

BROWARD METROPOLITAN PLANNING ORGANIZATION

PROCUREMENT RULES

**SECTION 1
SCOPE / DEFINITIONS**

1.1 These Procurement Rules apply to every purchase/procurement and sale by the Broward MPO without regard to the source of funds, including State and Federal assistance funding, except as otherwise provided by law. When using Federal funds and there is a conflict between Federal, State and/or local requirements, Federal requirements take precedence unless State or local requirements are more stringent. Notwithstanding the provisions in these Procurement Rules, Broward MPO purchasing shall be conducted in accordance with applicable local, State and Federal law, and in a manner that preserves local, State and Federal funding received by Broward MPO in connection with its transportation planning responsibilities.

1.2 As used in this document, the term:

- a. *“Broward MPO” / “BMPO” / “MPO”* means the Broward Metropolitan Planning Organization created pursuant to Section 339.175, F.S., duly recognized by the Governor of the State of Florida as the entity responsible for the continuing, cooperative, and comprehensive transportation planning in the urbanized area of Broward County, Florida.
- b. *“Designee”* means a duly authorized representative of a person holding a superior position.
- c. *“Electronic”* means electrical, digital, magnetic, optical, electromagnetic, or any other similar technology.
- d. *“Electronic Posting” or “Electronically Post”* means the noticing of solicitations, MPO decisions or intended decisions, or other matters relating to procurement on the MPO Internet website.
- e. *“Executive Director”* means the chief executive officer and the chief administrative officer of the MPO, including his/her designee, responsible for carrying out the policies of the MPO Board or MPO Executive Committee.
- f. *“Library of Service Providers”* means the library of qualified consultants to perform transportation planning or other services for the MPO on an as-needed basis in accordance with the procurement procedures set forth in Chapter 287, Florida Statutes and in the MPO Procurement Rules.
- g. *“Procurement Officer”* means the person designated by the Executive Director to be responsible for overseeing MPO contracting and procurement proceedings, and includes such person’s designee.
- h. *“Public Notice”* means the distribution or dissemination of information to interested parties using methods that are reasonably available. Such methods may include the publication in newspapers of general circulation, electronic or paper mailing lists, and web site(s) designated by the MPO and maintained for that purpose.

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50 **SECTION 2**
51 **COMPETITIVE BIDDING OR COMPETITIVE PROPOSALS REQUIRED:**
52 **PURCHASES, CONTRACTS, AND SALES IN EXCESS OF \$30,000**

53 2.1 *Purchases exceeding \$30,000.* A purchase of, or contract for, commodities or services,
54 that is estimated by the Executive Director, to cost more than thirty thousand dollars
55 (\$30,000.00), shall be based on competitive bids, competitive proposals, or the Request
56 for Qualifications Procedures in Section 7 for professional services, as determined by the
57 Executive Director or the Procurement Officer.

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59 2.2 *Procedure.* Except for a purchase of, or contract for, professional services utilizing the
60 Request for Qualifications Procedures set forth in Section 7, purchases or contracts for
61 commodities or services estimated to cost more than thirty thousand dollars (\$30,000)
62 shall be made from the lowest, most responsive and responsible bidder obtained in
63 accordance with the following formal bid procedures:

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65 A. The Procurement Officer shall obtain an independent cost or price analysis in
66 connection with every procurement action, including contract modifications,
67 under this section. The independent cost proposal or price analysis should be
68 developed before the issuance of the solicitation.

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70 B. The Procurement Officer shall solicit through appropriate legal advertisements,
71 which may include electronic posting and public notices, a minimum of three (3),
72 if available, competitive sealed bids or proposals from the general public for the
73 purchase of the required goods and services. The bidding window shall not be
74 less than fourteen (14) days, nor more than thirty (30) days long unless approved
75 by the Executive Director. The advertisement shall state the title, date, and hour
76 of the public bid opening and shall specifically define the resources for which
77 bids are sought. Any invitation to bid shall include instructions prescribing all
78 conditions for bidding and shall be distributed to all prospective bidders.

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80 C. The Procurement Officer may also utilize the library of service providers for
81 contracts which have been procured utilizing the process identified in Subsection
82 2.2 and all agreements with library of service providers that were approved by the
83 MPO Board and remain in force. If the library of services is utilized by the
84 Procurement Officer, the procurement process is then exempt from the
85 competitive bid proposal requirements as described in Subsection 3.1, however
86 State laws such as the Consultants' Competitive Negotiations Act ("CCNA"), to
87 the extent applicable, shall be followed.

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89 D. The Procurement Officer shall review the bids or proposals for responsiveness
90 and then establish a committee to review and rank the bids or proposals received
91 according to pre-determined methodology and present them, along with his/her
92 recommendation, to the Executive Director. Upon completion of an acceptable

93 contract, the Executive Director will present the contract to the MPO Board for
94 approval.

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96 E. The Executive Director shall award the contract or sale after the required MPO
97 Board or Executive Committee approval has been obtained.

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99 F. The Procurement Officer shall maintain records for the period of time as required
100 by the State of Florida Records Retention Schedule, as may be amended from
101 time to time. Records include procurement justification information, such as
102 responsive and responsibility determinations and technical evaluation,
103 independent cost estimate and bid tabulation form.

