



COUNTY ATTORNEY'S OFFICE  
JEFFREY J. NEWTON, *County Attorney*

201 South Rosalind Avenue ■ 3rd Floor  
Reply To: Post Office Box 1393  
Orlando, FL 32802-1393  
407-836-7320 ■ Fax 407-836-5888  
www.ocfl.net

**Consent Agenda Item**

**MEMORANDUM**

*Deputy County Attorney*  
Joel D. Prinsell

*Senior Assistant County Attorneys*

Katherine W. Latorre  
Elaine M. Asad

*Assistant County Attorneys*

Roberta Alfonso  
David Berman  
Lee N. Bernbaum  
Cristina T. Berrios  
Linda Brehmer-Lanosa  
Joy Carmichael  
Whitney E. Evers  
Georgiana Holmes  
Aleas Koos  
Scott McHenry  
Sawsan Mohiuddin  
Matthew Pritchett  
Dylan Schott  
Scott Shevenell  
Shonda White

*Legal Administrative Supervisor*  
Anna M. Caban

*Senior Paralegal*  
Melessia Lofgren

*Paralegals*  
Maria Vargas, ACP  
Gail Stanford  
Lamar Sharpe

**TO:** Mayor Jerry L. Demings  
and  
County Commissioners

**FROM:** Jeffrey J. Newton, County Attorney *JJM*  
Kate Latorre, Senior Assistant County Attorney  
**Contact: (407) 836-7320**

**DATE:** March 6, 2023

**RE:** **Consent Agenda Item for Board Meeting on March 21, 2023**  
Proposed revisions to Administrative Regulation number: 9.01  
titled "Contract Negotiation Procedures," 9.01.10 titled  
"Continuing Contracts for Engineering, Architectural, Surveying  
and Mapping, and/or Landscape Architectural Services," and  
9.01.13 titled "Procedures for Competitive Proposal Awards."

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**I. EXPLANATION & SUMMARY:**

These attached regulations were reviewed in depth and revisions were made to ensure that the regulations are consistent with current practices and procedures.

It is my intent to place the proposal on the March 21, 2023 Consent Agenda for approval by the Board of County Commissioners. Please advise me of any questions, comments, or modifications you may wish to make prior to that meeting.

**II. ACTION REQUESTED:** Approval of proposed revisions to Administrative Regulation No.: 9.01 titled "Contract Negotiation Procedures," 9.01.10 titled "Continuing Contracts for Engineering, Architectural, Surveying and Mapping, and/or Landscape Architectural Services," and 9.01.13 titled "Procedures for Competitive Proposal Awards."

Attachments

c: Byron W. Brooks, AICP, County Administrator  
Joel D. Prinsell, Deputy County Attorney



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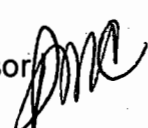
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**ADMINISTRATIVE REGULATIONS**

**CHANGE 58**

**MEMORANDUM**

To: All Administrative Regulations Recipients

From: Anna M. Caban, Legal Administrative Supervisor  
County Attorney's Office 

Date: March 30, 2023

Subject: Revised Administrative Regulation 6.16 titled, "Gift Card Guidelines For Child and Youth Residential Programs." 7.13.02, titled "Employee and Volunteer Service Awards and Recognition.", 9.01, titled "Contract Negotiation Procedures," 9.01.10, titled "Continuing Contracts for Engineering, Architectural, Surveying and Mapping, and or Landscape Architectural Services," and 9.01.13, titled, "Procedures for Competitive Proposal Awards.", 11.09, titled "Delegation of Limited Authority to Execute Agreements Relating to Animal Services."

The following attached revisions and corrections are forwarded to you for inclusion in Orange County's Administrative Regulations:

- Attachment 1: Revised Table of Contents and Index to properly reflect all revisions to date.
- Attachment 2: Revised Administrative Regulation 7.13.02, 9.01, 9.01.10, 9.01.13, 11.09 approved by the Board of County Commissioners on March 21, 2023.

Revised Administrative Regulation 6.16 approved by the Board of County Commissioners on February 27, 2023.

Please insert the updated Table of Contents, Index and revised Administrative Regulations in your copy of the Orange County Administrative Regulations notebook.



# ORANGE COUNTY ADMINISTRATIVE REGULATIONS

## TABLE OF CONTENTS

	EFFECTIVE/ APPROVAL DATE	REV. DATE		EFFECTIVE/ APPROVAL DATE	REV. DATE
<b>EXECUTIVE ORDERS</b>					
06.001 Purpose/Introduction	8/1/06				
06.003 Commission Staffing	8/1/06				
06.004 Delegation of Authority to Sign Contracts, Resolutions, Plats, Deeds, Ordinances and other Legal Documents after Board Approval	8/1/06	5/19/08			
10.001 Tobacco in the Workplace	1/1/10	5/28/10; 10/06/10; 11/11/14			
<b>GENERAL</b>					
1.01 Introduction	5/11/87				
1.02 Administrative Regulations	5/11/87	6/27/06			
<b>ADMINISTRATION</b>					
2.02 Acting County Administrator	2/16/87	11/19/90 6/27/06			
2.03 Acting Department Directors and Division Managers	2/16/87	6/27/06			
2.04 Intergovernmental Relations	10/29/90	6/27/06			
2.05 Issuance and Control of Forms	2/16/87				
2.05.01 Printing and Copy Center Services	9/18/89	6/27/06			
2.06 Access to Public Records	9/21/87	6/27/06; 7/29/08; 2/26/13; 8/16/16			
2.06.01 Disposition of Public Records	2/16/87	12/10/90 6/27/06			
2.07.01 Uniform Stationary Requirement	2/16/87	6/27/06			
2.07.02 Uniform Mailing Requirements	2/16/87	6/27/06			
2.07.03 Use of County Seals and Logos	5/11/87	3/11/97 6/27/06			
2.08 Disclosure of Financial Interest	2/16/87	6/27/06			
2.08.01 Local Disclosure Requirements	12/16/08				
2.09 Compliance with the "Sunshine Law" – Meetings of the Board of County Commissioners	2/16/87	10/15/02 6/27/06			
2.09.01 Compliance with the "Sunshine Law" – Meetings of County Advisory Boards	9/21/87	10/15/02 6/27/06 2/21/17			
2.10 Official County Ceremonies	2/16/87	6/27/06			
2.11 County Attorney's Office – Request for Assistance	2/16/87	6/27/06			
2.11.01 County Attorney's Office – Waivers of Conflicts of Interest for Outside Legal Counsel	9/19/98	6/27/06			
2.12 Safety and Risk Management	2/16/87	6/27/06			
2.12.01 Risk Management Program	2/16/87	6/27/06			
2.12.02 Cost Allocation System – Self Insurance Program	2/16/87	6/27/06			
2.12.03 Drivers Education Training Course (DET)	2/16/87	6/27/06			
2.12.04 County Motor Vehicle Operations	2/16/87	6/27/06; 7/29/08; 8/04/09; 2/10/15			
2.12.05 Citizen Injury in County Buildings	2/16/87	6/27/06			
2.12.07 Personal Property Insurance Coverage	9/21/87	6/27/06			
2.12.08 Automobile Liability Insurance	5/2/88	6/27/06; 9/19/17			
2.12.09 Civil Summons, Complaint, or Lawsuit Against a County Employee	9/21/87	6/27/06			
2.12.10 Fuel and Chemical Spills	9/18/89	6/27/06			
2.12.11 Correctional and Correctional Officer; Death Benefits	6/05/07				
2.12.12 Firefighter; Death Benefits	10/12/21				
2.13 Telephone Systems and Network Infrastructure Control	2/16/87	6/27/06			
2.14 Equal Employment Opportunity	2/16/87	6/27/06			
2.14.01 Investigation of Complaint of Discrimination	2/16/87	6/18/91 8/24/93 6/27/06			
2.14.02 Equal Employment Opportunity Plan – Objectives & Responsibilities	2/16/87	6/27/06			
2.14.03 Equal Employment Opportunity Commission (EEOC) and Florida Commission on Human Relations (FCHR) Charge(s)	2/16/87	6/18/91 6/27/06			
2.14.05 Investigation of Charges of Sexual Harassment	8/24/93	6/27/06			
2.16 The Naming of Orange County Parks, and Related Facilities	6/27/06				
2.16.01 Use of County Parks and Facilities by County Departments	11/19/90	6/27/06			
2.16.02 Reporting Allegations of Fraud	12/02/93	6/27/06			
2.16.03 Delegation of Limited Authority to Execute Agreements Relating to Parks and Recreation Instructors	8/11/20				
2.16.04 Use of Alcoholic Beverages in County Parks and Facilities	10/20/92	6/27/06 3/18/08			
2.17.01 Collective Bargaining: Closed Sessions with the Board of County Commissioners	6/27/06				
2.18 State of the County Message	10/20/92	6/27/95 1/2/01 6/27/06			
2.19 Disaster Planning and Control	6/18/91	11/11/97 6/27/06			
2.20 Specific Project Expenditure Report	12/16/08	10/30/12			



# ORANGE COUNTY ADMINISTRATIVE REGULATIONS

		EFFECTIVE/ APPROVAL DATE	REV. DATE		EFFECTIVE/ APPROVAL DATE	REV. DATE
2.21	Identify Theft Protection	4/07/09				
2.22	Complaint Form and Enforcement Response Guide and Fines Matrix	6/29/10				
2.23	HIPAA Standards for Implementation	9/10/13				
2.23.01	Health Information Privacy Policy and Procedures for HIPAA	9/10/13				
2.24	Digital / Electronic Signatures	12/13/22				
<b>COUNTY COMMISSION RELATIONS</b>						
3.01	Preparation of Board of County Commissioners Agendas	5/11/87	6/27/06			
3.02	Advisory Boards	5/11/87	6/27/06			
3.03	Rules of Procedure for Meetings of the Board of County Commissioners	11/23/87	8/16/94 1/26/99 6/27/06			
3.04	Travel Policy	6/18/91	6/27/06			
3.05	Mass Mailings by a Board Member	11/10/98	6/27/06			
3.06	Honorary Designation of Roadways	6/20/15				
<b>COMMUNITY, ENVIRONMENTAL, &amp; DEVELOPMENT SERVICES</b>						
4.01	Impact Fees	2/23/10	4/21/15; 9/13/22			
4.02	Alternative Impact Fees	6/27/06	2/23/10; 6/05/15			
4.03	Road Impact Fee Credits and Roadway Agreements	6/27/06				
4.04	Concurrency Management and Proportionate Fair-Share Agreements	6/27/06				
4.04.01	Concurrency Management Office Capacity Reservation Fee and Impact Fee Refund Policy	2/23/10				
4.05	Planning and Zoning Commission/ Local Planning Agency; Process for Review of Draft Land Development Regulations, Zoning Regulations, Comprehensive Plan Amendments, and Roadway Conceptual Analyses	6/27/06				
4.06	Deferral of Impact Fees in Limited Circumstances, and Requirements for Acceptable Letters of Credit from Developers	6/27/06				
4.07	Transportation Impact Fee Square Footage Aggregation Requirements	6/27/06				
4.08	Threshold Criteria for Affordable Housing, Single- and Multi-Family Developments	6/27/06				
4.08.01	Expedited Review of Affordable Housing Applications	6/27/06				
4.09	Water Quality Capital Projects Prioritization	12/20/18	2/25/20			
<b>CITIZENS COMMUNICATIONS</b>						
5.01	Communicating with Citizens	6/8/87			6/27/06	
5.01.01	Preparation and Presentation of Speeches	10/29/90			6/27/06	
5.02	News Releases	5/11/87			6/27/06; 5/16/14	
5.02.01	Newsletters, Public Information and/or Public Relations Publications	5/11/87			6/27/06; 6/20/17	
5.02.02	Social Media Policy	3/11/14				
<b>FINANCE AND BUDGET</b>						
6.01.01	Operating Revenues and Expenditures	5/11/87			6/27/06	
6.01.02	Capital Revenues and Expenditures	5/11/87			6/27/06	
6.02	General Operating Budget	6/8/87			6/27/06; 8/16/16	
6.02.01	General Capital Budget	6/8/87			6/27/06	
6.02.02	Implementation of Capital Improvements Program	6/8/87			6/27/06	
6.02.03	Budget Transfers and Amendments	6/8/87			8/4/92 6/27/06	
6.02.04	Issuance of Revenue Bonds	2/22/94			6/27/06	
6.02.05	Continuing Disclosure and Post-Closing Responsibilities for Debt Issues	6/27/06			3/07/12 5/21/19	
6.02.06	Bond Waiver Procedures	6/27/06				
6.02.07	Economic Development Tax Exemptions	4/10/12				
6.03	General Accounting	9/21/87			6/27/06; 4/06/10	
6.03.01	Petty Cash and Change Funds	9/21/87			9/18/89 6/27/06	
6.03.02	Payroll	9/21/87			6/27/06	
6.03.03	Revenue Collection	9/21/87			6/27/06	
6.05	Disposition of Small Credit Balance Amounts and Unclaimed Checks	6/27/06				
6.05.01	Control of County Property	9/21/87			6/27/06	
6.05.02	Acquisition of Real Property	8/24/93			8/13/02 6/27/06	
6.05.03	Purchase, Replacement and Donation of Computer Equipment	6/27/06				
6.05.04	Disposition of Tangible Personal Property	12/3/91			6/27/06	
6.06	Establishment of Fees for County Services	6/6/87			6/27/06	
6.07	Building Permit Fees for County Construction Projects	5/11/87			6/27/06	
6.08	Payment of Dues for Professional Organizations/Memberships	6/8/87			6/27/06	
6.10	Performance Based Measurement System	6/27/06				
6.12	Invoice Payment Procedures	10/2/89			6/27/06	



# ORANGE COUNTY ADMINISTRATIVE REGULATIONS

		EFFECTIVE/ APPROVAL DATE	REV. DATE		EFFECTIVE/ APPROVAL DATE	REV. DATE
6.12.01	Method of Payment	3/17/92	6/27/06	7.13	Public Employee Code of Ethics	9/21/87 6/27/06
6.13	Creation, Administration, and Abolishment of Streetlighting	6/27/06		7.13.01	Discounts and Special Offers to County Employees	9/21/87 6/27/06
	Municipal Service Benefit Units (MSBUs)			7.13.02	Employee and Volunteer Service Awards	6/2/98 12/1/98 6/27/06 4/11/17 1/23/18 12/17/19 3/21/23
6.13.01	Creation, Administration and Abolishment of Common Area Maintenance MSBUs	9/3/91	10/20/92 6/27/06	7.14	Working Meals and Refreshments at Events Relating to County Business	12/17/91 4/6/93 6/2/98 6/27/06 4/11/17
6.13.02	Creation and Administration of Wall Construction MSBUs	9/18/01	10/20/92 6/27/06			
6.13.03	Creation, Administration, and Abolishment of Municipal Service Benefit Units (MSBUs) for County Maintenance of Retention Pond(s)	6/27/06				
6.13.04	Creation, Administration, and Abolishment of Lake Maintenance Municipal Service Benefit Units (MSBUs)	8/16/16				
6.13.05	Creation, Administration, and Abolishment of Lake Maintenance Municipal Service Taxing Units (MSTUs)	8/16/16				
6.14	Auditor Selection and Oversight	5/5/92	6/27/06; 11/12/19; 12/01/20			
6.15	Federal and State Grant Application, Approval, Procurement and Management Process	6/27/06	11/15/16; 5/24/22			
6.15.01	Impact Fee Grant Guidelines for Non-Profit Organizations	6/27/06	7/10/12; 7/11/17			
6.16	Gift Card Guidelines for Child and Youth Residential Programs	2/22/11	2/27/23			
6.17	Neighborhood Grant Program	1/26/16				
<b>EMPLOYEE RELATIONS</b>						
7.01	Orange County Policy Manual & Pre-Employment Background Investigations	6/27/06		8.01	Assignment and Utilization of Building Space	9/18/89 6/27/06
7.05	Arrest Tracking	6/27/06		8.02	County Parking	6/27/06
7.06	General, Electronic Mail and Network Security Policy	6/27/06	7/29/08	8.04	Building and Facility Security	9/18/89 6/27/06
7.10	Local Mileage	6/27/06		8.05	Solicitation on County Property	10/29/90 6/27/06
7.11	Local Travel and Training	6/27/06		8.06	Building Operation and Maintenance	10/29/90 6/27/06; 11/09/10
7.12	Non-Local Travel and Training	9/21/89	9/18/89 11/19/90 3/19/92 11/24/92 6/27/06 7/31/12 6/27/06	8.07	Authorized Use of County Vehicles	5/11/87 8/17/87 9/18/89 12/15/98 6/27/06
7.12.01	Reimbursement of Employees for Travel or Moving Expenses	6/8/87	6/27/06	8.07.01	Care and Maintenance of County-Owned Vehicles	12/03/91 6/27/06
				8.07.02	Markings on County Vehicles	12/03/01 6/27/06
				8.07.03	Purchase or Lease of County Vehicles	12/03/91 6/27/06
				8.07.04	Surplus County Vehicles and Heavy Equipment	9/18/89 6/27/06
				8.07.05	Vehicle Take-Home Assignment Policy	1/26/16 12/21/15
				8.07.06	Vehicle E-Pass Transponder Assignment Policy	1/26/16 12/21/15
				8.07.07	Pooled Vehicles	9/20/11
				8.07.08	General Vehicle Usage Policies	9/20/11
				8.09	Development of Facilities Exempt from County Zoning Regulations; Public Meeting Procedures	9/19/97 6/27/06
				8.10	Designated Employee Break Room Facilities	6/27/06
				8.11	Great Oaks Village Facilities	6/18/91 6/27/06
				8.12	Use of County Facilities	11/24/92 6/27/06
				8.13	Energy Conservation	11/09/10
<b>PROCUREMENT</b>						
				9.01	Contract Negotiation Procedures	6/27/06 3/21/23
				9.01.01	Responsibilities for Preparing Contracts	6/27/06
				9.01.02	Procurement Policies and Procedures	6/27/06

