to support efficiency and cost reduction through economies of scale, quality control, risk mitigation, effective maintenance, or integration. Before submitting a Standardization Purchase for Board consideration and approval for Procurements equal to or more than the Millage Threshold, the CPO shall make all preliminary determinations regarding the benefits of standardizing the Procurement of such Commodities and Contractual Services.~~

~~(a) (1) Systems that are fully integrated into the daily operations of one or more departments of Broward Health;~~

~~(b) (2) Systems that are strategic in nature; and/or~~

~~(c) (3) Systems that are unique to the producer, manufacturer, distributor, and/or provider.~~

~~(d) Any unbudgeted Legacy System expenditures exceeding the Spending Threshold in a single fiscal year require the Board's determination that a system is a Legacy System and the Board's approval to continue the maintenance, support, expansion and/or funding of a Legacy System. Notwithstanding~~

~~the foregoing, a Legacy System that is Line Item Budgeted indicates the Board's determination that a system is indeed a Legacy System and includes a commitment to the continued maintenance and expansion of these Legacy Systems. The Board's approval of a Line Item Budget with Legacy Systems thereby empowers the PSC to waive/exempt Legacy Systems exceeding the Spending Threshold from the Formal Bid Process requirements without further Board approval even in the event the proposed Contract will extend beyond a single fiscal year; provided, however, in no event shall a Budgeted Legacy System Contract be entered into, renewed, or extended beyond a three (3) year term without the Board's approval. Notwithstanding anything in this Code to the contrary, Legacy System expenditures requiring Board approval are not approved when Budgeted unless the line item specifically designates the Legacy System or Contract. The CPO, or his or her designee, is responsible for determining whether a line item in a budget is specific enough to constitute Board approval of a Legacy System.~~

- ~~(e) Any expenditures or Contracts deemed Legacy Systems by PSC or the Board shall maintain the status of a Legacy System for a period of five (5) years from the date the status of the Legacy System was decided. All Legacy System determinations must be reviewed at least every five (5) years by PSC or the Board, as applicable, for a previously deemed Legacy System to continue in its status as a Legacy System.~~
- ~~(f) **D**Sole Source. All determinations regarding the status of Sole Source shall be decided, reviewed, and approved by PSC. The criteria used to identify and determine whether Sole Source status is appropriate in a particular Procurement includes, but is not limited to, the following:~~
- ~~(g) (1) Equipment or services which are deemed unique and have a single producer, manufacturer, distributor, and/or provider; Software and hardware upgrades and maintenance agreements and Contracts for such software and hardware as provided by the OEM; Equipment needed to add to or expand an existing system and maintenance agreements and Contracts for such equipment as provided by the OEM; Equipment, supplies, or services needed where using an alternative product jeopardizes a warranty, maintenance agreement, or Contract, or creates any user, patient, and/or financial risks. This includes consideration of lead times and geographical availability to avoid these risks.~~
- ~~(h) (2) Software and hardware upgrades and maintenance agreements and Contracts for such software and hardware as provided by the OEM;~~
- ~~(i) (3) Equipment needed to add to or expand an existing system and maintenance agreements and Contracts for such equipment as provided by the OEM; and/or~~
- ~~(j) (4) Equipment, supplies, or services needed where using an alternative product jeopardizes a warranty, maintenance agreement, or Contract, or creates any user, patient, and/or financial risks. This includes consideration of lead times and geographical availability to avoid these risks.~~
- ~~(k) All unbudgeted Sole Source expenditures exceeding the Spending Threshold in a single fiscal year require the Board's approval and a determination that the goods, equipment, and/or services are a Sole Source. Notwithstanding the foregoing, a Sole Source expenditure that is Line Item Budgeted indicates the Board's determination that the goods, equipment, and/or services are indeed a Sole Source and the Board's approval to proceed with a Procurement exceeding the Spending Threshold in a single fiscal year without further Board approval even if the proposed Contract will extend beyond a single fiscal year; provided, however, in no event shall a Budgeted Sole Source Contract be entered into, renewed, or extended beyond a three (3) year term without the Board's approval. Notwithstanding anything in this Code to the contrary, Sole Source expenditures or Contracts requiring Board approval are not approved when Budgeted unless the line item specifically designates the Sole Source expenditures or Contract. The CPO, or his or her designee, is responsible~~

for determining whether a line item in a budget is specific enough to constitute Board approval of a Sole Source expenditure or Contract.

- ~~(l) Any expenditures or Contracts deemed a Sole Source by PSC or the Board shall maintain the status of a Sole Source for a period of five (5) years from the date the status of the Sole Source was decided. All Sole Source determinations must be reviewed at least every five (5) years by PSC or the Board, as applicable, for a previously deemed Sole Source to continue in its status as a Sole Source.~~
- ~~(m) **EStandardization.** All requests for Bid Waivers by virtue of a Standardization status shall be reviewed, determined, and approved by the PSC. The criteria used to determine a Standardization status includes, but is not limited to, the following:~~
 - ~~(n) (1) Equipment or services which are deemed appropriate to standardize at two (2) or more facilities due to technology or to promote cost savings and cost efficiencies including consistency of negotiated prices, services, training, or maintenance for equipment; Reduction of inventory requirements (one (1) item is stocked in place of two (2) or more items); Reduction in purchase price because the volume of purchases for two (2) or more previous items will be added together to provide additional leverage in negotiating price concessions; Savings in training time when the same products are used throughout Broward Health or within individual facilities or hospitals; Negotiating long-term Contracts for the purchase of multiple units over a period of multiple years which can be undertaken by standardizing one (1) type of equipment and such a purchase can provide significant savings in the cost of a few units that might be purchased within a single year; and/or Supplies required to operate the equipment and equipment repair parts will be consistent because multiple units are in use throughout Broward Health, such consistency reduces the inventories necessary to support the equipment, and higher volume purchases can be used to negotiate lower purchase prices.~~
 - ~~(o) (2) Reduction of inventory requirements (one (1) item is stocked in place of two (2) or more items);~~
 - ~~(p) (3) Reduction in purchase price because the volume of purchases for two (2) or more previous items will be added together to provide additional leverage in negotiating price concessions;~~
 - ~~(q) (4) Savings in training time when the same products are used throughout Broward Health or within individual facilities or hospitals;~~
 - ~~(r) (5) Negotiating long-term Contracts for the purchase of multiple units over a period of multiple years which can be undertaken by standardizing one (1) type of equipment and such a purchase can provide significant savings in the cost of a few units that might be purchased within a single year; and/or~~
 - ~~(s) (6) Supplies required to operate the equipment and equipment repair parts will be consistent because multiple units are in use throughout Broward Health, such consistency reduces the inventories necessary to support the equipment, and higher volume purchases can be used to negotiate lower purchase prices.~~
- ~~(t) All unbudgeted requests for Standardization Bid Waivers exceeding the Spending Threshold within a single fiscal year require the Board's approval unless the selection of the equipment, goods, or services were initially made through the Formal Bid Pprocess. Notwithstanding, a Standardization expenditure or Contract that is Line Item Budgeted indicates the Board's approval to proceed with a Procurement exceeding the Spending Threshold in a single fiscal year without further Board approval even if the proposed Standardization expenditure or Contract will extend beyond a single fiscal year; provided, however, in no event shall a Budgeted Standardization Contract be entered into, renewed, or extended beyond a three (3) year term without the Board's approval. Notwithstanding anything in this Code to the contrary, Standardization expenditures requiring Board approval are not approved when Budgeted unless the line item specifically designates the Standardization expenditures or Contract. The CPO, or his or her designee, is responsible for determining whether a line item in a budget is specific enough to constitute Board approval of a Standardization expenditure or Contract.~~

~~(d) Any expenditures or Contracts deemed a Standardization Contract by PSC or the Board shall maintain the status of a Standardization Contract for a period of five (5) years from the date the status of the Standardization Contract was decided. All Standardization Contract determinations must be reviewed at least every five (5) years by PSC or the Board, as applicable, for a previously deemed Standardization Contract to continue in its status as a Standardization Contract.~~

IX. EMERGENCY COMMITMENTS AND INTERNAL APPROVALS

~~Broward Health's hospitals, medical centers, and non-acute health care facilities provide patient care twenty-four (24) hours per day and three hundred sixty-five (365) days per year. The Board, in accordance with the Charter, is permitted via resolution to identify emergency or unusual conditions, the existence of which compliance with this Code and the Formal Bid Process would be detrimental to the District. Accordingly, the Board has determined and makes a finding that in the event that following this Code may result in an actual or perceived threat to: (a) Broward Health's compliance with regulatory requirements; (b) the life, health, safety, or welfare of patients, employees, or the public; or (c) the operations of Broward Health facilities (an "Emergency Situation"), such an Emergency Situation constitutes emergency or unusual conditions to permit deviations from this Code and the Formal Bid Process. Accordingly, in the event such an Emergency Situation exists, Broward Health may, at its sole discretion and without following the Formal Bid Process or the provisions of this Code, acquire goods, supplies, and/or services through an emergency purchase ("Emergency Purchase") by adhering to the following procedures:~~

- ~~(1) To the extent possible, before engaging in any Emergency Purchase, appropriate authorization must be obtained from a department head;~~
- ~~(2) To the extent possible, prior confirmation of funding and approval by the CFO, or his or her designee, shall accompany all Emergency Purchases. If confirmation of funding and approval cannot be obtained in advance, such confirmation shall be obtained as soon as possible following the Emergency Purchase;~~
- ~~(3) An Emergency Purchase shall be communicated to the CPO, or his or her designee, by email the same day or otherwise as soon as such communication is possible;~~
- ~~(4) The requesting department must complete an emergency procurement authorization request, as approved by Supply Chain Services, with a justification for the Emergency Purchase. The completed emergency procurement authorization request with its accompanying justification must be forwarded to the CPO, or his or her designee, prior to the Emergency Purchase or otherwise as soon as such communication is possible following the Emergency Purchase.~~
- ~~(5) The CPO, or his or her designee, will verify and forward the completed emergency procurement authorization request for approval to a person with a sufficient limit of requisition authority. Once signed by such person, a copy of the approved emergency procurement authorization form shall be retained by Supply Chain Services and the original emergency procurement authorization request shall be returned to the requesting department; and~~
- ~~(6) The requesting department shall enter a requisition and forward the requisition along with the emergency procurement authorization request and invoice to Accounts Payable for processing, if applicable.~~

~~Any Emergency Purchase shall be limited only to those goods, supplies, or services necessary to meet the Emergency Situation. All emergency purchases exceeding the CEO's Spending Threshold shall be submitted to the Board for ratification as soon as possible following the Emergency Purchase.~~

VII. GENERAL BUSINESS AND PURCHASING MATTERS

The following authority and guidelines shall govern all business at or with Broward Health:

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1. **Doing Business with Broward Health.** The CPO may establish policies requiring Bidders and Vendors to register with Broward Health as a condition of Bidding on Competitive Solicitations or as a condition of doing business with or otherwise providing Commodities or Services to Broward Health.
 2. **Prohibition Against Contingent Fees.** The payment of any compensation to any individual, corporation, partnership, firm, or company, other than the Vendor or a bona fide employee of the Vendor made contingent on the award of a Competitive Solicitation, issuance of a Purchase Order, or made to solicit or secure Contracts with Broward Health is strictly prohibited.
 3. **Authority to Debar or Suspend Vendors.** In addition to those Vendors not authorized to do business with Broward Health under Applicable Law, the CPO is authorized to establish written criteria consistent with Applicable Law for the temporary or permanent suspension or debarment of Vendors whose conduct is detrimental to Broward Health. Such detrimental behavior includes but is not limited to, the failure to fulfill the terms and conditions of a Contract, negative interactions with Broward Health's staff and employees, or providing inferior or inadequate Commodities or Services. The written criteria for suspension or debarment shall include reasonable notice to the affected Vendor; the causes, allegations, and conduct leading to the potential suspension or debarment; a reasonable opportunity to respond in writing to the claims; any relevant timelines to respond; an appellate procedure to appeal adverse decisions of the CPO in writing or person; and the process to request reinstatement for temporary suspensions and temporary debarments following the completion of the temporary suspension or temporary debarment period. During the period of debarment or suspension, the Vendor and its affiliates, or other companies with any of the same officers or principals as the debarred or suspended Vendor, may not do business with Broward Health or Bid on any Competitive Solicitations issued by Broward Health, and such suspended or debarred Vendor may not be approved as a subcontractor on any Contract or project associated with Broward Health.
 4. **Contract Administration and Execution Authority.** Unless otherwise stated in a Board policy, resolution, or Applicable Law, all rights, powers, duties, and authority vested in the Board pursuant to the District's Charter or other Applicable Law relating to Contracting for Commodities or Services of any kind for and on behalf of Broward Health, or any other Contracts that bind Broward Health are governed by and are delegated to and vested in the Broward Health officers and employees designated in Broward Health's Authorized Official, Contract Execution, and Delegation of Authority Policy in the Business and Procurement Code Policy Appendix.
 5. **Designated Officers and Officials.** Unless otherwise stated in a Board policy, resolution, the District's Charter, or other Applicable Law, those Broward Health officials designated in Broward Health's Authorized Official, Contract Execution, and Delegation of Authority Policy, as well as their authorized delegees, are hereby delegated and shall possess all the rights, powers, duties, and authority to represent and act for and on behalf of Broward Health in the making, execution, and delivery of any filings, applications, grants, certifications, notices, or instruments, as well as the furnishing of information, data, and documents as deemed appropriate and in the best interest of Broward Health.
 6. **Direct Payments by Checks or Purchase Orders.** The CPO may establish a policy governing routine expenditures and Procurements under the Millage Threshold where maintaining Competitive Conditions is not practicable ("Routine Expenditures"). Such policy may authorize direct payments of Routine Expenditures by electronic funds transfer, check, P-Card, issuance of Purchase Orders, and any other payment method without engaging in Competitive Conditions and without a formal Contract. Such Routine Expenditures include, but are not limited to, magazine and periodical subscriptions; membership dues; patient transportation services; temporary or permanent housing payments; utility and telephone services payments; payments for permits; payments for vehicle registrations; postage and shipping payments; seminars and training events; purchases of educational books, supplies, and other educational and training materials; events conducted to boost employee morale; bond payments; payments pursuant to court orders; the purchase of court and hearing transcripts; and any other Routine Expenditures needed for the continued operations of Broward Health.
 7. **Procurement Purchasing Cards.** Procurement Purchasing Cards ("P-Cards") may be issued to officers and employees of Broward Health authorized to make the Procurements needed for Broward Health's operations

where the general acquisition process or maintaining Competitive Conditions is not efficient or cost-effective. The CPO is authorized to establish and administer a P-Card program for the efficient expenditure of Broward Health funds using a P-Card within the guidelines of this Code. Such P-Card program shall provide proper safeguards to ensure the responsible and appropriate use of P-Cards and shall establish standards pertaining to the continued usage of P-Cards, officers and employees eligible to use and possess P-Cards, the process to request temporary or one-time use of a P-Card, and the services or supplies that P-Cards may be used for. The CPO may revoke, reinstate, or modify an officer's or employee's access to use a P-Card at any time when such revocation, reinstatement, or modification is in the best interests of Broward Health. In no event may a Commissioner of the Board be granted authority to possess or use a P-Card, but a P-Card may be used by a Broward Health officer or employee to Procure supplies or to pay expenses on behalf of a Commissioner who will incur such expenses when conducting official Broward Health business (e.g., hotel and airline reservations, subsistence during Broward Health business travel, etc.). In addition to any other disciplinary action appropriate under the circumstances, any officer or employee who is not authorized to use a P-Card or who otherwise misuses a P-Card shall be subject to payroll deductions for repayment expenses charged on the P-Card during the individual's misuse or unauthorized use of the P-Card.

8. Procurements and Expenditures for Grants and Other Funding Sources. Procurements and expenditures from Government Entities or other funding sources under the conditions of a grant, award, or Contract may require special processing because of specific legal terms and conditions set by the funding agency. All federal grants and awards shall comply with, as applicable, 45 C.F.R. Part 75, other Applicable Law, the specific terms of the grant or award, and the Purchasing and Procurement Requirements of Federal Awards from the U.S. Department of Health and Human Services Policy in the Business and Procurement Code Policy Appendix. Any other Procurements and expenditures under grants, awards, or other funding sources shall conform to any special conditions, provisions, or purchasing requirements placed on the funding. It is the responsibility of the Project Custodian to identify any special purchasing requirements or provisions, to notify Supply Chain Services of any requirements or conditions relating to such funding sources, and to ensure that all requirements are followed.

9. Unsolicited and Solicited Proposals for Public-Private Partnership Projects. Broward Health may receive unsolicited proposals or solicit proposals for a public-private partnership Qualifying Project. It may thereafter enter into a comprehensive agreement with a private entity or a consortium of private entities to build, upgrade, operate, own, or finance facilities. Vendors submitting unsolicited proposals shall concurrently pay an initial application fee as determined by the CPO, and such payment shall be made using cash, cashier's check, or other noncancelable instruments. If the initial application fee does not cover the costs to evaluate the unsolicited proposal, additional amounts required to cover such costs shall be communicated to the Vendor in writing, and the Vendor shall remit such fees for the additional amounts. The selection of Vendors and the conduct of all unsolicited and solicited public-private partnership Qualifying Projects shall always be consistent with any required and applicable provisions of § 255.065, Fla. Stat., and other Applicable Law.

10. Surplus Property. Personal property of Broward Health that is deemed Surplus Property shall be disposed of pursuant to Applicable Law, and the disposition of such Surplus Property shall always be consistent with the provisions of ch. 274, Fla. Stat., Fla. Admin. Code R. 69I-73.001, et seq., the District's Charter, and Resolution FY22-08, Resolution Governing the Disposition of Surplus Personal Property of the District (Nov. 17, 2021), as codified in Section 6.10 of the Codified Resolutions of the Board of Commissioners of the North Broward Hospital District.

X. ACQUISITION PROCEDURES

The CPO shall select the method of Procurement based on the application of the guidelines set forth in this Code. Unless a Bid Waiver applies, an Emergency Situation exists, or unless otherwise authorized by this Code, the Charter, or Applicable Law, all Broward Health Contracts subject to this Code shall be Procured in accordance with the methods outlined below as applicable to each of the following categories:

(1) — Micro Purchases or Commitments Up To and Including Threshold Category 1;

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- ~~(2) — Small Purchases or Commitments Exceeding Threshold Category 1 and Up To and Including Threshold Category 2;~~
~~(3) — Medium Purchases or Commitments Exceeding Threshold Category 2 and Up To and Including Threshold Category 3;~~
~~and~~
~~(4) — Large/Formal Purchases or Commitments Exceeding Threshold Category 3.~~

All transactions are subject to be reviewed and audited periodically by Supply Chain Services to ensure adherence to this Code. DEPARTMENTS SHALL NOT BREAK UP REQUESTS WITH THE INTENT TO AVOID REQUIRED APPROVALS.

~~A. — Micro Purchases or Commitments Up To and Including Threshold Category 1. For a Procurement equal to or less than Threshold Category 1 ("Micro Purchase"), only one (1) quotation is required. The quotation may be written or verbal and shall be recorded on the purchase requisition. However, to the extent there is time and multiple available suppliers/vendors, Broward Health employees are encouraged to obtain information from multiple vendors/sources to maximize savings. Broward Health employees must still conduct business in a manner that is fair and reasonable regardless if such Procurement is a Micro Purchase.~~

~~The Procurement of goods and services constituting a Micro Purchase may be made without any Formal Bid or other competition because the benefits from following such procedures typically will not outweigh the costs. Notwithstanding, Broward Health employees should still conduct reasonable checks, such as a telephone or written quote request, to ensure pricing is fair and reasonable.~~

~~A written record shall be maintained in the Procurement file for each Micro Purchase and shall contain the price information obtained to support the determination of reasonableness and any other pertinent information regarding a particular Micro Purchase. Supply Chain Services may, in its sole and absolute discretion, solicit written Proposals or quotes via VRS.~~

~~B. — Small Purchases or Commitments Exceeding Threshold Category 1 and Up To and Including Threshold Category 2. With respect to a Procurement exceeding Threshold Category 1 and up to and including Threshold Category 2 ("Small Purchase"), to the extent sufficient vendors are reasonably available, quotations or Proposals must be requested from a minimum of two (2) different vendors unless the transaction has an approved Bid Waiver, there is an Emergency Situation, or the transaction is otherwise exempt from this Code. Written quotes and Proposals may be in electronic form.~~

~~The Procurement of goods and services constituting a Small Purchase may be made based on quotations or Proposals from only two (2) vendors/suppliers because the benefits from a Formal Bid or conducting competition from a broader pool of vendors typically will not outweigh the time and costs.~~

~~A written record shall be maintained in the Procurement file for each Small Purchase and shall contain the price information obtained to support the determination of reasonableness of a particular Small Purchase and any other pertinent information regarding a particular Small Purchase. In cases where the selected vendor is not the apparent lowest cost vendor, an explanation of the factor(s) considered and relied upon to select such vendor shall be provided. Supply Chain Services may, in its sole and absolute discretion, solicit written Proposals or quotes via VRS.~~

~~C. — Medium Purchases or Commitments Exceeding Threshold Category 2 and Up To and Including Threshold Category 3. With respect to a Procurement exceeding Threshold Category 2 and up to and including Threshold Category 3 ("Medium Purchase"), to the extent sufficient vendors are reasonably available, quotations or Proposals must be requested from a minimum of three (3) different vendors unless the transaction has an approved Bid Waiver, there is an Emergency Situation, or the transaction is otherwise exempt from this Code. Written quotes and Proposals may be in electronic form.~~

~~The Procurement of goods and services constituting a Medium Purchase may be made based on quotations or Proposals from three (3) vendors/suppliers because the benefits from a Formal Bid or conducting competition typically will not outweigh the time and costs.~~

~~A written record shall be maintained in the Procurement file for each Medium Purchase and shall contain the price information obtained to support the determination of reasonableness of a particular Medium Purchase and any other pertinent information regarding a particular Medium Purchase. In cases where the selected vendor is not the apparent lowest cost vendor, an explanation of the factor(s) considered and relied upon to select such vendor shall be provided. Supply Chain Services may, in its sole and absolute discretion, solicit written Proposals or quotes via VRS.~~

~~D.— Large/Formal Purchases or Commitments Exceeding Threshold Category 3. All purchases and Contracts exceeding Threshold Category 3 must be conducted pursuant to the advertisement requirements set forth below unless a Bid Waiver applies, there is an Emergency Situation, or such Procurement is otherwise exempt from this Code.~~

The CPO may authorize the release of an RFI to gather information to assist in determining acquisition methodology in the best interests of Broward Health. Since an RFI does not commit Broward Health to any business endeavor, it does not need to follow the advertisement requirements below.

~~1.— Cancellation of Solicitation, Rejection of Bids/Proposals and Waiver of Minor Irregularities. Any RFQ, RFP, RFI or other solicitation may be canceled, or any or all Bids or Proposals may be rejected, in whole or in part, when it is in the best interests of Broward Health. Broward Health further reserves the right to waive any minor irregularity, technicality or omission in any Bid or Proposal if Broward Health determines, in its sole and absolute discretion, that doing so will serve Broward Health's best interests.~~

~~2.— Advertisement Requirements. The following advertisement requirements apply to Large/Formal Purchases or Commitments unless otherwise provided in Applicable Law:~~

~~(a)— Large/Formal Purchases up to and including Threshold Category 5: Where it is anticipated that the total Contract price for the initial term of an awarded Contract to a Bidder will be equal to or less than Threshold Category 5, the Formal Bid Process only requires an online advertisement via a posting on Broward Health's website, www.browardhealth.org, and a physical advertisement via a posting on a "Sunshine Board" located in the lobby of Broward Health's Corporate Offices ("Advertisement Category 1"). The foregoing Advertisement Category 1 is based only on the anticipated total Contract price of the initial term of the awarded Contract and is not applicable to any renewal options or future or potential renewals or extensions of such Contracts. Notwithstanding, to the extent the total Contract price for the initial term of an awarded contract comes in at a higher value than was expected and exceeds Advertisement Category 1, the Formal Bid will be considered valid in the absence of a newspaper or designated publicly accessible website advertisement provided the total value of the initial term of the awarded contract does not exceed Threshold Category 6 (a "Permitted Increase Over Expected Amount").~~

~~(b)— Large/Formal Purchases over Threshold Category 5: Except to the extent the total Contract price for the initial term of an awarded Contract is a Permitted Increase Over Expected Amount as defined above, where it is anticipated that the total Contract price for the initial term of an awarded Contract to a Bidder will exceed Threshold Category 5, advertisements during the Formal Bid Process must be made by a publication in a newspaper of general circulation in the North Broward Hospital District or on Broward County's designated publicly accessible website ("Advertisement Category 2"). In addition to, but not in lieu of, such publication in a newspaper of general circulation or publication on Broward County's designated publicly accessible websites, advertisements of Formal Bids over Threshold Category 5 may also be made by posting at www.browardhealth.org, and/or by posting on a "Sunshine Board" located in the lobby of Broward Health's Corporate Offices. The foregoing Advertisement Category 2 is based only on the anticipated total Contract price of the initial term of the awarded Contract and is not applicable to any renewal options or future or potential renewals or extensions of such Contracts.~~

~~(c)— Construction Related Contracts and Professional Design Services: These Advertisement Requirements are inapplicable to construction related projects, electrical work, and professional design services. Such construction related projects, electrical work, and professional design services must follow the applicable policy referenced in the Procurement Policy Table.~~

~~Cancellation of Solicitation, Rejection of Bids/Proposals and Waiver of Minor Irregularities. Any RFQ, RFP, RFI or other solicitation may be canceled, or any or all Bids or Proposals may be rejected, in whole or in part, when it is in the best interests of Broward Health. Broward Health further reserves the right to waive any minor irregularity, technicality or omission in any Bid or Proposal if Broward Health determines, in its sole and absolute discretion, that doing so will serve Broward Health's best interests.~~ ~~Direct Payments by Checks or Purchase Orders. The CPO may establish a policy containing a list of routine expenditures where following the Formal Bid Process is not practicable, the use of direct payments without a formal contract is routine in nature, and where the value of each individual expenditure does not exceed Threshold Category 1 (Routine Expenditures). In such circumstances, the established policy may permit the use of direct payment by~~

~~check, P-Card Purchases (as defined herein) and/or the issuance of purchase orders for the Routine Expenditures without a competitive and without entering into a formal Contract. Such Routine Expenditures include, but are not limited to, magazine and periodical subscriptions; membership dues; patient transportation services; and officer, employee, and agent reimbursements for expenses incurred for official Broward Health business. Notwithstanding the foregoing Threshold Category 1 limitation for Routine Expenditures, such limitation does not apply to Routine Expenditures that consist of travel reimbursements; temporary or permanent housing payments; utility and telephone services payments; payments for permits; payments for vehicle registrations; postage and shipping payments; seminars and training events; purchases of educational books, supplies, and other educational and training materials; events conducted to boost employee morale; bond payments; payments pursuant to court orders; the purchase of court and hearing transcripts; reimbursements to Vendors when the Vendor's Contract with Broward Health authorizes reimbursement of expenses incurred by the Vendor when conducting Broward Health business; and any other Routine Expenditures that are needed for continued operations of Broward Health and which are non-recurring expenses.~~

~~12. —~~

~~XI. BROWARD HEALTH'S ECONOMIC AND SMALL BUSINESS DEVELOPMENT INITIATIVE~~

~~Broward Health reaffirms its commitment to the economic growth and well-being of small and local businesses. Accordingly, Broward Health's Economic and Small Business Development Initiative encourages and supports the participation of local and small businesses in Broward Health's Procurements. To that end, Broward Health shall adhere to the Economic and Small Business Development Initiative procedures outlined in the Procurement Policy Table.~~

~~XII. SELECTION/EVALUATION COMMITTEES~~

~~Selection/Evaluation Committees shall be utilized for the evaluation of Bids and Proposals in Formal Bid Processes. The determination of the membership of Selection/Evaluation Committees shall follow the following procedures:~~

- ~~(1) — Recommendations are requested from the project custodian regarding the Selection/Evaluation Committee participants. Those recommendations are provided to the CPO for consideration and approval. The CPO may approve or modify the Selection/Evaluation Committee as considered appropriate.~~
- ~~(2) — The CPO may appoint, alternate or substitute members to a Selection/Evaluation Committee as the CPO deems necessary. The CPO may also, in his or her sole discretion, permit a Selection/Evaluation Committee to consist of a reduced number of voting members when appointed members are unavailable to serve and the appointment of alternate members would, in CPO's sole determination, compromise or unreasonably delay the Procurement process.~~
- ~~(3) — Supply Chain Services will provide appropriate instructions and training regarding the roles and responsibilities of the Selection/Evaluation Committee. Prior to serving on the Selection/Evaluation Committee, each member shall execute a Conflict of Interest Certification Form.~~

~~XIII. CONE OF SILENCE~~

~~Broward Health prohibits communication by any potential Vendor, contractor, subcontractor, service provider, Bidder, lobbyist, or consultant to or with any member of Broward Health's Board or to or with any Broward Health officer, employee, agent, department, or division related to any Broward Health RFQ, RFP, or other competitive solicitation beginning upon the date on which the solicitation is first advertised by Broward Health and continuing until the later of the date of the final award of the competitive solicitation, the date of rejection of all Bids or responses to the competitive solicitation, or the date of final disposition by Broward Health of any protest of the competitive solicitation ("Cone of Silence"). Violation of this Cone of Silence may, at Broward Health's sole discretion, result in disqualification of the offending vendor from the competitive solicitation, as well as possible suspension or debarment from participating in any future Broward Health Procurements or competitive solicitations. The Cone of Silence shall not apply to: (1) communications to or with the designated point of contact identified in any RFQ, RFP, or other competitive solicitation; (2) presentations by any Bidder or Proposer at duly noticed pre-Bid conferences; or (3) presentations before duly noticed Selection/Evaluation Committee meetings. All RFQs RFPs, and other competitive solicitations shall include provisions describing the requirements and prohibitions of this Cone of Silence.~~

~~XIV. CHANGES AND MODIFICATIONS WITHIN 20% OF AGREED PRICE~~

Pursuant to the Charter, Broward Health may negotiate and agree with a successful Bidder for changes and modifications to the successful Bid provided the total value of changes and modifications do not exceed twenty percent (20%) of the agreed price. To the extent any changes or modifications to the agreed price exceed twenty percent (20%), the Contract shall be void and the Formal Bid Process shall be redone.