104
105 2.3 *Approval.* All purchases and contracts made in accordance with this Section shall be
106 provided for in the approved budget (Unified Planning Work Program [“UPWP”]), shall
107 have the prior approval of the MPO Board or Executive Committee and shall be executed
108 pursuant to a purchase order processed by the Procurement Officer.

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110 2.4 *Surety.*

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112 A. *Bid deposits.* When deemed necessary by the Procurement Officer, bid deposits
113 shall be prescribed in the public notice inviting bids. When bid deposits are
114 required, unsuccessful bidders shall be entitled to return of surety. A successful
115 bidder shall forfeit any surety required by the Procurement Officer upon failure on
116 its part to enter a contract within fifteen (15) days after the award.

117
118 B. *Sureties on performance.* For all competitive bids seeking commodities or
119 services the Procurement Officer, in his or her discretion may include as a
120 requirement of such advertised bids, a performance bond, in the total contract
121 amount. Any bonding company used must be listed on the United States
122 Department of the Treasury's Circular 570. Additionally, the bonding company
123 must be rated at least "B," Class V, by "Best's Key Rating Guide," published by
124 A.M. Best Company, and authorized to do business in Florida.

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126 2.5 *Specifications cannot be determined.* When specifications of the resources that are
127 required for a purchase cannot be determined, the MPO shall solicit sealed competitive
128 bids utilizing a Request for Proposal in accordance with the procedures in this Section.

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133 **SECTION 3**
134 **EXEMPTIONS FROM COMPETITIVE BIDDING OR COMPETITIVE PROPOSALS**
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136 3.1 *Exemptions.* The following circumstances are exempt from the competitive bid and
137 competitive proposal requirements of these Rules:
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139 A. *Sole Source.* The acquisition of a sole source item shall be exempt from the
140 competitive bidding requirements set forth in these Rules upon approval by the
141 MPO Board or Executive Committee of a sole source purchase that costs more
142 than \$30,000. The Executive Director shall provide documentation to the MPO
143 Board or Executive Committee evidencing that this particular vendor is uniquely
144 qualified to provide goods or services or the only practicable source to secure
145 such goods or services.
146

147 B. *Emergency Purchases.* In urgent cases of compelling emergency that require the
148 immediate purchase of commodities or services, the Executive Director may
149 waive competitive bidding or competitive proposals and authorize the
150 Procurement Officer to secure by open market procedure any commodities or
151 services, notwithstanding the estimated cost of the commodities or
152 services. Emergency purchases shall not require advance MPO Executive
153 Committee or Board approval in urgent situations presenting a clear and present
154 substantial threat to life or property where immediate action is required and a
155 quorum of the MPO Executive Committee or MPO Board for an emergency
156 special meeting cannot be obtained before the deadline for action. In such
157 emergency situations, the Executive Director may approve the purchase or
158 contract, subject to later ratification by the MPO Executive Committee or MPO
159 Board. To the extent practicable, the Executive Director shall notify one or more
160 of the MPO Executive Committee Members of such emergency purchases.
161

162 C. *Utilization of other competitively procured governmental agencies' contracts also*
163 *known as "piggy back contracts."* Awarded bids by any local, State, or national
164 governmental agency, cooperative purchasing organizations, or purchasing
165 associations. Commodities or services that are the subject of contracts with the
166 State, its political subdivisions or other governmental entities, or with the United
167 States government, are exempt from this section; provided, however, that this
168 subsection shall apply only if (i) the commodities or services are the subject of a
169 price schedule negotiated by the State, or (ii) the commodities or services are the
170 subject of a contract with another governmental entity that is based strictly on
171 competitive bids or competitive proposals and not on any preference. Such
172 utilization of other government agencies' contracts shall only be valid during the
173 term of that contract or bid award.
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175 D. *Contracts with public entities.* Contracts for goods or services with nonprofit
176 organizations or another Public Body or political subdivision defined in Section
177 1.01 (8), Florida Statutes.
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- 179 E. *Professional Services.* (i) Contracts for professional services involving unique
180 skill, ability, experience or expertise, which are in their nature distinctive and not
181 subject to competitive bidding or competitive proposals, are exempt from this
182 section of the Rules; and (ii) Contracts for professional services between the MPO
183 and its members as authorized in Section 10, of these Rules, may be exempt from
184 this section of the Rules. Notwithstanding the foregoing, State laws, such as the
185 CCNA, to the extent applicable, shall be followed.
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- 187 F. *Borrowing funds.* Any transaction for, or related to, the borrowing of money from
188 a licensed, registered or otherwise permitted lending entity, whether private or
189 governmental in nature.
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- 191 G. *Existing Agreements.* Lease agreements and service contracts for the
192 maintenance, repair, or servicing of existing equipment owned or leased by MPO,
193 at the date of adoption of these Rules.
194
- 195 H. *Agreements with Library Service Providers.* Library Service providers that have
196 current agreements with the MPO may be used by the Executive Director to
197 provide required services as requested by the MPO consistent with these Rules
198 from time to time; however, State laws, such as the Consultants' Competitive
199 Negotiation Act, to the extent applicable shall be followed. No single agreement
200 with a library service provider may exceed \$2,500,000 without separate
201 competitive bidding for those services.
202
- 203 I. Other Exceptions. With the approval of the Executive Director, the following
204 supplies and services may be procured without competition, subject to the
205 requirements of these Rules.
206 1. Servicing or warranty work of equipment by an authorized dealer
207 or representative when work by another party would void a warrantee or
208 guarantee;
209 2. Renewal of software licenses;
210 3. Used equipment and machinery;
211 4. Advertising in newspapers, periodicals and related publications,
212 television, radio and similar media.
213 5. Licenses;
214 6. Membership in professional, trade and other similar associations;
215 7. Postage;
216 8. Published books, manuals, maps, periodicals, films technical
217 pamphlets, and copyrighted educational aids; and
218 9. Services of visiting speakers and lecturers.
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**SECTION 4
REQUEST FOR QUOTES:
PURCHASES, CONTRACTS, AND SALES BETWEEN \$5,000 AND \$30,000**