Refer to Orange County Policy Manual



# ORANGE COUNTY ADMINISTRATIVE REGULATIONS

		EFFECTIVE/ APPROVAL DATE	REV. DATE		EFFECTIVE/ APPROVAL DATE	REV. DATE
9.01.03	Single-Use Products Policy on County Property	4/21/20		11.09	Delegation of Limited Authority to Execute Agreements Relating to Animal Services	
9.01.09	Recycled Product Procurement Policy	11/24/92	6/27/06		8/21/18	3/21/23
9.01.10	Continuing Contracts for Engineering, Architectural, Surveying and Mapping, and/or Landscaping Architectural Services	11/03/92	6/27/06 3/21/23			
9.01.13	Procedures for Competitive Proposal Awards	8/4/02	4/13/93 6/27/06 3/21/23			
9.01.14	Protest Meetings with the Board of County Commissioners	6/27/06				
9.01.15	Discrimination Complaints Pursuant to the Orange County Procurement Ordinance	2/19/08				
9.02	Minority / Women-Owned Business	2/07/12				
<b>UTILITIES</b>						
10.02	Temporary Water Services	6/27/06				
10.03	Costs of Collecting Outstanding Balance Due	6/27/06				
10.03.01	Dishonored Payments – Utilities	6/27/06				
10.03.02	Discontinuation of Service	6/27/06	7/14/09			
10.03.04	Customers on Life Support	6/27/06				
10.03.05	After-Hours Charges	6/27/06				
10.03.06	Payment Arrangements	6/27/06				
10.03.07	Deposits	6/27/06				
10.03.08	Credit Account Policy – Solid Waste Division, Landfill Operations, Utilities Department	6/27/06				
10.03.09	Temporary Wastewater Service	4/07/09				
<b>MISCELLANEOUS</b>						
11.01.01	Burial and Cremation Service	8/21/01	6/27/06			
11.03	Convention Center Regulations	6/18/91	6/27/06			
11.03.01	Convention Center Promotions	9/18/89	6/27/06 7/31/12			
11.03.02	Convention Center Pricing	9/18/89	7/31/12			
11.03.03	Authority to Execute Routine Documents Relating to Convention Center	7/31/12				
11.05.03	Lot Pipe Installation	9/18/89	6/27/06			
11.05.05	Cosmetic Maintenance	9/18/89	6/27/06			
11.05.07	Sidewalk Policy	10/29/90	6/27/06			
11.06	Telephones (Land-line), Cellular Telephone, and Other Instant Communication Devices	6/27/06	2/26/13			
11.07	Lost or Abandoned Property Found by County Employees	9/18/89	6/27/06			
11.07.01	Environmentally Sensitive Lands Acquisitions	11/10/92	6/27/06; 11/9/21			
11.07.02	Policy Regarding Use of TMECON Mitigation Bank Phase IV Credits		3/10/20			
11.08	Unlicensed Contracting	8/06/13				

# FINANCE AND BUDGET

## 6.01 GENERAL FISCAL POLICY

### I. POLICY

**Annual Budget:** The annual operating budget prepared by the County Mayor and approved by the Board of County Commissioners is the basis for all expenditures necessary for conducting daily County business. The budget is a fund budget structured to provide departmental appropriations in conformance with Chapter 129, Florida Statutes, and the Uniform Accounting System prescribed by the Florida Department of Financial Services and generally accepted accounting principles for governments. Orange County shall operate under a unified and uniform budget system. The County Administrator shall be responsible for developing appropriate budgetary procedures consistent with Florida Statutes, which shall be followed by all departments or divisions submitting budgets to the Board of County Commissioners for approval.

### II. PROCEDURES

**A. Budget Control:** The Office of Management and Budget has staff responsibility for budgetary control. However, Department Directors, Division Managers, and Elected Officials working in coordination with the Office of Management and Budget shall ensure that funds are available in the budget to meet planned expenditures. No expenditures or commitment of Orange County funds will be permitted that will exceed an appropriation.

**B. Balanced Budget:** The aforementioned annual budget will be a balanced budget as prescribed by Chapter 129, Florida Statutes, i.e., appropriations shall not exceed revenues anticipated to be available in each fund during the fiscal year as contained in annual revenue estimates.

**C. Budget Amendments:** The Board of County Commissioners may amend a budget under circumstances permitted by Chapter 129, Florida Statutes. The Office of Management and Budget will initiate or approve all budget amendments prior to submission to the Board of County Commissioners for approval. Amendments will be processed in accordance with Chapter 129, Florida Statutes, as described further by Administrative Regulation 6.02.03.

**D. County Comptroller to Pre-audit all Disbursements of County Funds:** In compliance with Chapter 129, Florida Statutes, the County Comptroller will perform a pre-audit examination of all financial transactions prior to their consummation for the purpose of determining (1) propriety of the transaction, (2) compliance with purchasing procedures, and (3) conformance to budget. As County Auditor, the Comptroller is required by law to refuse to sign or deliver a County warrant for unlawful purposes.

**E. Types of Funds:** To provide proper accountability for the different kinds of resources, "funds" are established. Each fund is a separate accounting entity with its own resources, liabilities and residual balance, and its own self-balancing accounting system. Funds with similar objectives, activities, and legal restrictions are categorized into fund types that are grouped into broad classifications. For more information regarding each classification and its corresponding fund types, refer to the current year Biennial Budget Book (Budget in Brief section).

**FOR MORE INFORMATION CONTACT:** Office of Management and Budget

**REFERENCE:** Florida Statutes, Chapter 129; Administrative Regulation 6.02.03; Orange County Biennial Budget Book, Budget in Brief section

**APPROVED:** 5/11/87

**REVISED:** 6/27/06

## 6.01.02 CAPITAL REVENUES AND EXPENDITURES

### I. POLICY

Orange County's Capital Improvements Programs shall include any expenditure for the acquisition, construction, installation and/or renovation of facilities that are expected to be in service for at least 10 years, and have a value in excess of \$25,000.

Capital projects are relatively large in scale, non-recurring projects that may require multi-year financing. Examples include buildings, roads, parks, and drainage systems. The Capital Improvement Budget may have large fluctuations from year to year due to project schedules.

Revenues for capital projects come from diverse sources, including long-term bonds, impact fees, taxes and grants.

## II. PROCEDURES

A. All acquisition, design and construction costs and any other costs associated with preparing a facility for use should be included in the project.

B. Available funds for capital expenditures are based on revenue projections and long-term/short-term financing plans.

C. To the maximum extent financially and legally possible, capital improvement projects will be financed with public service taxes, sales taxes, gas taxes, enterprise funds, Federal and State grant funds, special assessments, impact fees, or a portion of the county Ad Valorem tax dedicated to capital improvements. When these or other pay-as-you-go sources are not available or sufficient, consideration will be given to debt financing.

D. Each long-term debt (bonds) issuance by a governmental fund shall be established as a separate fund, and qualifying capital projects may be budgeted and accounted for in a capital project fund. Balances will be re-appropriated each year until the project is completed. This allows ready identification of residual debt proceeds when they are required to be transferred to sinking funds by bond resolutions. For enterprise funds, long-term debt issuance shall be budgeted and accounted for within that enterprise fund. Debt proceeds for enterprise funds are identified by a separate balance sheet account, which allows residual proceeds to be tracked within the fund.

E. In the event project spending is less than projected for the current fiscal year, any unexpended budget may be rebudgeted during the fiscal year during the Annual Budget Amendment process when final fund balance is determined. Departments must provide a revised spending plan for cash flow purposes to the Office of Management and Budget indicating changes to the 5-year CIP plan including total project cost.

F. Projected expenditures will be in compliance with all applicable federal, state, and local laws and regulations.

**FOR MORE INFORMATION CONTACT:** Office of Management and Budget  
**REFERENCE:** Florida Statutes, Chapter 335.075 and 336.41  
**APPROVED:** 5/11/87  
**REVISED:** 6/27/06

## 6.02 GENERAL OPERATING BUDGET

### I. POLICY

A. The County Mayor shall plan and prepare a balanced budget that conforms to the uniform classification of accounts as prescribed by the Florida Department of Financial Services.

B. The budget shall include operating revenues that equal 95% of all receipts anticipated from all sources including taxes.

C. The budget shall include provisions for balances brought forward which shall equal total appropriations (expenditures) and reserves. Balances brought forward may not exceed 20% of the budget. Provisions for contingency reserves may not exceed 10% of total budget.

D. The Office of Management and Budget, under the direction of the County Mayor, shall be responsible for the preparation and monitoring of the Biennial County Budget and also for ensuring department compliance with this policy.

E. It is unlawful for the County to expend or contract for the expenditures of more than the amount budgeted in any fund's annual appropriation for any fiscal year. An exception may be made for multi-year construction contracts where funding has been approved in the 5-year Capital Improvement Program Plan and sufficient monies are available in the current year's budget to meet the progress payments within the current fiscal year.

F. The fiscal year of Orange County shall commence October 1 and end September 30 in accordance with Florida Statutes.

### II. PROCEDURES

A. The Office of Management and Budget will be responsible for the preparation of the Biennial Budget calendar in accordance with applicable Florida Statutes. For specific dates, refer to the current year Biennial Budget Book (Budget in Brief section).

B. The Board of County Commissioners adopts budgets for all Governmental Funds on a modified accrual basis. Fiduciary funds, due to their nature, are not required to be budgeted.



C. Proprietary fund budgets are prepared on an accrual basis and are consistent with Generally Accepted Accounting Principles (GAAP) except that depreciation, amortization, and gain/losses on the disposal of assets are not budgeted, while capitalized net interest costs on funds borrowed to finance the construction of fixed assets are budgeted as interest income and interest expense. Debt proceeds and principal payments are respectively budgeted as revenues and expenditures. Capital outlay expenditures are also budgeted and are reclassified into Property, Plant and Equipment and eliminated from results of operations for financial reporting purposes. Residual unappropriated liquid assets resulting from prior operation are budgeted and included as revenue on a budgetary basis but are eliminated from revenues on a GAAP basis for financial reporting.

**FOR MORE INFORMATION CONTACT:** Office of Management and Budget

**REFERENCE:** OMB Procedures Manual; OMB Annual Budget Reference Manual; County Attorney's Legal Opinion December 29, 1986, Subject: Contracts For Capital Projects which Extend Past Current Fiscal Year; Florida Statutes Chapter 129; Orange County Biennial Budget Book, Budget in Brief section

**APPROVED:** 6/8/87

**REVISED:** 6/27/06

## 6.02.01 GENERAL CAPITAL BUDGET

### I. POLICY

A. The Capital Improvements Budget and Program provide the means through which Orange County Government takes a planned and programmed approach to utilize its financial resources in the most responsible and efficient manner in order to meet the service and facility needs of the County.

B. All County capital improvements will be made substantially in accordance with the adopted Capital Improvements Program, and as outlined in the Growth Management Policy. A five-year plan for capital improvements will be developed and updated annually.

C. The County will enact an annual capital budget based on the five-year capital improvements plan. Future capital expenditures necessitated by changes in population, changes in real estate development, or changes in economic base will be calculated and included in capital budget projections.

D. The Office of Management and Budget will coordinate development of the capital improvement

budget and development of the operating budget. Future operating costs associated with new capital improvement will be projected and included in operating budget forecasts.

E. The County will finance only those capital improvements that are consistent with the Capital Improvements Program and County priorities; and whose operating and maintenance costs have been included in operating budget forecasts.

F. The County will attempt to maintain all its assets at a level adequate to protect the County's capital investment, and to minimize future maintenance and replacement costs. The maintenance of existing assets is the County's primary capital expenditure consideration.

G. The County will project its equipment replacement and maintenance need for the next several years and will update this projection each year. From this projection a maintenance and replacement schedule will be developed and followed.

H. The County will identify the estimated costs and potential funding sources for each capital project proposal before it is submitted for approval. The County will determine the least costly financing method for all new projects.

### II. PROCEDURES

A. Project requests will be reviewed and prioritized by the Special committees chaired by the County Administrator or his designee.

**FOR MORE INFORMATION CONTACT:** Office of Management and Budget

**REFERENCE:** OMB Annual Budget Reference Manual

**APPROVED:** 6/8/87

**REVISED:** 6/27/06

## 6.02.02 IMPLEMENTATION OF CAPITAL IMPROVEMENTS PROGRAM

### I. POLICY

The Capital Improvements Budget and Program provides the means through which Orange County Government takes a planned and programmed approach to utilizing its financial resources in the most responsive and efficient manner to meet its service and facility needs. The capital budgeting process is developed to

achieve the following:

- Consolidate and coordinate all the various department requests with the goal of reducing delays and coordinating the individual programs of the departments.
- Establish a system of procedures and priorities by which each proposal can be evaluated in terms of the public need, the comprehensive plan of the area, the interrelationship of projects, and cost requirements.
- Schedule the proposals over an extended period of time whereby the Capital Improvements Program can be achieved.
- Anticipate needed projects and relating them to existing and projected fiscal capacity.
- Successfully implement level of service standards for public facilities as outlined in Florida Statutes Chapter 163.

The Board of County Commissioners will approve the Orange County Capital Improvements Program as part of the budget resolution. Deviations of total project cost from the approved Capital Improvements Program or the addition of a new project will require approval by the Board of County Commissioners.

*Definition: Capital Improvements Project (CIP)*

– A capital improvement project is defined as any governmental expenditure for the acquisition, construction, installation, and/or renovation of facilities that are expected to be in service for at least 10 years. Capital projects are relatively large scale, non-recurring projects that may require multi-year financing. Expenditures that meet this criteria and are in excess of \$25,000 should be included in Orange County's Capital Improvements Program.

## II. PROCEDURES

A. In accordance with the definition of a Capital Improvement, any County Department that requires a capital improvements project must submit a Capital Improvement Budget and Program Project Submittal form to the Office of Management and Budget. Departments shall submit capital project requests for each five-year period of the Capital Improvements Budget and Program using software as specified by the Office of Management and Budget (OMB).

B. Departments shall prepare capital project requests according to the following steps in order to facilitate the completion of the Capital Improvements Program for each five-year period:

1. Departments shall refer to the OMB Biennial CIP Budget Reference Manual for detailed procedures on preparation of the Capital Improvements Budget and Program.

2. To determine potential capital improvements projects for the biennial budget for the next five years, departments shall conduct capital project need assessments, consider completed project studies, County Mayor or Commissioners' priorities, and any unfunded items. The first year of the five-year plan must coincide with the proposed fiscal year budget.

3. The most current Capital Improvements Program shall be reviewed and all original project submissions shall be updated. Departments shall also prepare new CIP submittals, which shall include a substantial completion date and budget. The budget for each project shall indicate the total cost of the project.

4. Capital improvement project(s) that require assistance from the Capital Projects Division shall be submitted and reviewed by the Capital Projects division to verify project requirements cost and capacity before submission to the Office of Management and Budget.

5. All capital projects shall be reviewed and prioritized with the Department Director prior to submission to the Office of Management and Budget.

6. The Office of Management and Budget will compile all capital improvement project submittals and submit them to the CIP Prioritization Committee.