XV. OWNER DIRECT PURCHASES (TAX-EXEMPT STATUS)

Rather than reimburse a contractor for the costs of the materials or supplies, which would include sales tax, Broward Health may determine, in its sole and absolute discretion, it is in its best interest to use its tax-exempt status to purchase materials or supplies on its own directly from its own suppliers or from suppliers or subcontractors designated by an awarded contractor. In such event, Broward Health may issue a Purchase Order for such supplies or materials, pay all associated invoices, and deduct from the awarded contract the cost of the materials and supplies and the amount of sales tax that would have been owed if the contractor had made the purchase or the actual amount stipulated in the contract for such materials or supplies.

~~The CPO is authorized to establish written criteria for the temporary or permanent suspension or debarment of Vendors whose conduct Broward Health finds detrimental to the of a Contract. Broward Health's employees or inadequate services or The written criteria for suspension or debarment shall include reasonable notice to the affected Vendor; the causes, allegations, and/or conduct leading to the potential suspension or debarment; a reasonable opportunity to respond in writing to the allegations; any relevant timelines to respond; an appellate procedure to appeal adverse decisions of the CPO to PSC in writing or in person; and the process to request reinstatement for temporary suspensions and temporary debarments following the completion of the temporary suspension or temporary debarment period. Vendors same Vendor do business with or competitive s issued by Broward Health, and such suspended or debarred Vendor may not on any Contract or project associated with Broward Health.~~
XVI. INFORMATION, APPROVAL, AND EXECUTION AUTHORITY

A. ~~Spending Threshold. The Board from time to time sets Spending Thresholds and permits Senior Management to Senior Management ability to execute eContracts and requisitions to purchase services, goods, supplies, materials, and other Procurements. When such Procurements or Contracts are equal to or below the Spending Threshold, no Board authorization or approval is required. Any Procurements or Contracts beyond the Spending Threshold require Board authorization or approval. The President/CEO is permitted to set his or her own authorization levels for requisitions and the execution of Contracts when they do not exceed the Spending Threshold. However, only the Board may designate those positions authorized to bind the District to Contracts.~~

The Board's approval of a Contract over the Spending Threshold only constitutes approval to enter into a Contract over the Spending Threshold and is not approval of a Bid Waiver or any other provisions of this Code requiring Board approval unless the Board so indicates. To that end, to the extent Broward Health requests Procurements and Contracts over the Spending Threshold that contain Bid Waivers or any other procedures or exemptions of this Code requiring Board approval, Broward Health must request Board approval and the Board must approve all of the foregoing before Broward Health proceeds with the Procurement. If the Board, pursuant to a request to approve all the foregoing, only approves the Procurement over the Spending Threshold, Broward Health may only proceed after following the Formal Bid Process.

1. ~~Exceptions to the Spending Threshold.~~

a. ~~Line Item Budgets. The Spending Threshold is inapplicable to Budgeted Contracts or Procurements provided such Contracts or Procurements are Line Item Budgeted and approved by the Board. Once the Board approves the annual budget, the goods, services, Contracts, and other Procurements requested, as defined in the approved Line Item Budget category regardless of amount, are approved for acquisition in accordance with Broward Health's Policies and Procedures without further Board approval. To the extent a category is Line Item Budgeted, the total amount of expected expenditures within the category—or any combination thereof (whether in one or multiple Contracts)—up to the total amount in the Line Item Budget category—may be Procured without further Board approval regardless of if the compensation amount in the Contract exceeds the Spending Threshold within a single year of the Contract's effective term. Board-approved Line Item Budgeted expenditures or Contracts are approved to extend beyond a single fiscal year; provided, however, in no event shall an expenditure or Contract in a Line Item Budget that exceeds the Spending Threshold be entered into, renewed, or extended beyond a three (3) year term without the Board's approval. Notwithstanding the foregoing, a Board-approved~~

~~Line-Item Budgeted expenditure or Contract may be renewed or extended for one or more subsequent Renewal Terms without Board approval even if the total life of the expenditure or Contract exceeds five (5) years; provided, however, that each individual Renewal Term may not exceed five (5) years in length. Line-Item Budgeted expenditures are not approval of Bid-Waivers unless the line item specifically designates the system, expenditure, or Contract claiming such Bid-Waiver. The CPO, or his or her designee, is responsible for determining whether a line item in a budget is specific enough to constitute a Bid-Waiver or an exception to the Spending Threshold.~~

b. ~~Pass-Through Funds. The Spending Threshold is inapplicable to funding obtained from grantors, government entities, or private entities used to fund a program or programs for which such funding was furnished to Broward Health ("Program") provided such funding is solely pass-through funding and there are no funds (whether received from ad-valorem taxes or otherwise) used from Broward Health's own finances. Accordingly, the use of such pass-through funds and entering into Contracts using pass-through funds which exceed the Spending Threshold do not require Board approval. Notwithstanding, this exception for pass-through funds does not exempt such Procurements from any other procedures of this code including, but not limited to, the Formal Bid Process unless such Procurements are required from a particular Vendor or contractor pursuant to the terms of the Program.~~

c. ~~Receipt of Funds. The Spending Threshold is inapplicable to Broward Health's receipt of funds regardless of its source. Accordingly, any grants, Contracts, or other methods or means used by Broward Health to receive funding which are over the Spending Threshold do not require Board approval.~~

2. ~~Execution of Contracts.~~

a. ~~Entering Into or Renewing Contracts. The Board hereby delegates the authority of executing Contracts and Contract renewals, whether on the same or different terms, to the CEO and the CFO.~~

b. ~~Delegation of Signing Authority.~~

~~a. Temporary Delegation. The CEO and/or CFO may, in their absence, delegate the authority to execute Contracts to another employee or officer of Senior Management. Any delegation of signing authority shall be evidenced by a letter from the CEO or CFO, as applicable, delegating the authority to the employee or officer and such letter shall be documented in the Contract's electronic file within Broward Health's electronic database. In the event of delegation, the employee or officer delegated the CEO's or CFO's signing authority shall have the same power to bind the District as the CEO or CFO and may execute Contracts exceeding the Spending Threshold provided such Contracts were approved by the Board. Any authority delegated by the CEO or CFO shall no longer be effective upon return of the CEO or CFO unless and until the CEO again delegates his or her signing authority pursuant to this Section. Nothing herein shall be construed as preventing the CEO from delegating such authority in his or her absence despite the presence of the CFO nor shall it be construed as preventing the CFO from delegating such authority in his or her absence despite the presence of the CEO.~~

B. ~~Informational Threshold. While the Board has delegated the authority to certain Senior Management to enter into Contracts and to requisition for Procurements equal to or under the Spending Threshold, the Board, pursuant to the Charter, maintains responsibility for the oversight of Broward Health. To that end, any Contracts or Procurements at or above the Informational Threshold and up to and including the Spending Threshold shall be communicated to all members of the Board; provided, however, that those Contracts and Procurements excepted from the Spending Threshold as indicated above (i.e., Line-Item Budgets, Pass Through Funds, and Receipt of Funds) are also excepted from the Informational Threshold and do not need to be communicated to the Board for informational purposes.~~

~~All Bidders, Offerors, and Vendors are put on notice that Broward Health is subject to Florida's Public Records Law (ch. 119, Fla. Stat.) and Florida's Government in the Sunshine Law (ch. 286, Fla. Stat.). It is the responsibility of all Bidders, Offerors, and Vendors, consistent with the directions contained within each RFP or RFQ competitive's Bid Documents, to protect any trade secrets or proprietary information they submit in response to a Formal Bid. Broward Health is not responsible for protecting any trade secrets or proprietary information. Submission of a response to a Formal Bid constitutes the agreement by Bidders, Offerors, and Vendors to indemnify, defend, and hold Broward Health, its commissioners, officers, employees, and agents harmless from and against any actions pertaining to a public records request due to the Bidder's, Offeror's, or Vendor's assertion of an exemption under Florida law. If a Bidder, Offeror, or Vendor has any questions regarding~~

application of these laws, such questions should be sent to Broward Health's Public Records Custodian at PublicRecordsRequest@browardhealth.org.

~~XVIII. PROTESTS~~

~~Protest provisions enhance the accountability of the Procurement process, but the protest process also must not interfere with the prompt and efficient acquisition of goods and services needed by Broward Health. Broward Health's goal is to ensure the prompt and fair resolution of vendor protests. The CPO, or his or her designee, shall be the point of contact for all Timely Protests, as defined below, to an RFP or RFQ advertisement and/or award. Upon receipt of a written and Timely Protest in accordance with the timeline and procedures below, the CPO, or his or her designee, shall notify appropriate parties and proceed consistent with the following:~~

~~(1) — Any actual or prospective Bidder, Offeror, or contractor who is an interested party and is aggrieved in connection with a solicitation or award of a Contract over Threshold Category 3 may protest an award by submitting a timely and written protest to the Chief Procurement Officer no later than: (a) five (5) Business Days after the solicitation or any amendment/addendum to the solicitation is issued if protesting or challenging any of the terms or conditions of the solicitation or addendum, or (b) five (5) Business Days after the date of Notice of Intent to Award is given by Broward Health if protesting or challenging an award ("Timely Protest"). The Timely Protest must: (1) adequately identify the solicitation or Contract number; (2) set forth a detailed statement of the legal and factual grounds of protest, including copies of relevant documents; (3) provide a statement as to how the protestor is interested and aggrieved; and (4) state the relief requested. THE FAILURE TO TIMELY SUBMIT A WRITTEN PROTEST CONSISTENT WITH THIS SECTION SHALL CONSTITUTE A WAIVER OF ANY AND ALL PROTEST RIGHTS. Protests relating to solicitations or awards below Threshold Category 3 may be considered, but are not required to be considered by Broward Health and such consideration is within Broward Health's sole and absolute discretion.~~

~~(2) — In the event of a Timely Protest, Broward Health may decide, within its sole and absolute discretion, not to proceed further with the solicitation or with the award of the Contract until a final decision on the protest is issued by Broward Health.~~

~~(3) — All protests shall follow the procedures in this Section and all appeals must be exhausted before the commencement of an action in court concerning the controversy. The CPO, or his or her designee, shall have the authority, in consultation with Legal Counsel, to settle and resolve a protest or appeal of an aggrieved actual or prospective Bidder, Offeror, or contractor concerning the solicitation or award of a Contract prior to the commencement of an action in court or another venue of competent jurisdiction concerning the controversy. In the event an action is filed in court or another venue of competent jurisdiction, any resolution or settlement may only be approved by the Board. Broward Health may allow an awardee to participate in a protest as an intervenor if deemed advantageous to the resolution of the matter by Broward Health in its sole discretion.~~

~~(4) — If the protest is not resolved by mutual agreement, the CPO, or his or her designee, will endeavor to issue a written decision on the protest within sixty (60) days after receipt of the protestor's written and Timely Protest ("Written Decision"). The Written Decision shall state the reasons for the action taken and advise the protestor of its right to appeal the decision in accordance with this Code. The Written Decision on the protest shall be provided to the protesting vendor and, if relevant, the intended awardee by email and/or by certified mail, return receipt requested. Such delivery through the foregoing methods shall be deemed sufficient delivery of notice of the Written Decision and, in the event of delivery by email, such notice of the Written Decision shall be deemed received by the protesting vendor upon sending the email.~~

~~(5) — Aggrieved parties to the original protest may appeal the CPO or his or her designee's decision by filing a written appeal with the CFO within five (5) Business Days of the date of receipt of the Written Decision ("Written and Timely Appeal"). The Written and Timely Appeal must: (1) adequately identify the solicitation or Contract number; (2) attach a copy of the decision being appealed as rendered by the CPO, or his or her designee; (3) set forth a detailed statement of the legal and factual grounds for the appeal; and (4) state the relief requested. THE FAILURE TO SUBMIT A WRITTEN AND TIMELY APPEAL SHALL CONSTITUTE WAIVER OF ALL APPEAL RIGHTS AND THE CPO'S DECISION SHALL BE CONSIDERED FINAL.~~

~~(6) — To the extent a Written and Timely Appeal is filed, the CFO will endeavor to render a written decision on the Written and Timely Appeal within ninety (90) days after receipt of the notice of the Written and Timely Appeal. The CFO's~~

~~written decision shall state the reasons for the decision, actions taken, if any, and shall be the final order on the protest. The written decision shall be provided to the appealing party by email and/or by certified mail, return receipt requested. The institution and filing of an appeal, and obtaining a decision from the CFO thereon, is an administrative remedy to be satisfied as a condition precedent to the institution and filing of any civil action against Broward Health concerning the action or intended action by Broward Health.~~

~~(7) — The burden in any protest or appeal under this Section is on the party filing the protest or appeal to establish that the intended action by Broward Health is materially contrary to Broward Health's governing statutes, its Charter, this Code, Broward Health's Policies and Procedures, or the solicitation's specifications. The standard of proof for such proceedings shall be whether the intended action by Broward Health would be clearly arbitrary or capricious.~~

VIII. INTERPRETATION AND CONSTRUCTION OF THIS CODE

The terms and provisions of this Code shall be deemed by operation of law to be a part of the terms and conditions of every Procurement, Contract, purchase order, and change order involving Broward Health's Procurements except to the extent that the CPO or other authorized official of Broward Health has expressly provided for an exception to one or more of the requirements provided for in this Code and such exception is consistent with Applicable Law, this Code, and Broward Health's Policies and Procedures. The headings contained in this Code are for reference purposes only and shall not affect in any way the meaning or interpretation of the Code. The use of the term "including" and other words of similar import mean "including, without limitation," and where specific language is used to clarify by example a general statement contained herein, such specific language shall not be deemed to modify, limit, or restrict in any manner the construction of the general statement to which it relates. The word "or" is not exclusive, and the words "herein," "hereof," "hereunder," and other words of similar import refer to this Code as a whole and not to any particular section, subsection, paragraph, subparagraph, or clause contained in this Code. The term "shall" is mandatory and "may" is optional. The reference to a policy, instrument, or other document means such policy, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof, and the reference to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. If any provision of this Code is held to be unconstitutional, invalid, or unenforceable, such offending provision shall be stricken as though the offending provision has not been included herein, and the remainder of this Code shall remain valid, enforceable, and not be affected thereby, and if any provision of this Code is held to be unconstitutional, invalid, or unenforceable as applied to any particular person, group, entity, property, or circumstance, such provision shall be modified to the minimum extent necessary to make it or its application valid and enforceable and the application of the remaining provisions of this Code to any person, group, entity, property, or circumstance shall remain valid and enforceable and not affected thereby. Except as otherwise provided in this Code, all rights, powers, duties, and authorities relating to the Procurement of Commodities and Services, or the sale and disposal of supplies are vested in the CPO as the principal purchasing officer of Broward Health. The CPO may delegate the rights, powers, and authority vested in such position to subordinate purchasing agents and other employees or departments as provided in this Code. No provision of this Code shall be construed as conflicting with or exceeding Applicable Law. In the event of a conflict between this Code and Applicable Law, Applicable Law shall govern and control as if fully set forth herein.

**Proposed Business and Procurement
Code
Redlined Against
Current Master Procurement Code**

Business and Procurement Policies Code Policy Appendix

Policy # GA-001-151: Procurement Policy Table

I. Purpose

The Procurement of all Commodities and Services are subject to Broward Health's Business and Procurement Code (the "Business and Procurement Code"), but certain categories of Commodities and Services may be exempt from the Competitive Solicitation Process established in the Business and Procurement Code. This Business and Procurement Policy Table Code Policy Appendix (this "Appendix") establishes and contains the listing of all established Board Procurement Policies ("Procurement Policies") with supplemental policies and procedures pertaining to the Procurement of goods and services at Broward Health and the procedures to be used when acquiring certain supplies, equipment, materials, and services governing the business affairs of Broward Health and the Procurement of certain that are not subject to or exempt from the Master Procurement Code, GA-001-150 Commodities and Services that are otherwise exempt from the Business and Procurement Code (the "Code"). If a particular category of Commodities or Services is exempt from the Business and Procurement Code's Competitive Solicitation Process, but a policy in this Appendix covers the Procurement of such Commodities and Services, then the process delineated in such policy shall govern the Procurement of the Commodities and Services. If a category of Commodities or Services is exempt from the Business and Procurement Code's Competitive Solicitation Process, but there is no policy governing the Procurement of such Commodities and Services, then such Commodities and Services shall be governed by internal policy or procedure established by the CPO. In the event that any policy in this Appendix conflicts with any provision of the Business and Procurement Code, the policy shall control unless explicitly stated otherwise in the policy or the Business and Procurement Code. No policy of this Appendix shall be construed as conflicting with or exceeding Applicable Law. In the case of a conflict between a policy in this Appendix and Applicable Law, Applicable Law shall govern and control as if fully set forth herein. Further, if any policy or provision of a policy in this Appendix is held to be unconstitutional, invalid, or unenforceable, such offending policy or provision shall be stricken as though the offending policy or provision has not been included therein, and the remainder of the non-offending policies and provisions of policies in this Appendix shall remain valid, enforceable, and not be affected thereby, and if any policy or provision of a policy in this Appendix is held to be unconstitutional, invalid, or unenforceable as applied to any particular person, group, entity, property, or circumstance, such policy or provision shall be modified to the minimum extent necessary to make it or its application valid and enforceable and the application of the remaining policies and provisions to any person, group, entity, property, or circumstance shall remain valid and enforceable and not affected thereby.

The following policies of this Appendix are hereby established by the Board:

1. Broward Health's Administration of Contracts Policy;
2. Broward Health's Authorized Official, Contract Execution, and Delegation of Authority Policy;
3. Broward Health's Design and Construction Code;
4. Broward Health's Economic and Small Business Development Initiative Policy; and
- 4.5. Purchasing and Procurement Requirements of Federal Awards from the U.S. Department of Health and Human Services Policy.

II. Definitions

To the extent the words and acronyms defined in this Policy are defined in the Master Procurement Code (the "Code"), then such words shall have the meanings set forth in the Code regardless of whether they are capitalized, unless:

- (a) The context in which they are used clearly requires a different meaning; or
- (b) A different definition is prescribed for a particular section of this Policy.

Words not defined shall be given their common and ordinary meaning unless the context in which they are used requires otherwise. When the context requires, the gender of all words includes the masculine, feminine, and

neuter, the number of all words includes the singular and plural, and the tense of all verbs and participles includes past, present, and future.

III. Policy

Notwithstanding any specific exclusions to the Code, the Board has established several policies and procedures complementary to the Code that pertain to the Procurement of supplies, materials, and services to ensure an open, transparent, and fair Procurement process. To that end, any and all Procurement Policies referenced in this Policy are hereby incorporated by reference as if full set forth herein and are also incorporated by reference into the Code as if fully set forth therein. To the extent the Code or any Procurement Policy references this Procurement Policy Table, such reference includes a reference to the applicable Procurement Policy listed in the Procurement Policy Table below. All such Procurement Policies are Board policies and may only be modified upon Board approval and any such modifications of these Procurement Policies absent Board approval are void ab initio. Broward Health's Chief Procurement Officer ("CPO") may promulgate and establish internal policies and standard operating procedures (collectively, "SOPs") that the CPO deems necessary to implement the Code and that establish other procedures pertaining to the Procurement of goods and services regardless of whether the Procurement of such goods and services are covered under the Code or whether they are excluded from the Code; provided, however, in no event may any SOPs contain provisions that conflict with the provisions of the Code or any of these Procurement Policies. Broward Health's officers, employees, agents, and personnel, in addition to reviewing and complying with the Code and any Procurement Policies, are also responsible for reviewing and complying with all relevant SOPs.

Broward Health's officers, employees, agents, and personnel are responsible for reviewing and complying with all applicable Procurement Policies and for raising any issues of applicability or interpretation with the CPO as appropriate. In the event of a conflict between the Code and any Procurement Policy referenced herein, the Procurement Policy shall control, unless otherwise explicitly stated in such Procurement Policy or the Code.

IV. Procurement Policy Table

LOCATION	SUBJECT	POLICY NUMBER
GA Policies and Procedures Manual	Procurement of Professional Construction Services, Electrical Work, and Construction-Related Design Services	GA-001-086
GA Policies and Procedures Manual	Purchasing and Procurement of Federal Awards from HHS	GA-001-001
GA Policies and Procedures Manual	Review, Approval, and Administration of Contracts	GA-001-020
GA Policies and Procedures Manual	Selection and Approval of Professional	GA-001-140

	Consulting Services	
GA Policies and Procedures Manual	Broward Health's Economic and Small Business Development Initiative	GA-001-045
GA Policies and Procedures Manual	Threshold Categories of the Procurement Code	GA-001-152
GA Policies and Procedures Manual	Vendor Access — Registration & Orientation	GA-001-153

VI. Interpretation and Administration

Administration and Interpretation of this policy is the responsibility of the Chief Procurement Officer.

Broward Health's Policy # GA-001-020: Review, Approval, and Administration of Contracts Policy

I. Purpose and Scope

Entering into Contracts are legally binding obligations that expose Broward Health to certain statutory and legal risks. Accordingly, it is imperative that all Contracts adhere to established procedures to protect Broward Health from unnecessary legal risk and exposure. The purpose of this Policy is to set forth the such general guidelines procedures and to provide guidance to Broward Health for the submission, approval, and regarding the approval and administration of contract Contracts. The procedures set forth herein shall apply to all Broward Health's Contracts and those seeking to bind Broward Health to a Contract, in conjunction with the Master Procurement Code, GA-001-150 (the "Code") of North Broward Hospital District (the "District").

II. Policy Statement

All of Broward Health's Contracts, unless otherwise stated in the Business and Procurement Code, shall be Procured in accordance with the provisions of the Business and Procurement Code, the policies of the Business and Procurement Code Policy Appendix, and/or any applicable policy or procedure established by the CPO governing the Procurement of Commodities or Services. Unless otherwise exempt under this Policy, the entry into Contracts shall be governed by the procedures of this Policy and such further procedures established by Broward Health's Office of the General Counsel.

III. Definitions

The following he words and acronyms defined in this Policy shall have the meanings set forth in the Code ascribed to them wherever they appear in this Policy, regardless of whether they are capitalized, unless:

- (a) Tthe context in which they are used clearly requires a different meaning, or
- (b) Aa different definition is prescribed for a particular section of this Policy. Words capitalized but not defined in this Policy shall have the meaning ascribed to such term in the Business and Procurement Code.

Words not definedAll other words shall be given their common and ordinary meaning unless the context in which they are used requires otherwise. When the context requires, the gender of all words includes the masculine, feminine, and neuter, the number of all words includes the singular and plural, and, when appropriate, the form of a word includes the past tense, present participle, or gerund.

For purposes of this Policy, the below terms shall have the following meanings associated with them:

1. "Arrangement" means every District Contract, arrangement, procurement, or transaction, whether set forth in writing or otherwise, with another person, party, or entity that involves, directly or indirectly, the offer of payment, solicitation, or receipt of anything of value.
1. "Authorized Signatories" means those authorized officials in Broward Health's Authorized Official, Contract Execution, and Delegation of Authority Policy and any of their respective designees authorized to bind Broward Health to Contracts.
2. "Broward Health" means the fictitious name of the North Broward Hospital District, a special tax district established by the Florida legislature, and all of its departments, divisions, units, wholly-owned entities, and other fictitious names now established and as further established from time to time by the Board. The term "Broward Health" shall expressly exclude all joint ventures, cooperatives, or interlocal arrangements of the North Broward Hospital District unless the governing documents or articles of such ventures, cooperatives, or interlocal arrangements indicate otherwise or unless the Board of Commissioners establishes a policy to subject such joint venture, cooperative, or interlocal arrangement to the provisions of this Policy.
3. "Business and Procurement Code" means Broward Health's Business and Procurement Code.