- 4.1 *Purchases between \$5,000 and \$30,000.* All purchases of supplies, equipment, and contractual services, the price of which is at least five thousand dollars (\$5,000), but less than or equal to thirty thousand dollars (\$30,000), should be made from the lowest and most responsive and responsible bidder obtained in accordance with the informal Request for Quotes procedures set forth in this Section unless otherwise justified.
- 4.2 *Procedure.* Under the Request for Quotes procedures, the Executive Director shall:
 - A. Solicit at least three (3) competitive written quotes, if available.
 - B. Maintain a record of all quotes received for the period of time as required by the State of Florida Records Retention Schedule, as may be amended from time to time.
 - C. The Procurement Officer shall award the contract or sale after approval by the Executive Director has been obtained.
- 4.3 *Approvals and purchase orders.* All purchases made under this section shall have funds available in the approved budget (UPWP), the prior approval of the Executive Director, and a Purchase Order processed by the Procurement Officer.
- 4.4 *Non-exclusivity.* Purchases eligible under this section may also be purchased under Section 2 of these Rules.

**SECTION 5
PURCHASES, CONTRACTS AND SALES FOR LESS THAN \$5,000**

- 5.1 *Purchases less than \$5,000.* All purchases of supplies, equipment, and contractual services, the cost of which is under five thousand dollars (\$5,000), may be made from the lowest and most responsive and responsible bidder or supplier obtained in accordance with the informal purchasing procedures set forth in this Section.
- 5.2 *Optional Procedure.* For purchases that do not exceed \$5,000, the Executive Director, may, at his/her discretion, solicit at least three (3) oral quotes or published quotes.
- 5.3 *Approvals and purchase orders.* Purchases made under this section require budget availability, Procurement Officer approval and processing of a Purchase Order.
- 5.4 *Non-exclusivity.* Purchases eligible under this section may also be purchased under Sections 2 and 4 of these Rules.

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SECTION 6
APPROVALS FOR PURCHASES AND AWARD OF CONTRACTS

6.1 *MPO Executive Committee or Board approval.*

- A. A purchase of, or contract for, commodities or services, in excess of thirty thousand dollars (\$30,000), but no more than two hundred fifty thousand dollars (\$250,000) or the maximum amount otherwise authorized in Section 2.06 of the BMPO Rules, shall require the approval of the MPO Executive Committee, regardless of whether the competitive bidding, library of service providers, or competitive proposal procedures were followed. A purchase of, or contract for, commodities or services that exceed two hundred fifty thousand dollars (\$250,000) or the maximum expenditure authority of the Executive Committee as set forth in Section 2.06 the BMPO Rules, shall require the approval of the MPO Board. However, emergency purchases shall not require advance MPO Executive Committee or Board approval in urgent situations presenting a clear and present substantial threat to life or property where immediate action is required and a quorum of the MPO Executive Committee or the MPO Board for an emergency special meeting cannot be obtained before the deadline for action. In such emergency situations, the Executive Director may approve the purchase or contract, subject to later ratification by the MPO Executive Committee or the MPO Board. To the extent practicable, the Executive Director shall notify one or more of the MPO Executive Committee Members of such emergency purchases.

- B. Purchases exceeding the aggregate sum of one hundred thousand dollars (\$100,000) shall not be purchased from the same person or entity during the course of any fiscal year, unless such purchases are first authorized by the MPO Executive Committee or Board as limited by Section 2.06 of the BMPO Rules. This subsection (B) shall not apply to purchases of utilities, BMPO operations and maintenance, or to ongoing contracts or contracts with library of service providers or contracts with MPO members for services.

6.2 *Executive Director approval.* A purchase of, or contract for, commodities or services in an amount of thirty thousand dollars (\$30,000) or less, shall require the approval of the Executive Director.

6.3 *Required contract provisions.* All contracts awarded by the MPO shall contain the provisions required by applicable Federal, State and local law, as may be amended from time to time, including, but not limited to, a statement of compliance with the Public Entity Crime Act (F.S. 287.133), the Anti-Kickback Act, Davis-Bacon Act, The Equal Employment Opportunity Order, remedies for contractor’s breach of contract terms and termination for cause and for convenience (for contracts in excess of \$10,000).