7. The CIP Prioritization Committee will review project submissions and rank projects according to an approved list of criteria. All department submittals will go through this process with the exception of Public Works, Convention Center, and Utilities. The CIP Prioritization Committee will rank Public Works Stormwater projects for funding due to the fact that these projects are funded by general countywide revenues, and therefore must compete with other countywide projects for funding. If necessary, the Prioritization Committee may require additional information and/or request meetings with Departments

for further clarification.

8. Upon completion of the ranking of the capital improvement projects the CIP Prioritization Committee will provide a list of ranked projects to the CIP Executive Committee.

9. The CIP Executive Committee will review the ranked projects to determine the final list of projects that will be included in the budget presentation to the County Mayor.

10. Upon review and approval, the County Mayor will include the five-year CIP Program and Budget in the Proposed Budget submitted to the Orange County Board of County Commissioners for review during the budget worksessions.

11. The Board of County Commissioners will approve the proposed five-year capital improvements program and budget with the adoption of the budget resolution at the final public hearing in September.

12. Capital Improvements Program amendments will be processed and approved through the Office of Management and Budget in accordance with Administrative Regulation 6.02.03, Budget Transfers and Amendments. Forms and instructions are available from the Office of Management and Budget.

13. Quarterly CIP expenditure reports will be prepared by the Office of Management and Budget and furnished to the Board of County Commissioners, County Administrator, participating departments/divisions and other agencies as requested.

**FOR MORE INFORMATION CONTACT:** Office of Management and Budget

**REFERENCE:** OMB Annual Budget Reference Manual; Florida Statutes 163

**APPROVED:** 6/8/87

**REVISED:** 6/27/06

### **6.02.03 BUDGET TRANSFERS AND AMENDMENTS**

#### **I. POLICY**

The County budgeting process must be dynamic and flexible enough to meet the changing needs of the Departments and Divisions throughout the fiscal year. A means must be provided through which these changing needs can be accommodated within the framework of applicable Florida Statutes and local

*Finance and Budget 5 (02/27/2023)*

ordinances and resolutions.

Changes may be made to the budget at any time throughout the fiscal year and up to sixty days after fiscal year end or as permitted by Florida Statute in accordance with the procedures outlined in this Regulation.

#### **II. PROCEDURES**

A. Budget Amendments - Fund revenue and expenditure amounts may be increased or decreased by formal action of the Board of County Commissioners (BCC). All budget amendments will be processed through the Office of Management and Budget (OMB) in accordance with chapter 129.03 of the Florida Statutes. However, fund revenue and expenditure amounts may be increased by the BCC without a public hearing in the event of revenue received from an unanticipated source, or for increased receipts in a proprietary fund.

B. Budget Transfers - Department operating unit budgets may be amended by formal transfer action. Budget transfers which are intradepartmental in nature may be approved by OMB. Budget transfers that are interdepartmental in nature, or which involve fund reserve additions or distributions must be reviewed and formally approved by the BCC prior to execution.

C. Detailed procedures for preparing budget transfers are available from OMB. Questions regarding preparation or routing of a budget transfer or amendment should be directed to OMB.

D. Capital Improvements Budget Amendments - Capital Budgets may be modified by formal action of the BCC if any of the following conditions exist:

1. The project is not a part of the original program adopted as the Capital Improvements Budget and Program.

2. The project is deleted from the adopted Capital Improvements Budget and Program.

3. Total project costs increase or decrease from those identified in the adopted Capital Improvements Budget and Program.

4. The proposed method of financing the project is different from that indicated in the Capital Improvements Budget and Program.

5. The basic content and emphasis of the project is different from that indicated in the Capital Improvements Budget and Program.

E. BCC approval is not required when total project cost is not changing except as noted above.

**FOR MORE INFORMATION CONTACT:** Office of Management and Budget  
**REFERENCE:** Florida Statute, Chapter 129,03(a); Florida Statute, Chapter 129.06  
**APPROVED:** 6/8/87  
**REVISED:** 8/4/92; 6/27/06

## 6.02.04 ISSUANCE OF REVENUE BONDS

### I. POLICY

A. Orange County has the authority to issue revenue bonds or general obligation bonds pursuant to a competitive bid process or a negotiated sale.

B. It is the policy of Orange County to sell its bonds in the manner which will result in the lowest overall cost to the County while meeting the County's operational and program needs and deadlines.

C. The competitive bid process should be utilized in the sale of bonds unless otherwise recommended by the County Administrator or the Orange County Comptroller, or both, and approved by the Board of County Commissioners (BCC).

### II. PROCEDURES

A. The County's revenue bonds and general obligation bonds shall be sold by a competitive bid process except as otherwise authorized by this Administrative Regulation.

B. The County's bonds may be sold by a negotiated transaction only if:

(1) Such negotiated sale is recommended by the County Administrator or the County Comptroller, or both; and

(2) Such recommendation is set forth in writing and contains the specific reasons why a competitive bid process would not be in the best interests of the County; and

(3) Such reasons include one or more of the

reasons set forth in Paragraph C, below; and

(4) The BCC approves the recommendation by majority vote of the members present.

C. The County Administrator or the County Comptroller, or both, may recommend that a particular issue of the County's bonds be sold pursuant to a negotiated sale only if at least one of the following criteria exists:

(1) The primary security or source of payment for the bonds is new or untested in the market;

(2) The particular structure of the bond issue is highly complex or is new and untested;

(3) The bond transaction involves innovative financing techniques or "derivative products";

(4) Market conditions are unstable or chaotic;

(5) A sudden or dramatic credit rating deterioration has occurred for the County, the State of Florida, or the surrounding region;

(6) The particular source of revenue pledged to the proposed bond issue has experienced a sudden or dramatic deterioration in its credit rating or marketability or is otherwise a weak credit;

(7) The size of the bond issue is considerably larger than the County has previously brought to market for that particular revenue source or is otherwise of such size that it would be difficult to sell the bonds through competitive bids;

(8) There is evidence or reason to conclude that a competitive bid process will result in higher borrowing costs for the County;

(9) There is reason to conclude that a competitive bid process will not meet the County's operational or program needs or deadlines, and a negotiated sale will;

(10) The County wants to ensure participation by minority- and women-owned investment banking firms and/or by local and regional firms.

D. When a negotiated sale is approved by the BCC, underwriters will be selected pursuant to the

applicable County code and Administrative Regulations.

E. Nothing in this Regulation shall prohibit the use of set asides, auctions, and other devices which will encourage or ensure the participation of minority and/or women-owned businesses and/or local or regional underwriting firms in competitively bid bond sales, all as may be approved from time to time by the BCC.

F. This Regulation applies only to bonds issued by Orange County, Florida, and does not apply to any special districts within the County, either dependent or independent.

G. Failure to comply, in whole or in part, with this Regulation pertaining to the method of sale of Orange County bonds shall have no effect whatsoever on the validity of any such bonds. Furthermore, nothing in this Regulation shall create either a cause of action or standing to sue for or on the part of any person or firm.

**FOR MORE INFORMATION CONTACT:** Fiscal and Business Services

**REFERENCE:** Orange County Code, Article III, Chapter 17 (Procurement Ordinance)

**APPROVED:** 2/22/94

**REVISED:** 6/27/06

#### **6.02.05 CONTINUING DISCLOSURE AND POST-CLOSING RESPONSIBILITIES FOR DEBT ISSUES**

##### **I. POLICY**

A. It is the policy of Orange County to provide full and fair disclosure and comply with all post-issuance regulatory obligations in connection with the initial sale and distribution of its publicly marketed debt instruments and to provide appropriate ongoing secondary market information in compliance with the requirements of applicable federal and state securities laws, rules and regulations, including Securities and Exchange Commission (SEC) Rule 15c 2-12 (the "Rule").

B. This policy shall be implemented through the adoption of the administrative procedures set forth below which provide for assignment of responsibility for information compilation, communication, analysis, response and dissemination.

C. The Manager of Fiscal and Business Services

*Finance and Budget 7 (02/27/2023)*

shall be charged with general authority and responsibility for developing, implementing and overseeing compliance with this policy and the administrative procedures with respect hereto.

##### **II. PROCEDURES**

A. The County Comptroller shall provide or cause to be provided to the Municipal Securities Rulemaking Board (the "MSRB") in an electronic format as prescribed by the MSRB, not later than the following June 1 after each preceding fiscal year end, the following information:

1. Audited financial statements prepared in accordance with generally accepted accounting principles; and

2. Certain annual financial information required to be provided pursuant to the Rule.

B. 1. For applicable bond issues prior to December 1, 2010, the Manager of Fiscal and Business Services shall provide or cause to be provided, in a timely manner, to the MSRB in an electronic format as prescribed by the MSRB, notice of the occurrence of any of the following events as required by the Rule, if such event is material:

a. principal and interest payment delinquencies;

b. non-payment related defaults;

c. unscheduled draws on debt service reserves reflecting financial difficulties;

d. unscheduled draws on credit enhancements reflecting financial difficulties;

e. substitution of credit or liquidity providers, or their failure to perform;

f. adverse tax opinions or events affecting the tax-exempt status of bonds;

g. modifications to rights of the holders of bonds;

h. bond calls (other than scheduled mandatory redemption);

i. bond defeasances

j. release, substitution, or sale of property securing repayment of bonds; and

k. rating changes.

2. For applicable bond issues on or after December 1, 2010, the Manager of Fiscal and Business Services shall provide or cause to be provided to the MSRB in an electronic format as prescribed by the MSRB, in a timely manner as prescribed by the Rule (initially established as not in excess of ten business days after the occurrence of the event):

a. principal and interest payment delinquencies;

b. non-payment related defaults, if material;

c. unscheduled draws on the debt service reserves reflecting financial difficulties;

d. unscheduled draws on credit enhancements reflecting financial difficulties;

e. substitution of credit or liquidity providers, or their failure to perform;

f. adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the bonds, or other material events affecting the tax-exempt status of the bonds;

g. modifications to rights of the holders of the bonds, if material;

h. bond calls, if material, and tender offers (other than scheduled mandatory redemption);

i. defeasances;

j. release, substitution, or sale of property securing repayment of the bonds, if material;

k. ratings changes;

l. bankruptcy, insolvency, receivership or similar event of the County;

m. the consummation of a merger, consolidation, or acquisition involving the County or the sale of all or substantially all of the assets of the County, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and

n. appointment of a successor or additional trustee or the change of name of a trustee, if material.

3. For applicable bond issues on or after February 27, 2019, the Manager of Fiscal and Business Services shall provide or cause to be provided to the MSRB in an electronic format as prescribed by the MSRB, in a timely manner as prescribed by the Rule (initially established as not in excess of ten business days after the occurrence of the event):

a. principal and interest payment delinquencies;

b. non-payment related defaults, if material;

c. unscheduled draws on the debt service reserves reflecting financial difficulties;

d. unscheduled draws on credit enhancements reflecting financial difficulties;

e. substitution of credit or liquidity providers, or their failure to perform;

f. adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the bonds, or other material events affecting the tax-exempt status of the bonds;

g. modifications to rights of the holders of the bonds, if material;

h. bond calls, if material, and tender offers (other than scheduled mandatory redemption);

i. defeasances;

j. release, substitution, or sale of

property securing repayment of the bonds, if material;

k. ratings changes;

l. bankruptcy, insolvency, receivership or similar event of the County;

m. the consummation of a merger, consolidation, or acquisition involving the County or the sale of all or substantially all of the assets of the County, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;

n. appointment of a successor or additional trustee or the change of name of a trustee, if material;

o. incurrence of a financial obligation of the County, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the County, any of which affect holders of the Bonds, if material; and

p. default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the County, any of which reflect financial difficulties.

The term financial obligation means a debt obligation; a derivative instrument entered into in connection with, or pledged as a security or a source of payment for, an existing or planned debt obligation; or a guarantee of a debt obligation or a derivative. The term financial obligation does not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

C. The County shall provide or cause to be provided, in a timely manner, to the MSRB in an electronic format as prescribed by the MSRB, notice of a failure by the County to provide the information described in Paragraph II. above on or prior to the date set forth therein.

D. Working through the Manager of Fiscal and Business Services, County Administration and Department Directors shall be responsible for monitoring the County operations within their control as to any possible events required to be disclosed

hereunder or other occurrences that may be material with respect to County debt instruments. Following the occurrence of an not set forth in Section II.B., the Manager of Fiscal and Business Services, in consultations with bond and disclosure counsel and financial advisory consultants, shall consult with the County Administrator, the Chief Deputy Comptroller and the County Attorney, or their designees, to gather information, assess the need for disclosure and, if deemed necessary, prepare disclosure appropriate for the given event.

E. The Office of Fiscal and Business Services and the County Comptroller will coordinate to disseminate the official written disclosure to the MSRB. This notice may be disseminated by a third-party dissemination agent if one is under contract.

F. The following procedures are intended to address certifications on the IRS Form 8038 G confirming that the County has established written procedures to monitor compliance with issue prices, the use of proceeds, private business uses, arbitrage yield restriction, and rebate requirements of Section 148 of the Internal Revenue Code, as well as training and records retention. The implementation of the procedure is intended to assist in compliance with the tax rules and the opportunity for timely remediation through the "remedial action" regulations or the IRS Voluntary Closing Agreement Program.

1. Issue Price. As part of the closing process, the Manager of Fiscal and Business Services shall consult with the County's financial advisor and bond counsel and obtain a written certification from the underwriter, placement agent or other purchaser of the bonds as to the offering price of the bonds that is in form and substance acceptable to the County and bond counsel.

2. Use of Proceeds. The County Comptroller, in consultation with bond and disclosure counsel, will:

a. maintain clear and consistent accounting procedures for tracking the investment and expenditures of bond proceeds, including investment earnings on bond proceeds;

b. at or shortly after closing of a bond issue, ensure that any allocations for reimbursement expenditures comply with the tax certificate; and

c. monitor that sale proceeds and investment earnings on sale proceeds of tax-exempt bonds are spent in a timely fashion consistent with the requirements of the tax certificate.

3. **Monitoring Private Business Use.** The Manager of Fiscal and Business Services, in consultation with the County Attorney, bond and disclosure counsel, shall review proposed contracts or arrangements with non-governmental persons or organizations or the federal government (collectively referred to as "private persons") with respect to the bond-financed facilities which could result in private business use of the facilities such as sales of bond-financed facilities; leases of bond-financed facilities and management service contracts relating to bond-financed facilities and shall have bond counsel review new contracts or amendments and determine whether any limits on private business use are exceeded and, if so, whether any actions are required to be taken to comply with the tax rules.

4. **Arbitrage, Yield Restriction and Rebate Compliance.** The Manager of Fiscal and Business Services will (i) confirm that bond counsel has filed the applicable information reports (such as IRS Form 8038-G) for each bond issue with the IRS on a timely basis, and (ii) maintain copies of such form including evidence of timely filing as part of the transcript of the bond issue. The County Comptroller, in consultation with appropriate consulting firms, if necessary, shall confirm, recalculate and annually monitor the calculation of arbitrage on outstanding County debt as the basis for ongoing rebate compliance as set forth in the IRS Form 8038-G and the tax certificate.

5. **Training and Retention of Records.** The Manager of Fiscal and Business Services will circulate training materials and guidance prepared by bond and disclosure counsel regarding developing continuing disclosure regulatory compliance and compliance with the rules applicable to the issuance of tax-exempt bonds for review by responsible individuals. Responsible individuals will undertake training needed to maintain professional certification and to obtain any applicable continuing education related to issuance and accounting of tax-exempt bond proceeds and investing public funds. Working together, the County Comptroller and the Office of Fiscal and Business Services will ensure that for each issue of bonds, the transcript and all records and documents described in these procedures will be maintained while any of the bonds are outstanding and during the three-year period following

the final maturity or redemption of that bond issue, or if the bonds are refunded (or re-refunded), while any of the refunding bonds are outstanding and during the three-year period following the final maturity or redemption of the refunding bonds and will also comply with Florida public records retention laws.

6. **Execution of IRS Form 8038-G.** The County Comptroller, the Manager of Fiscal and Business Services, or other individual authorized pursuant to a resolution of the Board of County Commissioners shall execute IRS Form 8038-G as an authorized representative of the County.

**FOR MORE INFORMATION CONTACT:** Fiscal and Business Services

**REFERENCE:** Securities and Exchange Commission, Municipal Securities Rulemaking Board, Internal Revenue Service

**APPROVED:** 6/27/06

**REVISED:** 03/07/12; 05/21/19

## **6.02.06 BOND WAIVER PROCEDURES**

### **I. POLICY**

It is in the County's best interest to help assure payment to first-tier sub-contractors and suppliers hired by prime contractors for contracts not covered by a Payment Bond.

In addition, the County's interest is served by providing protection against the abandonment of contracts by prime contractors which are not protected by a Performance Bond.