- ~~2-4. "Contract" shall have the meaning ascribed to such term in Article II (Definitions) of the Business and Procurement Code. means all types of contractual agreements and Arrangements of the District, regardless of what they may be called or referred to, for the procurement or disposal of goods or services of any kind.~~
- ~~3-5. "Contract Initiator" means an authorized officer, employee, or agent of the District Broward Health who initiates the contracting Contracting process Process.~~
- ~~4-6. "Contracts Administration" means the division of District Broward Health's department Office of the General Counsel responsible for the overseeing oversight, the review, and administration of the District's Broward Health's Contracts.~~
- ~~5-7. "Contracts Management System" means Broward Health's the District's electronic contracting system that serves as the centralized repository for all District of Broward Health's Contracts and which that contains all Contract reviews, approvals, and supporting documentation.~~
- ~~6. "Contracting Process" means the process followed for the oversight, review, and administration of Contracts, in accordance with Contracts Administration's Standard Operating Procedure, in the Contracts Management System when the District is entering into a Contract.~~
- ~~7-8. "Corporate Executive Management" means the District's President/Chief Executive Officer, the District's Chief Financial Officer, their designees, or any other individuals authorized by the Board, to bind the District to Contracts as provided in Section XVI. of the Code.~~
- ~~9. "CPO" shall have the meaning ascribed to such term in Article II (Definitions) of the Business and Procurement Code.~~
- ~~10. "Department Authority" means the relevant individual in the District Broward Health's Corporate Executive Suite Offices who, as provided within the District Broward Health's Organizational Chart, (1a) possesses authority over the District Broward Health or over a particular District Broward Health hospital, facility, department, or division; and (2b) with the exception of the President/Chief Executive Officer, reports directly to the President/Chief Executive Officer or directly to the Board. Such individuals include, without limitation, the District's (a) President/Chief Executive Officer, (b) Chief Financial Officer, (c) Chief Administrative Officer, (d) SVP, Operations, (e) Chief Medical Officer, (f) Chief Human Resources Officer, (g) any other individual who meets the criteria for being deemed "Department Authority," and/or (h) any other individual or position delegated such "Department Authority" from time to time by the President/Chief Executive Officer.~~
- ~~11. "Physician" means a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, and a chiropractor.~~
- ~~12. "Physician's Immediate Family Member" a Physician's spouse; birth or adoptive parent, child, or sibling; stepparent, stepchild, or stepsibling; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; grandparent or grandchild; and spouse of a grandparent or grandchild.~~
- ~~8-13. "Referral Source" means a Physician, a Physician's Immediate Family Member, and any other person or legal entity that is an actual source or recipient of healthcare business or referrals to or from Broward Health. "Focus Arrangement" means a Contract with an actual source of health care business or referrals to the District and involves, directly or indirectly, the offer, payment, or provision of anything of value; or is between the District and any physician (or a physician's immediate family member as defined in 42 C.F.R. § 411.351) who makes a referral to the District for designated health services (as defined in 42 U.S.C. § 1395nn(h)(6)).~~

~~III. III. Policy~~

~~This Policy governs the review, approval, and administration of the District's Contracts. All of the District's Contracts must be procured in accordance with the provisions of the Code and/or any applicable policy in the Procurement Policy Table that governs the procurement of goods and/or services.~~

IV. ~~IV.~~ Procedure

1. ~~(1) — Every Arrangement Procured~~Every Broward Health Contract and entered into by the District shall ~~follow be Procured consistent with the applicable provisions of the Code~~Business and Procurement Code, Design and Construction Code, or, to the extent the Arrangement is exempted from the Code, any such other applicable policy in the Procurement Policy Table, relevant Broward Health policy, or Standard Operating Procedure governing the particular Procurement.
2. ~~(2) — Before entering into and binding Broward Health to a Contract, Every every Arrangement Contract entered into by the District shall be reviewed by the District's Compliance and Ethics Department to determine whether the counterparty such Arrangement is a Focus Arrangement a Referral Source. To the extent an the counterparty to a Contract is Arrangement is deemed a Focus Arrangement a Referral Source, such Focus Arrangement shall always be in the form of a written Contract signed by both parties to the Contract and shall always conform to the requirements of Policy GA-004-441: Physician and Non-Physician Financial Arrangement Review, Approval, Tracking and Monitoring and Section III.D of the Corporate Integrity Agreement entered into on August 31, 2015 between the District and the Office of Inspector General, U.S. Department of Health and Human Services ("CIA")~~Contract shall comply with Applicable Law and any other applicable Board policy or resolution or administrative policy governing the entry into and administration of Contracts with Referral Sources.
3. ~~(3) — Unless an exception otherwise exists as defined in Section V, Exceptions, below to this Policy applies to a particular Contract, Contract Initiators shall submit all requests to enter into Contracts requests shall be submitted by the Contract Initiator in the Contracts Management System, and all requested Contracts shall be routed through the Contracts Management System where it will be reviewed and approved for review and approval prior to its the Contract's execution.~~
4. ~~(4) — Contracts Administration~~Broward Health's Office of the General Counsel shall supervise and oversee the Contracting Process to ensure that all Contracts ~~are properly routed to all applicable departments, divisions, and employees to receive the proper reviews and approvals before the Contracts' execution.~~
5. ~~(5) — The Office of the General Counsel, as deemed necessary, may establish other policies and standard operating procedures to administer, implement, and interpret this Policy and that govern the oversight, administration, and review of Broward Health's Contracts. Contracting Process procedure is set forth in Contracts Administration's Standard Operating Procedure (a link to the Standard Operating Procedure can be found below).~~
6. ~~(6) — Unless otherwise excepted by this Policy, after the Contracting Process, all Contracts shall be executed by an Authorized Signatory and a copy of the fully executed Contract shall be stored within the proper arrangement of the Contracts Management System. Following the Contracting Process, all Contracts shall be executed by Corporate Executive Management.~~

~~V.~~

IV.V. ~~V.~~ Exceptions

~~The following two (2) exceptions apply to~~A Contract may be temporarily exemptcepted a District hospital, facility, department, or division from strictly adhering to the Contracting Process under the following circumstances provided such exception is consistent with and not contrary to Applicable Law:

1. ~~(1) — An actual or perceived threat or emergency exists or will exist whereby strictly adhering to the Contracting Process may result in (1a) a negative effect to on patient care; (2b) a threat to the life, health, welfare, or safety of patients, employees, or the public; (3c) the District~~Broward Health failing to comply with regulatory requirements ~~or its CIA; (4d) severe financial consequences; or (5e) adverse effects or negative consequences to the continued operations of any District~~Broward Health hospital, facility, department, or division. A Department Authority possesses the ultimate authority to decide whether or not an actual or perceived threat or emergency exists or will exist that necessitates proceeding with the execution of a Contract without following the Contracting Process. To the extent such a perceived or actual

threat or emergency exists or will exist, it ~~must shall~~ be communicated to the ~~Department Authority Office~~ of the General Counsel or other department or individual delegated authority by the General Counsel before proceeding forward without adhering to the Contracting Process. ~~The Department Authority possesses the ultimate authority to decide whether or not a Contract may proceed forward without following the Contracting Process. To the extent such an exception is granted, the relevant circumstances of the perceived or actual threat or emergency and the approval of the Department Authority must be documented within the relevant Contract file in the Contracts Management System. In such circumstances, Broward Health shall endeavor to conduct necessary reviews contemporaneously with the execution of such a Contract that is executed outside of the Contracting Process, and following the Contract's execution, such Contract shall be stored in the Contracts Management System.~~

2. ~~(2)~~—Contracts of a strategic nature; Contracts that possess characteristics or features that are confidential and it would be detrimental to Broward Health or another person or entity to have the details of such Contract viewable by those with access to the Contracts Management System; and other Contracts with unique qualities or attributes that either the President/Chief Executive Officer or the Office of the General Counsel deem appropriate may be excepted from both the Contracting Process and being stored in the Contracts Management System; provided, however, that legal review shall be performed before Broward Health executes such Contract. To the extent this exception is applicable, such Contract and all supporting documentation shall be appropriately filed in a secure environment and maintained consistent with Applicable Law.
3. The General Counsel's Office may draft, negotiate, and review Contracts and legal terms outside the Contracts Management System to ensure that all relevant reviews are ~~being done in an effectively~~ and timely ~~manner~~.
- 2.—Unless otherwise prohibited under Applicable Law, Broward Health's President/Chief Executive Officer or designee, following consultation with Broward Health's Office of the General Counsel, may establish written categories of Contracts that may be permanently excepted from being filed in the Contracts Management System; provided, however, that the proper legal and/or other reviews deemed appropriate by the Office of the General Counsel shall be performed before Broward Health enters into the Contracts. To the extent a category of Contracts is excepted, such Contracts and all supporting documentation shall be appropriately filed in a secure environment and maintained consistent with state and federal law.
4. Notwithstanding the two (2) exceptions above, any and all documentation and completed reviews must be properly documented within the relevant Contract file in the Contracts Management System following such reviews and approval. In no event shall any of the exceptions above apply to exempt a Focus Arrangement from adhering to the requirements of Section III.D. of the CIA.

VI. Interpretation and Administration

Administration and Interpretation of this Policy is the responsibility of the Office of the General Counsel.

VI. Related Policies

~~GA-001-150, Master Procurement Code~~

~~GA-001-151, Procurement Policy Table~~

~~Contracts Administration Standard Operating Procedure (the Standard Operating Procedure may be found by clicking this link: Standard Operating Procedure)~~

Broward Health's Authorized Official, Contract Execution, and Delegation of Authority
Policy # GA-001-152: Threshold Categories of the Procurement Code

I. Purpose and Scope

The District's Charter grants the Board the powers of a body corporate, including the right to contract and transact other business in the name of Broward Health. Because the day-to-day operational management of Broward Health falls within the authority of Broward Health's Chief Executive Officer and such other officers, employees, and agents appointed by the Board and the Chief Executive Officer, such individuals must be delegated the power and authority to conduct business for, in the name, and on the behalf of Broward Health to ensure the continuity of Broward Health's business affairs and to promote its operational efficiency. The purpose of this Policy is to designate those officers, employees, and agents of Broward Health who are authorized to conduct business on behalf of and commit Broward Health to binding obligations. This Policy applies to all Contracts, business, and transactions of Broward Health. These Threshold Categories of the Procurement Code (this "Policy") establishes and contains the threshold amounts referenced in the Master Procurement Code, GA-001-150 (the "Code") and the signature authority and ability of certain officers of Broward Health to bind North Broward Hospital District (the "District") to Contracts.

II. Policy Statement

Only those Authorized Officials and their Permitted Delegees, as delineated in this Policy, may transact business for Broward Health and commit Broward Health to Contracts and binding obligations.

III. Definitions

The following words shall have the meaning ascribed to them wherever they appear in this Policy, regardless of whether they are capitalized, unless (a) the context in which they are used clearly requires a different meaning, or (b) a different definition is prescribed for a particular section of this Policy. Words capitalized but not defined in this Policy shall have the meaning ascribed to such term in the Business and Procurement Code. All other words shall be given their common and ordinary meaning unless the context in which they are used requires otherwise. When the context requires, the gender of all words includes the masculine, feminine, and neuter, the number of all words includes the singular and plural, and, when appropriate, the form of a word includes the past tense, present participle, or gerund. The words and acronyms defined in this Policy shall have the meanings set forth in the Code regardless of whether they are capitalized, unless:

- (a) — The context in which they are used clearly requires a different meaning; or
- (b) — A different definition is prescribed for a particular section of this Policy.

Words not defined shall be given their common and ordinary meaning unless the context in which they are used requires otherwise.

For purposes of this Policy, the below terms shall have the following meanings associated with them:

1. "Authorized Officials" means Broward Health's Chief Executive Officer, Chief Operating Officer, and Chief Financial Officer.
2. "Board" means the Board of Commissioners of the North Broward Hospital District.
3. "Broward Health" means the fictitious name of the North Broward Hospital District, a special tax district established by the Florida legislature, and all of its departments, divisions, units, wholly-owned entities, and other fictitious names now established and as further established from time to time by the Board. The term "Broward Health" shall expressly exclude all joint ventures, cooperatives, or interlocal arrangements of the North Broward Hospital District unless the governing documents or articles of such ventures, cooperatives, or interlocal arrangements indicate otherwise or unless the Board establishes a policy to subject such joint venture, cooperative, or interlocal arrangement to the provisions of this Policy.

4. "Budget" means the annual capital and operating budget approved by the Board under the process delineated in § 200.065, Fla. Stat., and includes any amendments to such annual budget as adopted by the Board from time to time.
5. "Business and Procurement Code" means Broward Health's Business and Procurement Code, which governs Broward Health's business activities and Broward Health's Procurement of Commodities and Services.
6. "Contract" means all contractual arrangements and other obligating transactions, including, without limitation, all agreements, licenses, leases, promissory notes, instruments, assignments, powers of attorney, terms and conditions, memoranda of understanding, letters of intent, settlements, releases, waivers, renewals, amendments, or modifications to existing contracts, claims, disputes, representations, and other similar documents and commitments.
7. "Continuing Contracts" shall have the meaning ascribed to such term in chapters 255 and 287, Florida Statutes, as applicable to a particular procurement or project.
8. "Contract's Duration" means the total effective period of a Contract from its original commencement date through its expiration date, inclusive of its Initial Term and any subsequent Renewal Terms.
9. "Contract Term" means the initial time period a Contract is in effect from its original commencement date to its expiration date. "Contracts Management System" means Broward Health's electronic contracting system that serves as the centralized repository for all of Broward Health's Contracts and that contains all Contract reviews, approvals, and supporting documentation.
10. "CPO" shall have the meaning ascribed to such term in Article II (Definitions) of the Business and Procurement Code.
- ~~11.~~ "Design and Construction Code" means Broward Health's Design and Construction Code governing the procurement of contractors and professionals for projects subject to chapters 255 and 287, Florida Statutes.
12. "District's Charter" means the legislation under ch. 2006-347, Laws of Florida, as amended, that establishes and governs the North Broward Hospital District.
13. "Five-Year Term Limit" shall have the meaning ascribed to such term in Section IV.B.3. (Five-Year Term Limit) of this Policy.
14. "Government Entity" means any government entity including, but not limited to, (a) any state, regional, county, local, or municipal government entity of Florida or another state; (b) any department, division, bureau, commission, public authority, board, local government, single-purpose or multipurpose special district, or political subdivision of Florida or another state, or any public agency, separate legal entity, or administrative entity of any the foregoing, whether executive, judicial, or legislative; (c) any public school, community college, state university, educational institution or body of government in Florida or another state; (d) any and all federal or tribal agencies or entities, whether executive, judicial, or legislative; (e) any public agencies or entities of any state, federal, or tribal governments; and (f) any other units of Florida government, the federal government, other state governments, or tribal governments.
15. "Initial Contract Term" means the first effective period of a Contract's Duration.
16. "Labor-Hour Contract" means a Contract that provides for direct labor at specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit.
17. "Line-Item Budget Category" means the aggregate and high-level classification category or grouping of similar expenditures allocated as part of the Budget.
18. "Official Documents" means those non-monetary, binding and non-binding agreements, documents, applications, certificates, attestations, records, forms, reports, instruments, notices, orders, and other official documents, undertakings, commitments, and written representations that are completed or that

need to be completed for and on behalf of Broward Health in the course and for Broward Health's day-to-day business and operations.

19. "Permitted Delegees" means those individuals delegated temporary or permanent authority by an Authorized Official.

20. ~~"Renewal Term"~~ or ~~"Renewal Terms"~~ means each and any subsequent period of ~~duration a Contract's Duration of a Contract~~ following the expiration of the ~~Contract-Initial Contract~~ Term.

21. "Requirements Contract" means a Contract that provides for ~~-filling all actual purchase requirements of Commodities or Services, with deliveries or performance to be scheduled by placing orders with the contractor.~~

~~2.~~

22. ~~"Spending Threshold"~~ shall have the meaning ascribed to such term in Section IV.B.2. (Establishment and Limitations of the Spending Threshold) of this Policy. ~~means the threshold amount referenced in this Policy and incorporated into the Code, which permits authorized signatories to execute Contracts and requisitions without obtaining Board approval.~~

~~3-23.~~ "Temporary Delegation Letter" means a letter issued by an Authorized Official that temporarily delegates the authority to execute Contracts to Permitted Delegees in their absence.

~~24.~~ "Threshold Category" means the particular threshold category amount referenced in this Policy and incorporated into the Code."Time and Materials Contract" means a Contract that provides for acquiring supplies or services on the basis of direct labor hours at specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit; and actual cost for materials.

~~4-25.~~ "Unbudgeted" means expenditures not appropriated as part of the Budget.

~~III.~~ **Policy**

~~The Board has established several spending thresholds applicable to the Code that pertain to the District's acquisition of services, supplies, goods, and materials. To that end, any and all references in the Code to a "Threshold Category" or to a "Spending Threshold" shall be a reference to such specific terms and amounts contained in this Policy. Such Threshold Categories and Spending Thresholds are incorporated into the Code by reference as if fully set forth therein. To the extent the Code references the Procurement Policy Table, such reference includes a reference to this Policy, as applicable.~~

IV. Procedure

A. Official Documents of Broward Health. Broward Health is frequently required to make, complete, and file Official Documents as part of its daily operations. In recognition of the necessity of completing and filing these Official Documents for Broward Health's day-to-day operations and affairs, the Board hereby establishes the following guidelines governing Official Documents made, filed, and completed for and on behalf of Broward Health.

1. Official Documents Made or Completed by Authorized Officials. Provided it is permissible under Applicable Law, in Broward Health's best interests, and deemed necessary, advisable, or appropriate in furtherance of Broward Health's operational and business affairs, each Authorized Official hereby is authorized and empowered in the name and on behalf of Broward Health to make, prepare, execute, deliver, file, or cause to be made, prepared, executed, delivered, and filed, Official Documents with any Government Entity, accreditation body, third-party payer, and all other non-governmental and non-accreditation entities that Broward Health conducts business with or are necessary in the course of Broward Health's operations.

2. Official Documents Made or Completed by Permitted Delegees. Permitted Delegees may, with the same authorization, power, and privileges of the Authorized Officials, make, prepare, execute, deliver, file, or cause to be made, prepared, executed, delivered, and filed Official Documents in the name and on behalf of Broward Health with any Government Entity, accreditation body, third-party

payer, and all other non-governmental and non-accreditation entities that Broward Health conducts business with or are necessary in the course of Broward Health's operations, provided all of the following conditions exist:

- (a) The Permitted Delegee is authorized to exercise such functions either (i) via written policy that references the role, title, or position occupied by such individual, or (ii) through an express written delegation or directive specific to the individual from an Authorized Official granting and delegating such authority;
- (b) The exercise of such functions is permissible under Applicable Law, in Broward Health's best interests, and deemed necessary, advisable, or appropriate in furtherance of Broward Health's operational and business affairs; and
- (c) The exercise of such functions is consistent with the roles and duties of such Permitted Delegee.

B. Contractual Agreements

1. **Authority to Execute Contracts.** All rights, powers, duties, and authority of the Board relating to the Procurement and contracting of Commodities and Services for, in the name, and on behalf of Broward Health, including the authority to approve purchases and approve, execute, acknowledge, and deliver Contracts, change orders, and purchase orders for the purchase of Commodities and Services governed under the Business and Procurement Code and the Design and Construction Code, provided they are in conformance with Applicable Law, the Business and Procurement Code, the Design and Construction Code, and all applicable Board policies, resolutions, and administrative policies, are hereby delegated to and vested in the Authorized Officials.

2. **Establishment and Limitations of the Spending Threshold.** ~~The "Board from time to time sets Spending Thresholds~~Spending Threshold" is the fixed threshold amount set by the Board ~~and that permits Broward Health's President/CEO ("CEO") and Broward Health's Chief Financial Officer ("CFO") to dictates whether Board approval is required prior to executing~~execute Contracts, ~~and requisitions, and other binding commitments to purchase services, goods, supplies, materials, and other Procurements~~Commodities and Services for and on behalf of Broward Health. When the expenditures of such Procurements or Contracts are Budgeted or are equal to or below the Spending Threshold, no Board authorization or approval is required to enter into such Contracts and commitments. ~~If the expenditures of such~~ny Procurements or Contracts are both Unbudgeted and beyondexceed the Spending Threshold, ~~require Board authorization or~~and approval are required to prior to committing Broward Health to such expenditures. The current Spending Threshold created and set by the Board is \$400,000 for each Contract year. ~~The CEO and/or CFO may, from time to time, delegate their signing authority to other officers of Senior Management in accordance with the procedures established in the Code.~~

(a) **Exceptions.** Notwithstanding the foregoing, if any of the following circumstances exist, Contracts that exceed the Spending Threshold may be entered into:

- (i) **Bona Fide Emergencies.** Unbudgeted Contracts that exceed the Spending Threshold may be executed to make Emergency Purchases in bona fide emergencies as delineated in Section VI.B.1(c) (Emergency Purchases) of the Business and Procurement Code. All such Emergency Purchases shall be reported to and ratified by the Board as soon as practicable following the Emergency Purchase.
- (ii) **Execution Contingent on Board Approval.** Unbudgeted Contracts that exceed the Spending Threshold may be negotiated, secured, and signed when such Contract is subject to and contingent upon Board approval before it becomes binding and enforceable against Broward Health.
- (iii) **Line-Item Budget Categories.** Once the Board approves the annual Budget, the expenditures for the Commodities, Services, Contracts, and Procurements up to the allocated and approved amount in the Line-Item Budget Category may be acquired without

further Board approval, and Contracts and Procurements exceeding the Spending Threshold may be entered into or acquired without further Board approval, provided such Contracts or Procurements do not exceed the aggregate of the allocated and approved expenditures of a Line-Item Budget Category. Subject to the Five-Year Term Limit in Section IV.B.3. (Five-Year Term Limit) of this Policy, Contracts entered into that are in a Line-Item Budget Category may be multi-year Contracts even if the Spending Threshold is exceeded, provided that such expenditures are included in each year's Budget in accordance with Applicable Law.

(iv) *Pass-Through Funds.* Contracts and commitments for the Procurement of Commodities and Services that are Unbudgeted and exceed the Spending Threshold may be entered into without Board approval when the funds used to pay for such expenditures are not from Broward Health's funds but are pass-through funds derived from other funding sources (including, without limitation, grantors, Government Entities, or private entities) and are used for a specified purpose, program, or service contingent on or related to the receipt of such funds.

(v) *Receipt of Funds Unrelated to Procurements.* Contracts that exceed the Spending Threshold may be entered into when Broward Health is receiving funds under the Contract, regardless of its source, and no Broward Health funds are being expended under the Contract. Such Contracts may include, but are not limited to, grants, donations, reimbursement or compensation for services rendered by Broward Health, or other methods or means involving the receipt of funding.

(b) *No Waiver of Competitive Procurements.* None of the preceding exceptions to entering into Unbudgeted Contracts exceeding the Spending Threshold shall be interpreted as exceptions to following the Competitive Solicitation Process for Procurements equal to or more than the Millage Threshold or any other required procedures in the Business and Procurement Code, the Design and Construction Code, or any other Board policies or administrative policies unless otherwise provided in the foregoing authority.

3. **Five-Year Term Limit.** In an effort to foster competition in Broward Health's Procurements, each Procurement should be reviewed to determine whether Competitive Conditions should be maintained for Procurements below the Millage Threshold or whether the Competitive Solicitation Process should be performed again for Procurements equal to or above the Millage Threshold. Accordingly, the Initial Contract Term and each subsequent Renewal Term of a Contract may not exceed five years in length without Board approval ("Five-Year Term Limit").

(a) *Inapplicability.* The Five-Year Term Limit does not apply to the following:

(i) *Contract Duration.* Because the Five-Year Term Limit of a Contract is to determine whether Competitive Conditions or the Competitive Solicitation Process, as applicable, should be performed again, the Five-Year Term Limit is not applicable to a Contract's Duration. Accordingly, a Contract's Duration (the total life of a Contract) may exceed five years so long as the Procurement is reviewed at least every five years (unless an exception to the Five-Year Term Limit applies).

(ii) *Design and Construction Contracts.* The Five-Year Term Limit is not applicable to Contracts entered into for projects governed by and subject to the Design and Construction Code.

(b) *Exceptions.* Notwithstanding the Five-Year Term Limit and as permitted under Applicable Law, the Initial Contract Term and/or any Renewal Term of Contracts may be entered into for periods longer than five years under the following circumstances:

(i) *Bona Fide Emergencies.* Contracts that exceed the Five-Year Term Limit may be executed when entering into the Contract is required to make an Emergency Purchase in a bona fide emergency as delineated in Section VI.B.1(c) (Emergency Purchases) of the Business and

Procurement Code. All such Emergency Purchases shall be reported to and ratified by the Board as soon as practicable following the Emergency Purchase.

(ii) Continuing Contracts. Continuing Contracts exceeding the Five-Year Term Limit may be entered into when such Continuing Contracts are procured pursuant to the Design and Construction Code and Applicable Law.

(iii) Contracts Required by Law, Funding Sources, or Accreditation Standards. Contracts that exceed the Five-Year Term Limit may be entered into when federal, state, or local laws applicable to Broward Health require the entry into such Contract; other funding sources (including, without limitation, grantors, Government Entities, or private entities) require the entry into such Contract; or the entry into such Contract is necessary or required to maintain or acquire accreditation pursuant to the requirements of the respective accreditation body.

(iv) Contracts with Government Entities. Contracts that exceed the Five-Year Term Limit may be entered into when the Contract is with another Government Entity.

(v) Equipment and Software Sole Sources. Contracts exceeding the Five-Year Term Limit may be entered into when Commodities or Services related to equipment or software are needed and the manufacturer only permits one source or only one source is available to provide such Commodities or Services.

(vi) Execution Contingent on Board Approval. Contracts that exceed the Five-Year Term Limit may be negotiated, secured, and signed when such Contract is subject to and contingent upon Board approval before it becomes binding and enforceable against Broward Health.

(vii) Labor-Hour and Time-and-Materials Contracts. Contracts that exceed the Five-Year Term Limit may be entered into when such Contracts are Labor-Hour Contracts or Time-and-Materials Contracts that are not subject to Competitive Conditions or the Competitive Solicitation Process, and compensation is expended under the Contract on an as-needed and as-used basis.

(viii) Non-Monetary Contracts. Contracts exceeding the Five-Year Term Limit may be entered into when no compensation is being expended under the Contract.

(ix) Requirements Contracts. Contracts that exceed the Five-Year Term Limit may be entered into when such Contracts are Requirements Contracts that do not require the expenditure of funds except when Commodities are needed and orders are placed from the contractor.

(x) Special and Time-Sensitive Pricing. Contracts that exceed the Five-Year Term Limit may be entered into when exceeding the Five-Year Term Limit is required for the receipt of special and time-sensitive pricing, and the period where such pricing will remain firm expires before the next Board meeting. Contracts entered into under such circumstances shall be presented to the Board for informational purposes as soon as practicable following the entry into such Contract.

(c) No Waiver of Competitive Procurements. None of the preceding exceptions to entering into Contracts exceeding the Five-Year Term Limit shall be interpreted as exceptions to following the Competitive Solicitation Process for Procurements equal to or over the Millage Threshold or any other required procedures in the Business and Procurement Code, the Design and Construction Code, or any other Board policies or administrative policies unless otherwise provided in the foregoing authority.

4. Delegations of Authority. Unless otherwise prohibited by Applicable Law, Authorized Officials may delegate the rights, powers, duties, and authority to execute Contracts to Permitted Delegees under the following conditions.

(a) *Temporary Delegation.* The Authorized Officials may, in their absence, temporarily delegate the authority to execute Contracts to Permitted Delegees. Any delegation of signing authority shall be evidenced by a Temporary Delegation Letter from the Authorized Official, temporarily delegating the authority to the Permitted Delegee. During any period of temporary delegation, and subject to any limitations placed on the Permitted Delegee by the Authorized Official as outlined in the Temporary Delegation Letter, the Permitted Delegee who is temporarily delegated the Authorized Official's signing authority shall have the same power as the Authorized Official to enter into Contracts and bind Broward Health and such Temporary Delegee may execute Contracts that are Unbudgeted and exceed the Spending Threshold provided such Contracts were approved by the Board. To the extent a Contract signed by a Permitted Delegee under a temporary delegation is required to be housed in Broward Health's Contracts Management System pursuant to Broward Health's Administration of Contracts Policy, the Permitted Delegee's Temporary Delegation Letter shall be documented in the Contract's electronic file within the Contracts Management System. Any temporary authority delegated by the Authorized Official shall no longer be effective upon the Authorized Official's return or another date certain as delineated in the Temporary Delegation Letter unless and until the Authorized Official again delegates his or her signing authority under this Section. Nothing herein shall be construed as preventing an Authorized Official from delegating such temporary authority despite the presence and availability of other Authorized Officials.