313 6.4 United States Department of Transportation (“USDOT”) / Federal Transit Administration
314 (“FTA”) / Federal Highway Administration (“FHWA”) Required Disadvantaged
315 Business Enterprise (DBE) and Title VI Programs and Limited English Proficiency Plan
316 (LEP).

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318 A. The MPO as a recipient of USDOT funds through the FTA/FHWA is required to
319 develop and sustain DBE and Title VI of the Civil Rights Act Programs and LEP
320 Plan.

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322 B. Where the MPO is a recipient of USDOT funds through the FTA/FHWA, all
323 contracts awarded by the MPO utilizing these funds shall be subject to:

- 324 (i) applicable Federal, State and local law, as may be amended from time
325 to time;
- 326 (ii) the MPO’s DBE and Title VI Programs and LEP Plan; and
- 327 (iii) include the provisions required by these Programs and Plan.

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SECTION 7
REQUEST FOR QUALIFICATIONS PROCEDURES;
CONSULTANT’S COMPETITIVE NEGOTIATIONS ACT PROCEDURES

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335 7.1 *Applicability.* The Request for Qualifications procedures in this Section shall apply
336 where the MPO procures services that are regulated by Section 287.055, Florida Statutes,
337 referred to as Consultant's Competitive Negotiations Act (“CCNA”). Procurement of
338 services governed by the CCNA shall comply with all statutory requirements.
339 Additionally, notwithstanding any language in this Procurement Rules to the contrary, the
340 Request for Qualifications procedures in this Section may be utilized by the MPO to
341 procure other professional services (as defined in Section 3.1E) pursuant to continuing
342 agreements, except where expressly prohibited by law.

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344 7.2 *Procedures for qualifications-based selection process.*

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346 A. *Public notice.* If the MPO desires to use the qualifications based selection process
347 for procurement of professional services on a continuing agreement, or if the MPO is
348 required to utilize the process pursuant to CCNA, the MPO shall publicly advertise a
349 Request for Qualifications to obtain qualifications from potential consultants from which
350 a selection will be made to perform the professional services that the MPO requires.

351
352 B. *Receipt of responses.* The Request for Qualifications shall provide for a MPO
353 staff member to receive all responses. When the deadline for responses has been reached,
354 that staff person shall distribute the responses to an Evaluation and Selection Committee
355 for review.

356
357 C. *Evaluation and Selection Committee.* An Evaluation and Selection Committee
358 (“Committee”) comprised of MPO staff or others, as appointed by the Executive

359 Director, shall be established. The Committee shall have a minimum of three (3)
360 members. All meetings of the Evaluation Committee shall be conducted in a manner
361 consistent with Florida's Sunshine Law and all applicants shall receive notice by mail,
362 fax or e-mail. A quorum shall be a majority of members except that if there are only three
363 (3) members, all three (3) must be present. To participate the members of the Committee
364 must be physically present. All members shall be free of any conflicts of interest as set
365 forth in Chapter 112, Florida Statutes.
366

367 D. *Short List.* The Committee shall conduct a preliminary evaluation of all submittals
368 on the basis of the information provided and other evaluation criteria as set forth in the
369 Request for Qualifications or as reasonably determined by the Committee pursuant to
370 CCNA. The Committee will first review each submittal for compliance with the
371 minimum qualifications and mandatory requirements of the RFQ. Failure to comply with
372 any mandatory requirements, as determined by the Committee, will disqualify a
373 submittal. The Committee must find that the firm or individual is fully qualified to
374 render the required services. In determining whether a firm is qualified, the Committee
375 shall consider factors that include, but are not limited to, (i) the firm's capabilities, (ii)
376 adequacy of personnel, (iii) past record, and (iv) experience of the firm or individual.
377 The Committee shall then reduce (i.e. short list) the number of firms to at least three
378 qualified firms (as may be appropriate) for further discussion. In short listing the firms,
379 the Committee shall select the most qualified firms to perform the solicited service
380 without considering price. Firms that are short listed shall be required to enter into an
381 agreement with the MPO to provide the contracted services, which shall be subject to
382 approval by the MPO Executive Committee or the MPO Board.
383

384 E. *Public Presentations.* The Committee may require public presentations by the
385 short listed firms regarding their qualifications, approach to the project or work, and
386 ability to furnish the required services.
387

388 F. *Ranking of short listed firms.* Following discussions and/or presentations by each
389 short listed firm, the Committee shall (1) score the short listed firms as they deem
390 appropriate, (2) select and rank, in order of preference, the short listed firms deemed to be
391 the most highly qualified to perform the required services, and (3) vote on the final
392 ranking of shortlisted firms. Total scores for each evaluation criteria shall be based upon
393 an average of the scores of all Committee members unless otherwise provided for in the
394 Request for Qualifications documents. The Committee shall provide its recommendation
395 on the final ranking of the shortlisted firms to the Executive Director.
396

397 G. *Negotiations.* Upon approval by the Executive Director of the Committee's
398 recommendation of the final rankings of the shortlisted firms, an intent to award shall be
399 posted and the Executive Director shall request a fee proposal from the highest ranked
400 firm and attempt to negotiate a contract with the highest ranked firm to perform specified
401 services at a compensation that is determined by the Executive Director, in his or her sole
402 discretion, to be fair, competitive and reasonable. If multiple project contracts are to be
403 awarded, the Executive Director may request proposals from some or all of the ranked
404 firms and negotiate with them without regard to rank or order. Should the Executive