Article III, Chapter 17, Orange County Code (Procurement Ordinance), provides for the waiver of the requirement for bid bonds, performance bonds and payment bonds when the value of a construction project is less than \$100,000.

The purpose of this procedure is to provide options available to the County when contracting for construction under the "Bond Waiver" program. These options will help protect the County from claims by sub-contractors and suppliers for payment, and provide a mechanism for completion of projects which have been abandoned by contractors.

### **II. PROCEDURE**

A. No prime contractor shall simultaneously hold multiple contracts for construction under the Bond Waiver program (i.e., contracts for which bonds are not



required by County Ordinance) wherein the combined value of the awarded contracts exceeds \$100,000. Therefore, a prime contractor must provide performance bonds and payment bonds for additional contracts held simultaneously exceeding the total award value of \$100,000.

B. All applications for progress payments shall be accompanied by a statement certifying the names, addresses and scope of work performed by all sub-contractors and suppliers who are due payment from the Prime Contractor for work done or material supplied which are covered by the Prime Contractor's current payment application, and subsequent to the first progress payment, the Contractor must provide the County with partial or final release of liens and waiver of claims from those sub-contractors and suppliers who have been paid under the immediately preceding progress payment.

C. No bid bond will be required, as it is at the bidder's discretion to select either the Bond Option or the Joint Check Option, as provided in Section E below.

D. In case of default by the Contractor, the sub-contractors and suppliers filing written claims for unpaid bills, will be paid from the cumulative project retainage on a pro rata basis as follows:

The sum of all valid claims made shall be divided into each individual claim, thereby deriving a percentage value for each claim. The total retainage will then be multiplied by the percentage value and the result shall be the pro rata share of the retainage to be paid to the claimant; however, the payment shall not exceed the amount of the claim.

Defaulting contractors may be suspended or debarred from future contracts with the County as provided for in the Procurement Ordinance.

E. Each solicitation for construction valued between \$25,000 and \$100,000 and publicly bid, shall provide two options from which the bidder must choose. Failure to select one of the two options shall be cause for disqualification. Options are as follows:

1. "Option A, Bond Option"

This option will provide for the contractor to furnish a Performance Bond and a Payment Bond upon contract award. The total cost of both bonds shall not exceed 3% of the base bid or lump sum bid. The

cost of the bonds shall be indicated on the bid proposal form. The surety providing the bonds must be acceptable to the County as defined in the Contract documents.

Evaluation of the bid will be based upon the base bid or lump sum bid only, exclusive of the cost of the bonds. The cost of the bonds, if this option is selected, shall be added to the Base Bid or Lump Sum Bid and included in the contract award amount. The Contractor must supply written documentation from the surety to the County as to the actual cost of the Performance Bond and Payment Bond prior to award of the Bid.

Payment of the Bond premium may be requested by the Contractor in the first progress pay request.

2. "Option B, Joint Check Option"

Selection of this option requires the execution of joint check agreements (Exhibit "A") between the prime contractor, the County and each sub-contractor or supplier engaged by the prime contractor for the specific contract on which the prime is bidding. Fully executed Joint Check Agreements with all sub-contractors and suppliers must be submitted with the signed contract with the County. The prime contractor and a specific sub-contractor or supplier shall be named as co-payees on each check issued by the County as payment on the specified contract.

The jointly named sub-contractor or supplier named on each joint check disbursed by the County shall agree to issue a lien release and waiver of claims equivalent to that portion of the money received by way of the joint check for the work furnished and thereby compensated upon receipt of the joint check.

The Prime Contractor shall notify the County Project Manager named in the Contract Documents of any and all changes to the list of sub-contractors and suppliers utilized on the project. A fully executed Joint Check Agreement with the new sub-contractor or supplier shall be submitted prior to any further application for payment.

F. The Joint Check Agreement and Bid Terms and Conditions shall serve as standards to effectuate this procedure. The Instructions to Bidders and Terms and Conditions shall be included in the Invitation for Bids under the Bond Waiver Program.

**FOR MORE INFORMATION CONTACT:** Purchasing and  
Contracts Division  
**REFERENCE:** Orange County Code, Article III, Chapter 17  
(Procurement Ordinance)  
**APPROVED:** 6/27/06

## 6.02.07 ECONOMIC DEVELOPMENT TAX EXEMPTIONS

### I. POLICY

Article VII, Section 3, of the Constitution of the State of Florida and Section 196.1995, Florida Statutes, enable the County to grant economic development ad valorem tax exemptions to certain new businesses and expansions of existing businesses expected to create new jobs after the electors of the County, voting on the question in a referendum, authorize such exemptions. In a referendum held on January 31, 2012, the electors of Orange County authorized the Board to grant economic development ad valorem tax exemptions. On February 21, 2012, the Board of County commissioners adopted Ordinance No. 2012-05, the Orange County Economic Development Ad Valorem Tax Exemption Ordinance, codified in Chapter 25 of the Orange County Code ("Ordinance"). Pursuant to the Ordinance, it is the policy of the County to provide incentives to businesses of diverse industries having a positive impact on the local economy through the creation of greater employment opportunities in Orange County. Exemptions are granted for the purpose of creating new jobs in and economic benefit to the County. To this end, prior to any grant of an exemption, the Board will consider the factors set forth in the Ordinance and the policy and guidelines in this Administrative Regulation. The County does not consider retail, hotel or restaurant operations to be consistent with the goal of economic diversification and will therefore not consider applications for such operations. Pursuant to the Ordinance, Exemptions shall apply only to ad valorem taxes levied countywide by the County and not to municipal service taxing units or other special purpose millages. Applications for Exemptions will be considered on a case-by-case basis in determining whether sufficient economic benefits are presented. No entitlement to an Exemption is created by the Ordinance or the prior grant of an exemption under the Ordinance to any other business. The decision to grant or deny an exemption application is in the sole and absolute discretion of the Board.

A. **Definitions.** Capitalized words, phrases, and terms used herein shall have the meanings set forth below, or if not defined herein, as set forth in the

Ordinance.

"*Average Wage in the County*" means the Florida statewide private sector average annual wage or the average of all private sector wages and salaries in the County or in the Orlando metropolitan statistical area.

"*Board*" means the Board of County Commissioners of Orange County, Florida.

"*Brownfield Area*" means an area designated as a Brownfield area pursuant to Section 376.80, Florida Statutes.

"*Capital Investment*" means any expenditure for an Expansion of an Existing Business or a New Business to be located in Orange County which can be capitalized under generally accepted accounting principles.

"*County*" means Orange County, Florida.

"*Enterprise Zone*" means an area designated as an enterprise zone pursuant to Section 290.0065, Florida Statutes.

"*Expansion of an Existing Business,*" for purposes of this Administrative Regulation, shall mean:

A. 1. A business or organization establishing ten (10) or more new jobs to employ ten (10) or more full-time employees in Orange County, paying an average wage for such new jobs that is above the average wage in the County which:

a. principally manufactures, processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial or manufacturing plant; or

b. is a Target Industry Business.

2. A business or organization establishing 25 or more jobs to employ 25 or more full-time employees in this County, the sales factor of which for the facility with respect to which it requests an Exemption is less than 0.50 for each year the Exemption is claimed; provided that such business increases operations on a site collocated with a commercial or industrial operation owned by the same business, or organization under common control with the same business or organization, resulting in a net

increase in employment of not less than 10 percent or an increase in productive output of not less than 10 percent.

“Goods” means all personal property when purchased primarily for personal, family, or household use, but not including personal property sold for commercial or industrial use.

“Improvements” means physical changes made to raw land, and structures placed on or under the land surface, including all Tangible Personal Property acquired to facilitate an Expansion of an Existing Business provided that the Tangible Personal Property is added or increased on or after the day an ordinance specifically granting a Business an Exemption is adopted. Tangible Personal Property acquired to replace existing property shall not be considered to facilitate a business expansion.

“New Business,” for purposes of this Administrative Regulation, shall mean:

A. A business or organization establishing ten (10) or more new jobs to employ ten (10) or more full-time employees in Orange County, paying an average wage for such new jobs that is above the average wage in the County which principally engages in any one or more of the following operations:

1. manufactures, processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial or manufacturing plant; or

2. is a Target Industry Business.

B. A business or organization establishing twenty-five (25) or more new jobs to employ twenty-five (25) or more full-time employees in Orange County, the sales factor of which for the facility with respect to which it requests an Exemption is less than 0.50 for each year the Exemption is claimed; or

C. An office space in Orange County owned and used by a business or organization newly domiciled in Orange County; provided that such office space houses fifty (50) or more full-time employees of such business or corporation; provided that such business or organization office first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business or organization.

“Qualified Business” means either a New Business or an Expansion of an Existing Business, as those terms are defined in this Administrative Regulation.

“Target Industry Business” shall have the meaning set forth in the Ordinance.

**PROCEDURE: EXEMPTION GUIDELINES.** In making its determination as to whether to grant an Exemption, and in determining the extent of any such Exemption, the Board will consider the exemption guidelines provided below. The Board, in its sole and absolute discretion, may deviate from such guidelines when considering Applications from Qualified Businesses if the Board determines that such deviation is in the best interest of the County. The recommended level of an Exemption under the Ordinance will be determined by the lowest factor (i.e. estimated jobs created, capital investment or average wage) under which a Qualified Business falls. Qualified Businesses locating in an Enterprise Zone or Brownfield Area may meet the percentage of average wage requirements listed in the last column of the guidelines shown in Attachment “A”.

**FOR MORE INFORMATION CONTACT:** Orange County Office of Economic Development

**REFERENCE:** Chapter 25 Article \_\_, Orange County Code.

**APPROVED:** 4/10/12

## Administration Regulation 6.02.07 ATTACHMENT "A"

Level	Years	Abatement %	Jobs (New or Existing Manufacturing Business or QTI)*	Jobs (New or Existing Business that sells more than 50% of goods outside of State)*	Jobs ( New Business leasing or owning new office space)*	Capital Investment	Avg. Wage**	Wage Requirement in Brownfield or Enterprise Zone
1	5	50%	10	25	50	\$200,000	115%	100%
2	7	50%	40	100	200	\$500,000	150%	100%
3	7	75%	80	200	400	\$1,000,000	150%	100%
4	10	75%	300	800	1600	\$10,000,000	200%	100%
5	7	100%	500	1000	1800	\$25,000,000	200%	100%
6	10	100%	1000	1500	2000	\$50,000,000	200%	100%

Examples:

- **Company is approved for level 4 and receives a 10 year exemption at 75%**  
 $\$10,000,000$  (capital investment) x 4.4347 (millage rate) x .75 (exemption level) = \$33,260 per year (\$332,600 over 10 years)
- **Company is approved for level 6 and receives a 10 year exemption at 100%**  
 $\$50,000,000$  x 4.4347 = \$217,350 per year (\$2,173,500 over 10 years)

\*Company would fall within one of these categories

\*\*Refer to definition of "Average Wage in the County" herein

## 6.03 GENERAL ACCOUNTING

### I. POLICY

A. The Orange County Comptroller, as County Auditor and Clerk to the Board of County Commissioners, serves as County Treasurer providing general accounting for all Board of County Commissioners activities.

B. The Uniform Chart of Accounts for local governments as developed by the State of Florida is utilized in the accounting for all Board of County Commissioners activities. The accounting system and procedures follow generally accepted accounting principles.

C. Annual audits of the Board of County Commissioners' financial records are performed as part of the county-wide annual audit by a certified public accounting firm recommended by the Audit Committee and selected by the Board of County Commissioners in accordance with Administrative Regulation 6.14.

D. Uncollectible accounts – If payment for an account receivable is not made in an amount at least equal to that required or within the time specified for the account, that account becomes delinquent. Delinquent accounts receivable that are maintained longer than two years after their payment due date may be written off by the Comptroller for financial reporting purposes only. Departments should continue to make reasonable efforts to collect such delinquent accounts.

### II. PROCEDURES

A. The County Comptroller's Office is responsible for the following reports:

1. Preparation and distribution of Annual Financial Reports to the Florida Department of Financial Services.

2. Preparation and distribution of the Comprehensive annual financial report at the close of the fiscal year.

3. Preparation and distribution of individual financial reports for enterprise funds or other funds as may be required by bonded debt covenants or statute.

4. Pre-audit review of individual financial reports for state, federal, and local grant programs in

accordance with requirements of the applicable grantor agency.

**FOR MORE INFORMATION CONTACT:** County Comptroller's Office, Finance and Accounting Department

**REFERENCE:** Chapter 11, Florida Statutes; Uniform Chart of Accounts; Administrative Regulation 6.14

**APPROVED:** 9/21/87

**REVISED:** 6/27/06; 4/06/10

## 6.03.01 PETTY CASH AND CHANGE FUNDS

### I. POLICY

Petty cash funds will be established as necessary for the purpose of handling cash expenditures for merchandise or services of a minor, immediate nature, when it is not feasible or practical to issue a purchase order or use a procurement card. Change funds will be established as necessary for the purpose of conducting cash receipt transactions in the normal course of business.

### II. PROCEDURES

#### A. Establishment:

The establishment of petty cash and/or change funds will be by written request from the Division Manager, through the Department Director, to the Office of Management and Budget. The request must fully justify the funds, describe the security given to protect the funds, describe the purpose of the fund, and name the custodian who will be responsible for each fund. The Office of Management and Budget will provide a recommendation as to the establishment of the fund to the Finance and Accounting Department, Comptroller's Office (Finance). When approved by the Comptroller's Office, a check will be issued to the responsible custodian and appropriate receipt form will be completed.

#### B. Custody and authorization:

1. Each petty cash and change fund is the responsibility of one custodian who must have purchasing and/or signature authority. The custodian signs a "revolving fund" receipt upon receipt or change of the fund. This is completed in Finance and the original is maintained in Finance. A copy of the receipt should also be maintained by the custodian.

2. The responsible custodian may designate custody of the fund. This is usually done in large departments when the responsible custodian cannot maintain the fund. The custodian signs a designation form obtained from Finance stating to whom the fund is designated. The original designation form is maintained in Finance. Changes in designation must be reported to Finance followed by a new designation form signed by the responsible custodian and sent to Finance.

3. The department must keep records of custodians responsible for petty cash and change funds and the appropriate fund amount. Changes in custodians must be reported to Finance followed by the custodian signing a new "revolving fund" receipt in Finance.

4. Petty cash should be kept in a locked box or safe and kept separate from all other activities (i.e., coffee funds, etc.). Change funds shall be secured with the associated cash receipts.

#### C. Petty Cash Expenditures:

1. A petty cash fund is to be used for small incidental or emergency items for Orange County purposes only and only when the use of a procurement card is not acceptable or practical. Each department should set a limit and other parameters in order to avoid abuse of the fund. Petty cash is not to be used for:

- a. Purchase of equipment or other capital items
- b. Loans to employees
- c. Cashing checks
- d. Travel/entertainment expenses (excluding toll charges)

2. A receipt or other proof of expenditure must be received before disbursing money from the fund. The person being reimbursed then initials/signs the receipt acknowledging proper reimbursement. These receipts are kept within the fund until a request for reimbursement from Finance is prepared.

#### D. Petty Cash Reimbursement:

1. The request for reimbursement of petty cash is submitted on a voucher request form provided by Finance, detailing all expenditures (with detailed account numbers). The reimbursement request must be

supported by the proper receipts or other proof of expenditure. The total amount of the reimbursement request plus the remaining cash and unsubmitted tickets in the fund must equal the total amount of the fund. If it does not equal, the difference must be recorded as an over/short on the reimbursement request. Finance will then record the over/short and reimburse the fund to its proper amount. Employees are not to put money in or take money out of a petty cash fund in order to avoid recording an over/short.

2. All petty cash funds are reimbursed by check, payable to the custodian (or designated custodian). The custodian then endorses the check and cashes it at the bank. The cash is then placed with the remaining petty cash funds.

3. The request for reimbursement should be submitted to Finance before the fund is completely depleted. Reimbursement of the fund may take from 3-7 working days.

4. The petty cash fund should only need to be reimbursed every 3-4 weeks. Increases or decreases in the total amount of the petty cash fund should be requested in writing through the Office of Management and Budget to Finance.

5. All requests for reimbursement of petty cash must be approved/signed by the responsible custodian, then submitted to Finance for payment.

6. Notwithstanding the above, all outstanding petty cash reimbursements must be submitted as of fiscal year end.

E. A change fund is to be used as a starting cash drawer for the purpose of making change for cash receipt transactions. Change funds are not to be used for cashing checks, loans to employees, or any other purchases or expenses of the division. Custodians are not to put money in or take money out of a change fund to avoid an over/short on a Classification of Receipts report. The responsible custodian must balance the fund daily.