(b) *Permanent Delegation Under the Spending Threshold.* To help further promote efficient business and operations of Broward Health, the Chief Executive Officer may establish an administrative policy that permanently delegates the authority to Permitted Delegees to execute Contracts equal to or under the Spending Threshold. The policy may delegate such authority to Permitted Delegees by name or by the office, position, role, and/or title the Permitted Delegee holds. In the event of any permanent delegation of authority, the Permitted Delegee delegated such permanent authority shall have the same power as the Authorized Officials to bind Broward Health to Contracts equal to or under the Spending Threshold, subject to any limitations placed on such individuals in the permanent delegation policy.

C. **Responsibilities Applicable to all Delegations.** Any delegation of authority under this Policy, whether temporary or permanent or whether such delegation involves Official Documents or Contracts, carries responsibilities. Authorized Officials shall, and if such Authorized Officials delegate authority to one or more Permitted Delegees, shall ensure that such Permitted Delegees:

1. Have a complete understanding and appreciation of the authority so delegated;
2. Only exercise and not exceed the scope of authority delegated;
3. Adhere to Applicable Law, including but not limited to, pt. III of ch. 112, Fla. Stat., the Code of Ethics for Public Officers and Employees, and adhere to Broward Health's Code of Conduct and any other relevant Board resolutions, Board policies, or administrative policies; and
4. Exercise the delegated authority with proper judgment and consideration and in the furtherance of and in Broward Health's best interests.

D. **Reserved Rights and Limitations.** The following reserved rights and limitations shall apply notwithstanding any delegation of authority under this Policy, whether temporary or permanent, or whether such delegation involves Official Documents or Contracts:

1. The Board retains the right to modify or revoke this Policy and any delegations at any time;
2. Except in a bona fide emergency or if an Official Document or Contract is subject to and contingent upon Board approval before it becomes effective, any Official Document or Contract that under Applicable Law or the District's Charter requires Board approval shall be presented to the Board prior to committing Broward Health;
3. A delegation of authority does not revoke or suspend any power or authority of the delegator;

4. Any authority conferred under this Policy shall not override any applicable safeguards currently in effect or which may be established from time to time via Board resolution, Board policy, or administrative policy, and all relevant policies, internal controls, and guidelines concerning the execution of Official Documents and Contracts shall be adhered to; and

5. Any Official Documents or Contracts entered into by any individual without proper authority or without adhering to any relevant policies, internal controls, and guidelines concerning the execution of Official Documents and Contracts may be rejected and disavowed by the Board.

A.—Use of Electronic Signatures. To the extent consistent with Applicable Law, and in accordance with the Electronic Signature Act of 1996, § 668.001, et seq., Fla. Stat. and the Uniform Electronic Transactions Act, § 668.50, et seq., Fla. Stat., Authorized Officials and Permitted Delegees may use electronic and digital signatures to sign Contracts and Official Documents, and all such writings bearing an electronic or digital signature from an Authorized Official or Permitted Delegee shall have the same force, effect, and validity as a handwritten and manual signature thereof. ~~Threshold Amounts~~

~~B.—Threshold Categories.~~

~~C.—The following Threshold Categories are hereby created:~~

~~D.—(1) —Threshold Category 1: \$5,000~~

~~E.—(2) —Threshold Category 2: \$50,000~~

~~F.—(3) —Threshold Category 3: \$100,000~~

~~G.—(4) —Threshold Category 4: \$250,000~~

~~H.—(5) —Threshold Category 5: \$1,000,000~~

~~I.—(6) —Threshold Category 6: \$1,250,000~~

~~J.—Spending Threshold. The Board from time to time sets Spending Thresholds and permits Broward Health's President/CEO ("CEO") and Broward Health's Chief Financial Officer ("CFO") to execute Contracts and requisitions to purchase services, goods, supplies, materials, and other Procurements. When such Procurements or Contracts are below the Spending Threshold, no Board authorization or approval is required. Any Procurements or Contracts beyond the Spending Threshold require Board authorization or approval. The CEO and/or CFO may, from time to time, delegate their signing authority to other officers of Senior Management in accordance with the procedures established in the Code.~~

E.

The following Spending Threshold is hereby created:

Spending Threshold: Up to and including Four Hundred Thousand Dollars (\$400,000.00) for each year of a Contract Term for a maximum Contract Term of five (5) years.

~~Notwithstanding the foregoing, Contracts without the exchange of monetary compensation may exceed a five (5) year Contract Term or contain an auto-renewal clause without obtaining Board approval. Further, the District may renew or extend Contracts and/or Procurements for one or more subsequent Renewal Terms without Board approval even if the total life of the Contract or Procurement exceeds five (5) years; provided, however, that each individual Renewal Term may not exceed five (5) years in length or be over Four Hundred Thousand Dollars (\$400,000.00) per year of the Renewal Term without Board approval.~~

~~As provided in the Code, this Spending Threshold is inapplicable to (1) line item Budgeted Contracts and/or Procurements; (2) pass-through funding obtained from grantors, government entities, or private entities used to fund a program or programs for which such funding was furnished; and (3) the receipt of funds regardless of its source.~~

~~Informational Threshold. Although the Board has delegated the authority to Broward Health enter into Contracts and Procure services and goods, the Board, consistent with its Charter oversight duties, requires information for certain Contracts and Procurements. Accordingly, those Contracts and Procurements at or above the Informational Threshold and up to and including the Spending Threshold shall be communicated to all members of the Board.~~

~~The following Informational Threshold is hereby created:~~

~~Informational Threshold: \$250,000 for each year of a Contract Term.~~

~~V. As provided in the Code, this Informational Threshold is inapplicable to (1) line-item Budgeted Contracts and/or Procurements; (2) pass-through funding obtained from grantors, government entities, or private entities used to fund a program or programs for which such funding was furnished; and (3) the receipt of funds regardless of its source. **Construction**~~

~~Nothing in this Policy modifies, supersedes, or prohibits any previous or future temporary or permanent delegations of authority by the Board. The headings contained in this Policy are for reference purposes only and shall not affect in any way the meaning or interpretation of this Policy. The use of the term "including" and other words of similar import mean "including, without limitation," and where specific language is used to clarify by example a general statement contained herein, such specific language shall not be deemed to modify, limit, or restrict in any manner the construction of the general statement to which it relates. The word "or" is not exclusive, and the words "herein," "hereof," "hereunder," and other words of similar import refer to this Policy as a whole and not to any particular section, subsection, paragraph, subparagraph, or clause contained in this Policy. The term "shall" is mandatory, and "may" is optional. The reference to the Business and Procurement Code, Design and Construction Code, or a policy, instrument, or other document means the Business and Procurement Code, Design and Construction Code, or such policy, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof, and the reference to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. If any provision of this Policy is held to be unconstitutional, invalid, or unenforceable, such offending provision shall be stricken as though the offending provision has not been included herein, and the remainder of this Policy shall remain valid, enforceable, and not be affected thereby, and if any provision of this Policy is held to be unconstitutional, invalid, or unenforceable as applied to any particular person, group, entity, property, or circumstance, such provision shall be modified to the minimum extent necessary to make it or its application valid and enforceable and the application of the remaining provisions of this Policy to any person, group, entity, property, or circumstance shall remain valid and enforceable and not affected thereby. Except as otherwise provided in this Policy, all rights, powers, duties, and authorities relating to the Procurement of Commodities and Services, or the sale and disposal of supplies are vested in the CPO as the principal purchasing officer of Broward Health. No provision of this Policy shall be construed as conflicting with or exceeding Applicable Law. In the event of a conflict between this Policy and Applicable Law, Applicable Law shall govern and control as if fully set forth herein. Contracts entered into that are inconsistent with this Policy or are not in accordance with any applicable Board resolution, Board policy, or the Business and Procurement Code's formalities, or which are otherwise entered into by an individual without authority or an individual who was not properly delegated such authority according to this Policy or by the Board, shall be ultra vires, not be deemed a binding obligation of Broward Health, and may be disavowed.~~

VI. Interpretation and Administration

~~The administration and interpretation of this Policy is the responsibility of the CPO.~~

Related Policies

~~GA-001-150, Master Procurement Code~~

~~GA-001-151, Procurement Policy Table~~

Interpretation and Administration

~~Administration and Interpretation of this policy is the responsibility of the President/CEO, CFO and Chief Procurement Officer.~~

Broward Health's Design and Construction Code Policy # GA-001-086: Procurement of Professional Construction Services, Electrical Work, and Construction-Related Design Services

I. Purpose and Scope

~~This Policy identifies the steps to be taken in the selection and Procurement of Design and Construction Professionals needed for the construction of District owned public improvements and for the Procurement of construction services in an efficient, cost effective, and timely manner in compliance with Florida law. Government projects for the design and construction or improvement of public buildings and the procurement and contracting of professionals for such work are regulated under Florida law. As a special district established by the Florida Legislature, Broward Health is subject to such provisions when engaging in such work. Accordingly, all Contracts for Construction Services, Electrical Work, and Professional Design Services falling within the ambit of such laws may only be let after compliance with the prescribed procedures for competitive bidding as delineated further in this Design and Construction Code.~~

II. Policy Statement

~~Any and all Contracts for Construction Services, Electrical Work, and Professional Design Services of Broward Health's hospitals, buildings, and facilities that are estimated to cost more than the statutory thresholds in §§ 255.20 and 287.055, Fla. Stat. may only be let following compliance with the competitive bidding procedures delineated in such statutes and this Design and Construction Code unless another procedure is required or permitted under Applicable Law or unless otherwise exempt under this Design and Construction Code.~~

III. Definitions

~~The following words shall have the meaning ascribed to them wherever they appear in this Design and Construction Code, regardless of whether they are capitalized, unless (a) the context in which they are used clearly requires a different meaning, or (b) a different definition is prescribed for a particular section of this Design and Construction Code or under Applicable Law that governs a particular procurement. Words capitalized but not defined in this Design and Construction Code shall have the meaning ascribed to such term in the Business and Procurement Code. All other words shall be given their common and ordinary meaning unless the context in which they are used requires otherwise. When the context requires, the gender of all words includes the masculine, feminine, and neuter, the number of all words consists of the singular and plural, and, when appropriate, the form of a word includes the past tense, present participle, or gerund. The words and acronyms defined in this Policy shall have the meanings set forth in the Master Procurement Code, GA-001-150 (the "Code") of North Broward Hospital District (the "District") regardless of whether they are capitalized, unless:~~

~~(a) ——— The context in which they are used clearly requires a different meaning; or~~

~~(b) ——— A different definition is prescribed for a particular section of this Policy.~~

~~Words not defined shall be given their common and ordinary meaning unless the context in which they are used requires otherwise.~~

~~For purposes of this Policy, the below terms shall have the following meanings associated with them:~~

~~1. **"Applicable Law"** means any federal or state law that governs the procurement of Contractors and Professionals for Design, Construction, and Electrical Services, including, without limitation, § 287.055, Fla. Stat., ch. 255, Fla. Stat., and the District's Charter.~~

~~2. **"Bid Bond"** means a financial or contractual instrument issued by a surety that guarantees the Bidder will not withdraw its bid, proposal, or reply.~~

~~3. **"Bid Documents"** means the plans, specifications, and/or estimates developed pursuant according to a Bid Solicitation that describes the elements or requested elements of a Project or Contract.~~

~~4. **"Bid Solicitation"** means an invitation that invites prospective Bidders to submit bids, proposals, or replies to a Project subject to the Bid Solicitation Process.~~

5. "Bid Solicitation Process" means the process through a Bid Solicitation of requesting and attempting to receive two or more competitive bids, proposals, or replies from Qualified and Responsive Bidders for the procurement of Contractors and Professionals that are required under Applicable Law and this Design and Construction Code to go through the Competitive Selection and Negotiation Process, Competitive Proposal Selection Process, or be Competitively Awarded.
6. "Bidder" means the Contractors and Professionals applicable to a particular Project submitting or wishing to submit a bid, proposal, or reply to a Bid Solicitation.
7. "Board" means the Board of Commissioners of the North Broward Hospital District.
8. "Broward Health" means the fictitious name of the North Broward Hospital District, a special tax district established by the Florida legislature, and all of its departments, divisions, units, wholly-owned entities, and other fictitious names now established and as further established from time to time by the Board. The term "Broward Health" shall expressly exclude all joint ventures, cooperatives, or interlocal arrangements of the North Broward Hospital District unless the governing documents or articles of such ventures, cooperatives, or interlocal arrangements indicate otherwise or unless the Board establishes a policy to subject such joint venture, cooperative, or interlocal arrangement to the provisions of this Design and Construction Code.
9. "Business and Procurement Code" means Broward Health's Business and Procurement Code, which governs Broward Health's business activities and Broward Health's Procurement of Commodities and Services.
10. "Compensation" means the amount paid for Professional Design Services, regardless of whether stated as compensation or as hourly rates, overhead rates, or other figures or formulas from which compensation can be calculated.
- ~~1. "Competitively Award" or "Competitively Awarded" means awarding of Contracts based on the submission of sealed bids, proposals submitted in response to a request for proposal, proposals submitted in response to a request for qualifications, proposals submitted for competitive negotiation, or any other competitive process permitted under Florida law.~~
11. "Competitive Sealed Bids" means sealed bids whereby the award will be based upon the Contractor that submitted the lowest price bid. "Competitive Negotiation" means the competitive negotiation stage that is part of the Competitive Selection and Negotiation Process described in Section VI.D.3(b) (Competitive Negotiation) of this Design and Construction Code.
12. "Competitive Proposal Selection Process" means the selection process used to solicit proposals for Design-Build Contracts as delineated in Section VII.B.2. (Competitive Proposal Selection Process for Design-Build Services) of this Design and Construction Code.
13. "Competitive Selection" means the competitive selection stage that is part of the Competitive Selection and Negotiation Process described in Section VI.D.3. (Competitive Selection) of this Design and Construction Code.
- ~~2-14.~~ "Competitive Selection and Negotiation Process" means the selection process used to solicit proposals for Professional Design Services as delineated in Section VI.D.3(b) (Competitive Selection and Negotiation Process) of this Design and Construction Code and § 287.055, Fla. Stat.
15. "Competitively Award" shall have the meaning ascribed to such term in Section VI.C.2. (Competitive Awards) of this Design and Construction Code. "~~Competitive Sealed Proposals" means sealed bids whereby the award will be based upon qualifications and responsive proposals and not price.~~
16. "Construction Contractor" means a Firm that performs Construction Services.
17. "Construction Management Entity" means a licensed Firm responsible for Construction Project scheduling and coordination in both preconstruction and construction phases and generally responsible for the successful, timely, and economical completion of the Construction Project.

18. “Construction Manager Method” means a Project Delivery Method utilizing a Construction Management Entity.
19. “Construction Project” means the construction or improvement of any Broward Health facility, building, structure, or other public works of Broward Health.
- ~~p~~DistrictDistrict
20. “Construction Services” means all labor and services provided by a Construction Contractor in connection with the construction or improvement of real property owned by or under the control of Broward Health and that is subject to the Competitive Award process under § 255.20, Fla. Statthe undertaking of designing, building, altering, repairing, remodeling, renovating, modifying, improving, or demolishing any structure, or building any real property, owned or under the control of the District.
21. ~~“Construction Continuation Contract” means a Contract with a construction management entity for work on a construction project described by type, which may or may not be identified at the time of entering into the Contract, or such other Construction Continuation Contracts permitted under Florida law. “Continuing Contract” shall have the meaning ascribed to such term in chapters 255 and 287, Florida Statutes, as applicable to a particular procurement or Project.~~
22. “Contract” means any contractual and written agreement binding Broward Health, regardless of what it may be called or referred to, for the procurement of Contractors and Professionals. The term “Contract” also includes any amendments, modifications, supplemental agreements, addendums, exhibits, and attachments concerning the foregoing.
23. “Contractors and Professionals” collectively means all Firms subject to this Design and Construction Code, including, without limitation, all Construction Contractors, Construction Management Entities, Program Management Entities, Design Professionals, Design-Build Firms, Design Criteria Professionals, and Electrical Contractors.
24. “Cost-Plus Contract” means a cost-reimbursement Contract that reimburses the contractor for all allowable costs and also provides for payment to the contractor of a negotiated fee that is a percentage of the actual cost, a Guaranteed Maximum Price, or a fixed Lump-Sum Price at the inception of the Contract.
25. “CPO” means the Chief Procurement Officer, the principal public purchasing official for Broward Health responsible for administering the Business and Procurement Code and this Design and Construction Code.
26. “Design and Construction Code” means this Design and Construction Code governing the procurement of Contractors and Professionals for Projects subject to chapters 255 and 287, Florida Statutes.
27. “Design and Construction Services” collectively means Construction Services and Professional Design Services.
28. “Design-Bid-Build Method” means a Project Delivery Method where separate Contracts are sequentially awarded, the first for Professional Design Services to design the Project and the second for Construction of the Project according to the design.
29. “Design-Build Contract” means a single Contract with a Design-Build Firm for Design and Construction Services.
30. “Design-Build-Finance-Operate-Maintain Method” means a Project Delivery Method where a single Contract is entered into for a facility's design, finance, construction, maintenance, and operation over a contractually defined period.

31. **“Design-Build Firm”** means a Firm certified under Florida law to contract through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent or to practice or offer to practice Professional Design Services.
32. **“Design-Build Method”** means a Project Delivery Method where a Design-Build Contract is entered into for Design and Construction Services.
- ~~3-33.~~ **“Design-Build-Operate-Maintain Method”** means a Project Delivery Method where a single Contract is entered into for the design, construction, maintenance, and operation of a facility over a contractually defined period.
34. **“Design, Construction, and Electrical Services”** collectively means Construction Services, Electrical Work, and Professional Design Services.
35. ~~“Design Continuation Contract”~~ means a Contract that is entered into and complies with the definition of “continuing contract” under § 287.055(2)(g), Florida Statutes, as amended from time to time. **“Design Criteria Package”** means concise, performance-oriented drawings or specifications of a Project along with the necessary criteria required under § 287.055, Fla. Stat. designed to permit Design-Build Firms to prepare a proposal in response to a request for proposal.
36. **“Design Criteria Professional”** means a Design Professional hired or contracted with in connection with the preparation of the Design Criteria Package for a Project where the Design-Build Method will be used.
37. **“Design Professional”** means a Firm that performs Professional Design Services.
38. **“Design Project”** means that fixed capital outlay study or planning activity described in the public notice soliciting Design Professionals and that may include (a) a grouping of minor construction, rehabilitation, or renovation activities, or (b) a grouping of substantially similar construction, rehabilitation, or renovation activities.
39. **“District’s Charter”** means the legislation establishing and governing the North Broward Hospital District in ch. 2006-347, Laws of Florida, as amended.
40. **“Electrical Contractor”** means a Firm that performs Electrical Work.
41. **“Electrical Project”** means a project to perform Electrical Work.
42. **“Electrical Work”** means the installation and design of electrical wiring, fixtures, appliances, apparatus, raceways, conduit, or any part thereof, which generates, transmits, transforms, or utilizes electrical energy in any form that is within the scope of practice of an Electrical Contractor.
43. **“Fast-Track Contracts”** means Contracts where the programming, design, and construction phases overlap rather than following a linear sequence so that one phase begins before the other is completed.
44. **“Firm”** means any individual, firm, partnership, corporation, company, association, or other legal or business entity permitted by Applicable Law to provide Design, Construction, and Electrical Services in the State of Florida.
45. **“Guaranteed Maximum Price”** means an agreed-to not-to-exceed price required to be paid to contractors to compensate the contractors for their direct costs and a fixed fee for overhead and profit.
46. **“Guaranteed Maximum Price Contract”** means a Contract that sets a fixed Guaranteed Maximum Price for the construction to be achieved.
47. **“Incentive Contract”** means a Contract designed to obtain acquisition objectives by establishing reasonable and attainable targets that are communicated to the contractor and include appropriate incentive arrangements designed to motivate contractor efforts that might not otherwise be emphasized and discourage contractor inefficiency and waste.
48. **“Integrated Project Delivery Method”** means a Project Delivery Method utilizing a Project delivery approach that integrates people, systems, business structures, and practices into a process that

collaboratively harnesses the talents and insights of all participants to optimize Project results, increase value to the owner, reduce waste, and maximize efficiency through all phases of design, fabrication, and construction.

49. “**Job-Order Contracts**” means Contracts where contractors are competitively chosen to perform various and separate job orders during the duration of the Contract, typically based on prices established in a construction task catalog with an agreed-to fee or multiplier.
50. “**Lump-Sum Contract**” means a Contract where the contractor agrees to be responsible for the proper job execution at a Lump-Sum Price.
51. “**Lump-Sum Price**” means a stipulated fixed price for the costs of materials, labor, overhead, and profit that contractors will be paid to complete a Project regardless of the actual costs incurred by the contractor.
52. “**Multi-Prime Contracts**” means holding separate Contracts with contractors of various disciplines, such as general construction, mechanical, electrical, and plumbing, and managing the overall schedule and budget during the entire construction phase.
53. “**Multiple Award Contracts**” means Contracts for the acquisition of an indefinite quantity, within stated limits, of materials or services during a fixed period, with deliveries or performance to be scheduled by placing orders with the contractor.
54. “**Negotiate**” means to conduct legitimate, arm’s length discussions and conferences to reach an agreement on a term or price and does not include the presentation of flat-fee schedules with no alternatives or discussion.
55. “**Opening Date**” means the date of the formal opening of sealed bids, proposals, or replies.
56. “**Owner-Direct Purchase**” means Broward Health’s direct purchase of materials and supplies that will become part of or be incorporated into one of Broward Health’s facilities, buildings, or structures pursuant to a Public Works Project.
57. “**Payment Bond**” means a financial or contractual instrument issued by a surety that guarantees that subcontractors will be paid for labor and materials expended on the Contract.
58. “**Performance Bond**” means a financial or contractual instrument issued by a surety that guarantees satisfactory completion of a Project or Contract.
- 4-59. “**Prequalification Requirements**” means the prequalification requirements for bidding and being awarded a Contract described in Section VI.B. (Prequalification Requirements Applicable to all Design, Construction, and Electrical Services) of this Design and Construction Code.
60. “**Professional Design Services**” means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the State of Florida, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with ~~his or her~~their professional employment or practice.
61. “**Program Management Entity**” means a licensed Firm responsible for schedule control, cost control, and coordination in providing or procuring planning, Professional Design Services, and Construction Services.
62. “**Program Manager Method**” means a Project Delivery Method utilizing a Program Management Entity.
63. “**Progressive Design-Build Method**” means a Project Delivery Method that combines and one contractor performs the services related to the Construction Manager Method and Design-Build Method.
64. “**Project**” means, as applicable to the purchased service, a Construction Project, Design Project, or Electrical Project.

65. “Project Custodian” means the individual or individuals at Broward Health requesting, and who is ultimately responsible for, the acquisition of Contractors and Professionals subject to the Bid Solicitation Process.
66. “Project Delivery Method” means the approach to Project planning, design, management, and construction.
67. “Public-Private Partnerships” means a partnership and agreement between a public entity and private sector entity for the plan, design, finance, lease, acquisition, installation, construction, or expansion of Broward Health’s facilities or services consistent with the procedures in § 255.065, Fla. Stat.
68. “Public Works Project” shall have the same meaning ascribed to the term “public works” in Fla. Admin. Code R. 12A-1.094(1)(c).
69. “Publicly Advertised” means an advertisement that invites Bidders to submit bids, proposals, or replies pursuant to a Bid Solicitation and that is published in a newspaper of general circulation consistent with ch. 50, Fla. Stat., or on Broward County’s designated publicly accessible website consistent with the procedures of § 50.0311, Fla. Stat.
70. “Qualified and Responsive Bidder” means a Bidder that is both a Qualified Bidder and a Responsive Bidder.
71. “Qualified Bidder” means a Bidder possessing honesty, integrity, and reliability to assure good faith performance and the capability in all respects to perform fully the Contract requirements as described in further detail in Section VI.C.2(a)(i)b. (Qualified Bidder) of this Design and Construction Code.
72. “Qualified Design Professional” shall have the meaning ascribed to such term in Section VI.D.2. (Qualification Procedures) of this Design and Construction Code.
73. “Responsive Bidder” means a Bidder that has submitted a bid, proposal, or reply that conforms in all material respects to the Bid Solicitation.
74. “Selection Committee” means one or more persons appointed by the CPO or the CPO’s designee to evaluate bids, proposals, or replies submitted in response to a Bid Solicitation.
75. “Single-Source Contract” means a Contract for Construction Services that is available from only one responsible and qualified contractor.
76. “Time-and-Materials Contract” means a Contract that provides for acquiring materials and services based on actual cost for materials and direct labor hours at specified fixed hourly rates that includes wages, overhead, general and administrative expenses, and profit.
77. “Turnkey Project” means a type of Project Delivery Method where a contractor takes full responsibility for the Project’s design, construction, and delivery and provides Project management services, dictating things like schedule and budget allocation.
- ~~5-78.~~ “Unit Price Contracts” means Contracts where Projects are broken down into and priced by units as opposed to a fixed cost.

IV. General Acquisition Guidelines and Conditions Applicable to all Procurements of Contractors and Professionals

The following guidelines and conditions shall apply to all procurements of Contractors and Professionals that are subject to this Design and Construction Code:

1. Code Provisions Applicable to Design, Construction, and Electrical Services. The following provisions of the Business and Procurement Code shall apply to this Design and Construction Code and the Bid Solicitation Process: Article IV. (Code of Ethics, Integrity, and Professional Conduct), Section V.C.4. (Ultra Vires Procurements), Section V.C.8. (Other Governing Policies and Procedures), Section V.D.2. (Cone of

Silence), Section V.D.5. (Broward Health's Economic and Small Business Initiative), Section V.D.9. (Collusive Bidding), Section V.D.15. (Authority to Negotiate Changes and Modifications of the Awarded Price), Section V.D.16. (Public Records and Sunshine Law), Section V.D.17. (Bid Protests), Section VI.B.1(e) (Owner-Direct Purchases), Section VII.1. (Doing Business with Broward Health), Section VII.3. (Authority to Debar or Suspend Vendors), Section VII.4. (Contract Administration and Execution Authority), Section VII.5. (Designated Officers and Officials), Section VII.9. (Unsolicited and Solicited Proposals for Public-Private Partnership Projects), and any other provision of the Business and Procurement Code or any other board policies and resolutions that do not conflict with Applicable Law and this Design and Construction Code. The foregoing provisions are incorporated by reference as if fully set forth herein and apply to the procurement of all Design, Construction, and Electrical Services subject to this Design and Construction Code.