405 Director be unable to negotiate a satisfactory agreement with the top-ranked firm at a
406 price determined to be fair, competitive, and reasonable, negotiations with that firm must
407 be formally terminated. The Executive Director shall then undertake negotiations with the
408 second most qualified firm. Failing accord with the second most qualified firm, the MPO
409 must terminate negotiations. The MPO shall then undertake negotiations with the third
410 most qualified firm. Should the Executive Director be unable to negotiate a satisfactory
411 contract with any of the selected firms, the Executive Director shall select additional
412 short-listed firms in the order of their competence and qualification and continue
413 negotiations in accordance with this section until an agreement is reached. If the short
414 list is exhausted, a new solicitation for Qualifications shall be initiated in the event the
415 MPO still desires to procure the services.
416

417 H. *Compensation for Services.* The MPO may consider proposals for the
418 compensation to be paid for the requested services only during the negotiations stage
419 under paragraph G above.
420

421 I. *Award of Contract.* After the successful conclusion of negotiations, the
422 contract(s) will be presented to the MPO Board or Executive Committee for award, or, if
423 the contract amount is within the Executive Director's approval authority set forth in
424 Section 6, the contract(s) will be presented to the Executive Director for award. The
425 Board, Executive Committee, or Executive Director shall review the selection process
426 and may reject all proposals if it is determined that such rejection is consistent with these
427 Procurement Rules.
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429 J. *Library of Service Providers.* The MPO may establish a pool of qualified
430 consultants, in accordance with applicable law, to be used as needed to provide prompt
431 and efficient professional services required by the MPO on a project by project basis, as
432 may be authorized by the MPO from time to time. Notwithstanding any provisions in
433 these Procurement Rules to the contrary, the Executive Director may procure a contract
434 utilizing the library of service providers by selecting a firm from the library that can
435 provide the required services requested by the MPO. The MPO reserves the right to
436 select one or more firms to perform a specific project or projects. All contracts shall be
437 subject to the expenditure limits set forth in Section 6.1 of these Procurement Rules or a
438 contract that would result in a firm from the library receiving contracts from the MPO for
439 the same services in a cumulative amount exceeding the expenditure limits set forth in
440 Section 6.1 of these Procurement Rules, during a single fiscal year, shall be approved by
441 the MPO Executive Committee or Board as warranted by BMPO Rules.
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444 **SECTION 8**
445 **PROTESTED SOLICITATIONS AND AWARDS**
446

- 447 8.1 *Filing a Protest.* After a notice of intent to award a contract is posted, any actual or
448 prospective bidder who is aggrieved in connection with the pending award of the contract
449 or any element of the process leading to the award of the contract may protest to the
450 Procurement Officer. A protest must be filed within five (5) business days after posting
451 or any right to protest is forfeited. The protest must be in writing, must identify the name
452 and address of the protester, and must include a factual summary of, and the basis for, the
453 protest. Filing shall be considered complete when the protest is received by the
454 Procurement Officer.
455
- 456 8.2 *Protest Committee.* The Protest Committee shall have the authority to review, settle and
457 resolve the protest. The protest committee shall be comprised of the Procurement Officer,
458 the Finance Officer, the Executive Director, and, if applicable, the director or designee of
459 the department or office for which the contract is to be awarded. The Committee's review
460 shall be informal. The Procurement Officer, or the director or designee of the department
461 or office for which the contract is to be awarded, shall serve as the chairperson of the
462 Committee. The Procurement Officer shall provide for the disclosure of information
463 regarding the protest to the appropriate awarding agency. The MPO General Counsel, or
464 designee, shall be counsel to the Committee.
465
- 466 8.3 *Protest Committee Determination.* If the Protest Committee determines that the pending
467 award of a contract or any element of the process leading to the award involved a
468 significant violation of law or applicable rule or regulation, all steps necessary and proper
469 to correct the violation shall be taken. If the Protest Committee determines that the
470 protest is without merit, the Procurement Officer shall promptly issue a decision in
471 writing stating the reason for the decision and furnish a copy to the protester and any
472 other interested party, and the process leading to the award shall proceed forthwith.
473
- 474 8.4 *Stay of Contract Award.* In the event of a timely protest, the Procurement Officer shall
475 stay the award of the contract, unless, after consulting with the MPO attorney, the
476 Procurement Officer determines that the award of the contract without delay is necessary
477 to protect substantial interests of the MPO.
478
- 479 8.5 *Deposit Required.* The chairperson of the Committee shall require a deposit from a
480 protester to compensate MPO for the expenses of administering the protest. If the protest
481 is decided in the protester's favor, the entire deposit shall be returned to the protester. If
482 the protest is not decided in the protester's favor, the deposit shall be forfeited to the
483 MPO. The deposit shall be in the form of cash or a cashier's check, and shall be the
484 greater of one (1) percent of the amount of the pending award or five thousand dollars
485 (\$5,000).
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487 8.6 *Exhaustion of Remedies Required.* A protestor must exhaust all administrative remedies
488 with the MPO and the pending successful bidder before pursuing a protest with the
489 applicable Federal agency.