F. The Comptroller's Office will conduct periodic petty cash and change fund counts in each department. They will verify that procedures are being followed. In instances where corrective action may be warranted, the Comptroller's Office has been asked to bring it to the attention of the County Administrator's Office. Board departments are to

cooperate fully in these periodic cash counts.

**FOR MORE INFORMATION CONTACT:** Office of Management and Budget Comptroller's Office

**REFERENCE:** None

**APPROVED:** 9/21/87

**REVISED:** 9/18/89; 6/27/06

## 6.03.02 PAYROLL

### I. POLICY

A. The County Payroll Department (Payroll), under the Office of the County Comptroller, will be responsible for the preparation of payroll checks, direct deposits, or other electronic forms of payment and maintenance of all payroll records for employees of the Board of County Commissioners.

B. Division Managers are responsible for maintaining and submitting complete and accurate payroll information in a timely manner.

### II. PROCEDURES

A. All times submitted to Payroll shall be shown on a payroll transmittal form or by other means approved by the County Comptroller. Figures on the form must be accurate, legible, and properly coded.

B. Employees shall initial the transmittal by their name to signify all times are correct. (Employees unable to initial transmittals due to locations, work schedules, etc., must sign documents such as time sheets, time cards, logs, etc., to show their understanding that times to be recorded on transmittals are correct.) In the future, some form of electronic initial/signature (ID/password/etc.) may be accommodated.

C. Division Managers or designated alternates will sign at the bottom of each page of payroll transmittals to approve and verify that the information on that page is correct. In the future, some form of electronic initial/signature (ID/password/etc.) may be accommodated.

D. Adjustments to an employee's regular pay such as verified back pay, shift differential, working out of classification pay, etc., should be clearly noted on the transmittal. Changes made to transmittals after they have been submitted to Payroll will require written authorization on a payroll transmittal change form (PTC) specifying the change to be made. The PTC shall be

signed by the Division Manager or designated alternate. Changes will be made by Payroll personnel, and the authorizations will be attached to the back of the affected transmittal as verification that the change was authorized.

E. Requests for early issue of paychecks require a memo approved by the Division Manager (or designee) justifying the request for early issue. Such requests require the approval of the Payroll Manager (or designee). With the exception of emergencies as determined by the Payroll Manager (or designee), no checks will be issued prior to 3:00 p.m. on the Thursday before payday (or in the case of an early payroll related to holidays, the day before the checks are to be distributed) to allow Payroll time to balance payroll reports and sort the checks.

F. Requests for the issuance of a handwritten (off-cycle) check will be held to a minimum and reasons for issuing the check must be fully justified on a memo signed by the Division Manager or designee. Because of the amount of additional work created by handwritten (off-cycle) checks, the Payroll Manager (or designee) will review all justifications and approve or disapprove the request.

G. Corrections to employees' payroll checks resulting from errors/omissions on the payroll transmittal must be submitted via PTCs and be received by the deadlines established by Payroll to ensure the corrections are included in the following pay-period.

H. Stop payment actions on issued checks will be accomplished by Payroll personnel only after the County employee has made every effort to find the missing check. The employee will be required to certify that he/she has not deposited, cashed, or endorsed to another party the lost check, and, if found, will return it to Payroll. In order to reduce the occurrence of missing checks, the County encourages all employees to utilize the direct deposit option. Newly hired regular employees must sign up for direct deposit of County-issued payroll checks within the first pay period after their first day of work.

I. All transmittals should be submitted to Payroll by the Friday prior to payday if possible, but no later than noon on the Monday prior to payday. Submission dates will vary due to holidays. Payroll will announce any changes in the submission dates as soon as they are known.

**FOR MORE INFORMATION CONTACT:** Orange County  
Comptroller's Office, Payroll Department  
**REFERENCE:** Orange County Comptroller's Financial Procedures  
Manual; Orange County Policy Manual and Operational Guidelines  
**APPROVED:** 9/21/87  
**REVISED:** 6/27/06

### 6.03.03 REVENUE COLLECTION

#### I. POLICY

In order to reduce risk and provide accountability for County revenues, Division Managers are hereby designated as custodians of County revenues collected and under their care. Division Managers are required to comply with the appropriate procedures to ensure the safety and security of such revenues.

#### II. PROCEDURES

A. All revenue (cash, checks, money orders, etc.) received must be covered by a pre-numbered receipt, pre-numbered ticket or automated receipt-numbering system. Manual receipts must be prepared in triplicate with the original given to the customer, one copy to support revenue transmitted to the Finance and Accounting Department (Finance) and one copy to remain in the department. Pre-numbered receipts or tickets must be obtained from Finance and must be kept in a secure location. Pre-numbered receipts or tickets must be accounted for and missing receipts must be explained in writing to Finance. Where automated receipt preparation exists in a division, procedures will be developed in conjunction with the Comptroller's Office and the Office of Management and Budget for such handling.

B. Cashiers receiving revenue must prepare a Classification of Receipt form (COR) listing all revenues and receipt numbers for that day's business. The COR must have attached to it the Finance copy of manual receipts or tickets, an automated receipt, or a cash register tape, and the signature of the person responsible to verify such revenue and the approval signature of the immediate supervisor. The COR will be in duplicate; original to go to Finance, to support the receipts and revenue, and one copy to remain on file at the site.

C. When revenue is received by Finance, it will issue a receipt to the originator for all revenue turned in. This copy of the receipt from Finance will be attached to the COR retained on file at the site.

D. All revenue exceeding \$200 will be forwarded intact to Finance before the close of business day. In certain cases, designated divisions will be permitted to deposit revenue directly to a bank account as authorized by Finance. In these circumstances, the deposit will also be made if the amount exceeds \$200. Under no circumstances are receipts to remain undeposited for more than one week regardless of the amount. The accompanying COR should be submitted to Finance the same day the deposit is taken to the bank.

E. Any revenue retained on the site must be safeguarded in a locked cash box, secured in a safe or a locked file cabinet. Copies of receipts are to be kept in a place separate from the revenue.

F. In order to allow time to process revenue and balance daily receipts, it may require that a cut-off time be established at each site. Revenue taken after the cut-off time would be considered in the next day's business.

**FOR MORE INFORMATION CONTACT:** Finance and  
Accounting Department, Orange County Comptroller; Office of  
Management and Budget  
**REFERENCE:** None  
**APPROVED:** 9/21/87  
**REVISED:** 6/27/06

### 6.05 DISPOSITION OF SMALL CREDIT BALANCE AMOUNTS AND UNCLAIMED CHECKS

#### I. POLICY

In the course of County business, small credit balances of customers in amounts less than ten dollars (\$10.00) are generated. Section 717.117(1)(h), Florida Statutes, specifies that credit balances, customer overpayments, security deposits, and refunds having a value of less than ten dollars (\$10.00) shall not be presumed as unclaimed. It is the policy of the Board of County Commissioners that final credit balances, customer overpayments, security deposits, and refunds in amounts under ten dollars (\$10.00) be disbursed by check only upon customer request. Disbursements not requested and checks returned as undeliverable or otherwise uncashed in amounts of under ten dollars (\$10.00) shall be deposited to the "Orange Cares 4-U" utility bill assistance program or any other County-maintained donation account as designated by the department.



## II. PROCEDURES

A. Disposition of credit balances, customer overpayments, security deposits, and refunds having a value of less than ten dollars (\$10.00)

1. Final account balances due to customers in amounts of less than \$10.00 shall be held aside by the affected County department/division for a period of not less than sixty (60) days.

2. If a refund of the final account balance is requested in writing by the customer within the sixty (60) day period, a check request to the Finance and Accounting Department shall be generated.

3. Should a refund request not be received within the sixty (60) day period, the customer account balance shall be closed out and deposited to the "Orange Cares 4-U" utility bill assistance program or any other County-maintained donation account as designated by the department.

4. Each department/division that handles customer deposits and accounts shall establish a method of notification to customers with regard to disposition of balances covered by this Regulation.

B. Disposition of customer account balance checks returned as undeliverable or otherwise uncashed and having a value of less than ten dollars (\$10.00)

1. All checks issued by the County having a value of less than ten dollars (\$10.00) that are returned as undeliverable or are otherwise uncashed shall be received and maintained by the Finance and Accounting Department.

2. If no contact is received from the payee for a period of not less than one hundred eighty (180) days, the check shall be cancelled and the amount of the check shall be deposited to the "Orange Cares 4-U" utility bill assistance program or any other County-maintained donation account as designated by the department.

**FOR MORE INFORMATION CONTACT:** Orange County  
Comptroller's Finance and Accounting Department  
**REFERENCES:** Section 717.117(1), Florida Statutes  
**APPROVED:** 9/21/87  
**REVISED:** 6/27/06

## 6.05.01 CONTROL OF COUNTY PROPERTY

### I. POLICY

#### A. Inventory of Property.

1. Florida Statutes require a complete physical inventory of all tangible personal property to be taken annually and whenever there is a change of custodian. Custodians of County property are elected officials, Department Directors and Division Managers who have been assigned a class number by the Property Accounting Department (Property Accounting) of the Comptroller's Office. Divisions are further subdivided into sections within the custodian's control. Each section is then assigned a location number.

2. Property Accounting may spot check inventories throughout the fiscal year as determined necessary.

#### B. Transfer of Property.

1. Whenever property is transferred to a different location, Property Accounting must be notified in writing. The notification must include asset number, asset description, serial number, original custodial department and new department and location. The notification must be approved by signature of the new custodian. If submitted electronically, the new custodian must be contacted via e-mail.

2. Equipment no longer required by a division will be transferred to Property Accounting for redistribution or disposal. However, computer equipment must be assessed by Information Systems and Services for redistribution pursuant to Administrative Regulation 6.05.03, Purchase, Replacement and Donation of Computer Equipment, prior to being transferred to Property Accounting. Property Accounting will house the property in the surplus Property Warehouse. Property will be made available for redistribution within the County or disposed of in accordance with Florida Statutes if the equipment is not useful within the County.

### II. PROCEDURES

A. To facilitate statutorily required inventories, the following procedures will be used:

Property Accounting will furnish each custodian with a listing of all property assigned to his or her control. The custodian will designate a member of his or her staff, knowledgeable as to the location of the custodian's property, to serve as a contact person for Property Accounting.

B. The contact person will accompany the Property Accounting representative to all division locations while conducting the inventory.

C. Property Accounting will review all items that were not located on inventory with the contact person, prior to concluding the inventory check. A preliminary unlocated asset listing will be provided to and signed by the contact person.

D. A separate listing will be issued to the division representative detailing the assets located during the inventory that were not originally assigned to the custodian. Property Accounting will require a signature from the representative of the division to indicate that the listing has been reviewed with the representative.

E. Once the inventory is complete, Property Accounting will reconcile the inventory results to the property records and send a final listing of equipment that could not be located to each custodian. The custodian has 15 working days to respond with the location or explanation of disposition of the unlocated property.

F. An Annual Tangible Personal Property Inventory Results report will be issued by the Comptroller's Office to the County Administrator's Office detailing the results of all inventories for a given fiscal year.

**FOR MORE INFORMATION CONTACT:** Orange County Comptroller's Office, Property Accounting Department  
**REFERENCE:** Sections 274.02-274.03 Florida Statutes Chapter 10.400, Florida Administrative Code (Rules of the Auditor General); Administrative Regulation 6.05.03  
**APPROVED:** 9/21/87  
**REVISED:** 6/27/06

## 6.05.02 ACQUISITION OF REAL PROPERTY

### I. POLICY

The Real Estate Management Division shall be responsible for all acquisitions of real estate or interests in real estate.

## II. PROCEDURES

A. An appropriate work request form will be filled out by the requesting County agency and provided to the Manager of the Real Estate Management Division with all necessary maps and/or documentation. The forms can be obtained from the Real Estate Management Division or the County Intranet.

1. Standard Real Estate Work Request form is to be used for all standard budgeted projects to obtain title searches, appraisals, cost estimates, and negotiations.

2. Development Acquisition Work Request form is to be used for all development donations required by Public Works or Utilities.

3. Development Park Site Work Request form is to be used for the acquisition of park land required for development.

4. Pond Relocation Exchange Work Request form is to be used for retention pond relocations requested by the adjacent property owner.

5. Certificate of Necessity form is to be used for all real estate acquisition projects that are to be acquired under threat of eminent domain and should be accompanied by a staff report.

B. The Real Estate Management Division will review the work requests and take necessary steps to complete the action requested. This will include coordination with the requesting agency to have release and/or purchase orders issued for contracted lease representative, title, appraisal and/or acquisition services, as well as processing all necessary payments from the requesting agency's budget account. A schedule for project completion will be established and monitored until completion. The requesting agency will be kept informed of the project's progress through regular status reports.

C. All acquisitions will be processed for Board of County Commissioners' approval unless they are under threat of eminent domain, as evidenced by a Certificate of Necessity, in which case the Real Estate Management Division will process the acquisitions as provided in the Orange County Code.

D. Parcels under the threat of eminent domain

that cannot be acquired through negotiation will be processed for condemnation. This shall include obtaining the approval of the Board of County Commissioners of a Resolution authorizing condemnation proceedings. Subsequently, a suit package will be provided to the County Attorney's Litigation Section to file for an Order of Taking and subsequent Final Judgment. The requesting agency will be involved throughout this process and required to testify as to public necessity.

**FOR MORE INFORMATION CONTACT:** Real Estate Management Division  
**REFERENCE:** None  
**APPROVED:** 8/24/93  
**REVISED:** 8/13/02; 6/27/06

### 6.05.03 PURCHASE, REPLACEMENT AND DONATION OF COMPUTER EQUIPMENT

#### I. POLICY

The Board of County Commissioners seeks to ensure that each department has the computer assets necessary to accomplish its assigned functions. Computer equipment purchases and disposition must be consistent with Board policy and in accordance with these procedures.

#### II. PROCEDURES

A. Requests for the purchase or replacement of servers, personal computers, laptop computers and hand-held devices must be thoroughly justified. Justification must include the following considerations:

- The assigned function.
- The existing computer asset condition and age.
- The computer equipment needed to accomplish the function.

Prospective computer purchases for each department will be reviewed and approved by Information Systems and Services (ISS) during the budget process.

B. Computer equipment purchases must conform to the Orange County Computing Standards list issued by the Information Systems and Services Division (ISS). Requisitions for items not in compliance with the Standards list will be forwarded to ISS from the Purchasing and Contracts Division for review. If

approved by ISS, a "Standards Waiver" will be issued by ISS in advance of procurement.

C. For the purposes of this Administrative Regulation, computer equipment users are classified into the following three categories:

- **Light Users** – This category represents individuals whose primary computer usage is access to electronic mail and minor usage of office applications. Under such conditions, the computer equipment generally has a life cycle of approximately five (5) years.
- **Mainstream Users** – This category represents individuals who routinely access electronic mail, use various office and business applications for data information, and medium use of presentation software such as PowerPoint. In such cases, the equipment life cycle is approximately four (4) years.
- **Power Users** – This category represents individuals regularly accessing financial spreadsheets, Geographic Information Systems (GIS), software programming tools, engineering applications; or heavy use of presentation software and/or frequent lengthy studies and statistical reports. In such cases, equipment life cycle is approximately three (3) years or less.

Prior to disposal or replacement of any computer asset by any category of user, the originating department must notify ISS of its intent to dispose of the asset. ISS will thoroughly evaluate the item(s) to determine the possibility of reutilizing the asset elsewhere in the County and may reassign the asset where needed. ISS will assess the cost of repairing broken equipment to assess the feasibility of repair compared to the purchase of new equipment. If the equipment is too costly to repair, or not usable at another location, ISS will sanitize the hard drive and coordinate the disposition of the equipment through the Comptroller Property Accounting Department.

D. Used computer equipment may be traded in for new equipment. The Comptroller Property

Accounting Department must be notified via the "Request for Fixed Asset Replacement or Trade-In" form prior to the originating department obtaining a purchase order for the new equipment. The County Comptroller's Office will then submit the paperwork to the Board of County Commissioners (BCC) for approval.

The originating department shall ensure that the vendor provides written documentation of the old equipment trade-in. Once the replacement asset is received, a "Fixed Asset Trade In" form must be completed and sent to Property Accounting to include the returned item asset number, new asset description, manufacturer, model, serial number, physical location of new equipment, contact person and a phone number so that Comptroller Property Accounting can coordinate the recording and tagging of the new equipment.

E. Computer equipment may be returned to the vendor if defective and a warranty or maintenance agreement exists. The originating department must notify the Comptroller Property Accounting Department by the via the "Request for Fixed Asset Replacement or Trade-In" form. The County Comptroller's Office will make the change to the asset record to reflect the new serial number.