- 2. Design, Construction, and Electrical Services Not Subject to this Design and Construction Code.** The CPO shall determine the most appropriate procurement method for Design, Construction, and Electrical Services that are not subject to the Business and Procurement Code or the provisions of this Design and Construction Code.
- 3. Delegations.** The CPO may delegate the rights, powers, and authority vested in such position to subordinate purchasing or procurement agents, Selection Committees, and other officers, employees, committees, or departments of Broward Health. Any committees, departments, or individuals delegated authority by the CPO shall be authorized to exercise such delegated authority to the same extent as the authority vested in the CPO under this Design and Construction Code and any provision of this Design and Construction Code that references the CPO shall be deemed to include a reference to Broward Health and any committees, departments, or individuals delegated such authority. Any purchasing and procurement decision by the CPO or any applicable committees, departments, or individuals delegated such authority shall be valid and binding on Broward Health and its employees, departments, and all vendors wishing to do business with Broward Health.
- 4. Emergency Procurements.** During emergencies meeting the applicable requirements under chapters 255 and 287, Florida Statutes, the CPO may procure any Design, Construction, and Electrical Services needed without following the procedures of this Design and Construction Code, provided the CPO shall endeavor to use a reasonable method of competition as is practicable under the circumstances. In the event an official state of emergency has been declared, those Broward Health officials designated in Broward Health's Authorized Official, Contract Execution, and Delegation of Authority Policy are expressly authorized to execute Contracts with the State of Florida, Federal Emergency Management Agency (FEMA), and/or other applicable emergency relief entities on behalf of Broward Health to accomplish all necessary relief efforts.
- 5. Continuing Contracts.** The CPO is authorized to enter into Continuing Contracts with Contractors and Professionals consistent with Applicable Law. Continuing Contracts shall be procured consistent with the procedures delineated in Chapters 255 and 287, Florida Statutes. To the extent no such procedures exist, the CPO shall determine the proper method to procure Continuing Contracts. The use of Contractors and Professionals under Continuing Contracts may not exceed any statutory threshold amounts applicable to the use of Continuing Contracts for such Contractors and Professionals under chapters 255 and 287, Florida Statutes.
- 6. Solicitations of Offers.** Bid Solicitations shall not be deemed an offer of a Contract by Broward Health. Rather, such Bid Solicitations shall be deemed a solicitation of offers from prospective Bidders for the CPO's and Broward Health's consideration.
- 7. Firm Offers.** The CPO has the authority to determine whether bids, proposals, or replies submitted under a Bid Solicitation must remain open and are precluded from being withdrawn so that the CPO has sufficient time to consider submitted bids, proposals, or replies and issue an award. To the extent that any bids, proposals, or replies must remain firm, such requirement, along with the time that the bids, proposals, or replies remain firm, shall be designated in the Bid Documents.

8. **Bid Solicitation Procedures and Bid Documents.** The CPO has the ultimate authority to determine a Bid Solicitation's form, format, method, procedure, the terms and conditions for the particular Bid Solicitation, and what shall be included in the applicable Bid Documents. At a minimum, all Bid Documents used for Bid Solicitations shall contain (a) a reference to this Design and Construction Code to put Bidders on notice that they are subject to its conditions; (b) the deadline for the submission of the bids, proposals, or replies; (c) the time and date of the public opening; (d) pertinent terms and conditions applicable to the Bid Solicitation; (e) reference to relevant Bidder preferences applicable to the bid, proposal, or reply under Florida law or Broward Health's Policies and Procedures; (f) the requirement of form submittal for any forms or documents that are required to be submitted under Applicable Law; (g) the criteria that will be used to determine Qualified and Responsive Bidders and the acceptability and relative merit of a bid, proposal, or reply; (h) the criteria that will be used and considered to select the Bidder or Bidders that will be awarded Contracts; and (i) a reference to the Protest Procedures outlined in the Business and Procurement Code.
9. **Selection Committees.** The CPO has the discretion to determine whether and when Selection Committees shall be utilized and the number and composition of such Selection Committees to evaluate bids, proposals, or replies subject to the Bid Solicitation Process. If a Selection Committee is used for a particular Bid Solicitation, the CPO may modify or substitute members or increase or decrease membership on a Selection Committee for any reason and at any time during the Bid Solicitation Process. All appointed Selection Committee members shall receive appropriate instructions and training regarding their respective roles and responsibilities. Before serving on the Selection Committee, each appointed member shall execute a Conflict-of-Interest Certification Form and be reminded of the Cone of Silence.
10. **Prohibition of Audits or Inspections of Tax Returns.** Consistent with § 286.041, Fla. Stat., the CPO shall not require, directly or indirectly, an audit or inspection of any federal or state income tax returns of any Firm as a prior condition before entering into Contracts with said Firm to construct any public work or to supply any materials, labor, equipment or services, or any combination thereof.
11. **Waiver of Non-Material Bid Deviation.** The CPO may waive or require a Bidder to correct any minor irregularity, technicality, or omission of any bid, proposal, or reply if the CPO determines, at the CPO's sole and absolute discretion, that doing so will serve Broward Health's best interests. Any waivers or requests for correction of minor technicalities, omissions, or irregularities shall be applied consistently to all Bidders in a particular Bid Solicitation, and under no circumstances may a waiver be granted if the granting of such waiver would restrict competition or adversely affect competition by providing one Bidder with an unfair competitive advantage over another Bidder.
12. **Sole Source.** To the extent permitted under Applicable Law, if any Design, Construction, and Electrical Services needed may only be procured from one sole source, a Single-Source Contract may be entered into for the Design, Construction, and Electrical Services without adhering to the procedures of this Design and Construction Code.
13. **Prohibition Against Contingent Fees.** Pursuant to § 287.055(6), Fla. Stat., Bidders and vendors may not employ or retain any company or person, other than a bona fide employee working solely for the Bidder or vendor, to solicit or secure Contracts with Broward Health for Design, Construction, and Electrical Services, and such Bidders and vendors may not pay or agree to pay any person or Firm, other than a bona fide employee working solely for the Bidder or vendor any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of a Contract with Broward Health for Design, Construction, and Electrical Services.
14. **Cancellations, Rejections, Awards, and Negotiations.** Consistent with Applicable Law, Broward Health reserves the right to, and the CPO may, as determined in the best interests of Broward Health, cancel any Bid Solicitation or reject any or all bids, proposals, or replies (or portions thereof) and thereafter reissue the Bid Solicitation or not proceed with the Project. In all Bid Solicitations, the CPO has the ultimate authority to determine the appropriateness of issuing an award to a Bidder as determined in the best interests of Broward Health. After an award is issued, Broward Health and the awarded Bidder shall enter into a Contract incorporating the requirements of the applicable Bid Solicitation with terms required

under Applicable Law and other terms acceptable to Broward Health. No award is final until a notice of award is sent to the successful Bidder, and the issuance of an award shall not be deemed to create a binding Contract of Broward Health until a written Contract has been duly executed by both the selected Bidder and Broward Health. The CPO has the right to rescind an award if Broward Health and the awarded Bidder do not agree upon the terms of the Contract, and the CPO may rescind an award at any time before the effective date of a Contract if the CPO determines, at the CPO's sole discretion, that such rescission is in Broward Health's best interests.

15. **Bid Protests.** Bid protests and challenges regarding the terms and conditions of Bid Solicitations and addenda and the issuance of awards shall conform to and be consistent with the procedures of Section V.D.17. (Bid Protests) of the Business and Procurement Code, and Protest Bond shall be required of all protesting Bidders.
16. **Contract Changes and Change Orders.** Consistent with Applicable Law, the CPO may approve changes to a Project and require the Project contractor to perform such changes in the work without any further Bid Solicitation being issued, provided the contractor's performance and capability remain satisfactory at the time of a proposed change order and the CPO determines it is in Broward Health's best interests because (a) the change is within the general scope of the Project; (b) the change will reduce the scope or size of the Project or Contract price; or (c) the change is an integral part of the Project and is necessary to correct an unanticipated condition to permit the construction to continue. The CPO shall utilize the foregoing criteria for each proposed change in the work for a Project and determine whether such change order is appropriate as determined in the best interests of Broward Health.
17. **Listing and Substituting Subcontractors.** To the extent that Bidders are required to list subcontractors when submitting a bid, proposal, or reply to a Bid Solicitation, such Bidders may not change or substitute the list of subcontractors unless the CPO agrees, at the CPO's sole discretion, to such modifications.
18. **Procurements and Expenditures for Grants and Other Funding Sources.** Procurements and expenditures from federal, state, grant-related, or other funding sources under the conditions of a grant, award, or Contract may require special processing because of specific legal terms and conditions set by the funding agency. To the extent any federal, state, grant-related, or other funding source providing funds for a Project prescribes alternate procurement and purchasing requirements than those stated herein or in any instance that compliance with this Design and Construction Code would result in a conflict with any terms of a grant or other funding source, the CPO shall adhere to the requirements set forth by the grant or funding source and any conflicting provisions of this Design and Construction Code shall not apply. All federal grants and awards shall comply with, as applicable, 45 C.F.R. Part 75, other Applicable Law, the specific terms of the grant or award, and the Purchasing and Procurement Requirements of Federal Awards from the U.S. Department of Health and Human Services Policy in the Business and Procurement Code Policy Appendix, and Projects funded by the state and/or with state-appropriated funds shall adhere to the contracting and preference requirements and limitations prescribed under §§ 255.099-255.0993, Fla. Stat. Any other procurements and expenditures under grants, awards, or other funding sources shall conform to any special conditions, provisions, or purchasing requirements placed on the funding. The Project Custodian is responsible for identifying and communicating to the CPO any special purchasing requirements or provisions applicable to a Project or the procurement of Contractors and Professionals and ensuring that all requirements are adhered to.

V. Contracting and Project Delivery Methods

- A. **Contracting.** The CPO is expressly authorized, consistent with Applicable Law and Broward Health's Authorized Official, Contract Execution, and Delegation of Authority Policy, to enter into Continuing Contracts, Lump-Sum Contracts, Time-and-Materials Contracts, Cost-Plus Contracts, Fast-Track Contracts, Guaranteed Maximum Price Contracts, Incentive Contracts, Job-Order Contracts, Multi-Prime Contracts, Multiple Award Contracts, Unit Price Contracts, and any other Contract arrangement with a private sector contractor and any combination of the foregoing consistent with Applicable Law, current trends, and best practices.

B. Project Delivery Methods. The CPO is expressly authorized, consistent with Applicable Law, to enter into Contracts with Contractors and Professionals utilizing the following Project Delivery Methods: Construction Manager Method, Design-Bid-Build Method, Design-Build Method, Design-Build-Finance-Operate-Maintain Method, Design-Build-Operate-Maintain Method, Integrated Project Delivery Method, Program Manager Method, Progressive Design-Build Method, Public-Private Partnerships, Turnkey Projects, and any other Project Delivery Method with a private sector contractor and any combination of any of the foregoing consistent with Applicable Law, current trends, and best practices. The CPO shall select the most appropriate Project Delivery Method for a particular Project and supervise the procurement of the Contractors and Professionals to ensure that the procurement procedures adhere to Applicable Law. The following procurement procedures shall be followed when implementing such Project Delivery Methods:

1. **Construction Manager Method.** When utilizing the Construction Manager Method, Construction Management Entities shall be procured as provided in Section VIII.A. (Construction Management Entities) of this Design and Construction Code.
2. **Design-Bid-Build Method.** When utilizing a Design-Bid-Build Method, the Design Professionals shall be procured using the Competitive Selection and Negotiation Process procedures delineated in Section VI.D.3(b) (Competitive Selection and Negotiation Process) of this Design and Construction Code, and the Construction Contractors shall be Competitively Awarded as provided in Section VI.C.2. (Competitive Awards) of this Design and Construction Code.
3. **Design-Build Method.** Design-Build Contracts shall be procured as provided in Article VII. (Rules Governing the Design-Build Method) of this Design and Construction Code when utilizing the Design-Build Method.
4. **Program Manager Method.** When utilizing the Program Manager Method, Program Management Entities shall be procured as provided in Section VIII.A. (Program Management Entities) of this Design and Construction Code.
5. **Public-Private Partnerships.** When engaging in Public-Private Partnerships, the process delineated in Section VII.9. (Unsolicited and Solicited Proposals for Public-Private Partnership Projects) of the Business and Procurement Code and § 255.065, Fla. Stat. shall be adhered to.
6. **Other Project Delivery Methods.** When utilizing the Design-Build-Finance-Operate-Maintain Method, Design-Build-Operate-Maintain Method, Integrated Project Delivery Method, Progressive Design-Build Method, Turnkey Projects, or any other Project Delivery Method, the Contractors and Professionals shall be Competitively Awarded consistent with Applicable Law.

VI. Acquisition and Procurement of Design, Construction, and Electrical Services

A. Thresholds and Application of this Design and Construction Code for Design, Construction, and Electrical Services. Pursuant to Florida law, Contracts shall be Competitively Awarded for Construction Services and Electrical Work when the Project is estimated, in accordance with generally accepted cost accounting principles, to cost more than the threshold amounts set forth in § 255.20, Fla. Stat. The procurement of Professional Design Services shall adhere to the Competitive Selection and Negotiation Process when the basic construction cost of a Project is estimated, in accordance with generally accepted cost accounting principles, to exceed the threshold amount set forth in § 287.055, Fla. Stat. Any Contracts for Design, Construction, and Electrical Services that are equal to or less than the foregoing threshold amounts do not need to be Competitively Awarded or follow the Competitive Selection and Negotiation Process, are not subject to this Design and Construction Code, and the CPO shall determine the most appropriate procurement procedures for such Contracts. The estimated cost of a Design Project, Construction Project, or Electrical Project shall be estimated in good faith and in accordance with generally accepted cost-accounting principles. No procurements subject to this Design and Construction Code may be divided into more than one purchase order, Project, or Contract solely for the purpose of avoiding the provisions of this Design and Construction Code.

B. Prequalification Requirements Applicable to all Design, Construction, and Electrical Services. Bidders shall be prequalified before issuing an award to determine whether such Bidders are Qualified and Responsive Bidders. The criteria used to determine whether a Bidder is a Qualified Bidder fall into two categories: (a) Prequalification to submit a bid, proposal, or reply, which may occur prior to or after the Opening Date, and (b) Prequalification to be awarded a Contract, which shall occur only after the Opening Date. The prequalification of Bidders under each category may be conducted in two distinct stages or may be combined as determined appropriate by the CPO; provided, however, if such prequalification categories are combined, the prequalification of Bidders shall only occur following the Opening Date.

1. Prequalification to Submit a Bid, Proposal, or Reply. The following Prequalification Requirements are conditions precedent to the CPO's consideration of bids, proposals, or replies submitted pursuant to a Bid Solicitation, and verification of the following requirements may be done before such Bidders participate in the Bid Solicitation Process.

(a) Required Authorization and Licensure. When the scope of a Project necessitates the use of Florida licensed professionals, those Bidders whose field or area of practice under Florida law requires such licensure and/or authorization shall be prequalified for verification consistent with such legal requirements. Such prequalification includes the submission of proof evidencing the following:

(i) Current license certification or registration as required under Florida law; and

(ii) Proof of the Bidders' authorization to conduct business in Florida which includes one of the following:

a. For domestic business entities, the Bidders' current articles, charter, or certificate registration with the State of Florida; or

b. For foreign business entities, the Bidders' authority to transact business in the State of Florida, if required under Florida law.

(b) Additional Requirements. In addition to the requirements above, additional Prequalification Requirements and factors may be stated in the Bid Documents. Consistent with Applicable Law, the CPO may require each potential Bidder to submit data, documentation, and records as deemed necessary to determine whether or not a Bidder is a Qualified Bidder.

(c) Bid Security. The CPO may require Bid Bond for Bid Solicitations as the CPO deems appropriate in the best interests of Broward Health, and such Bid Bond may be in any form and contain any content deemed appropriate to the CPO.

2. Prequalification for the Award of a Contract. The following Prequalification Requirements are conditions precedent to a Bidder being eligible for the award of a Contract pursuant to a Bid Solicitation, and such requirements shall be satisfied prior to the execution of the Contract. The below prequalification criteria are in addition to the prequalification criteria to submit a bid, proposal, or reply, as provided in Section VI.B.1. (Prequalification to Submit a Bid, Proposal, or Reply) above.

(a) Required Bonding For Construction Projects. For those Construction Projects requiring a Payment and Performance Bond under Applicable Law, the form, content, execution, and recordation of such Payment and Performance Bond shall be required as delineated in Section VI.C.4. (Payment and Performance Bonding For Construction Projects) of this Design and Construction Code.

(b) Evidence of Insurance Coverage. Prior to the entry into a Contract, the awarded Bidder shall provide evidence of insurance in effect, equal to or exceeding the limits required delineated under the Bid Documents.

(c) *Additional Requirements.* Additional requirements for the award of a Contract may be designated in the Bid Documents, and such prequalification criteria shall be met as a precondition to entering into a Contract with Broward Health.

C. Selection of Construction and Electrical Contractors.

1. Public Advertisement Requirements. The following Public Advertisement requirements shall apply to Construction and Electrical Projects exceeding the thresholds below.

(a) *Construction Projects.* Solicitations of competitive bids or proposals for Construction Projects projected to cost more than the statutory thresholds in § 255.0525, Fla. Stat., shall be Publicly Advertised in the manner and timeframes prescribed in § 255.0525, Fla. Stat. In cases of “emergency” (as defined in § 255.0525, Fla. Stat.), the procedures may be altered by the CPO in any reasonable manner under the emergency circumstances.

(b) *Electrical Projects.* Solicitations of competitive bids or proposals for Electrical Projects that are equal to or exceed the Millage Threshold shall be Publicly Advertised consistent with the Formal Advertisement Procedures provided in Section V.D.3. (Formal Advertising Procedures) of the Business and Procurement Code.

2. Competitive Awards. All Contracts for Construction Services and Electrical Work of Broward Health’s hospitals, buildings, and facilities estimated to cost more than the statutory thresholds in § 255.20, Fla. Stat., shall be Competitively Awarded unless otherwise exempt under Applicable Law. As used in this Design and Construction Code, “Competitively Awarded” means to award Contracts based on the submission of sealed bids, proposals submitted in response to a request for proposal, proposals submitted in response to a request for qualifications, proposals submitted for Competitive Negotiation, or any other method of Competitive Awarding permitted under § 255.20, Fla. Stat. and Applicable Law. The CPO shall determine, at the CPO’s sole discretion, the most appropriate Bid Solicitation Process to utilize for a particular Construction Project or Electrical Project, and the method and procedures shall be outlined in the Bid Documents. Only Qualified and Responsive Bidders may be considered and/or awarded Contracts for Construction Services and Electrical Work.

(a) *Submission of Sealed Bids.* If the selection of a Construction Contractor or an Electrical Contractor for a Project is Competitively Awarded based on price through the submission of sealed bids, the Contract shall be awarded to the lowest Qualified and Responsive Bidder based on the below criteria and consistent with Applicable Law.

(i) *Determination of Lowest Qualified and Responsive Bidder.* The determination of whether the lowest Bidder is a Qualified and Responsive Bidder shall be made prior to an award being issued, and at any time prior to the award, the CPO may find that a Bidder is non-Responsive and/or not Qualified to be awarded.

a. *Responsive Bidder.* Contracts pursuant to sealed bids may only be awarded to Responsive Bidders that have submitted a bid that conforms in all material respects to the Bid Solicitation.

b. *Qualified Bidder.* Contracts pursuant to sealed bids may only be awarded to the lowest Qualified Bidder that meets all the Prequalification Requirements in Section VI.B. (Prequalification Requirements Applicable to all Design, Construction, and Electrical Services) of this Design and Construction Code. The CPO shall reject the low bid of any non-Qualified or non-Responsive Bidder and award the Contract to the next lowest Qualified and Responsive Bidder. When determining the lowest Qualified Bidder, in addition to price and in addition to the Prequalification Requirements, the CPO may consider and may accept or reject bids based on any one or more of the following factors, without limitation:

- i. The Bidder's ability, capacity, skill, experience, expertise, sufficiency of resources, personnel, facilities, and equipment to perform the Contract and provide the requested service for the Project, and the Bidder's demonstrated solvency;
- ii. The Bidder's ability to meet timelines and perform the Contract within the time specified;
- iii. The Bidder's character, honesty, integrity, reputation, judgment, experience, and efficiency;
- iv. The Bidder's past record of performance of similar Projects of equivalent size and complexity;
- v. The Bidder's quality of performance and conduct on previous Contracts with Broward Health or with any other parties or references that the Bidder has performed work or services for;
- vi. The Bidder's reputation and previous interactions and ability to work with Broward Health's staff and employees and with other government, public, or private entities;
- vii. The Bidder's debarment or removal from an entity's authorized vendors list or a final decree, declaration, or order by a court, administrative hearing officer, or tribunal of competent jurisdiction that the Bidder has breached, failed to perform a Contract, or abandoned a Project;
- viii. The Bidder's propensity to request change orders based on Bidder's conduct under previous Contracts with Broward Health;
- ix. The Bidder's previous failure to meet specified substantial completion dates or other milestone dates on previous Contracts with Broward Health;
- x. The Bidder's current workload and projected workload during the performance of the Contract;
- xi. The Bidder's claims history;
- xii. The Bidder's Small Business Vendor status, as recognized and certified by Broward Health's Office of Economic and Small Business Development; and/or
- xiii. Any other circumstances, unresolved concerns, or factors deemed in the best interest of Broward Health as determined by the CPO at the CPO's discretion.

The above factors may be determined by a Bidder's past performance with Broward Health, information obtained from other entities and project owners, information submitted as part of the Bid Solicitation or in response to an inquiry by the CPO, and/or information otherwise known or discovered by Broward Health from any reliable source. The CPO may conduct detailed inquiries and examinations of Bidders, including inquiries and examinations of Bidders' personnel, place of business and facilities, compliance with federal, state, and local laws, and all relevant licensing and permitting requirements, and other matters of responsibility germane to the Bid Solicitation Process. Failure to respond to or provide adequate information in response to the CPO's inquiry in this regard shall be grounds for disqualification as a Non-Qualified and/or Non-Responsive Bidder at the sole discretion of the CPO.

- (ii) *Bid Opening.* In accordance with § 255.0518, Fla. Stat., notwithstanding § 119.071(1)(b), when opening sealed bids or the portion of any sealed bids that include the prices submitted that are received under a competitive solicitation for construction or repairs, the CPO shall:

a. Open the sealed bids at a public meeting conducted in compliance with § 286.011, Fla. Stat.;

b. Announce at that meeting the name of each Bidder and the price submitted in the bid; and

c. Make available upon request the name of each Bidder and the price submitted in the bid.

(b) *Proposals Submitted in Response to a Request for Proposal or a Request for Qualifications.* If the selection of a Construction Contractor or an Electrical Contractor for a Project is Competitively Awarded through a request for proposal or a request for qualifications, the Bid Solicitation shall be Publicly Advertised, and the Contract shall be awarded in accordance with the Competitive Solicitation Process delineated in the Business and Procurement Code.

(c) *Proposals Submitted for Competitive Negotiation.* If the selection of a Construction Contractor or an Electrical Contractor for a Project is Competitively Awarded through Competitive Negotiations, the Contract shall be awarded consistent with § 287.055, Fla. Stat., and the Competitive Selection and Negotiation Process requirements in Section VI.D.3(b) (Competitive Selection and Negotiation Process) of this Design and Construction Code.

3. Exceptions to Competitively Awarding Contracts for Construction Services and Electrical Work. The Competitive Awarding process is not applicable to (a) emergencies and unexpected events as delineated in § 255.20, Fla. Stat., (b) for Projects undertaken as the repair or maintenance of an existing facility (as defined under § 255.20, Fla. Stat.); (c) if the funding source of the Project will be diminished or lost because the time required to Competitively Award the Project after the funds become available exceeds the time within which the funding source must be spent; (d) if the private sector contractor was awarded a Contract under the Competitive Award process and the contractor abandoned the Project before completion or before the Contract was terminated; and (e) any other conditions or circumstances under § 255.20, Fla. Stat. exist that exempt the Project from the Competitive Award requirements.

4. Payment and Performance Bonding For Construction Projects. For the construction, prosecution, and repairs of a building pursuant to a Construction Project, awarded Bidders shall, before commencing or recommencing (in cases of default or abandonment) the work, execute and record in the public records of the county where the work will take place a Payment and Performance Bond in an amount equal to the Contract price with a surety insurer authorized to do business in Florida, and such Payment and Performance Bonds shall conform to the minimum standards and requirements of § 255.05, Fla. Stat., and contain any other terms required by the CPO consistent with Applicable Law. A certified copy evidencing the recordation shall be furnished to Broward Health prior to entering into a Contract. For Contracts equal to or less than \$200,000 but more than \$100,000, the CPO may exempt a Firm from executing the Payment and Performance Bond for good cause (such as hardship or consistent with a Small Business Enhancement under Broward Health's Economic and Small Business Development Initiative Policy). Contracts equal to or less than \$100,000 do not require a Payment or Performance Bond; provided, however, the CPO may require a Payment and/or Performance Bond on any Projects that the CPO deems appropriate in Broward Health's best interests. In no event may a contractor be obligated to secure a surety bond required under § 255.05, Fla. Stat., from a specific agent or bonding company. When a bond is required, in lieu of the bond, a contractor may file an alternative form of security in the form of cash, a money order, a certified check, a cashier's check, or a domestic corporate bond, note, or debenture as authorized in § 625.317, Fla. Stat. Any such alternative form of security shall be for the same purpose and subject to the same conditions as those applicable to the Payment and Performance Bond required by § 255.05, Fla. Stat. The CPO shall determine the required value of an alternate form of security. For Contracts equal to or less than \$500,000, the provisions of § 287.0935, Fla. Stat., shall govern.

D. Selection of Design Professionals.

1. Public Announcement Requirements.

- (a) Advertisements. Except in cases of valid emergencies certified by the President/CEO of Broward Health, solicitations seeking Professional Design Services for Projects, the basic construction cost of which is estimated to cost more than the statutory thresholds in § 287.055, Fla. Stat., shall be Publicly Advertised in a uniform and consistent manner, and shall indicate how interested Contractors may apply for consideration.
- (b) Reuse of Existing Plans. If any plans are intended to be reused at some future time, the Public Advertisement shall contain a statement that the plans are subject to reuse in accordance with the provisions of § 287.055(10), F.S. If such statement is contained in the Public Advertisement, no further public notice is required, and the Bid Solicitation Process need not be repeated.

2. Qualification Procedures. Any Design Professional desiring to provide Professional Design Services shall first be certified as a Qualified Design Professional. Being a “Qualified Design Professional” means that the Design Professional is qualified to perform the Professional Design Services under Florida law, meets the Prequalification Requirements provided in Section VI.B. (Prequalification Requirements Applicable to all Design, Construction, and Electrical Services) of this Design and Construction Code, and is fully qualified based on the criteria below to render the required service. Design Professionals engaged in the lawful practice of their professions who desire to provide Professional Design Services to Broward Health are encouraged to submit annual statements of qualifications and performance data. The CPO may consider the following factors when finding a Design Professional as fully qualified to provide the desired service:

- (a) The Design Professional’s ability, capacity, skill, experience, expertise, sufficiency of resources, personnel, facilities, and equipment to perform the Contract and provide the requested service for the Project, and the Design Professional’s demonstrated solvency;
- (b) The Design Professional’s ability to meet timelines and perform the Contract within the time specified;
- (c) The Design Professional’s character, honesty, integrity, reputation, judgment, experience, and efficiency;
- (d) The Design Professional’s past record of performance of similar Projects of equivalent size and complexity;
- (e) The Design Professional’s quality of performance and conduct on previous Contracts with Broward Health or with any other parties or references that the Design Professional has performed work or services for;
- (f) The Design Professional’s reputation, previous interactions, and ability to work with Broward Health’s staff and employees and with other government, public, or private entities;
- (g) The Design Professional’s debarment or removal from an entity’s authorized vendors list or a final decree, declaration, or order by a court, administrative hearing officer, or tribunal of competent jurisdiction that the Design Professional has breached, failed to perform a Contract, or abandoned a Project;
- (h) The Design Professional’s previous failure to meet specified substantial completion dates or other milestone dates on previous Contracts with Broward Health;
- (i) The Design Professional’s current workload and projected workload during the performance of the Contract;
- (j) The Design Professional’s claims history;
- (k) The Design Professional’s Small Business Vendor status, as recognized and certified by Broward Health’s Office of Economic and Small Business Development; and/or

(l) Any other circumstances, unresolved concerns, or factors deemed in the best interest of Broward Health or applicable to the specific services requested as determined by the CPO at the CPO's discretion.