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492 **SECTION 9**
493 **RECORD REQUIREMENTS**

494
495 9.1 The Procurement Officer shall maintain records that detail the history of a procurement.
496 Such records shall include, but not be limited to, the following information: rationale for
497 the method of procurement, selection of contract type, contractor selection/rejection, the
498 basis for the contract price, notice to bidders, RFP/RFQ, independent cost/price analysis,
499 and record of negotiations.

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501 9.2 All MPO expenditures shall be properly recorded in the accounting records and noted and
502 explained as part of the financial report.

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504 9.3 Budget amendments to fund expenditures shall be performed as necessary.

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506 9.4 The Procurement Officer shall tag and inventory all Tangible Personal Property items equal
507 to or greater than one thousand dollars (\$1,000) per item.

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509 9.5 The Executive Director shall prepare a monthly report identifying all existing contracts
510 with MPO contractors and the total compensation the contractors have received from the
511 MPO to date under such existing contracts. The monthly written reports shall be provided
512 to the Board as an administrative item on each regularly scheduled meeting agenda.

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516 **SECTION 10**
517 **AUTHORIZATION AND PROCEDURE TO PROVIDE SERVICES TO MPO**
518 **MEMBERS**

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521 10.1 *Agreement Required.* The MPO may perform transportation planning services for those
522 MPO members who are signatories to the effective MPO Interlocal Agreement For Creation of
523 the Broward Metropolitan Planning Organization, as such may be amended, through separate
524 agreements as approved by the MPO Board. For purpose of this Section 10, MPO members
525 include all voting members, alternate members and non-voting member(s). The provision of such
526 transportation planning services shall be pursuant to a written contract between the MPO and the
527 respective member. Services provided by the MPO may include, but not be limited to,
528 administrative, technical, graphical, public engagement and product review activities. Such
529 services may be provided by MPO staff or by qualified consultants with whom the MPO has
530 retained services pursuant to these Procurement Rules. An agreement to provide services to an
531 MPO member shall be approved in accordance with Sections 6.1A and 6.2 of these Procurement
532 Rules.

533
 534 10.2 *Services to be Provided; Members Responsible For Consultant Fees, Costs and Expenses.*
 535 The MPO may assist an MPO member by providing additional resources to accomplish
 536 assignments as authorized by the MPO member. A written contract with a MPO member shall
 537 provide for those services specific to the respective MPO member’s requirements, a particular
 538 project, or to provide support for transportation and/or related planning activities and services as
 539 may be requested from time to time by the MPO member and accepted by the MPO. Each
 540 agreement shall contain a general scope of services that outlines services (or separate tasks) that
 541 may be assigned to the MPO under one or more general planning contracts and/or work
 542 authorizations. Pursuant to the agreement, the MPO member shall be financially responsible for
 543 the total costs associated for those services as provided pursuant to each Services Agreement.
 544 The MPO shall establish and maintain separate cost recovery accounts for the benefit of each
 545 participating MPO member, which member shall, prior to the commencement of any such
 546 services, deposit and maintain a sufficient balance to insure the payment of the fees and costs
 547 reasonably anticipated for these services whether provided through MPO consultants or by MPO
 548 staff. The MPO shall have no obligation to independently fund the fees, costs or expenses of
 549 these services.

550
 551 10.3 *Use of Library Providers.* In providing these services to a MPO member, the MPO
 552 may utilize consultants in the MPO’s library of service providers that have continuing
 553 agreements with the MPO. The use of any continuing agreement shall conform to the
 554 requirements of Section 287.055, Florida Statutes, as may be amended and any successor statute.

555
 556 10.4 General planning agreements or work authorizations for services issued pursuant to an
 557 agreement with a MPO member shall be approved by the MPO Executive Committee or the
 558 MPO Board as provided in Section 6 of these Procurement Rules. General planning agreements
 559 or work authorizations may be approved by the Executive Director in accordance with the
 560 expenditure limits set forth in Section 6.1 of these Procurement Rules. All general planning
 561 agreements or work authorizations issued by the MPO pursuant to the library of service
 562 providers shall conform to the requirements of Section 7.2 J of these Procurement Rules.

563
 564
 565 **SECTION 11**
 566 **SALES TAX**

567
 568 The MPO is exempt from Florida Sales and Use Tax on its purchases, except as otherwise
 569 provided by law. A sales tax exemption form is available from the Procurement Officer. The
 570 purchaser is responsible for making an attempt to use the exemption form to avoid paying sales
 571 tax. If the retailer refuses to honor the form, the purchaser must so state on the receipt in order to
 572 be reimbursed for the sales tax.

573
 574
 575
 576 **SECTION 12**
 577 **PROMPT PAYMENT ACT**
 578

579 12.1 It is the policy of MPO to pay all invoices in accordance with the Florida Prompt
580 Payment Act after receipt of a proper invoice, provided that the goods/services have been
581 delivered, received and accepted by MPO and that the provider is not in default of any
582 contract/agreement terms or conditions.