F. Surplus used computer equipment may be offered to government and any private not-for-profit agency that is tax exempt under the provisions of s.501 of the Internal Revenue Code of 1954 and which has as its principle mission one of the following:

- Public health and welfare
- Education
- Environmental restoration and conservation
- Civil and human rights
- Relief of human suffering and poverty

Government and private not-for-profit agencies that meet the above criteria may purchase used computer equipment for 90% of the fair market value. Used computer equipment with a nominal value (under \$100.00 per item) may be donated without consideration. All donations will be coordinated through the Comptroller Property Accounting Department. The Comptroller Property Accounting Department will maintain details of each donation disposition in the property records as required by Chapter 10.400, Florida Administrative Code (Rules of the Auditor General).

G. Government and private not-for-profit agencies

requesting donations shall complete a "Used Computer Donation Application" form. Donation requests will be reviewed by a committee comprised of one representative from:

- Comptroller Property Accounting
- Growth Management Department and
- Information Systems & Services

Authority for all donations of computer equipment shall be obtained from the BCC and reported in the Board minutes.

H. Agencies accepting surplus computer equipment shall be required to sign the "Used Computer Donation Agreement".

**FOR MORE INFORMATION CONTACT:** Information Systems & Service Division; Comptroller Property and Accounting Department

**REFERENCE:** Applicable forms are available on the Internet

**APPROVED:** 6/27/06

#### **6.05.04 DISPOSITION OF TANGIBLE PERSONAL PROPERTY**

##### **I. POLICY**

Surplus tangible personal property shall be disposed of in accordance with the Florida Statutes. Additional requirements must be followed prior to the disposal of computer equipment pursuant to Administrative Regulation 6.05.03, Purchase, Replacement and Donation of Computer Equipment. The Property Accounting Department of the Comptroller's Office (Property Accounting) will act as the custodian for all surplus tangible personal property. All actions regarding the disposition of this property shall be coordinated through the Property Accounting Department.

##### **II. PROCEDURES**

A. Having consideration for the best interest of the County and the potential for disposal by each method, surplus property shall be disposed of by one of the methods listed below. The Board of County Commissioners (Board) must approve all of the methods below prior to disposal.

1. Property may be offered to other governmental units for 90% of the fair market value of the property. Property with a nominal value (under \$100) may be donated without consideration.

2. Property may be offered to private non-profit agencies that have been held to be tax exempt under the provisions of Section 501 of the Internal Revenue Code of 1954 and which has as its principal mission one of the following:

- a. Public health and welfare
- b. Education
- c. Environmental restoration and conservation
- d. Civil and human rights
- e. Relief of human suffering and poverty

Private non-profit agencies that meet the above criteria may purchase the property for 90% of the fair market value. Property with a nominal value (under \$100) may be donated without consideration.

3. Property may be used as a trade-in on new equipment. In this case, since the property is often still in the original custodian's custody, a request for a Fixed Asset Replacement/Trade-In form must be completed by the department/division and sent to Property Accounting. The request will then be submitted for Board approval by the Comptroller's Office. After the Board approves the trade-in, Property Accounting will notify the originating division in writing. The department/division may then proceed with the new purchase.

4. Property may be disposed of for value to the state without bid.

5. Property that is without commercial value may be abandoned, scrapped, cannibalized or destroyed after Board approval. Written notice identifying the property abandoned, scrapped, cannibalized or destroyed as well as the employee witnessing the disposition, must be provided to Property Accounting.

6. Property with an estimated value under \$5,000 can be sold by sealed bid, public auction, or through telephone quotes after the request of at least three bids.

7. Any property with an estimated value of \$5,000 or more shall be sold only to the highest responsible bidder, or by public auction, after publication of notice not less than one week nor more than two weeks prior to the sale in a newspaper having general circulation in the county.

8. Property acquired partially or wholly from Federal grants shall be disposed of in accordance with

applicable federal guidelines.

9. Serviceable arthropod control property no longer needed shall be offered first to other counties or districts engaged in arthropod control at a price established by the Board. If no acceptable offer is received within a reasonable time, the equipment shall be offered to other governmental units or private non-profit agencies. If no acceptable offer is received the equipment may then be disposed of through any of the other methods noted in this section.

10. The Board of County Commissioners upon receipt of an application may approve by resolution the conveyance or lease of tangible personal property to another governmental agency or not-for-profit organization established for the purpose of promoting community interest and welfare. In this instance, the Board may convey or lease the property through private sale to the applicant at an established price, nominal or otherwise. No advertisement shall be required.

11. Property may be returned to the vendor if defective and a maintenance agreement (warranty) exists. Property Accounting must be notified in writing. A request for a Fixed Asset Replacement/Trade-In form shall be completed and sent to Property Accounting. The originating division shall ensure that the vendor provides written documentation of the transfer of the old equipment. Once the replacement asset is received, a Fixed Asset Replacement form must be completed and sent to Property Accounting to include the asset number returned, new asset description, manufacturer, model, serial number, physical location of new equipment, contact person and a telephone number so that Property Accounting can coordinate tagging of the new equipment.

B. Authority for all dispositions of tangible personal property shall be obtained from the Board and reported in the Board minutes.

C. Any proceeds from the sale of property will be deposited back into a purchasing proprietary fund or into the general fund, as appropriate. Proprietary fund assets will not be sold for less than fair market value.

D. The Property Accounting Department shall maintain details of each disposition in the property

records as required by Chapter 10.400, Florida Administrative Code (Rules of the Auditor General).

**FOR MORE INFORMATION CONTACT:** Orange County Comptroller's Office; Property Accounting Department  
**REFERENCE:** Section 125.38, Florida Statutes; Section 274.02, Florida Statutes; Section 274.04 – 274.07, Florida Statutes; Section 388.323, Florida Statutes; Chapter 10.400, Florida Administrative Code (Rules of the Auditor General); Section 501 of the Internal Revenue Code of 1954  
**APPROVED:** 12/03/91  
**REVISED:** 6/27/06

## 6.06 ESTABLISHMENT OF FEES FOR COUNTY SERVICES

### I. POLICY

A. In developing a recommendation to institute, abolish, raise, or lower fees for County services, action may be originated by the Board of County Commissioners or by other elected officials, by the Office of the County Administrator, or by individual departments.

B. The Board of County Commissioners shall formally adopt a schedule of fees to be charged for County services. They may adopt a schedule by affirmative resolution, or, when required, conduct public hearings to consider proposed ordinance/amendments to ordinances, and then take formal action as required by state law.

C. County departments will identify the full cost of providing a service for which fees are charged. The calculation of cost will include all reasonable and justifiable direct and indirect costs.

### II. PROCEDURES

A. Generally, fees will be reviewed and revised by the Board of County Commissioners every two years. This does not prevent submission of fees for approval on an ad hoc basis if required.

B. The Office of Management and Budget (OMB) is responsible for publishing a schedule of fees and for reviewing all fee revisions. No fee revisions are to be presented to the Board of County Commissioners for approval without OMB review. OMB is responsible for designing the appropriate forms to collect fee revision data, coordinating with departments for fee revision needs, and analyzing revised fee revenue estimates.

C. Departments will recommend that fees or charges be set to recover 100% of the costs or be set at a lower rate. If set at a lower rate the department must provide justification. The recommendation will include consideration of the benefits to the department, benefits to the citizens of Orange County, and the financial capacity of the users to pay for the service. Changes should not exceed the cost of providing the services unless set by Florida Statute.

D. In addition to a review by OMB, a department submitting a fee revision on an ad hoc basis is responsible for ensuring appropriate legal review in preparation for approval by the Board of County Commissioners.

**FOR MORE INFORMATION CONTACT:** Office of Management and Budget  
**REFERENCE:** Orange County Fee Directory  
**APPROVED:** 6/6/87  
**REVISED:** 6/27/06

## 6.07 BUILDING PERMIT FEES FOR COUNTY CONSTRUCTION PROJECTS

### I. POLICY

Where the County or an independent contractor is working on a County construction project, the County or its independent contractor shall pay all building permit fees and any other related building or permitting fees pertaining to such construction.

### II. PROCEDURES

County projects shall follow all applicable building permitting processes.

**FOR MORE INFORMATION CONTACT:** Growth Management Department  
**REFERENCE:** None  
**APPROVED:** 5/11/87  
**REVISED:** 6/27/06

## 6.08 PAYMENT OF DUES FOR PROFESSIONAL ORGANIZATIONS/ MEMBERSHIPS

### I. POLICY

Orange County will pay dues to professional organizations and purchase memberships in organizations where a demonstrable benefit accrues

to the County through such memberships. Where possible, agency memberships will be acquired rather than individual so that maximum benefit in terms of numbers of participants can be achieved.

## II. PROCEDURES

A. Departments will include cost for dues and memberships as part of the annual budget process. Once approved in this process, Department Directors and Division Managers may process these items in accordance with normal purchasing procedures.

B. Employees must obtain prior approval of the County Administrator or his designee prior to accepting leadership positions in any professional organization which would require the use of County time or resources.

**FOR MORE INFORMATION CONTACT:** Office of Management and Budget

**REFERENCE:** None

**APPROVED:** 6/8/87

**REVISED:** 6/27/06

### 6.10 PERFORMANCE BASED MEASUREMENT SYSTEM

#### I. POLICY

A. It is the goal of the County to develop and manage programs, services and resources as efficiently and effectively as possible and to communicate the results of these efforts to the taxpaying public. Meaningful performance measures assist government officials and citizens in identifying financial and program results, evaluating past resource decisions, facilitating qualitative improvements in future decisions regarding resource allocation and service delivery options, and communicating service and program results to the community.

B. It is the goal of the County that financial, service, and program performance measures be developed and used as an important component of decision making and incorporated into governmental budgeting. Performance measures should:

1. be based on program goals and objectives that tie to a statement of program mission or purpose;

2. measure program results or accomplishments;

3. provide for comparisons over time;

4. measure efficiency and effectiveness;

5. be reliable, verifiable, and understandable;

6. be reported internally and externally;

7. be referred to in decision-making processes; and

8. be limited in number and complexity so as to provide practical assessment of the effectiveness and efficiency of key programs.

## II. PROCEDURES

A. It is the duty and responsibility of County departments and divisions to develop performance measures. It is the duty and responsibility of the Office of Management and Budget (OMB) to assist in the development, and approval of performance measures. OMB will be responsible for the administration and reporting of the Performance Based Measurement System. The County Administrator or designee will be responsible for the final approval of performance measures.

B. Detailed procedures for the development of performance measures are outlined in the Performance Based Measurement System manual, as periodically amended by OMB.

C. Modifications to approved performance measures will be processed through OMB. Forms and instructions are available from that office.

D. Annual and Quarterly Performance Measurement reports will be prepared by OMB and furnished to the Board of County Commissioners, County Administration, participating departments/divisions and other agencies as requested.

**FOR MORE INFORMATION CONTACT:** The Office of Management and Budget

**REFERENCE:** Performance Based Measurement System Manual

**APPROVED:** 6/27/06

## 6.12 INVOICE PAYMENT PROCEDURES

### I. POLICY

The purpose of the following invoice payment procedures is to help ensure that vendors who provide goods and/or services to departments under the Orange County Board of County Commissioners receive payments for said goods and/or services on a timely basis.

### II. PROCEDURES

#### A. Proper Invoice/Payment Request Requirements.

To process payment for goods and/or services received, it is essential that the Comptroller's Office receive a proper invoice or payment request that is acceptable in the sole reasonable discretion of said Office. As such, the following represents the requirements for an invoice to be considered a proper invoice for payment.

B. The invoice shall contain the following minimum information:

1. Name of vendor
2. Address of vendor (i.e., where payment is to be mailed)
3. Date
4. Orange County Purchase Order No.
5. Orange County Release Order No. (For purchases under Term Contracts)
6. Orange County Term Contract No. (where appropriate)
7. Orange County Contract No. (where appropriate)
8. For non-purchase order procurements (i.e., emergencies) - name of County employee who requested purchase
9. For invoices involving the purchase of

goods -

- a. Item description
- b. Quantity purchased
- c. Unit price
- d. Total price (for each item)
- e. Total amount of invoice (all items)

10. For invoices involving the purchase of services -

- a. Itemized description of services

- performed
- b. Date services were performed
- c. Billing method for services performed (approved hourly rates, percentage of completion, cost plus fixed fee, direct (actual) costs, etc.)
- d. Itemization of other direct reimbursable costs (description, amount)
- e. Copies of invoices for other direct reimbursable costs (other than incidental costs, such as telephone expenses, copying costs, etc.)

11. For Partial Payment Requests on construction contracts -

- a. Partial Payment Request (invoice) on a form approved by the County
- b. Itemized Schedule of Values
- c. Copies of supporting invoices for all stored materials for which payment is being sought
- d. For Final Payment Requests -

- (1) All of the above
- (2) Release of lien
- (3) Consent of surety

12. Any other information required by written agreement or contract with the Board of County Commissioners.

C. The invoice or payment request shall be submitted as follows:

1. Invoices submitted in connection with the issuance of a Purchase Order or Release Order should be billed to the addressee listed on the purchase order.

2. Invoices or payment requests submitted in connection with construction contracts should be sent to the Orange County division or its agent for which construction contracts specifies.

3. Invoices not falling within the above two categories should be sent to the Orange County division for which goods were purchased and/or

services were performed.

D. The goods and/or services shall actually



have been received and/or performed in accordance with contractual specifications to the sole reasonable satisfaction of the County.

E. An authorized signature approval for purchase shall appear on the payment package presented to the Comptroller's Office for payment. In addition, a different authorized signature must appear on the payment package evidencing receipt of the goods or services.

F. The submittal of an approved payment package to the Comptroller's Office should be made no later than ten (10) business days from receipt of a proper invoice or pay request by the department/division. Approved payment requests in connection with complex construction contracts shall be submitted to the Comptroller's Office no later than ten (10) business days from receipt of the payment request by the department/division. In cases where an agent working on behalf of the department/division is required to review and approve a complex construction payment (i.e., project architect or engineer, construction manager), the approved payment request shall be submitted to the Comptroller's Office no later than fifteen (15) days from the earliest date of receipt of the payment request by the department/division or agent. The time periods stated in this paragraph include any and all reviews and approvals that may be required, such as Business Development and/or Purchasing and Contracts.

G. Calculation of Payment Due Date:

Each invoice or payment request received by departments/divisions or agents acting on behalf of the County under the Board of County Commissioners and County Comptroller shall be marked as having been received (date stamped) on the date on which it is first delivered to the respective department/division or agent. The date so marked shall be the date on which the invoice is received. In addition, each department/division for which goods and/or services are received shall indicate the date such were received and said date shall be the actual date of receipt thereof.

H. The time at which payment for a purchase by departments/divisions under the Board of County Commissioners is due excluding construction services shall be forty-five (45) days from:

1. The date on which a proper invoice is received by the Comptroller's Office (after approval by the Board of County Commissioners, if required); or

2. In those instances where a proper invoice is not required for payment, the date:

- a. On which the rental period begins; or
- b. On which the Board of County Commissioners and the vendor agree in a contract which may provide dates relative to payment periods.

I. The time at which payment for "construction services" (defined as all labor, services, and materials provided in connection with the construction, alteration, repair, demolition, reconstruction, or any other improvements to real property that require a license under parts I and II of Chapter 489, Florida Statutes) for departments/divisions under the Board of County Commissioners is due shall be:

1. Twenty-five (25) business days from the date on which a proper invoice or payment request is received by the contracting department/division or its agent (project architect, project engineer, or other agency/person acting on behalf of the department/division), when the agent is required to approve the invoice or payment request; or

2. Twenty (20) business days from the date on which a proper invoice or payment request is received by the contracting department/division in cases where approval by an agent of the County is not required.

J. If an invoice or payment request for construction services has been rejected under the alternative notification method described in the next section, and the contractor submits a corrected invoice or payment request, the time at which payment is due shall be ten (10) business days from the date on which the corrected invoice or payment request is received by the County or its agent. If Board of County Commissioners approval of the corrected invoice or payment request is required, the time at which payment is due shall be the first business day after the next regularly scheduled meeting held after the meeting at which approval was made. In cases where only a portion of an invoice or payment request has been rejected or disputed, the undisputed portion of the invoice or payment request shall be due in accordance with the normal time frame for construction services as described in this

procedure.

K. Notification of Improper Invoice: In any case in which an improper invoice or payment request is submitted by a vendor to departments/divisions under the Board of County Commissioners, said department/division shall, within ten (10) days after the improper invoice is received by it, notify the vendor that the invoice is improper, specify the reasons therefore, and indicate what corrective action on the part of the vendor is needed to make the invoice proper. Alternatively, for construction services only, the department/division may reject the invoice or payment request within twenty (20) business days after the date on which the County or its agent first received the invoice or payment request. Under this alternative, the rejection must be written and must specify the deficiency in the invoice or payment request and the action necessary to make it proper.