The above factors may be determined by the Design Professional's past performance with Broward Health, information obtained from other entities and project owners, information submitted as part of the Bid Solicitation Process, in response to an inquiry by the CPO, and/or information otherwise known or discovered by Broward Health from any reliable source. The CPO may conduct detailed inquiries and examinations of Design Professionals, including of Design Professionals' personnel, place of business and facilities, compliance with federal, state, and local laws, and all relevant licensing and permitting requirements, and other matters of responsibility germane to the Bid Solicitation Process. Failure to respond or to provide adequate information in response to the CPO's inquiry in this regard shall be grounds for disqualification as Non-Qualified and/or Non-Responsive at the sole discretion of the CPO.

3. **Competitive Selection and Negotiation Process.** Except in cases of valid public emergencies certified by the President/CEO of Broward Health, the procedures of the Competitive Selection and Negotiation Process delineated below shall be adhered to when Procuring Design Professionals for Projects, the basic construction cost of which is estimated to cost more than the statutory thresholds in § 287.055, Fla. Stat., or for a planning or study activity when the fee for the services exceeds the statutory thresholds in § 287.055, Fla. Stat. Notwithstanding, if the cost of the Project or activity is estimated to be below the foregoing thresholds and in the course of another procurement process the majority of Compensation proposed by the responding Design Professionals is in excess of such threshold amounts, the CPO shall reject all proposals and initiate the Competitive Selection and Negotiation Process below. The CPO shall determine whether a Selection Committee is appropriate for the Competitive Selection and Negotiation Process and, if so, how many members should be appointed to such Selection Committee. Only Qualified Design Professionals who are Responsive Bidders may be considered and/or awarded Contracts for Professional Design Services.

(a) **Competitive Selection.** The current statements of qualifications and performance data on file with Broward Health, together with those that may be submitted by other Design Professionals regarding the proposed Project, shall be evaluated by the CPO. The CPO shall conduct discussions with and may require public presentations by no fewer than three Design Professionals (unless fewer than three Design Professionals are available or respond to the Bid Solicitation) regarding their qualifications, approach to the Project, and ability to furnish the required services. The CPO shall select, in order of preference, no fewer than three Design Professionals (unless fewer are available or respond to the Bid Solicitation) deemed to be the most highly qualified to perform the required services. In no event may the CPO request, accept, or consider proposals for the Compensation to be paid under the Contract until after the most qualified Design Professional is selected and Competitive Negotiations are commenced. When determining whether a Design Professional is qualified, the CPO shall consider such factors as:

- (i) The ability of professional personnel;
- (ii) Whether a Firm is certified as a Small Business Vendor by Broward Health's Office of Economic and Small Business Development;
- (iii) Past performance;
- (iv) Past interactions with Broward Health's staff and employees and the ability to work with Broward Health's staff and employees;
- (v) Willingness to meet time and budget requirements;
- (vi) Location;
- (vii) Recent, current, and projected workloads of the Design Professionals; and

(viii) The volume of work previously awarded to each Design Professional by Broward Health, with the object of effecting an equitable distribution of Contracts among Qualified Design Professionals, provided such distribution does not violate the principle of selection of the most highly qualified Design Professionals.

(b) Competitive Negotiation.

(i) Negotiating Compensation. After the Design Professionals are ranked in order of preference as provided in the Competitive Selection process delineated above, the CPO shall Negotiate a Contract with the most qualified Design Professional at Compensation that the CPO determines is fair, competitive, and reasonable. In making such a determination, the CPO shall conduct a detailed analysis of the cost of the Professional Design Services required in addition to considering their scope and complexity.

(ii) Truth-in-Negotiation Certificate. The CPO shall require the Design Professional receiving the award to execute a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the Compensation are accurate, complete, and current at the time of contracting for any Lump-Sum or Cost-Plus Professional Design Services Contract over the threshold amount referenced in § 287.055(5)(a), Fla. Stat. Any Professional Design Services Contract under which such a certificate is required must contain a provision that the original Contract price and any additions thereto will be adjusted to exclude any significant sums by which Broward Health determines the Contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such Contract adjustments shall be made within one year following the end of the Contract.

(iii) Failed Negotiations. Should the CPO be unable to Negotiate a satisfactory Contract with the Design Professional considered to be the most qualified at a price the CPO determines to be fair, competitive, and reasonable, Negotiations with that Design Professional must be formally terminated. The CPO shall then undertake Negotiations with the second most qualified Design Professional. Failing accord with the second most qualified Design Professional, the CPO must terminate Negotiations with that Design Professional and then undertake Negotiations with the third most qualified Design Professional. Should the CPO be unable to Negotiate a satisfactory Contract with any of the selected Design Professionals, the CPO shall select additional Design Professionals in the order of their competence and qualification and continue Negotiations in accordance with the requirements herein until an agreement is reached. To the extent consistent with Applicable Law, nothing in this Section precludes the CPO from rejecting all bids, proposals, or replies or canceling the Bid Solicitation Process, and nothing precludes the CPO from reissuing or not reissuing or not reissuing solicitations for a Project.

III. Rules Governing the Design-Build Method

~~IV. (1) All Procurement of supplies, materials, equipment, and services paid for from District funds for purposes of Procurement of Professional Design Services, Construction projects, or electrical services shall be made in accordance with this Policy and all applicable Florida Statutes and administrative procedures unless otherwise exempt from this Policy.~~

~~(2) No person may make any purchase with District funds unless authorized to do so by District policy or by administrative directive.~~

~~(3) All estimates pertaining to the anticipated cost of Professional Design Services, Construction projects, or electrical work shall be provided in good faith and estimated in accordance with generally accepted cost-accounting principles.~~

~~(4) Procurements covered by this Policy shall not be divided into more than one purchase order, project, or Contract solely for the purpose of avoiding the provisions of this Policy.~~

~~(5) — The terms and provisions of this Policy shall be deemed by operation of law to be a part of the term and conditions of each Procurement, purchase order, and Contract involving the District's Procurement of Professional Design Services and Construction projects, except to the extent that an authorized official has expressly provided for a written exception to one or more of the requirements provided for in this Policy with respect to a particular Procurement, purchase order, or Contract and such exception is consistent with Florida Law, the Code, and the District's Policies and Procedures.~~

~~(6) — *Advertising:* Any Procurement of Professional Design Services, Construction projects, or electrical work shall be advertised consistent with this Policy unless otherwise exempt under Florida law. All advertisements must include a general description of the project and must indicate how interested Contractors may apply for consideration. To the extent a competitive solicitation is used, even if a competitive solicitation is not required by this Policy, it must be publicly advertised.~~

~~(7) — *Professional Design Services:* All Procurements of Professional Design Services shall be Competitively Awarded to an appropriately licensed Contractor unless the Procurement of Professional Design Services was pursuant to a Design Continuation Contract.~~

~~(8) — *Construction Services:* Any Procurement of Construction projects or services which are estimated, in accordance with generally accepted cost accounting principles, to exceed \$300,000, as adjusted by the percentage change in the Engineering News-Record's Building Cost Index from January 1, 2009, to January 1 of the year in which the project is scheduled to begin, shall be Competitively Awarded to an appropriately licensed appropriately licensed Contractor unless the Procurement of Construction services was pursuant to a Construction Continuation Contract.~~

~~(9) — *Electrical Work:* Any Procurement of electrical work estimated, in accordance with generally accepted cost accounting principles, to cost more than \$75,000, as adjusted by the percentage change in the Engineering News-Record's Building Cost Index from January 1, 2009, to January 1 of the year in which the project is scheduled to begin, shall be Competitively Awarded to an appropriately licensed Contractor.~~

~~V. Procedure~~

~~(1) — **Competitive Solicitations.** Except in the case of an emergency, purchases shall be Competitively Awarded in the manner determined by the Chief Procurement Officer and SVP, Operations in accordance with Florida law.~~

~~(a) — *Competitive Source Selections.*~~

~~i. — The Chief Procurement Officer and the SVP, Operations both have the authority to determine the source selection, unless otherwise exempt from the competitive Procurement process.~~

~~ii. — The Procurement of Professional Design Services and Construction and Construction-related projects and services shall be made using the appropriate Procurement process as follows:~~

~~• *Competitive Sealed Bids:* An invitation to bid shall be issued which shall include the specifications and appropriate Contract terms and conditions applicable to the Procurement.~~

~~• *Competitive Sealed Proposals:* When it is determined that the use of competitive sealed bidding is either not practical or not advantageous to the District due to the technical or specialized nature of the goods or services being procured, the competitive sealed proposal process may be used.~~

~~• *Other Methods:* When determined appropriate, other Procurement methods consistent with best practices and Competitive Awards may be used provided such methods are in accordance with Florida law~~

~~(b) — *Qualification Procedures.*~~

~~i. — Construction Projects and Electrical Work: The qualification procedures for Contractors that submit Bids or Proposals pursuant to a competitive solicitation for Construction projects or electric work shall be determined by the Chief Procurement Officer and set forth in the Bid Documents and delineated in a Standard Operating Procedure established by Supply Chain Services.~~

ii. ~~Professional Design Services: Any firm or individual desiring to provide Professional Design Services to the District must first be certified by the District as qualified pursuant to law and the District's Broward Health's Policies and Procedures. All firms or individuals to be employed to perform Professional Design Services shall be fully qualified to render the required services. Among the factors to be considered in making this finding are the capabilities, adequacy of personnel, past record, District District experience of the firm or individual, whether the firm or individual is a certified minority business enterprise as defined by the Florida Small and Minority Business Assistance Act, and other factors determined to be applicable to the project's particular requirements. When securing Professional Design Services, the District should endeavor to meet the minority business enterprise Procurement goals under § 287.09451, F.S.~~

(c) ~~Selection Procedures.~~

i. ~~Construction Projects and Electrical Work: The selection procedures for Contractors that submit Bids or Proposals pursuant to a competitive solicitation for Construction projects or electrical work shall be determined by the Chief Procurement Officer and set forth in the Bid Documents and delineated in a Standard Operating Procedure established by Supply Chain Services.~~

- ~~If the Construction project or electrical work is to be awarded based on price, the Contract must be awarded to the lowest qualified and responsive bidder in accordance with applicable law.~~
- ~~If the Construction project or electrical work is subject to competitive negotiations, the Contract must be awarded consistent with the selection procedures used for Professional Design Services Exceeding \$325,000 as detailed below.~~

ii. ~~Professional Design Services for Construction Projects Under or Equal to \$325,000: The selection procedures for Contractors that submit Bids or Proposals pursuant to a competitive solicitation for Professional Design Services expected to cost under or equal to \$325,000 shall be determined by the Chief Procurement Officer and delineated in a Standard Operating Procedure established by Supply Chain Services.~~

iii. ~~Professional Design Services for Construction Projects Exceeding \$325,000: The selection procedures for Contractors that submit Bids or Proposals pursuant to a competitive solicitation for Professional Design Services that are expected to exceed \$325,000 shall evaluate current statements of qualifications and performance data on file with the District, together with those that may be submitted by other firms regarding the proposed project, and, unless fewer than three (3) Bids or Proposals are submitted following the solicitation for Bids or Proposals, shall conduct discussions with, and may require public presentations by, no fewer than three (3) firms regarding their qualifications, approach to the project, and ability to furnish the required services. In order of preference, no fewer than three (3) firms deemed to be the most highly qualified to perform the required services shall be selected. In determining whether a firm is qualified, the District shall consider such factors as:~~

- ~~The ability of professional personnel;~~
- ~~Whether a firm is a certified minority business enterprise;~~
- ~~Past performance; the District~~
- ~~Willingness to meet time and budget requirements;~~
- ~~Location;~~
- ~~Recent, current, and projected workloads of the firms; and~~
- ~~The volume of work previously awarded to each firm by the agency, with the object of effecting an equitable distribution of Contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms.~~

~~In no event may the District request, accept, and consider proposals for the compensation to be paid under the Contract until after an award is made to the most qualified Bidder.~~

iv. ~~Professional Design Services for a Planning or Study Activity Under or Equal to \$35,000: The selection procedures for Professional Design Services that pertain to a planning or study activity and the expected cost is~~

~~under or equal to \$35,000 shall be determined by the Chief Procurement Officer and delineated in a Standard Operating Procedure established by Supply Chain Services.~~

~~v. — Professional Design Services for a Planning or Study Activity Exceeding \$35,000: The selection procedures for Professional Design Services that pertain to a planning or study activity and the expected cost exceeds \$35,000 shall be consistent with the selection procedures for Professional Design Services Exceeding \$325,000 as delineated above.~~

~~(2) — Advertising Procedures.~~

~~(a) — Construction.~~

~~i. — All projects for Construction or electrical work that are to be solicited by a request for proposal or a request for qualifications, even if not required to be competitively solicited, must be publicly advertised and the Contract must be awarded in accordance with Supply Chain Services' Standard Operating Procedure.~~

~~ii. — All advertisements for solicitation of competitive bids or proposals for Construction projects or services projected to exceed \$200,000 and less than or equal to \$500,000 shall be publicly advertised at least once in a newspaper of general circulation in Broward County, on Broward County's designated publicly accessible website, or in a newspaper of general circulation or designated publicly accessible website in the county where the project is located, at least twenty-one (21) days prior to the established bid opening and at least five (5) days prior to any scheduled pre-bid conference.~~

~~iii. — All advertisements for solicitation of competitive bids or proposals for Construction projects or services projected to exceed \$500,000 shall be publicly advertised at least once in a newspaper of general circulation in Broward County, on Broward County's designated publicly accessible website, or in a newspaper of general circulation or designated publicly accessible website in the county where the project is located, at least thirty (30) days prior to the established bid opening and at least five (5) days prior to any scheduled prebid conference.~~

~~iv. — Bids or proposals shall be received and opened at the location, date, and time established in the bid or proposal advertisement.~~

~~v. — If the location, date, or time of the bid opening changes, written notice of the change must be given, as soon as practicable after the change is made, to all persons who are registered to receive any addenda to the plans and specifications.~~

~~vi. — In cases of emergency, the procedures required in this Section V.(2)(a) may be altered by the Chief Procurement Officer or the SVP, Operations in any manner that is reasonable under the emergency circumstances.~~

~~(b) — Electrical Work.~~

~~i. — Electrical work projected to exceed Threshold Category 4 shall be advertised consistent with the Advertisement Requirements provided in Section X.D.2. of the Code.~~

~~(c) — Professional Design Services.~~

~~i. — Any Procurement of Professional Design Services that pertain to a planning or study activity and the expected cost exceeds \$35,000 (except in cases of valid public emergencies certified by the President/CEO) shall be publicly advertised consistent with the Advertisement Requirements provided in Section X.D.2. of the Code.~~

~~ii. — All other Procurements of Professional Design Services projected to exceed \$325,000 (except in cases of valid public emergencies certified by the President/CEO) shall be publicly advertised consistent with the Advertisement Requirements provided in Section X.D.2. of the Code.~~

~~iii. — If it is anticipated that the Professional Design Services to be procured will be reused in the future, the public notice for the Procurement of the Professional Design Services must contain a statement that provides that the plans are subject to reuse in accordance with the provisions of § 287.055(10), F.S.~~

~~(3) — Code of Silence.~~

~~(a) Upon the District's issuance of a Solicitation, the Cone of Silence period shall be in effect and concludes upon the District's notice of intent to award.~~

~~(b) Lobbying of Selection/Evaluation Committee members, the District's Board members, District employees, or District officials regarding any type of formal solicitation or Contract during the selection process or bid protest, by the Bidder, protester, or any member of the Bidder's or protester's staff, an agent of the Bidder or protester, or any person employed by a legal entity affiliated with or representing an organization that has responded to a formal solicitation or Contract or has a pending bid protest, is strictly prohibited. This Cone of Silence shall begin upon the date on which the competitive solicitation is first advertised by the District and continuing until the later of the date of the final award of the competitive solicitation, the date of rejection of all Bids or responses to the competitive solicitation, or the date of final disposition by the District of any protest of the competitive solicitation.~~

~~(c) Nothing herein shall prohibit a prospective Bidder from contacting the Bids Department of Supply Chain Services to address situations such as clarification and/or questions related to the Procurement process as outlined in the formal Solicitation documents.~~

~~(4) **Award, Cancellation, or Rejection of Selection.**~~

~~(a) No award shall be final, and no Contract shall be created or deemed to exist until such time as a written Contract has been executed by the selected Vendor and the District.~~

~~i. After the Contract award is made, the District and the selected Bidder will enter into a Contract incorporating the requirements of the applicable Procurement Solicitation and with other terms acceptable to the District. The District shall negotiate the terms and conditions of a Contract (and incorporate provisions acceptable to the District) with any firm or individual selected to provide Professional Design Services, Construction services, or electrical work. The District has the right to rescind the Contract award to the selected Bidder if the District and the selected Bidder do not agree upon the Contract terms. The District further reserves the right to reject a Bidder, even a Bidder or Vendor awarded the Contract, at any time prior to full Contract execution.~~

~~ii. For Professional Design Services Contracts:~~

~~• The compensation negotiated with the selected firm or individual shall be fair, competitive, and reasonable. In making such determination, the District shall conduct a detailed analysis of the cost of the Professional Design Services required in addition to considering their scope and complexity.~~

~~• Any lump sum or cost plus a fixed fee Professional Design Services Contract over \$195,000, shall require the firm or individual receiving the award to execute a truth in negotiation certificate stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of Contracting. Any Professional Design Services Contract under which such a certificate is required must contain a provision that the original Contract price and any additions thereto will be adjusted to exclude any significant sums by which the District determines the Contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such Contract adjustments must be made within one (1) year following the end of the Contract.~~

~~• Should the District be unable to negotiate a satisfactory Contract with the firm considered to be the most qualified at a price the District determines to be fair, competitive, and reasonable, negotiations with that firm must be formally terminated. The District shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the District must terminate negotiations. The District shall then undertake negotiations with the third most qualified firm. Should the District be unable to negotiate a satisfactory Contract with any of the selected firms, the District shall select additional firms in the order of their competence and qualifications and continue negotiations in accordance with the requirements herein until an agreement is reached.~~

~~• In the event the District is going to reuse existing plans from a prior Professional Design Services project, if the original public advertisement contained the statement that provided that the plans are subject to reuse in accordance with the provisions of § 287.055(10), F.S. and the proper public advertisement and selection procedures were utilized, then no further public notice is required and the District does not need to redo the Selection Procedures as provided above.~~

~~(b) — At any time prior to final award and Contract execution, a Solicitation or Contract award may be cancelled or rescinded, or any or all responses received by the District may be rejected by the Chief Construction Officer and/or the SVP, Operations, in whole or in part, when it is determined that such action is in the best interests of the District.~~

~~(c) — In the event of delay, cancellation, or rejection, a written notice of delay, cancellation or rejection shall be posted or sent to all persons who submitted a response to a Solicitation.~~

~~(d) — If all Solicitations are rejected or a Solicitation is cancelled, all Solicitation submittals received may remain confidential, at the discretion of the District, in accordance with chapter 119, Florida Statutes.~~

~~(5) — **Emergency Procurements.**~~

~~(a) — The Chief Procurement Officer and/or SVP, Operations may make or authorize others to make emergency Procurements of construction and/or construction related design services, when a threat to public health, welfare, or safety exists, or a situation exists which makes compliance with source selection methods contrary to public interest; provided that such emergency Procurements shall be made with such competition as is practicable under the circumstances.~~

~~(b) — In the event an official state of emergency has been declared, the President/CEO is expressly authorized to execute Contracts with the State of Florida, Federal Emergency Management Agency (FEMA), and/or other applicable emergency relief entities on behalf of the District in order to accomplish all necessary relief efforts, provided that the requirements of this section have been met.~~

~~(6) — **Bid Security and Contract Performance Bonds.**~~

~~(a) — Bid Security: The District may require bid security for Solicitations for construction, goods, or service Contracts as the Chief Procurement Officer and/or SVP, Operations deems appropriate in the best interests of the District, in such form and content as is satisfactory to the Chief Procurement Officer and/or SVP, Operations.~~

~~(b) — Contract Performance and Payment Bonds: Contract performance and payment bonds may be required for any construction, goods, or service Contracts as the Chief Procurement Officer and/or SVP, Operations deems appropriate in the best interests of the District.~~

~~(c) — In accordance with section 255.05, Florida Statutes, Contractors who are awarded a Contract for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work must, before commencing the work or before recommencing the work after a default or abandonment, execute and furnish a performance and payment bond as a security for faithful performance on contracts over \$200,000. Contracts of less than \$200,000 but more than \$100,000 may require a payment and performance bond at the discretion of the District. Contracts of less than \$100,000 do not require a payment and performance bond. When required, surety of such bond shall be in an amount equal to the Contract. Performance and payment bonds must be recorded in the county in which the work is to take place. Bonds will be accepted only from bonding companies licensed to do business in the State of Florida.~~

~~(d) — Any bond required for any construction, goods, or service Contracts — whether required under law or required in the discretion of the District — shall conform to the minimum standards and requirements as set forth in chapter 255 and section 255.05(1)(a), Florida Statutes, and be in a form and with terms acceptable to the District.~~

~~(e) — In no event shall any person, entity, or Contractor be required to secure a surety bond from a specific agent or bonding company for construction or repairs of public buildings.~~

~~VII. (f) — In lieu of the bond required by this Policy and section 255.05, Florida Statutes, a Contractor may file with the District, in the sole discretion of the District, an alternative form of security in the form of cash, a money order, a certified check, a cashier's check, an irrevocable letter of credit, or a security of a type listed in part II of chapter 625, Florida Statutes. Any such alternative form of security shall be for the same purpose and be subject to the same conditions as those applicable to the bond required by this Policy and section 255.05, Florida Statutes. The determination of the value of an alternative form of security shall be made by the Chief Procurement Officer and/or SVP, Operations.~~

The utilization of the Design-Build Method starts with the preparation of the Design Criteria Package. After the Design Criteria Package is developed, the solicitation procedures outlined in this Section for the procurement of Design-Build Contracts shall be adhered to.

A. Selection of the Design Criteria Professional and Preparation of the Design Criteria Package.

- 1. Selection of the Design Criteria Professional.** A Design Criteria Professional shall prepare and seal a Design Criteria Package. The Design Criteria Professional, if not employed, shall be selected and contracted with under the Competitive Selection and Negotiation Process requirements specified in Section VI.D.3(b) (Competitive Selection and Negotiation Process) of this Design and Construction Code. The Design Criteria Professional selected to prepare the Design Criteria Package is not eligible to render services under a Design-Build Contract executed according to the Design Criteria Package.
- 2. Design Criteria Package Preparation Requirements.** The Design Criteria Package shall be prepared and sealed only by a Design Criteria Professional. The Design Criteria Package shall possess concise, performance-oriented drawings or specifications of the public Construction Project to furnish sufficient information to permit Design-Build Firms to prepare a bid or a response to a request for proposal or to permit the entering into a Negotiated Design-Build Contract. At a minimum, the Design Criteria Package shall specify performance-based criteria for the Construction Project, including the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the Construction Project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, and parking requirements applicable to the Construction Project.

B. Procurement of Design-Build Contracts. Except in cases of emergencies as declared by the President/CEO of Broward Health or unless otherwise exempt under Applicable Law, all Design-Build Contracts shall either be procured via the Competitive Proposal Selection Process described below or the Competitive Selection and Negotiation Process delineated in Section VI.D.3(b) (Competitive Selection and Negotiation Process) of this Design and Construction Code. The CPO shall determine, at the CPO's sole discretion, the most appropriate process to utilize for Procuring Design-Build Contracts.

- 1. Prequalification Requirements for Firms Providing Design-Build Services.** Regardless of the use of the Competitive Proposal Selection Process or the Competitive Selection and Negotiation Process to procure Design-Build Contracts, all Firms bidding or responding to the Bid Solicitation shall meet the Prequalification Requirements provided in Section VI.B. (Prequalification Requirements Applicable to all Design, Construction, and Electrical Services) of this Design and Construction Code.
- 2. Competitive Proposal Selection Process for Design-Build Services.**
 - (a) Qualification and Selection Stage.** All Design-Build Firms shall possess the required authorization and licensure consistent with Section VI.B.1(a) (Required Authorization and Licensure) of this Design and Construction Code to perform the work. The CPO shall select no fewer than three Design-Build Firms as the most qualified, based on the Design-Build Firms' qualifications and experience, staff training and experience, location, availability, financial capacity, past performance, current and projected workload, and the Design-Build Firms' ability to provide services and commitment to meet time and budget requirements.
 - (b) Solicitation and Award Requirements.** The CPO shall solicit competitive proposals from the Design-Build Firms (at least 3) deemed the most qualified as provided in Section VII.B.2(a) (Qualification and Selection Stage) above. Prior to soliciting proposals, the CPO shall establish criteria and standards for evaluating the solicited proposals, pursuant to the Design Criteria Package, based on price, technical, and design aspects of the Project. The CPO shall establish weighting factors in the form of a percentage for each of the criteria and each proposed building

system component of the Design Criteria Package, which shall total 100%. The conceptual designs proposed by each Design-Build Firm shall be reviewed, evaluated, scored, and awarded based on the evaluation criteria and procedures established prior to the solicitation of competitive proposals. The Design Criteria Professional shall assist with or be consulted concerning the evaluation of the competitive proposals. Broward Health shall supervise or approve the detailed working drawings of the Project, and the Design Criteria Professional shall assist with the evaluation of the compliance of the Project construction consistent with the Design Criteria Package.

3. **Competitive Selection and Negotiation Process for Design-Build Services.** If the CPO elects to proceed with the Competitive Selection and Negotiation Process to procure Design-Build Contracts, the Competitive Selection and Negotiation Process in Section VI.D.3(b) (Competitive Selection and Negotiation Process) of this Design and Construction Code shall be followed and solicitations for Design-Build Contracts, the basic construction cost of which is estimated to cost more than the statutory thresholds in § 287.055, Fla. Stat., shall be Publicly Advertised in a uniform and consistent manner, and must indicate how interested Design-Build Firms may apply for consideration. If the Competitive Selection and Negotiation Process is selected as the procurement method for the procurement of a Design-Build Contract, The Design Criteria Package shall be released with the Bid Solicitation, and an employed or retained licensed Design Professional appropriate to the Project shall serve as Broward Health’s representative during the Competitive Selection stage. Subsequent to the Competitive Negotiations and selection of the Design-Build Firm and as part of the Contract, a Guaranteed Maximum Price and guaranteed completion date shall be established.
4. **Emergencies.** In the case of an emergency, as declared by the President/CEO of Broward Health, the CPO may select the best qualified Design-Build Firm available at the time to commence Negotiations without adhering to the Competitive Proposal Selection Process or the Competitive Selection and Negotiation Process delineated above.

VIII. Rules Governing the Procurement of Construction Management and Program Management Entities

The following solicitation procedures shall apply to the procurement of Construction Management Entities and Program Management Entities for Projects.