583
584 12.2 *Proper Invoice:*
585

586 A. A proper invoice, as determined by the MPO, is defined as an original invoice
587 which has been received by the finance/accounts payable of the MPO, and has, at
588 minimum:

- 589
- 590 1. Vendor's name, telephone number and mailing address
 - 591 2. Broward MPO Purchase Order Number
 - 592 3. Invoice date and service period
 - 593 4. Shipping date & delivery date
 - 594 5. Packing slip required for supply orders
 - 595 6. Payment terms (including any applicable discounts)
 - 596 7. Adequate description of goods/services for identification
 - 597 8. Quantity
 - 598 9. Unit Price
 - 599 10. Extended Price
 - 600 11. Shipping/handling charges
 - 601 12. Total invoice amount
 - 602 13. Approval of project manager or engineer (if required)
 - 603 14. Approval of governing body (if required)
- 604

605 B. For contracts, a proper invoice shall include elements in (A) above as applicable,
606 PLUS:

- 607
- 608 1. Schedule of values for materials and services provided and associated
609 costs.
 - 610 2. Total invoice amount (less retainage) and percentage of work completed
 - 611 3. Date of invoice and date work completed through
 - 612 4. Statement of certification that all work was completed in accordance with
613 contract
 - 614 5. Statement that all subcontractors, if applicable, have been paid for work
615 completed.
 - 616 6. Certification that all procedures for procurement of goods and services
617 provided for ethical, fair and open competition in procurement, and
618 selection of all consultant-contracted services was accomplished in
619 accordance with the Consultants' Competitive Negotiations Act.

620

- 621 (a) It is the sole responsibility of the contactor to ensure that an
622 invoice is proper and submitted as required to the MPO, as
623 applicable

624

- 625 (b) Invoices are to be delivered to:
- 626 Finance/Accounts Payable
- 627 Broward MPO
- 628 100 West Cypress Creek Road, Suite 650
- 629 Fort Lauderdale, FL 33309

630
631 12.3 *Improper Invoice.* For invoices which are not completed in accordance with these
632 Procurement Rules, i.e., deficient in one or more of the requirements for a proper invoice, the
633 vendor shall be notified within 10 working days of the receipt of the original invoice that the
634 submitted invoice did not contain all the required information and indicate what corrective action
635 on the part of the vendor is needed to make the invoice proper.

636
637 12.4 *Dispute Resolution Regarding Invoicing.*

- 638
- 639 A. In the event of a dispute regarding invoicing, the Accounting Manager shall
- 640 consider the complaint. This procedure may be initiated by either the vendor or
- 641 MPO by notifying the other party in writing and stating specifically the nature of
- 642 the dispute. This procedure shall commence within 45 days (and be resolved
- 643 within 60 days) of receipt of a proper invoice.
- 644
- 645 B. The invoicing party shall provide MPO such material and information as MPO
- 646 may reasonably require to resolve the dispute.
- 647
- 648 C. Any decision by the Accounting Manager shall constitute the final decision of
- 649 MPO regarding the dispute. Such decision shall be communicated to the vendor
- 650 in writing within 5 business days after such decision. If no decision is rendered
- 651 within the time period as set out above, then a decision against the invoicing party
- 652 shall be deemed to have been issued.

653
654
655
656 **SECTION 13**
657 **TRAVEL EXPENSES**

658
659 Procurement of all travel-related expenditures shall be accomplished in accordance with Section
660 112.061, Florida Statutes and the MPO Personnel Policy Manual.

661
662
663 **SECTION 14**
664 **USE OF MPO CREDIT CARDS**

665
666 Individual names as well as MPO's name shall be on all credit cards utilized in connection with
667 official MPO business, except as otherwise provided herein. Therefore, both have responsibility
668 and liability for use of any card in their name.

669
670 *MPO Credit Card Use:*

- 671
672 14.1 The MPO credit card is to be used for MPO purchases ONLY. Use of the card for
673 personal items may be grounds for denial of future use of MPO cards. Fraudulent use
674 may be grounds for dismissal from employment.
675
676 14.2 The MPO credit card shall have cardholder's name embossed on it and is to be used only
677 by that cardholder.
678
679 14.3 NO PURCHASE SHALL BE PLACED ON AN INDIVIDUAL'S MPO CARD
680 WITHOUT THE EXPRESS WRITTEN CONSENT OF THE CARDHOLDER.
681
682 14.4 All receipts (sales drafts) received at the time of purchase are to be turned into the
683 Financial Officer within thirty days of purchase.
684
685 14.5 All monthly statements of account must be reviewed and signed by the cardholder,
686 certifying that the items shown as purchased are correct, and then forwarded to Accounts
687 Payable for payment.
688
689 14.6 Should any employee lose or have their MPO credit card stolen, it is the responsibility of
690 the cardholder to *immediately* notify the card issuer. In addition, the cardholder must
691 notify the Accounting Manager of the loss within 24 hours after discovery of the loss or
692 theft of the card. The cardholder is required to provide a written report to the Financial
693 Officer, no later than the next business day after the loss of the MPO credit card, that will
694 include the complete information on the loss, the date the loss was discovered, the
695 location where the loss occurred, if known, the purchases that the cardholder had made
696 prior to the loss, and any other information that is pertinent. Should the card be returned,
697 it must be turned into the Accounting Manager.
698
699 14.7 *Terminating Employees.* If an employee is terminated or otherwise ceases to be
700 employed by the MPO, the employee's MPO card must be collected and destroyed. The
701 Financial Officer shall cancel the card with the issuer.
702
703 14.8 Non-compliance with this Section may result in denial of future use of the MPO credit
704 card and/or termination from employment.
705
706