L. Dispute Resolution Procedures: In the event a dispute arises regarding construction services, the dispute must be resolved in accordance with the dispute resolution procedure prescribed in the construction contract or in any applicable ordinance. In the absence of a prescribed procedure for construction services and for all other non-construction services disputes between a vendor and a department/division under the Board of County Commissioners, the following procedures shall apply.

1. Disputes initiated by vendors:

- a. The vendor shall, not later than forty-five (45) days from when a proper invoice is received by the Comptroller's Office, submit a written statement via certified mail to the department/division for which the purchase was made, specifying the nature of any dispute they may have regarding payment of an invoice.
- b. Within five (5) days of receipt of the written statement, the appropriate Division Manager shall investigate the dispute and render a decision in writing to the department director.
- c. Within five (5) days of receipt of the written decision from the Division Manager, the Department Director shall review the dispute and the

Division Manager's recommendation and shall make a final decision on the matter. A written explanation of the final decision made shall be sent to the vendor via certified mail within five (5) days from the date the final decision is made (a copy of which is to be provided to the Comptroller's Finance and Accounting Department and the Purchasing and Contracts Division).

2. Disputes initiated by the County:

- a. The appropriate Division Manager, or appropriate authority, shall, not later than thirty (30) days from when a proper invoice is received by the Comptroller's Office, submit a written statement via certified mail to the vendor from which the purchase was made, specifying the nature of any dispute they may have regarding payment of an invoice (a copy of which is to be provided to the County Comptroller's Finance and Accounting Department and the Purchasing and Contracts Division.)
- b. The vendor shall, within fifteen (15) days of receipt of the written statement, submit a written response to such indicating their agreement or disagreement therewith, as well as the reasons therefore.
- c. Within ten (10) days of receipt of the written response from the vendor, the Department Director, or appropriate authority, shall review the dispute and shall make a final decision on the matter. A written explanation of the final decision made shall be sent to the vendor via certified mail within five (5) days from the date the final decision is made (a copy of which is to be provided to the

Comptroller's Finance and Accounting Department and the Purchasing and Contracts Division).

Additional processing procedures may be added to amplify the regulation requirements from time to time by the County Administrator.

**FOR MORE INFORMATION CONTACT:** Orange County Comptroller's Office; Purchasing and Contracts Division  
**REFERENCE:** Part VII Chapter 218, Florida Statutes; Part I and II Chapter 489, Florida Statutes  
**APPROVED:** 10/02/89  
**REVISED:** 6/27/06

### 6.12.01 METHOD OF PAYMENT

#### I. POLICY

Payment of all monies due to the County for taxes, fees, fines, charges, etc., and any other monies being placed on deposit with the County, must be made in United States currency.

#### II. PROCEDURES

Any costs resulting from collecting and/or converting payments to United States currency from payment by check, money order, wire transfer, etc., drawn on a foreign bank or made in foreign currency will be charged to and payable by the remitter of such payment.

**FOR MORE INFORMATION CONTACT:** Orange County Comptroller's Office  
**REFERENCE:** None  
**APPROVED:** 3/17/92  
**REVISED:** 6/27/06

### 6.13 CREATION, ADMINISTRATION, AND ABOLISHMENT OF STREET-LIGHTING MUNICIPAL SERVICE BENEFIT UNITS (MSBUs)

#### I. POLICY

Orange County is authorized to establish Municipal Service Benefit Units (MSBUs) under Section 125.01(1)(q) and (r), Florida Statutes.

The Board of County Commissioners (BCC) finds that it is appropriate to consider creation, amendment, or abolishment of MSBUs for certain unincorporated areas of Orange County for operation, maintenance and administration of streetlighting.

The Finance and Accounting Department of the Orange County Comptroller's Office ("Finance") administers streetlighting MSBUs in conjunction with BCC staff as necessary.

#### II. PROCEDURES

A. MSBUs established pursuant to Section 125.01, Florida Statutes, for streetlighting operation, maintenance and administration will be considered only for property specially benefitted by such streetlighting. Examples of roads not eligible for streetlighting MSBUs are those falling under the Orange County's Arterial Roadway Lighting Program, other arterial or similar roads not conveying a special benefit to property to be assessed, and private roads in gated or non-gated communities.

B. Allowable costs in a streetlighting MSBU may include energy charges, maintenance charges, and fixture and pole rental for lighting specifically intended to illuminate roadways, and related administrative costs for governmental collection, administrative and inspection fees. Additionally, installation costs are allowable, but only for existing subdivisions.

Areas and facilities not associated with roadway lighting are ineligible for payment from streetlighting MSBUs. Examples of such exclusions include, but are not limited to:

1. Boat dock areas
2. Clubhouse and swimming pool areas
3. Courts and/or fields designed for recreational and/or sporting activities
4. Entrance signage areas
5. Fences and walls
6. Golf course areas
7. Parking lot areas
8. Playground areas

C. MSBUs for streetlighting may be requested from a developer of a new subdivision or from a minimum of 15% of the property owners of an existing subdivision or contiguous unplatted area of unincorporated Orange County. The minimum size of any MSBU for streetlighting shall be 10 lots/parcels and four streetlights, unless consideration of a smaller installation shall be clearly in the County's interest (example: newly platted subdivision with less than 10 lots/parcels).

D. Assessments must be computed in a manner that fairly and reasonably apportions the allowable assessed costs among the parcels of property within the MSBU, based upon objectively determinable assessment units. Assessments levied by the MSBU may be equally apportioned to each platted lot/parcel in the boundary of the MSBU provided that such apportionment methodology is specifically found by legislative findings of the BCC in the assessment resolution to fairly and reasonably apportion the costs among such parcels. The total amount levied will be based upon a budget annually approved by the BCC. In cases where the lots/parcels are non-homogeneous in nature, such as commercial or mixed use subdivisions, assessment methods using front footage, acreage or other assessment units which result in fair and reasonable apportionment shall be used. All notices, public hearings and assessments provided for herein shall be mailed, published, held and levied in accordance with the procedures set forth in the Uniform Assessment Collection Act, Section 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments in the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

E. New Subdivision – Creation By Developer Request

1. The County subdivision regulations require the developer to submit a written request for the establishment and/or amendment of an MSBU for streetlights to the Plan Review Section of Public Works. Such request shall include the proposed preliminary plat book pages for new subdivisions.

2. Plan Review forwards the letter and the proposed plat to Finance. This information must be received in Finance and the plat must be recorded by December 31 to be placed on the upcoming November 1 real estate tax bill.

3. Finance requests a cost estimate and sketch from the power company. The power company submits the sketch and cost estimate to Finance for energy charges, maintenance charges and fixture and pole rental after installation. The developer shall be solely responsible for all installation costs. Finance estimates the initial annual cost per lot/parcel.

4. Finance prepares an MSBU resolution for streetlighting and requests a public hearing before the BCC. The Clerk to the BCC provides Finance with a public hearing date. A public hearing notice is mailed to

the developer and any other property owners of record within the proposed boundaries of the MSBU. The BCC, subject to the public hearing, adopts at its discretion the resolution for the establishment and/or amendment of the MSBU for streetlighting.

5. The resolution creating such MSBU shall include brief descriptions of the proposed allowable costs, a description of the property to be included in the MSBU and specific legislative findings that recognize the special benefit to be provided by such streetlighting to property encompassed within the MSBU and that determine that the assessments to be levied are fairly and reasonably apportioned among such properties.

6. For all newly approved or amended streetlighting MSBUs (given compliance with the time deadline stated in step 2 above), Finance will arrange for the annual assessment to be placed on the upcoming November 1 real estate tax bill.

7. All approved MSBUs are effective as of the initial November 1 real estate tax billing. This ensures that Finance will have received funds from the Orange County Tax Collector to pay for streetlighting operational expenses provided for in the MSBU resolution. All streetlighting operational costs prior to the effective date of the MSBU and all installation costs are the sole responsibility of the developer.

F. Existing Subdivision – Creation by Property Owner Request

1. A written petition to establish and/or amend an MSBU for streetlighting is required from property owners representing a minimum of 15% of the affected lots/parcels. The petition should reference the property owners' names, addresses, parcel ID numbers (if available), and telephone numbers. Renters and/or boarders signatures on a property owner petition are not eligible to be counted in the results. This petition must be received in Finance by December 1 to be placed on the coming November 1 real estate tax bill. The completed petition is delivered to:

Orange County Comptroller  
Special Assessments  
Post Office Box 38  
Orlando, Florida 32801-0038

2. Using tax maps, Finance determines the boundaries of the proposed MSBU and requests a cost estimate and sketch from the power company.

3. Finance receives the information from the power company and estimates the initial annual cost per lot/parcel. If installation costs are required by the power company, the cost is divided among all of the property owners on the same basis as the operational costs and added to the per lot/parcel cost for the first year assessment. Assessments for subsequent years will not include the installation costs.

4. Finance mails a letter of explanation, a ballot and a return envelope to all of the affected property owners and a minimum of 66 2/3% response from the returned ballots in favor of establishing the MSBU is required to continue the creation process. Renters and/or boarders signatures on a property owner ballot are not eligible to be counted in the results. The minimum balloting period shall be 14 days.

5. Should the ballot be unsuccessful, the property owners' may at their discretion initiate a follow up petition process. Finance provides a list of all of the affected property owners (renters and/or boarders are not eligible) and an explanation for the petition. The property owners' must obtain a 66 2/3% positive response of signatures from all of the affected property owners on the petition to continue the creation process.

6. Finance prepares an MSBU resolution for streetlighting and requests a public hearing before the BCC. The Clerk to the BCC provides Finance with a public hearing date and a public hearing notice is mailed to all affected property owners. The BCC, subject to the public hearing, adopts at its discretion the resolution for the establishment and/or amendment of the MSBU for streetlighting.

7. The resolution creating such MSBU shall include brief descriptions of the proposed allowable costs, a description of the property to be included in the MSBU and specific legislative findings that recognize the special benefit to be provided by such streetlighting to property encompassed within the MSBU and that determine that the assessments to be levied are fairly and reasonably apportioned among such properties.

8. For all newly approved or amended streetlighting MSBUs (given compliance with the time deadline stated in step 1 above), Finance will arrange for the annual assessment to be placed on the upcoming

November 1 real estate tax bill.

9. All MSBUs are effective as of the initial November 1 real estate tax billing. This ensures that Finance will receive funding from the collection of the annual assessments to pay for the monthly streetlighting operational costs and any installation costs.

#### G. Administration of Streetlighting MSBUs

1. Upon adoption of an MSBU resolution, the MSBU assessment will be collected pursuant to the Uniform Method for the Levy, Collection, and Enforcement of Non-ad Valorem Assessments, Sections 197.3632 and 197.3635, Florida Statutes. The MSBU assessment is placed on the non-ad valorem portion of the "Notice of Proposed Property Taxes" and on the annual Orange County Real Estate "Notice of Ad Valorem Taxes and Non-ad Valorem Assessments."

2. Finance will disburse MSBU funds directly to the service providers. The normal standards for documentation and verification of County accounts payable shall be applicable to MSBU payments.

3. Revenues and expenditures for each streetlighting MSBU will be accounted for separately in Finance, and fiscal year ending balances will remain with each respective MSBU. Assessments may be adjusted annually as part of the County budget process. It is recognized that each MSBU must carry at a minimum an adequate contingency reserve to cover eligible expenditures from the beginning of the fiscal year to the time that annual assessment revenues are received. Assessment adjustments for any MSBUs that exceed 20% require BCC approval pursuant to Section 197.3632(4)(a), Florida Statutes, at the time the BCC adopts the non-ad valorem assessment roll at a public hearing.

#### H. Abolishment of Streetlighting MSBUs

1. An existing MSBU will be considered for abolishment upon the demonstration of majority interest on the part of the property owners in the MSBU.

2. Majority interest in the abolishment of a MSBU shall be determined as follows:

- a. Any property owner(s) shall submit a request in writing to Finance for a preliminary petition on which to demonstrate an expression of interest in the abolishment of a MSBU. The preliminary petition shall be in a format approved by Finance.
- b. The property owner(s) requesting the preliminary petition shall obtain signatures of property owners (renters and/or boarders are not eligible) representing at least 15% of the platted lots/parcels subject to assessment and return the preliminary petition to Finance within 90 days of receipt of the preliminary petition.
- c. Finance will review the preliminary petition and, if it meets the requirements stated above, will prepare ballots with return envelopes to be mailed to the property owner(s) of each platted lot/parcel as shown on the current tax roll of the County. The cost of material and postage for mailing the ballots will be borne by the property owner(s) requesting the preliminary petition. If desired, said property owner(s) may opt to include postage on the return envelopes at their own expense.
- d. Finance will tabulate the results of the balloting. Each platted lot/parcel subject to assessment will be entitled to one vote, which may be cast by any one joint owner or collectively by all owners of the lot/parcel. If, within 30 days from the mailing of the ballots, responses in favor of abolishment have been received from property owners representing at least a simple majority (50% plus one) of the total number of platted lots/parcels subject to assessment, then majority interest in the abolishment of the streetlighting MSBU will be deemed to be present.

3. Upon determination that a majority interest for abolishment of the MSBU is present, Finance will, in conjunction with the County Attorney's Office, prepare a resolution for MSBU abolishment for consideration by

the BCC. Finance will, in the customary manner prescribed for all MSBUs, schedule a public hearing on the resolution with the BCC and will notify all affected property owners of the public hearing date by mail at County expense. Subject to the public hearing, the BCC will determine at its discretion whether or not to abolish the MSBU.

4. If a majority interest in the abolishment of the MSBU is not demonstrated within the specified time frame, all property owners in the MSBU will be precluded from initiating another MSBU abolishment process for one year from the ballot closing date.

5. The County reserves the right to initiate the abolishment of a MSBU when administration becomes burdensome due to frequent disputes, repeated violation of agreement provisions, termination of service from the power company, or other like causes.

6. Uncommitted funds on hand as of the abolishment date of a MSBU shall be refunded to the platted property owners of record at the date of abolishment on a pro-rata basis commensurate with the method of levy provided such pro-rata refunds are equal to or greater than \$10.00 each. In those situations where the refund amounts are less than \$10.00 per platted property owner, such amounts shall be declared de minimis and disposed of in accordance with Administrative Regulation 6.05 Disposition of Small Credit Balance Amounts and Unclaimed Checks.

#### I. Dispute Resolution

1. Any complaint or dispute concerning disbursement of funds, conduct of service providers, or any other relevant objection shall be submitted in writing to Finance by a property owner within the subject MSBU.

2. All written complaints will be reviewed by Finance with assistance from BCC staff as appropriate.

3. Finance will respond in writing, noting correction action taken, if any.

4. Public records may be reviewed by any party in accordance with public records laws and any copies requested shall be specifically identified and paid for prior to delivery.

5. Finance, with concurrence from the County Attorney's Office, reserves the right to place MSBU funds in the registry of the court in cases where significant unsolved disputes have placed an undue burden on staff resources.

**FORMOREINFORMATIONCONTACT:** Comptroller's/Finance and Accounting Department; County Attorney's Office  
**REFERENCE:** Florida Statutes, Section 125.01 and Section 197.3632(4)(A); Administrative Regulation 6.05  
**APPROVED:** 6/27/06

### **6.13.01 CREATION, ADMINISTRATION, AND ABOLISHMENT OF COMMON AREA MAINTENANCE MSBUs**

#### **I. POLICY**

A. Orange County is authorized to establish Municipal Service Benefit Units (MSBUs) under Section 125.01(1)(q) and (r), Florida Statutes.

B. The Board of County Commissioners (BCC) finds that subdivision properties are specially benefitted by landscape maintenance of the common areas of such subdivisions and that it is appropriate to consider creation, amendment, or abolishment of MSBUs for common area maintenance in platted residential subdivisions in certain limited circumstances as described in this regulation.

C. The Finance and Accounting Department of the Orange County Comptroller's Office ("Finance") administers common area maintenance MSBUs in conjunction with Board staff as necessary.

#### **II. PROCEDURES:**

A. MSBUs (Municipal Service Benefit Units established pursuant to Section 125.01(1)(q), Florida Statutes) for common area maintenance will only be considered for property specially benefitted by such common area maintenance. Such MSBUs may only be considered in platted residential subdivisions for which there is a legally incorporated homeowners' association that is limited in its corporate documents to collecting dues or assessments on only a voluntary basis.