- A. **Construction Management Entities.** The CPO may elect to Competitively Award or use the Competitive Selection and Negotiation Process delineated in Section VI.D.3(b) (Competitive Selection and Negotiation Process) of this Design and Construction Code to procure a Construction Management Entity. The Construction Management Entity selected must consist of or contract with licensed or registered professionals for the specific fields or areas of construction to be performed as required by law. The Construction Management Entity may retain necessary Design Professionals selected pursuant to the Competitive Selection and Negotiation Process. The Construction Management Entity, after having been selected and after Competitive Negotiations, may be required to offer a Guaranteed Maximum Price and a guaranteed completion date or a Lump-Sum Price and a guaranteed completion date, in which case, the Construction Management Entity must secure an appropriate surety bond pursuant to § 255.05, Fla. Stat., and must hold construction subcontracts. If a Design Project solicited under the Competitive Selection and Negotiation Process includes a grouping of substantially similar construction, rehabilitation, or renovation activities as permitted under § 287.055(2)(f), Fla. Stat., after Competitive Negotiations, the Construction Management Entity may be required to provide for a separate Guaranteed Maximum Price or a separate Lump-Sum Price and separate guaranteed completion date for each grouping of substantially similar construction, rehabilitation, or renovation activities included within the Design Project.
- B. **Program Management Entities.** The CPO may elect to Competitively Award or use the Competitive Selection and Negotiation Process delineated in Section VI.D.3(b) (Competitive Selection and Negotiation Process) of this Design and Construction Code to procure a Program Management Entity. The Program

Management Entity selected must consist of or contract with licensed or registered professionals for the specific areas of design or construction to be performed as required by law. The Program Management Entity may retain necessary Design Professionals selected pursuant to the Competitive Selection and Negotiation Process. The Program Management Entity, after having been selected and after Competitive Negotiations, may be required to offer a Guaranteed Maximum Price and a guaranteed completion date or a Lump-Sum Price and a guaranteed completion date, in which case the Program Management Entity must secure an appropriate surety bond pursuant to § 255.05, Fla. Stat., and must hold design and construction subcontracts. If a Design Project solicited under the Competitive Selection and Negotiation Process includes a grouping of substantially similar construction, rehabilitation, or renovation activities as permitted under § 287.055(2)(f), Fla. Stat., after Competitive Negotiations, the Program Management Entity may be required to provide for a separate Guaranteed Maximum Price or a Lump-Sum Price and separate guaranteed completion date for each grouping of substantially similar construction, rehabilitation, or renovation activities included within the Design Project.

~~(7) — **Determination of Lowest Responsive and Responsible Bidder.** When a Procurement involves the determination of the lowest responsive and responsible Bidder or proposer, in addition to price, the District shall have the discretionary power to render decisions on and may accept or reject Bids or Proposals on the basis of any one or more of the following:~~

~~(a) — The ability, capacity, skill and sufficiency of resources of the Bidder to perform the Contract and provide the requested service;~~

~~(b) — The Bidder's ability to perform the Contract within the time specified;~~

~~(c) — The character, honesty, integrity, reputation, judgment, experience and efficiency of the Bidder;~~

~~(d) — The quality of performance and conduct of the Bidder on previous Contracts with the District or any other reference or party that the Bidder has performed work or services;~~

~~(e) — Past interactions with the District's staff and employees and the ability to work with the District's staff and employees;~~

~~(ef) — The Bidder's propensity to request change orders based on Bidder's conduct under previous Contracts with the District;~~

~~(fg) — The Bidder's previous failure to meet specified substantial completion dates or other milestone dates on previous Contracts with the District;~~

~~(gh) — A Bidder's current workload and projected workload during the performance of the Contract; and/or~~

~~(hj) — Any other circumstances or factors deemed in the best interest of the District as determined by District discretion.~~

~~The above factors may be determined by Bidder's past performance with the District, information obtained from other project owners, information submitted as part of the Bid or Proposal or in response to an inquiry by the District, and/or information otherwise known or discovered by the District. The District may conduct detailed inquiries and examinations of Bidders, including of Bidders' personnel, place of business and facilities, compliance with federal, state, and local laws and all relevant licensing and permitting requirements, and other matters of responsibility germane to the Procurement process. Failure to respond or to provide adequate information in response to the District's inquiry in this regard shall be grounds for disqualification in the sole discretion of the District. the District~~

~~VI. Exceptions~~

~~(1) — This Policy does not apply to Emergency Procurements as defined in Section V.(5) above.~~

~~(2) — This Policy does not apply to Construction projects and electrical services if the project or services are undertaken to replace, reconstruct, or repair an existing public building, structure, or other public construction works damaged or destroyed by a sudden unexpected turn of events such as an act of God, riot,~~

~~fire, flood, accident, or other urgent circumstances, and such damage or destruction creates an immediate danger to the public health or safety; other loss to public or private property which requires emergency government action; or interruptions to essential District services.~~

- ~~(3) For Construction projects and electrical services, this Policy does not apply if the project or services are undertaken as repair or maintenance of an existing public facility of the District and conforms to the requirements of § 255.20(1)(c)5., F.S.~~
- ~~(4) For Construction projects and electrical services, this Policy does not apply if any of the circumstances provided under § 255.20(1)(c), F.S. exist.~~
- ~~(5) This Policy does not apply to Construction projects under or equal to \$300,000, as adjusted by the percentage change in the Engineering News-Record's Building Cost Index from January 1, 2009, to January 1 of the year in which the project is scheduled to begin that are procured through a continuing project.~~
- ~~(6) This Policy does not apply to electrical work services under or equal to \$75,000, as adjusted by the percentage change in the Engineering News-Record's Building Cost Index from January 1, 2009, to January 1 of the year in which the project is scheduled to begin that are procured through a continuing project.~~
- ~~(7) This Policy does not apply to the Procurement of Construction services that are pursuant to a Construction Continuation Contract.~~
- ~~(8) This Policy does not apply to the Procurement of Professional Design Services that are pursuant to a Design Continuation Contract.~~
- ~~(9) This Policy does not apply to Professional Design Services Contracts when the District is able to reuse existing plans from a prior project of the District and the original procedures herein were correctly adhered to.~~
- ~~(10) This Policy does not apply to design-build Contracts, as defined under § 287.055, F.S., and such design-build Contracts are governed by the provisions of § 287.055(9), F.S.~~

~~VII. Spending Thresholds~~

~~This Policy is subject to Section XVI., Approval and Execution Authority, of the Code.~~

~~VIII. Related Policies~~

~~GA-001-150, Master Procurement Code~~

~~GA-001-151, Procurement Policy Table~~

~~V.IX. IX Interpretation, and Administration, and Construction of this Design and Construction Code~~

~~The Administration and interpretation of this Design and Construction Code is the responsibility of the CPO. The terms and provisions of this Design and Construction Code shall be deemed by operation of law to be a part of the terms and conditions of every procurement, Contract, and change order involving Broward Health's purchase of Contractors and Professionals for Projects, except to the extent that the CPO or other authorized official of Broward Health has expressly provided for an exception to one or more of the requirements provided for in this Design and Construction Code and such exception is consistent with Applicable Law, this Design and Construction Code, and Broward Health's Policies and Procedures. This Design and Construction Code shall be deemed consistent and in harmony with Applicable Law, and no provision of this Design and Construction Code shall be interpreted as more restrictive than Applicable Law. No provision of this Design and Construction Code shall be construed as conflicting with or exceeding Applicable Law, and if any provision of Applicable Law authorizes a more permissible or alternate method of procuring Contractors and Professionals than what is provided for in this Design and Construction Code, this Design and Construction Code shall not be construed as restrictive or exclusive to such method and shall be interpreted as permitting such method. In the event of a conflict between this Design and Construction Code and Applicable Law, Applicable Law shall govern and control as if fully set forth herein. If any provision of this Design and Construction Code is held to be unconstitutional, invalid, or unenforceable, such offending provision shall be stricken as though the offending provision has not been included herein, and the remainder of this Design~~

and Construction Code shall remain valid, enforceable, and not be affected thereby, and if any provision of this Design and Construction Code is held to be unconstitutional, invalid, or unenforceable as applied to any particular person, group, entity, property, or circumstance, such provision shall be modified to the minimum extent necessary to make it or its application valid and enforceable and the application of the remaining provisions of this Design and Construction Code to any person, group, entity, property, or circumstance shall remain valid and enforceable and not affected thereby. Administration and Interpretation of this policy is the responsibility of the Chief Procurement Officer and the SVP, Operations.

The headings contained in this Design and Construction Code are for reference purposes only and shall not affect in any way the meaning or interpretation of the Design and Construction Code. The use of the term "including" and other words of similar import mean "including, without limitation," and where specific language is used to clarify by example a general statement contained herein, such specific language shall not be deemed to modify, limit, or restrict in any manner the construction of the general statement to which it relates. The word "or" is not exclusive, and the words "herein," "hereof," "hereunder," and other words of similar import refer to this Design and Construction Code as a whole and not to any particular section, subsection, paragraph, subparagraph, or clause contained in this Design and Construction Code. The term "shall" is mandatory, and "may" is optional. The reference to the Business and Procurement Code, or a policy, instrument, or other document means the Business and Procurement Code, or such policy, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof, and the reference to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. (Res. No. FY20-21, § 2(Exh. A), 6-24-20)

Policy # GA-001-045: Broward Health's Economic and Small Business Development Initiative

I. I.—Purpose and Scope

The Board of Commissioners of North Broward Hospital District (the “Board”) is committed to increasing and encouraging the participation of local and small business enterprises in the ~~procurement~~ Procurement of ~~goods~~ Commodities and ~~services~~ Services for the North Broward Hospital District d/b/a Broward Health (“Broward Health”). Participation of such local and small business enterprises in Broward Health’s ~~procurements~~ Procurements results in the economic well-being and growth of South Florida and enhances the competitive bidding processes of Broward Health. To that end, the Board has established the Office of Economic and Small Business Development (the “OESBD”) as a division of Supply Chain Services to administer the provisions of Broward Health’s Economic and Small Business Development Initiative. It is the mission of the OESBD to provide accessibility to all local and small business enterprises seeking inclusion in the ~~procurement~~ Procurement opportunities at Broward Health. The vision of the OESBD is to be the leader in bolstering the economic growth and support of local and small businesses. The procedures set forth herein shall apply to all Procurements subject to the Competitive Solicitation Process in the Business and Procurement Code and other Procurements as the CPO may deem appropriate.

II. II.—Policy Statement

In an effort to foster and further Broward Health’s commitment to encouraging the economic growth and development of local and small businesses, Broward Health’s Office of Economic and Small Business Development shall look for opportunities to promote and increase the participation of Small Business Vendors in Broward Health’s Procurement of Commodities and Services.

III. III.—Definitions

The following words shall have the meaning ascribed to them wherever they appear in this Policy, regardless of whether they are capitalized, unless (a) the context in which they are used clearly requires a different meaning, or (b) a different definition is prescribed for a particular section of this Policy. Words capitalized but not defined in this Policy shall have the meaning ascribed to such term in the Business and Procurement Code. All other words shall be given their common and ordinary meaning unless the context in which they are used requires otherwise. When the context requires, the gender of all words includes the masculine, feminine, and neuter, the number of all words includes the singular and plural, and, when appropriate, the form of a word includes the past tense, present participle, or gerund. The words and acronyms in this Policy shall have the meanings set forth below or such meanings set forth in the Master Procurement Code (the “Code”) regardless of whether they are capitalized, unless:

~~(a) The context in which they are used clearly requires a different meaning; or~~

~~(b) A different definition is prescribed for a particular section of this Policy.~~

~~Words not defined in this Policy shall be given their common and ordinary meaning unless the context in which they are used requires otherwise. When the context requires, the gender of all words includes the masculine, feminine, and neuter, and the number of all words includes the singular and plural.~~

~~1. For purposes of this Policy, the below terms shall have the following meanings associated with them:~~

~~1. “**Board**” means the Board of Commissioners of the North Broward Hospital District.~~

~~2. “**Broward Health**” means the fictitious name of the North Broward Hospital District, a special tax district established by the Florida legislature, and all of its departments, divisions, units, wholly-owned entities, and other fictitious names now established and as further established from time to time by the Board. The term “Broward Health” shall expressly exclude all joint ventures, cooperatives, or interlocal arrangements of the North Broward Hospital District unless the governing documents or articles of such ventures, cooperatives, or interlocal arrangements indicate otherwise or unless the Board of Commissioners establishes a policy to subject such joint venture, cooperative, or interlocal arrangement to the provisions of this Policy.~~

- ~~2-3.~~ **“Broward Health Certification Partner”** means governmental agencies and non-governmental national and local organizations approved and recognized by the OESBD for certifying vendors meeting the criteria of one ~~(1)~~ or more categories of certification under Broward Health’s Economic and Small Business Development Initiative.
- ~~4.~~ **“Broward Health’s Economic and Small Business Development Initiative”** means the program established by the Board of Commissioners of North Broward Hospital District to encourage economic growth and foster Small Business Vendor participation in Broward Health’s Procurements.
- ~~5.~~ **“Business and Procurement Code”** means Broward Health’s Business and Procurement Code.
- ~~3-6.~~ **“CPO”** shall have the meaning ascribed to such term in Article II (Definitions) of the Business and Procurement Code.
- ~~“Florida Businesses”~~ means ~~those businesses having a principal place of business in the State of Florida and which are eligible for Small Business Enhancements pursuant to § 287.084, Fla. Stat.~~
- ~~4-7.~~ **“Good-Faith Effort”** means the process of documenting a Vendor’s efforts of solicitation and utilization of Small Business Vendors during the ~~Bid p~~Competitive Solicitation Process, ~~and/or on~~ a project, or under a Contract with Small Business Vendor subcontracting requirements.
- ~~8.~~ **“Local Business Enterprise”** means ~~those a vendors-Vendor and businesses~~ certified by Broward Health or a Broward Health Certification Partner as meeting the requirements of a small business with its principal place of business in Miami-Dade, Broward, ~~and/or~~ Palm Beach ~~Counties~~County.
- ~~5-9.~~ **“OESBD”** means Broward Health’s Office of Economic and Small Business Development, a division of Supply Chain Services, that is responsible for administering the provisions of Broward Health’s Economic and Small Business Development Initiative.
- ~~10.~~ **“Small Business Enhancements”** means strategies designed by Broward Health ~~which-that~~ are intended to increase procurement opportunities with Small Business Vendors.
- ~~11.~~ **“Small Business Vendor”** means ~~those a v~~Vendors recognized and certified by Broward Health or a Broward Health Certification Partner as meeting the requirements of one ~~(1)~~ or more of the Small Business categories of Broward Health’s Economic and Small Business Development Initiative.
- ~~6-12.~~ **“Vendor”** shall have the meaning ascribed to such term in Article II (Definitions) of the Business and Procurement Code.

~~III. III. POLICY~~

~~In an effort to foster and further Broward Health's commitment to encouraging the economic growth and development of local and small businesses, Broward Health's Office of Economic and Small Business Development shall look for opportunities to encourage and increase the participation of Small Business Vendors in Broward Health's procurement of goods and services.~~

~~IV. IV. Procedure~~

- ~~A. A.~~ **Office of Economic and Small Business Development.** The Board hereby establishes the Office of Economic and Small Business Development as a division of Supply Chain Services to administer the provisions of Broward Health’s Economic and Small Business Development Initiative. The ~~Chief Procurement Officer~~CPO shall be responsible for ~~the oversight~~overseeing and ~~administration~~ of administering the OESBD.
- ~~1. 1.~~ **OESBD’s General Roles and Functions:**— ~~The Office of Economic and Small Business Development~~OESBD shall perform the following roles and functions:
- ~~a. a.~~ Developing policies, standards, practices, and procedures to implement Broward Health’s Economic and Small Business Development Initiative, including the application of Small Business

~~Enhancements and other initiatives consistent with best practices to foster, encourage, and improve business opportunities for and participation of Small Business Vendors in Broward Health's Procurements;Overseeing Broward Health's procurements and processes to ensure that adequate opportunities are available for Small Business Vendor participation;~~

- ~~b. b.——Serving as an advocate for the use of Small Business Vendors in Broward Health's Procurements and overseeing Broward Health's Procurements and processes to ensure that adequate opportunities are available for Small Business Vendor participation;Establishing policies and procedures based on best practices that serve to improve business opportunities for Small Business Vendors;~~
- ~~c. c.——Advising Broward Health's facilities, departments, and divisions on methods and techniques for achieving Procurement objectives for Small Business Vendor participation;~~
- ~~d. Disseminating information, responding to inquiries, and providing technical assistance concerning Broward Health's Economic and Small Business Development Initiative, including information and inquiries related to Procurement opportunities for and participation of Small Business Vendors;~~
- ~~e. Determining additional categories of Small Business Vendors, establishing criteria for current and new categories of Small Business Vendors (such as criteria for qualifying as a Local Business Business–Enterprise), and creating standards and rules for certifying Small Business Vendors, Certification which fosters and encourages the Broward Health's Economic and Small Business Development Initiative;~~
- ~~f. Engaging in efforts such as outreach and Small Business Vendor development activities and encouraging Vendors who would qualify as Small Business Vendors to obtain status and certification as a Small Business Vendor;~~
- ~~e.g. Verifying the veracity of a Small Business Vendor's representations and claims that it possesses the status of a Small Business Vendor;~~
- ~~h. d.——Ensuring compliance with Competitive Solicitation and contractual requirements for Small Business Vendor participation;~~
- ~~d.i. Determining whether a vendor's–Vendor's efforts of solicitation and utilization of Small Business Vendors constituted a Good-Faith Effort for purposes of complying with the utilization requirements established under the Small Business Subcontracting ProgramSmall Business Vendor utilization requirements established for a particular project or contract;~~
- ~~e.——Ensuring compliance with competitive solicitation and contractual requirements for Small Business Vendor participation;~~
- ~~f.——Adopting guidelines to further Small Business Vendor participation and that encourage the use of Small Business Vendors in the provision of goods and services for Broward Health;~~
- ~~g.——Monitoring the degree to which Broward Health procures services, commodities, and construction from Small Business Vendors;~~
- ~~h.——Receiving and disseminating information relative to procurement opportunities, availability of Small Business Vendors, and technical assistance;~~
- ~~i.——Advising Broward Health's facilities, departments, and divisions on methods and techniques for achieving procurement objectives for Small Business Vendor participation;~~
- ~~j.——Verifying the veracity of a Small Business Vendor's representations and claims that it holds the status of a Small Business Vendor;~~
- ~~e. k.——Investigating complaints against Small Business Vendors or contractors–other Vendors alleged to have violated any provision,the policy,ies or the objectives of Broward Health's Economic and Small Business Development Initiative or the utilization requirements of Small~~

~~Business Vendor utilization and participation in projects or contracts~~the Small Business Vendor subcontractors;

~~j.~~

~~f. l. Encouraging businesses and vendors who would qualify as Small Business Vendors to obtain status and certification as a Small Business Vendor;~~

~~g.k. m. Serving as an advocate for the use of Small Business Vendors in Broward Health's Procurements; Monitoring the degree to which Broward Health Procures Commodities and Services from Small Business Vendors;~~

~~n. Developing policies, practices, and procedures governing the implementation of the requirements of this Policy and creating standards and requirements for and applicable to Small Business Enhancements;~~

~~h.l. o. Communicating and updating the Board, from time to time, the Procurement Steering Committee and the Board of Commissioners of the North Broward Hospital District of regarding the participation of Small Business Vendor~~s participation in Broward Health's Procurements; and

~~i.m. p. Any other duties, responsibilities, and functions assigned or developed by the Chief Procurement Officer~~CPO to further the mission, vision, and goals of Broward Health's Economic and Small Business Development Initiative.

2. ~~2. OESBD's Initiatives Efforts for to Foster Small Business Vendor Participation. In addition to the roles and functions of OESBD,~~The OESBD shall also foster~~promote~~ and encourage Small Business Vendor participation by engaging in the following ~~initiatives~~efforts:

a. ~~a. Outreach. The OESBD shall engage in outreach efforts to encourage, foster, and further participation by Small Business Vendors, such as an Annual Small Business Vendor Expo events, expos, and other initiatives established by the OESBD from time to time. Other outreach initiatives may include promotion, marketing, the establishment of establishing a mentor-protégé program, and serving on certification committees of Broward Health's Certification Partners.~~

b. ~~b. Vendor Development. The OESBD shall assist Vendors meeting the criteria that wish to obtain certification as a Small Business Vendor. Such assistance may include assisting with Broward Health's certification process, providing referrals to a Broward Health Certification Partner, and providing technical assistance regarding the certification process with a Broward Health Certification Partner. OESBD shall assist vendors and businesses wishing to become Small Business Vendors and who meet such criteria with obtaining certification as a Small Business Vendor which may include certification by Broward Health or providing a referral to and technical assistance with navigating the process of certification with a Broward Health Certification Partner.~~

B. ~~B. Procedures for Enhancing Small Business Vendor Participation. Broward Health's Office of Economic and Small Business Development~~The OESBD shall review Procurements of Commodities and Services to determine whether such Procurements are eligible for Small Business Enhancements. To the extent Small Business Enhancements are assigned to a particular Procurement, only those qualifying Small Business Vendors are eligible to participate in such Small Business Enhancements.

1. ~~1. Micro, Small, and Medium Purchases Procurements Less than the Millage Threshold. Micro Purchases, Small Purchases, and Medium Purchases (all as defined in the Code) Procurements of Commodities and Services less than the Millage Threshold or Exempt from the Business and Procurement Code's Competitive Solicitation Process~~ may be subject to Small Business Enhancements as determined by the OESBD and PSC~~the CPO~~ in the best interests of Broward Health.

2. ~~2. Large/Formal Purchases Procurements Equal to or More than the Millage Threshold. Those Procurements of Commodities and Services that are estimated to be equal to or more than the Millage Threshold and which are subject to the Business and Procurement Code's Competitive Solicitation Process~~ Large/Formal Purchases (as defined in the Code) shall be subject to Small Business

Enhancements unless the OESBD and/or ~~PSC~~the CPO determines that such Small Business Enhancements are not in the best interests of Broward Health.

3. ~~3.—Group Purchasing Organization and Cooperative Purchasing Program Purchases~~Procurements~~Procurements of Commodities and Services through Group Purchasing Organizations and Cooperative Purchasing Programs Purchases~~ may be subject to Small Business Enhancements as determined by the OESBD and PSC~~the CPO~~ in the best interests of Broward Health.
4. ~~4.—Approved Small Business Vendor Categories~~Small Business Vendors~~The OESBD shall maintain A a listing of approved Small Business Vendor categories of Small Business Vendors shall be maintained by the OESBD.~~ The OESBD shall update or modify such list of approved Small Business ~~Vendors~~Vendor categories from time to time in the best interests of Broward Health and based on best practices.
5. ~~5.—Responsible and Responsive Bidders.~~ Regardless of whether Small Business Enhancements are applied to a Competitive Solicitation, Contracts may only be awarded to Responsible and Responsive Bidders.
- 5-6. ~~Small Business Preferences and Enhancements~~— The OESBD shall develop, design, and recommend to the CPO the otherwise structure implementation of Small Business Enhancements for eligible Procurements ~~utilizing one (1) or more of the following Small Business Enhancements in order to encourage and maximize Small Business Vendor participation. Any~~ The CPO shall review and approve all recommended Small Business Enhancements recommended of by the OESBD shall be presented to PSC for review and approval. Once the CPO approves Small Business Enhancements have been for a Procurement approved by PSC, such Small Business Enhancements shall be incorporated into the ~~Procurement solicitation~~Competitive Solicitation's Bid Documents and ~~into~~ any applicable awarded Contract. Such Small Business Enhancements include, but are not limited to:
 - a. ~~a.—~~Reduction of Large Procurements. If feasible, the OESBD may recommend that Procurements may be reduced, modified, or separated in any form or format to create Contracts of manageable size for the purpose of to encourage and providing provide greater opportunities for and maximum participation of Small Business Vendors ~~and to encourage Small Business Vendor participation.~~ Any reduction of such Procurements may only be for the purposes of for creating and improving improving opportunities for Small Business Vendor participation and may not be used for the purposes of to bypassing or evading evade the ~~provisions of the Code~~Business and Procurement Code's provisions pertaining to the ~~Formal Bid~~Competitive Solicitation Process.
 - b. ~~b.—~~Waiving Payment and Performance BondsBonding Waivers. Because bonding requirements for in Construction Services and Professional Design Services projects projects may be cost-prohibitive and present obstacles to Small Business Vendor participation, to boost Small Business Vendor participation, the OESBD may recommend, to the extent permissible under Applicable Law, waiving any Payment Bond or Performance Bond requirement for Contracts equal to or less than \$200,000 or such other amount prescribed under § 255.05(1)(d), Fla. Stat. or Applicable Law, in accordance with § 255.05(1)(d), Fla. Stat., that projects equal to or less than Two Hundred Thousand Dollars (\$200,000.00) do not contain a requirement for payment and/or performance bonds in an effort to boost Small Business Vendor participation. Further, where a prime contractor's Payment Bond and Performance Bond covers the work of the subcontractors, the OESBD may recommend that separate bonding from subcontractors not be required and conditions prohibiting prime contractors from requiring separate bonding from subcontractors. This ~~These~~ bonding waivers may not be used for exceptionally risky projects ~~that are exceptionally risky, and waiver of payment and/or performance bonds shall not eliminate any applicable requirements for bid bonds or projects that, under Applicable Law, require bonding or other surety and do not permit the waiving of such bonding or other surety.~~
 - c. ~~Prohibition of Double Bonding Requirement.~~ Because double bonding may be cost-prohibitive and discourage Small Business Vendor participation, for projects where the prime contractor's payment and performance bond covers the work of the subcontractors, the OESBD may, with the

~~exception of exceptionally risky projects, recommend that separate bonding from subcontractors not be required, and recommend conditions prohibiting prime contractors from requiring separate bond from subcontractors.~~

~~c. d. ——— Small Business Subcontracting Requirements Initiative. The OESBD may recommend that Contracts or projects contain subcontracting participation requirements for utilizing a certain percentage of Small Business Vendors as subcontractors. The OESBD shall establish a procedure for determining the proper participation percentage of ~~subcontractor~~ Small Business Vendor subcontractors participation that should be applied to a particular Contract or project. To the extent a Contract or project contains such a subcontracting requirement, the awarded ~~vendor's~~ Vendor's Contract shall include language ensuring the use of subcontractors, and the Contract may include a provision for liquidated damages.~~

~~c. _____~~

~~d. e. ——— Quote-Quote-Price Tolerance ("QPT") Initiative. The ~~Provided it is permissible under Applicable Law, the~~ OESBD may recommend ~~that~~ a predetermined QPT-Quote-Price Tolerance be applied to certain Procurement Competitive Solicitations where the Contract is awarded to the lowest Bidder, such as Invitations to Bid. When a Quote-Price Tolerance QPT is applied to a ~~solicitation~~ Competitive Solicitation, Responsible and Responsive a-Small Business Vendors Responsible and Responsive Bidder that is a Small Business Vendor will shall have a predetermined percentage adjustment factor applied to their Bid ~~have its Bid considered as being a certain percentage lower than the actual Bid amount. As such,~~ under such conditions, a Small Business Vendor may be awarded a Contract even when ~~its the Small Business Vendor's Bid is not the lowest when bid because a non-Small Business Vendor has submitted the lowest Bid and, after applying the percentage adjustment factor to the Small Business Vendor's Bid, the Small Business Vendor's adjusted Bid recalculates to be equal to or lower than the non-Small Business Vendor's Bid~~ predetermined QPT applied "tolerates" the increased Bid price and serves to consider the Small Business Vendor's Bid as being a certain percentage lower, thus making it the "lowest" Bid. To the extent a Quote-Price Tolerance QPT is applied to a solicitation Competitive Solicitation, it may not exceed ~~five 5 percent (5%) or a maximum price of Twenty-Five Thousand Dollars (\$25,000.00),~~ whichever is lower (unless a higher or lower ~~different~~ amount or percentage is required under ~~Florida law~~ Applicable Law). The OESBD shall establish a procedure for determining the proper Quote-Price Tolerance percentage adjustment factor QPT that should be applied to a particular Competitive Solicitation or project ~~project~~.~~