707 **SECTION 15**
708 **SURPLUS PROPERTY**
709

- 710 15.1 *Applicable law.* All Surplus Property shall be disposed of in accordance with Federal
711 requirements; Chapter 274, Florida Statutes; and the provisions of this Section.
712 Depending on the cost and age of the Surplus Property, and whether the Surplus Property
713 was acquired with Federal funds, approval from FTA may be needed before being
714 disposed.
715

- 716 15.2 *Market value exceeds \$30,000.* All sales of personal property (except trade-in personal
 717 property) that has become obsolete and unusable, or the sale of which is otherwise
 718 determined to be in the best interest of MPO, the market value of which is expected to be
 719 greater than thirty thousand dollars (\$30,000), shall be made to the highest, most
 720 responsive and responsible bidder obtained in accordance with Section 2 of these Rules.
 721 Property eligible to be sold under this subsection may also be sold through an
 722 appropriately advertised public auction (Publication of notice not less than one week or
 723 more than two weeks prior to sale in a newspaper having a general circulation in the
 724 Broward County area). Surplus property may be disposed of for value to any person, or
 725 may be disposed of for the value without bids to any governmental unity or political
 726 subdivision, or offered by sale or donation to private nonprofit agencies as defined in
 727 Section 273.01(3), Florida Statutes. All such sales or donations shall have the prior
 728 approval of the MPO Executive Director consistent with FTA requirements.
 729
- 730 15.3 *Market value between \$5,000 and \$30,000.* All sales of personal property (except trade-in
 731 personal property) that has become obsolete and unusable, or the sale of which is
 732 otherwise determined to be in the best interest of MPO, the market value of which is
 733 expected to be greater than five thousand dollars (\$5,000) but less than thirty thousand
 734 dollars (\$30,000), shall be made to the highest, most responsive and responsible bidder
 735 obtained in accordance with the procedures in Section 4 of these Rules. Property eligible
 736 to be sold under this subsection may also be sold through and appropriately advertised
 737 public auction (publication of notice not less than one week or more than two weeks prior
 738 to sale in a newspaper having a general circulation in the Broward County area). Surplus
 739 property may be disposed of for value to any person, or may be disposed of for the value
 740 without bids to any governmental unity or political subdivision, or offered by sale or
 741 donation to private nonprofit agencies as defined in Section 273.01(3), Florida Statutes.
 742 All such sales or donations shall have the prior approval of the MPO Executive Director
 743 consistent with FTA requirements.
 744
- 745 15.4 *Market value less than \$5,000.* All sales of personal property (except trade-in personal
 746 property) that has become obsolete or unusable, or the sale of which is otherwise
 747 determined to be in the best interest of the MPO, and the value of which is expected to be
 748 less than five thousand dollars (\$5,000), may be disposed of for value to any person or
 749 may be disposed of for value without bids to the State, to any governmental unit or to any
 750 political subdivision or, if the property is without commercial value, it may be donated,
 751 destroyed, or abandoned. Property, the value of which is estimated to be under \$5,000,
 752 may be disposed of in the most efficient and cost-effective means as determined by the
 753 Board. Sale may be made to the highest and most responsible bidder. Property eligible
 754 to be sold under this section may also be sold under the procedures contained in Section 4
 755 of these Rules or at an appropriately advertised public auction.
 756
- 757 15.5 *Awarding agency share.* For the sale of original or replacement items of equipment, the
 758 fair market value of which exceeds \$5,000, the Accounting Manager shall make available
 759 to the awarding agency an amount calculated by multiplying the current market value or
 760 proceeds from the sale by the awarding agency's share of the equipment.
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**SECTION 16
CONFLICTS OF INTEREST**

In connection with the MPO’s procurement of commodities or services, MPO employees shall adhere to the conflict of interest and unauthorized compensation provisions applicable to State and local public officials, as set forth in Section 112.313, Florida Statutes.

**SECTION 17
EFFECTIVE DATE OF PROCUREMENT RULES**

These Procurement Rules are effective as of the date of approval of these Rules by the MPO Board, unless otherwise specified in the approving legislation. These Procurement Rules shall not apply to purchases made, and contracts solicited or entered into, prior to the effective date of these Rules, unless the parties agree to these Rule’s application to a purchase made, or contract solicited or entered into, prior to the effective date.

Legislative History:

- Policy Adopted 10/14/10
- Policy Amended and Adopted 5/12/11 (Modified Section 2; Created new Section 7)
- Policy Amended and Adopted 6/9/11 (Created new Paragraph 9.5)
- Policy Amended and Adopted 12/8/11 (Created new Paragraph 6.4)
- Policy Amended and Adopted 6/13/13 (Created Definitions, Modified Sections 2, 3, 7, etc.)
- Policy Amended and Adopted 10/12/17 (Modified Sec. 6, Created new Sec.10, etc.)
- Policy Amended and Adopted 7/8/21