~~d. _____~~

~~e. f. ——— Scoring and Evaluation Points. Provided it is permissible under Applicable Law, ~~t~~The OESBD may recommend that particular scoring criteria and evaluation points be applied and awarded to Small Business Vendors submitting Bids under a competitive Competitive solicitations Solicitation where the Contract is awarded to the Bidder most advantageous to Broward Health based on several criteria other than just price, such as a Request for Proposals. When utilizing these Small Business Enhancements, if, after applying the scoring criteria and evaluation points to a Small Business Vendor's Bid, the Small Business Vendor's score is equal to or greater than a non-Small Business Vendor's score, the Small Business Vendor may be awarded the Contract. Scoring or evaluation points awarded to Small Business Vendors under a Competitive Solicitation ~~to~~ automatically award points to Bids submitted by Small Business Vendors. To the extent that automatic evaluation points for Small Business Vendors are approved to be allocated to a particular solicitation, may not exceed a maximum of up to twenty (20) 20 percent of the Competitive Solicitation's total automatic evaluation points may be applied to a Small Business Vendor's score unless a smaller or bigger ~~different~~ amount is required under ~~Florida law~~ Applicable Law. The OESBD shall establish a procedure for determining the proper scoring criteria and evaluation points for Small Business Vendors that should be applied to a particular ~~project~~ Competitive Solicitation or project.~~

e.

f. g. ~~Small Business Vendor Set-Asides and Sheltered Markets. Provided it is permissible under Applicable Law, the OESBD may recommend that set-aside Contracts be sheltered and reserved for Small Business Vendors. Such set-aside Contracts may consist of total set-asides, such as sheltering and restricting a Competitive Solicitation to only Small Business Vendors, or partial set-asides, such as sheltering and reserving a designated number of awards in a multi-award Competitive Solicitation to Small Business Vendors. Notwithstanding the foregoing, and unless required or permissible under Applicable Law, total set-asides restricting Competitive Solicitations or any Competitive Conditions to only Small Business Vendors may not be used for any Construction Services Contracts utilizing state-appropriate funds in violation of §§ 255.0991-0992, Fla. Stat.~~

f.g. ~~Additional Small Business Enhancements. The OESBD may recommend any combination of the above Small Business Enhancements or other Small Business Enhancements not prescribed herein, provided such Enhancements are consistent with best practices, state and federal lawApplicable Law, and the CodeBusiness and Procurement Code.~~

~~2. 6. **Special Preference to Florida Businesses in Competitive Solicitations:** In accordance with § 287.084, Fla. Stat., when Florida law or the Code requires competitive solicitations for purchases of personal property and the lowest responsible and responsive Bid, proposal, or reply is by a vendor whose principal place of business is in a state or political subdivision thereof which grants a preference for the purchase of such personal property to a person whose principal place of business is in such state, then a preference shall be awarded to the lowest responsible and responsive vendor having a principal place of business within Florida, which preference is equal to the preference granted by the state or political subdivision thereof in which the lowest responsible and responsive vendor has its principal place of business. In a competitive solicitation in which the lowest bid is submitted by a vendor whose principal place of business is located outside the state and that state does not grant a preference in competitive solicitation to vendors having a principal place of business in that state, the preference to the lowest responsible and responsive vendor having a principal place of business in Florida shall be 5%. All bids by vendors with a principal place of business outside of Florida must accompany any written bid, proposal, or reply documents with a written opinion of an attorney at law licensed to practice law in that foreign state, as to the preferences, if any or none, granted by the law of that state to its own business entities whose principal places of business are in that foreign state in the letting of any or all public contracts.~~

~~1. 7. **Good-Faith Efforts:** To the extent an awarded ~~vendor~~ Vendor does not or cannot meet a Small Business Vendor requirement applied to a ~~Competitive s~~Solicitation (such as the use of a predetermined percentage of Small Business Vendor subcontractors) or otherwise requests a waiver of a particular Small Business Vendor utilization requirement, the OESBD shall review and determine whether the awarded ~~vendor's~~ Vendor's efforts of solicitation and utilization of Small Business Vendors constituted a Good-Faith Effort for purposes of complying with the Small Business Vendor requirements established for a particular project or Contract. Following the OESBD's analysis, the OESBD shall present its findings and a recommended course of action to ~~PSC~~ the CPO for review, ~~at which time~~ The CPO PSC shall review the findings of the OESBD and its recommended course of action. ~~PSC~~ The CPO may adopt the OESBD's recommended course of action or determine ~~whether~~ a different course of action is more appropriate.~~

7.

~~2. 8. **Priorities for Award:** From time to time, ~~vendors~~ Vendors may receive equal scores for submitted Bids pursuant to a ~~competitive~~ Competitive solicitation Solicitation. To the extent this occurs—whether between a Small Business and non-Small Business Vendor or two ~~(2)~~ Small Business Vendors—preference for the award shall be given in the following sequence:~~

~~a. a.~~ ~~Small Business Vendors headquartered or principally located in Broward County;~~

- b. ~~b.~~ Non-Small Business Vendors headquartered or principally located in Broward County;
- c. ~~c.~~ Small Business Vendors headquartered or principally located in Miami-Dade County or Palm Beach County;
- d. ~~d.~~ Non-Small Business Vendors headquartered or principally located in Miami-Dade County or Palm Beach County;
- e. ~~e.~~ Small Business Vendors headquartered or principally located in the State of Florida, but outside of Broward County, Miami-Dade County, and Palm Beach County;
- f. ~~f.~~ Non-Small Business Vendors headquartered or principally located in the State of Florida, but outside of Broward County, Miami-Dade County, and Palm Beach County; and
- g. Small Business Vendors headquartered or principally located outside of the State of Florida.

~~9. Prompt Payment Mandate: All vendors, including Small Business Vendors, that have written Contracts with Broward Health are entitled to prompt payment pursuant to the provisions of Florida's Local Government Prompt Payment Act, § 218.70, Fla. Stat., et seq.~~

~~3.9. 10. Data Management:~~

- a. ~~a.~~ Small Business Vendor Database. ~~Supply Chain Services~~The CPO shall establish and maintain a comprehensive database of registered and certified and non-certified Small Business Vendors to serve as a vendor resource pool. ~~Such database may be housed in Broward Health's Vendor Registration System, or another system selected by the Chief Procurement Officer.~~The OESBD may establish create applicable procedures ~~applicable~~ within this database to verify and validate the validity of a Small Business Vendor's certification ~~as well as notification to and notify~~ Small Business Vendors of opportunities for Small Business Vendor participation.
- b. ~~b.~~ Statistical Reporting. The OESBD shall maintain statistical data on the participation of certified and non-certified Small Business Vendor ~~sParticipation, which~~The data shall be utilized by the OESBD for analyzing analysis and Small Business Vendor participation and making recommending any ~~changes modifications~~ or improvements to Broward Health's Economic and Small Business Development Initiative. ~~This data shall be used and to communicate to and update, from time to time, the Procurement Steering Committee and the Board of Commissioners of the North Broward Hospital District regarding~~ the participation of Small Business Vendors ~~participation~~ in Broward Health's Procurements.

V. ~~V.~~ Interpretation and Administration

Administration and Interpretation of this ~~policy~~Policy is the responsibility of the ~~Chief Procurement Officer~~CPO.

Policy # GA-001-001: Purchasing and Procurement Requirements of Federal Awards from the U.S. Department of Health and Human Services from HHS

I. Purpose and Scope

Certain purchasing and procurement standards apply to recipients of Federal Awards and This Broward Health is subject to such standards as a recipient of Federal Awards from the U.S. Department of Health and Human Services. Accordingly, this Policy establishes delineates the written procurement procurement and audit procedures for the use of Federal Awards from the U.S. Department of Health & Human Services the U.S. Department of Health and Human Services (“HHS”) that comply consistent with Federal federal procurement procurement standards, including a process for ensuring that all procurement procurement costs directly attributable to the Federal Awards are allowable, consistent with Federal Cost Principles. All Commodities and Services procured for, under, or that pertain or are related to any Federal Awards or programs are subject to the provisions of this Policy.

II. Policy Statement

This Policy delineates (a) the procurement procedures for the procurement purchase of goods, supplies and other expendable property, equipment, real property, and other services using funds from Federal Awards to ensure that such goods and services are obtained in an effective manner and in compliance with the provisions of Federal Programs and other applicable federal law; and (b) the audit procedures required when Federal Award funds are used for procuring Commodities and/or Services, and monitoring of Subawards provided to Subrecipients. This Policy shall control over the provisions of Broward Health’s Business and Procurement Code (the “Business and Procurement Code”), the Design and Construction Code, and any Board or Broward Health Policy unless Applicable Law provides otherwise and the circumstances and make it apparent that any of the foregoing control. Broward Health Departments receive Federal Awards for various purposes as authorized under Federal law. This Policy is being established to clarify the procedures for the Procurement of supplies and other expendable property, equipment, real property and other services using funds from Federal Awards to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of Federal Programs and applicable Federal law. This Policy further establishes the audit procedures required when Federal Award funds are used for Procurement of services and/or supplies as well as for Subawards to Subrecipients. This Policy shall control over the provisions of the Code or any Procurement Policy except to the extent the circumstances make it apparent that the Code or a particular Procurement Policy shall control.

III. Definitions

The following words and acronyms shall have the meaning ascribed to them wherever they appear in this Policy, regardless of whether they are capitalized, unless (a) the context in which they are used clearly requires a different meaning, or (b) a different definition is prescribed for a particular section of this Policy. Words capitalized but not defined in this Policy shall have the meaning ascribed to such term in the Business and Procurement Code. All other words shall be given their common and ordinary meaning unless the context in which they are used requires otherwise. When the context requires, the gender of all words includes the masculine, feminine, and neuter, the number of all words includes the singular and plural, and, when appropriate, the form of a word includes the past tense, present participle, or gerund. The words and acronyms defined in this Policy shall have the meanings set forth in the Code regardless of whether they are capitalized, unless:

(a) — The context in which they are used clearly requires a different meaning; or

(b) — A different definition is prescribed for a particular section of this Policy.

Words not defined shall be given their common and ordinary meaning unless the context in which they are used requires otherwise.

For purposes of this Policy, the below terms shall have the following meanings associated with them:

1. “Board of Commissioners” means the Board of Commissioners of the North Broward Hospital District.

2. “Broward Health” means the fictitious name of the North Broward Hospital District, a special tax district established by the Florida legislature, and all of its departments, divisions, units, wholly-owned entities, and other fictitious names now established and as further established from time to time by the Board. The term “Broward Health” shall expressly exclude all joint ventures, cooperatives, or interlocal arrangements of the North Broward Hospital District unless the governing documents or articles of such ventures, cooperatives, or interlocal arrangements indicate otherwise or unless the Board of Commissioners establishes a policy to subject such joint venture, cooperative, or interlocal arrangement to the provisions of this Policy.

3. “Business and Procurement Code” means Broward Health’s Business and Procurement Code, which governs Broward Health’s business activities and Broward Health’s procurement of Commodities and Services.

i. “Broward Health Department” means any office, department, entity, or DBA of North Broward Hospital District that accepts Federal Awards from any Federal Agency including, but not limited to, Broward Health, Community Health Services, and Children’s Diagnostic & Treatment Center.

~~1.4.~~ “Contract” means a written agreement used for the purpose of obtaining to obtain goods Commodities and services Services needed to carry out a project or program under a Federal Award. It does not include a legal instrument when the substance of the transaction meets the definition of a Federal Award or Subaward. Contract characteristics include:

- a. ~~(a)~~ — The provision of goods and services within normal business operations;
- b. ~~(b)~~ — The provision of similar goods or services to many different purchasers;
- c. ~~(c)~~ — Normally operating within a competitive environment;
- d. ~~(d)~~ — The provision of goods or services that are ancillary to the operation of the Federal Program; and
- e. ~~(e)~~ — Not being subject to compliance requirements of the Federal Program as a result of the relationship with Broward Health, although similar requirements may apply for other reasons, including as a result of contractual provisions.

2. “Compliance Manual” means the ~~Health Resources and Services Administration (“HRSA”)~~HRSA Health Center Program Compliance Manual that applies to all entities and Subrecipients that apply for or receive Federal Awards under the Health Center Program authorized under section 330 of the ~~Public Health Service Act (“PHS Act”)~~PHS Act (codified at 42 U.S.C. § 254b).

5.

6. “CPO” shall have the meaning ascribed to such term in Article II (Definitions) of the Business and Procurement Code.

7. “Disputes” shall have the meaning ascribed to such term in Section IV.10. of this Policy.

3. “Federal Agency” means any executive department, ~~Federal federal Government government~~ corporation, ~~Federal federal Government government~~ controlled corporation, or other establishment within HHS that provides Federal Awards, including, but not limited to, HRSA, Centers for Disease Control and Prevention (CDC), Food and Drug Administration (FDA), National Institutes of Health (NIH), and Substance Abuse and Mental Health Services Administration (SAMHSA).

8.

4. “Federal Award” means, depending on the context, either: (1a) ~~The the Federal federal~~ financial assistance or the cost-reimbursement ~~contract~~Contract under the Federal Acquisition Regulations that a non-~~Federal federal~~ entity receives directly from a Federal Agency or indirectly from a Pass-Through Entity, as described in 45 C.F.R. § 75.101; or (2b) ~~An an~~ instrument setting forth the terms and conditions

which can be a grant agreement, cooperative agreement, other agreement for assistance, or the cost-reimbursement ~~contract~~Contract awarded under the Federal Acquisition Regulations.

9.

5.—“**Federal Program**” means (1a) all Federal Awards that are assigned a single number in the Catalog of Federal Domestic Assistance (CFDA); (2b) all Federal Awards to non-~~Federal-federal~~ entities from the same Federal Agency made for the same purpose; or (3c) a cluster of programs as defined in 45 C.F.R. § 75.2.

10.

11. “HHS” means the U.S. Department of Health and Human Services.

12. “HRSA” means the Health Resources and Services Administration, a Federal Agency of HHS.

6.—“**Pass-Through Entity**” means a non-~~Federal-federal~~ entity that provides a Subaward to a Subrecipient to carry out part of a Federal Program.

13.

14. “PHS Act” means the Public Health Service Act, ch. 373, 58 Stat. 682 (1944), codified as amended at 42 U.S.C. §§ 201-300mm-62.

15. “Records” shall have the meaning ascribed to such term in Article VI. of this Policy.

7.—“**Subaward**” means an award provided by a Pass-Through Entity to a Subrecipient for the Subrecipient to carry out part of a Federal Award received by the Pass-Through Entity. A Subaward does not include payments to a contractor or payments to an individual ~~that~~who is a beneficiary of a Federal Program.

16.

8.—“**Subrecipient**” means a non-~~Federal-federal~~ entity that receives a Subaward from a Pass-Through Entity to carry out part of a Federal Program.

17.

9.—“~~Uniform Data System~~” or “**UDS**” means the Uniform Data System, the standardized reporting system whereby entities receiving Federal Awards under the Health Center Program authorized under section 330 of the PHS Act are required to input certain information, including patient demographics, services provided, clinical processes and health outcomes, patients’ use of services, costs, and revenues.

~~(b) — Policy~~

~~1-18. Between the Code and any Procurement Policy referenced below, the Procurement Policy shall control, unless otherwise explicitly stated in the Procurement Policy or the Code.~~

IV. Procurement Procedure

1. ~~1.~~— Before ~~procu~~procuring any materials and services using Federal Award funds, ~~the~~ Broward Health ~~Department~~ shall determine, on a case-by-case basis, consistent with the characteristics outlined in 45 C.F.R. § 75.351, whether an individual agreement will be carried out through a Contract or Subaward and the agreement shall be structured accordingly.

2. ~~2.~~— Before beginning the ~~procurement~~procurement process, ~~the~~ Broward Health ~~Department~~ shall request and receive approval from the relevant Federal Agency to contract for work and/or substantive programmatic work, as defined within the Compliance Manual, under its Federal Award by either an approved competing continuation/renewal of designation application or other competitive application; or by an approved post-award request for such arrangements submitted within the project period (for example, change in scope).

3. ~~3.~~— Any and all ~~procurements~~procurements of supplies or services paid in whole or part with a Federal Award shall conform with 45 C.F.R. Part 75. Such ~~procurement~~procurement transactions shall be

conducted in a manner that provides full and open competition consistent with the standards of 45 C.F.R. § 75.328.

4. ~~4.~~ All ~~procurements~~ procurements of goods and services directly attributable to a Federal Award shall be allowable consistent with Federal Cost Principles.
5. ~~5.~~ Non-competitive ~~proposal~~ proposals may only be used when:
 - a. ~~(a)~~ The item is available only from a single source;
 - b. ~~(b)~~ The public exigency or emergency for the requirement will not permit a delay resulting from competitive ~~solicitations~~ solicitation;
 - c. ~~(c)~~ ~~The non-competitive proposal is~~ The Federal Agency specifically expressly authorized ~~authorizes the non-competitive proposal by the Federal Agency~~ in response to a written request from Broward Health; or
 - d. ~~(d)~~ Competition is determined to be inadequate after soliciting a number of sources.
6. ~~6.~~ A cost or price analysis shall be performed in connection with every ~~procurement~~ procurement action paid for in whole or in part by the Federal Award in excess of the Simplified Acquisition Threshold as set by the Federal Acquisition Regulation at 48 C.F.R. subpart 2.1 and in accordance with 41 U.S.C. § 1908.
7. ~~7.~~ All Subrecipient agreements that provide Subawards that support the ~~Federal~~ federal-approved scope of project must include provisions that address the following:
 - a. ~~(a)~~ The specific portion of the approved scope of project to be performed by the Subrecipient;
 - b. ~~(b)~~ The applicability of all Broward Health's Federal Program requirements to the Subrecipient;
 - c. ~~(c)~~ The applicability to the Subrecipient of any distinct statutory, regulatory, and policy requirements of other Federal Programs associated with their ~~Federal~~ federal-approved scope of project;
 - d. ~~(d)~~ Mechanisms for Broward Health to monitor Subrecipient compliance and performance;
 - e. ~~(e)~~ Requirements for the Subrecipient to provide data to Broward Health necessary to meet Broward Health's applicable ~~Federal~~ federal financial and programmatic reporting requirements;
 - f. ~~(f)~~ Provisions addressing record retention and access, audit, and property management; and
 - g. ~~(g)~~ Requirements that all costs paid for by the ~~Federal~~ federal Subaward are allowable consistent with Federal Cost Principles.
8. ~~8.~~ All Contracts with other providers for the provision of health services within the Federal Agency-approved scope of project must include the following:
 - a. ~~(a)~~ The specific activities or services to be performed or goods to be provided;
 - b. ~~(b)~~ Mechanisms to monitor contractor performance;
 - c. ~~(c)~~ Requirements for the contractor to provide data necessary to meet Broward Health's applicable ~~Federal~~ federal financial and programmatic reporting requirements;
 - d. ~~(d)~~ Provisions addressing record retention and access, audit, and property management; and
 - e. ~~(e)~~ A schedule of rates and method of payment for such services.
9. ~~9.~~ Records must be maintained for all ~~procurements~~ procurements—whether competitive or non-competitive—paid for in whole or in part under a Federal Award, and such records must include the

rationale for ~~the~~ method of ~~procurement~~procurement, selection of ~~contract~~Contract type, contractor selection or rejection, and the basis for the Contract price.

10. Any contractual or administrative issues arising out of ~~procurements~~procurements, ~~with respect to~~concerning Contracts (protests, disputes, claims, etc.) or how to take enforcement actions in the case of Subawards (collectively, "Disputes") shall be initially resolved through reasonable methods established by ~~the~~Broward Health ~~Department~~in conjunction with Broward Health's Chief ~~Administrative-Operating~~ Officer ~~or authorized designee~~. To the extent necessary, if such Disputes cannot appropriately be resolved or cured, ~~the~~Broward Health ~~Department~~, the contractor, or the Subrecipient may appeal to Broward Health's ~~President/CEO~~Chief Executive Officer ~~or authorized designee~~ to take appropriate action. ~~To the extent necessary, Broward Health's he~~President/CEO~~Chief Executive Officer, Chief Operating Officer, or any of their authorized designees to the extent necessary,~~ may work with Broward Health's General Counsel's Office, ~~other legal counsel~~, and/or ~~Broward Health's Corporate~~ Compliance ~~& and~~ Ethics Department to resolve the Disputes in a matter consistent with ~~Federal~~federal guidelines.

V. Monitoring of Subawards and Contracts

1. ~~1.~~—All contractors and Subrecipients shall be overseen and monitored to ensure their performance is in accordance with the terms, conditions, and specifications of their agreements and Contracts and to assure compliance with applicable ~~Federal~~federal requirements.
2. ~~2.~~—To accomplish the purposes of audit and oversight of contractors and Subrecipients, Broward Health must have access to records and reports related to Federal Program activities ~~in order~~to ensure that all activities and reporting requirements are being carried out in accordance with the provisions and timelines of their Contracts and agreements, including, but not limited to, making sure performance goals are achieved, UDS data is submitted by appropriate deadlines, and funds are used only for authorized purposes.
3. ~~3.~~—When monitoring contractors, ~~the~~Broward Health ~~Department~~ shall:
 - a. ~~(a)~~—Conduct periodic evaluations of contractor performance that are shared with the ~~board~~Board of Commissioners and management staff; and/or
 - b. ~~(b)~~—Receive and review appropriate documentation at the time of Contract completion or renewal that the contractor has met the ~~Contract's~~ terms, conditions, and specifications ~~of the Contract~~.
4. ~~4.~~—Broward Health ~~Departments~~ shall utilize accepted methods of monitoring Subrecipients to ensure compliance with their agreements and ~~Federal~~federal guidelines governing receipt of the Subaward. Such accepted methods may include any of the following, or a combination thereof:
 - a. ~~(a)~~—Receiving/reviewing copies of the Subrecipient's governing board's meeting minutes;
 - b. ~~(b)~~—Performing site visits;
 - c. ~~(c)~~—Conducting regular check-in calls and updates regarding Federal Program requirements or new Federal Program policies;
 - d. ~~(d)~~—Receiving/reviewing the Subrecipient's annual audit;
 - e. ~~(e)~~—Conducting periodic joint meetings between the two entities' governing boards, or between ~~the~~Broward Health ~~Department's~~ key management staff and the Subrecipient's governing board;
 - f. ~~(f)~~—Receiving/reviewing periodic written reports from the Subrecipient; and/or
 - g. ~~(g)~~—Sharing data and creating systems for the sharing of financial and medical records for the purpose of Broward Health's Federal Program data reporting.
5. ~~5.~~—When monitoring Subrecipients, Broward Health shall:

- a. ~~(a)~~ — Make documented, case-by-case determinations whether the agreement for the disbursement of Federal Program funds casts the party receiving the funds in the role of a Subrecipient, consistent with the characteristics outlined in 45 C.F.R. § 75.351;
- b. ~~(b)~~ — Identify Subawards as such to the Subrecipient, and provide all applicable information to the Subrecipient as described in 45 CFR § 75.352(a)(1), including the total amount of the Federal Award committed to the Subrecipient;
- c. ~~(c)~~ — If any of the data elements contained in 45 C.F.R. § 75.352(a)(1) change, the change(s) shall be included in a subsequent Subaward modification or amendment;
- d. ~~(d)~~ — Ensure that such funds are only used for authorized purposes;
- e. ~~(e)~~ — Ensure, by monitoring the ongoing activities of the Subrecipient, that the Subaward is used only for authorized purposes and that the Subrecipient maintains compliance with all applicable requirements specified in the Federal Award, including, but not limited to, those found in section 330 of the PHS Act, implementing program regulations, and grants regulations in 45 C.F.R. Part 75;
- f. ~~(f)~~ — Review financial and performance reports required by ~~the~~ Broward Health ~~Department~~ ~~in order~~ to ensure performance goals are achieved, UDS data is submitted by appropriate deadlines, and funds are used only for authorized purposes;
- g. ~~(g)~~ — Ensure that the Subrecipient takes timely and appropriate action on all deficiencies pertaining to the Subaward that may be identified through audits, on-site reviews, and other means;
- ~~(a)–(h)~~ — Issue a management decision for audit findings pertaining to the Subaward; ~~and~~ ~~h.~~
- h.i. Consider whether the results of the Subrecipient’s audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to ~~the~~ Broward Health ~~Department’s~~ ~~own~~ records and whether ~~the~~ Broward Health ~~Department~~ must consider taking enforcement action against noncompliant Subrecipients as described in 45 C.F.R. § 75.371.

VI. Document Retention

Final Contracts, Subrecipient agreements, and related ~~procurement~~ ~~procurement~~ records, financial records, supporting documents, statistical records, and all other records pertinent to the Federal Program (collectively, “Records”) carried out under Contracts and agreements consistent with ~~Federal~~ ~~federal~~ document maintenance requirements; must be retained for ~~procurements~~ ~~procurements~~ paid for in whole or part under a Federal Award. As such, ~~each~~ Broward Health ~~Department~~ shall maintain Records for ~~procurement~~ ~~procurement~~ actions paid for in whole or in part under the Federal Award that includes the rationale for ~~the~~ method of ~~procurement~~ ~~procurement~~, selection of Contract or agreement type, contractor selection or rejection, and the basis for the Contract price. This includes documentation related to non-competitive ~~procurements~~ ~~procurements~~. Such Records shall ~~{be}~~ retained ~~for the longer of either~~ (a) ~~for~~ a period of three ~~(3)~~ years from the date of the submission of the final expenditures report to HHS, or (b) ~~for~~ the minimum period required by ~~Schedule Numbers GS1-SL and GS4 of the General Records Schedules promulgated by the Florida Department of State Division of Library and Information Services~~ ~~General Records Schedules GS1-SL and GS4, whichever is longer~~.

VII. Regulatory Standards and References

Section 330(k)(3)(l) and Section 330(q) of the PHS Act; 42 C.F.R. § 51c.113, 42 C.F.R. § 56.114, 42 C.F.R. § 51c.303(t), and 42 C.F.R. § 56.303(t); 45 C.F.R. Part 75, Subpart D; 45 C.F.R. Part 75, Subpart E: Cost Principles; and Section 1861(aa)(4)(A)(ii) and Section 1905(l)(2)(B)(ii) of the Social Security Act.

~~HRSA~~ ~~Health~~ ~~Center~~ ~~Program~~ ~~Compliance~~ ~~Manual~~, ~~Chapter~~ ~~12~~: <https://bphc.hrsa.gov/programrequirements/compliancemanual/chapter-12.html>.

~~Simplified Acquisition Procedures: <https://www.acquisition.gov/content/part-13-simplified-acquisition-procedures>.~~

~~Unallowable Costs: <https://www.hrsa.gov/sites/default/files/grants/manage/unallowablecosts.pdf>~~

~~VIII. VIII. Related Policies~~

~~GA-001-150, Master Procurement Code~~

~~GA-001-151, Procurement Policy Table~~

~~IX.VIII. IX Interpretation and Administration~~

Administration and Interpretation of this ~~policy~~Policy is the responsibility of the ~~President/CEO, CFO and Chief Procurement Officer~~CPO.