B. The scope of maintenance services to be covered by a common area MSBUs will be limited to the following:

1. Direct landscape maintenance costs for

common landscaped entries, right-of-way, internal street medians, and open areas defined as areas without improved above-ground structures that (1) are for passive recreation or scenic preservation, (2) are contiguous to the platted or deeded public right-of-way of an existing County road and accessible from such road, and (3) are open to all residents and property owners of the subdivision within the MSBU equally and not restricted as to use as follows:

- a. Mowing, weed control, fertilizer, insecticide
- b. Mulch and replacement, tree trimming
- c. Maintenance of chain link fences around common areas
- d. Irrigation systems: water, electricity, maintenance
- e. Electricity for entrance landscape lighting

#### **2. Related administrative costs**

- a. Insurance required of the association by the maintenance agreement
- b. Property taxes on common area eligible for direct landscape maintenance
- c. Governmental collection, administrative, and inspection fees

3. Areas and facilities to be excluded from the MSBU, with such exclusions not limited to:

- a. Golf courses
- b. Clubhouses
- c. Swimming pools
- d. Courts and fields designed for recreational and/or sporting activities
- e. Playground equipment
- f. Boat docks
- g. Walls
- h. Fences other than chain link
- i. Lakes
- j. Any common area for which admission fees are collected or to which access for its intended use is not available to all residents/property owners subject to the MSBU

4. Expenses to be excluded from the MSBU, with such exclusions not limited to:

- a. Gifts and parties
- b. Meal reimbursements
- c. Special awards and bonuses

C. Assessments must be computed in a manner that fairly and reasonably apportions the allowable assessed costs among the parcels of property within the MSBU, based upon objectively determinable assessment units. Generally, assessments levied by the MSBU may be equally apportioned to each platted parcel in the subdivision provided that such apportionment methodology is specifically found by legislative finding by the BCC in the assessment resolution to fairly and reasonably apportion the assessed costs among such parcels. The BCC hereby finds that such equal apportionment for existing MSBUs on the date of adoption of these regulations fairly and reasonably apportions such costs. The total amount levied will be based upon a budget approved and submitted by the association and approved by the County.

D. All common area MSBUs in existence as of the date of adoption of these regulations shall immediately become subject to the terms and conditions stated herein, except that the scope of services shall be permitted to remain as originally stated in their respective authorizing resolutions.

E. Creation of Common Area MSBUs

1. An MSBU for common area maintenance will be considered for adoption upon the demonstration of significant interest on the part of the property owners in the subdivision.

2. Significant interest in the creation of a common area MSBU shall be determined as follows:

- a. The homeowners' association shall submit a request in writing, accompanied by a proposed budget, to Finance for a preliminary petition on which to demonstrate an expression of interest in the creation of a common area MSBU. The preliminary petition shall be in a format approved by the County Comptroller and the County Attorney's Office. The petition must be submitted to:

Orange County  
Comptroller  
Special Assessments  
Post Office Box 38  
Orlando, Florida 32802-0038

b. The homeowners' association shall obtain signatures of property owners representing at least fifteen percent of the platted parcels proposed to be assessed and return the preliminary petition to Finance within ninety days of receipt of the preliminary petition.

c. Finance will review the preliminary petition and prepare ballots with return envelopes to be mailed to the property owner(s) of each platted parcel as shown on the current tax roll of the County. The form of the ballot shall be reviewed and approved by the County Attorney's Office. The cost of materials and postage for mailing the ballots will be borne by the homeowners' association. If desired, the homeowners' association may opt to include postage on the return envelopes at its expense.

d. Finance will tabulate the results of the balloting. Each platted parcel proposed to be assessed will be entitled to one vote, which may be cast by any one joint owner of the parcel or collectively by all owners of the parcel. If, within forty-five days from the mailing of the ballots, positive responses have been received from at least two-thirds of all valid votes cast, then significant interest in the creation of a common area MSBU will be deemed to be present.

3. Upon determination that a significant interest for creation of the MSBU is present, Finance will, in conjunction with the County Attorney's Office, prepare an MSBU resolution for consideration by the Board of County



Commissioners. Finance will schedule a public hearing on the resolution with the Board of County Commissioners and will notify all affected property owners of the public hearing date by mail at County expense. All such notices, public hearings and assessments provided for herein shall be mailed, published, held and levied in accordance with the procedures set forth in the Uniform Assessment Collection Act, Section 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments in the same bill as ad valorem taxes and any applicable regulations promulgated thereunder.

4. The resolution creating such MSBU shall include brief descriptions of the proposed allowable costs, a description of the property to be included in the MSBU and specific legislative findings that recognize the special benefit to be provided by such common area maintenance to properties within the MSBU and that determine that the assessments have fairly and reasonably apportioned the assessed costs among the parcels of property within the MSBU.

5. If a significant interest in the creation of the MSBU is not demonstrated within the specified time frame, the homeowners' association will be precluded from initiating another MSBU creating process for one year from the ballot closing date.

#### F. Administration of Common Area MSBUs

1. Upon adoption of an MSBU resolution, the homeowners' association will be required to enter into a maintenance agreement with Orange County to carry out the services contemplated in the resolution.

2. The homeowners' association shall be required to submit an annual budget proposal to assist in the determination of the appropriate assessment for the coming tax year. Service levels contemplated to be paid by the MSBU shall not exceed County standards. Subdivisions desirous of higher levels of maintenance shall do so at their own expense and without participation of the MSBU and Orange County.

3. Liability and workers' compensation insurance will be required of the homeowners' association and its subcontractors according to County Risk Management Division guidelines. Certificates of Insurance evidencing the required coverage shall be filed with Finance.

4. The homeowners' association will be required to obtain a minimum of three written quotes for contracted services. Copies of such written quotes shall be filed with Finance.

5. MSBU funds will be disbursed by Finance on a reimbursement basis to the homeowners' association. Finance's normal standards for documentation and verification of County accounts payable shall be applicable to MSBU reimbursement payments.

6. Field inspections will be performed by the County as requested by Finance to ascertain work performed for direct landscape maintenance costs. Non-exclusive easements for access must be granted to the County for common areas. Notwithstanding the County's field inspections, the homeowner's association shall have primary responsibility for verification of contractual fulfillment and quality of goods and services.

7. Reimbursement requests shall be made on a monthly basis. The County's obligation to disburse funds shall be strictly limited to the actual collections received from the subject MSBU.

#### G. Abolishment of Common Area MSBUs

1. An existing common area MSBU will be considered for abolishment upon the demonstration of majority interest on the part of the property owners in the subdivision.

2. Majority interest in the abolishment of a common area MSBU shall be determined as follows:

a. Any property owner(s) shall submit a request in writing to Finance for a preliminary petition on which to demonstrate an expression of interest in the abolishment of a common area MSBU. The preliminary petition shall be in a format approved by Finance and the County Attorney's Office.

b. The property owner(s) requesting the preliminary petition shall obtain signatures of property owners representing at least fifteen percent of the platted parcels subject to assessment and return the preliminary petition to Finance within ninety days of receipt of the preliminary petition.

c. Finance will review the preliminary petition and prepare ballots with return envelopes to be

mailed to the property owner(s) of each platted parcel as shown on the current tax roll of the County. The form of the ballot shall be reviewed and approved by the County Attorney's Office. The cost of material and postage for mailing the ballots will be borne by the property owner(s) requesting the preliminary petition. If desired, said property owner(s) may opt to include postage on the return envelopes at their own expense.

- d. Finance will tabulate the results of the balloting. Each platted parcel subject to assessment will be entitled to one vote, which may be cast by any one joint owner of the parcel or collectively by all owners of the parcel. If, within forty-five days from the mailing of the ballots, responses in favor of abolishment have been received from property owners representing at least a simple majority (fifty percent plus one) of the total number of platted parcels subject to assessment, then majority interest in the abolishment of the common area MSBU will be deemed to be present.

3. Upon determination that a majority interest for abolishment of the MSBU is present, Finance will, in conjunction with the County Attorney's Office, prepare a resolution for MSBU abolishment for consideration by the Board of County Commissioners. Finance will, in the customary manner prescribed for all MSBUs, schedule a public hearing on the resolution with the Board of County Commissioners and will notify all affected property owners of the public hearing date by mail at County expense.

4. If a majority interest in the abolishment of the MSBU is not demonstrated within the specified time frame, all property owners in the MSBU will be precluded from initiating another MSBU abolishment process for one year from the ballot closing date.

5. The County reserves the right to initiate the abolishment of a common area MSBU when administration becomes burdensome due to frequent disputes, repeated violation of maintenance agreement provisions, dissolution of the homeowners' association, or other like cause.

6. Uncommitted funds on hand as of the abolishment date of a common area MSBU shall be

refunded on an equal share basis to the platted property owners of record at the date of abolishment on a pro-rata basis commensurate with the method of levy, provided such pro-rata refunds are equal to or greater than \$10.00 (ten dollars) each. In those situations where the refund amounts are less than \$10.00 (ten dollars) per platted property owner, such amounts shall be declared diminimus and unworthy of the administrative cost of return and disposed of in accordance with Administrative Regulation 6.05, Disposition of Small Credit Balance Amounts and Unclaimed Checks.

#### H. Dispute Resolution

1. Any complaint or dispute concerning disbursement of funds, conduct of homeowners' association officers or subcontractors, or any other relevant objection shall be submitted in writing to Finance by a property owner within the subject MSBU.

2. All written complaints will be reviewed by Finance with assistance from the Board of County Commissioners' staff as appropriate.

3. Finance will respond in writing, noting correction action taken, if any, and will provide a copy of the original complaint and written response to the homeowners' association.

4. Public records may be reviewed by any party in accordance with public records laws and any copies requested shall be specifically identified and paid for prior to delivery.

5. Finance, with concurrence from the County Attorney's Office, reserves the right to place MSBU funds in the registry of the court in cases where significant unsolved disputes have placed an undue burden on staff resources.

**FOR MORE INFORMATION CONTACT:** County Comptroller's Office, Finance and Accounting Department, County Attorney's Office

**REFERENCE:** Florida Statutes, Section 125.01; Florida Statutes, Section 197.3632 and 197.3635; Administrative Regulation 6.05

**APPROVED:** 9/03/91

**REVISED:** 10/20/92; 6/27/06

#### 6.13.02 CREATION AND ADMINISTRATION OF WALL CONSTRUCTION MSBUs

##### I. POLICY

- A. Orange County is granted the authority to

establish Municipal Service Benefit Units (each an "MSBU") for the construction of walls under Section 125.01(1)(q) and (r), Florida Statutes, the Orange County Charter and Article VII, Chapter 17 of the Orange County Code.

B. The Board of County Commissioners (the "Board") finds that it is appropriate to consider the creation of MSBUs for wall construction as set forth in this regulation.

C. The Finance and Accounting Department of the Orange County Comptroller's Office ("Finance") administers wall construction MSBUs in conjunction with Board staff as necessary.

II. PROCEDURES

A. MSBUs for wall construction will only be considered for subdivisions for which there is a legally incorporated homeowners' association that is limited in its corporate documents to only collecting assessments on a voluntary basis. The homeowners' association for such subdivision shall submit copies of their Articles of Incorporation and Certificate of Incorporation filed with the State of Florida to Finance.

B. The scope of the wall construction to be covered by the wall construction MSBU will be limited to the following:

1. Construction of a wall to separate residential subdivisions from adjacent roadways, including all "Project Costs" as defined in the Ordinance and removal of existing walls, trees and other growth as necessary.

2. Related administrative costs –

- a. Governmental collection, administrative and inspection fees.
- b. All "Transaction Costs" as defined in the Ordinance.
- c. Title searches, easements, recording costs, and subordination agreements including specifically legal fees and costs associated with obtaining and recording permanent maintenance easements granted to the homeowners' association.

3. Wall MSBUs shall not be considered for the following:

- a. Walls between subdivisions.

- b. Walls between private property and/or subdivisions.

C. Creation of wall construction MSBUs –

1. An MSBU for wall construction will be considered for submission to the Board upon the demonstration of significant interest on the part of the property owners in the subdivision and in accordance with the following process.

2. Significant interest in the creation of a wall construction MSBU shall be determined as follows:

- a. The homeowners' association shall submit a request in writing, accompanied by (i) construction plans and a binding cost estimate prepared by a registered architect, engineer or contractor to Finance and (ii) an estimate of legal fees and costs of a private attorney to be retained by the homeowners' association for preparing and recording permanent maintenance easements in favor of the homeowners' association. The request should include a description of what efforts have been made in the subdivision to notify property owners of the wall construction plan. Such request must be submitted no later than July 31 of the year prior to the placement of the assessment on the tax roll. The request must be delivered to:

Orange County  
Comptroller  
Special Assessments  
Post Office Box 38  
Orlando, Florida 32802-0038

b. Wall plans submitted to the County for review must include the following information on the plan itself:

- 1) A plan view which delineates the limits of construction of the wall. If the wall is located within an easement, the easement width should be

delineated on the plan. If the wall is located within a tract, the tract should be delineated on the plan.

- 2) A cross-sectional view of the wall which shows the exact location of the wall relative to the right-of-way/property line, and which delineates the proposed height of the wall relative to the proposed finished grades adjacent to the wall. The wall shall not be less than 6 (six) feet in height.
- 3) A wall design detail indicating construction materials which is signed and sealed by a registered architect or engineer and containing a statement certifying that the wall has been designed in accordance with the latest edition of the Florida Building Code, including wind loading requirements.
- 4) A letter from an authorized representative of the homeowners' association which acknowledges that: 1) the homeowners' association shall be the party to the construction contract with the contractor; 2) the County shall serve only to provide financing for the construction project and shall not oversee contract compliance by the contractor nor be a party to such contract; 3) the construction contract shall contain an indemnification of the County; and 4) the homeowners' association shall be responsible for the ownership and maintenance of the wall.
- 5) A diagram which demonstrates that the proposed wall does not create a potential sight

distance hazard. Refer to F.D.O.T. Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Street and Highways (Green Book).

- c. Finance will forward the construction plans and cost estimate to the Public Works Department for review and acceptance. Public Works will resolve any issues noted directly with the homeowners' association and return an approved proposal to Finance. Finance will verify with the Fiscal & Business Services Division that funding for payment of constructing the wall is available.
- d. Upon plan approval and verification of available funding, Finance will prepare ballots with return envelopes to be mailed to the property owner(s) of each platted parcel as shown on the current tax roll of the County. The form of the ballot shall be reviewed and approved by the County Attorney's Office and the proposed assessment amount shall be reviewed and approved by the Fiscal & Business Services Division. The cost of materials and postage for mailing the ballot will be borne by the homeowners' association. If desired, the homeowners' association may opt to include postage on the return envelopes at its expense.
- e. Finance will tabulate the results of the balloting. Each parcel proposed to be assessed will be entitled to one vote which may be cast by any one joint owner of the parcel or collectively by all owners of the parcel. Regardless of the number of ballots returned, significant interest in the creation of the wall construction MSBU will only be deemed to be present if at least sixty percent (60%) of the total property owners in the

proposed MSBU and one hundred percent (100%) of property owners adjacent to the wall respond favorably to the imposition of the special assessment within thirty (30) days of the mailing of the ballots. All property owners adjacent to the wall must also indicate their consent to provide both temporary and permanent easements for construction and maintenance of the wall.

3. Upon determination that significant interest for creation of the MSBU is present, Finance will, in conjunction with the County Attorney's Office or outside counsel, prepare and present an initial assessment resolution for consideration by the Board pursuant to the Ordinance. Upon adoption, Finance will, pursuant to the Ordinance and the initial assessment resolution, schedule a public hearing for a final assessment resolution with the Board and will notify all affected property owners of the public hearing date by mail publication.

4. Temporary construction easements shall be provided to the homeowners' association and County prior to construction and shall be a minimum of five (5) feet in width. Permanent easements shall be provided to the homeowners' association for continuing maintenance of the wall. Such permanent easements must be obtained and recorded by or on behalf of the homeowners' association and not by the County. Assessments shall be calculated to include the costs associated with such easements.

5. If a significant interest in the creation of the MSBU is not demonstrated within the specified time frame, the homeowners' association will be precluded from initiating another MSBU for wall construction for one year from the ballot date.

#### D. Administration of Wall Construction MSBUs—

1. Upon the creation of the MSBU, the homeowners' association will be required to hire a licensed contractor to construct the wall, as per the approved construction plans and in accordance with the costs presented in the initial request. The homeowners' association shall be the party to the contract. The County shall not be a party to such contract but shall serve solely as a third-party payor and shall be indemnified as such. The contractor shall be required to pull all necessary County permits.

2. Liability and workers' compensation insurance will be required of the homeowners' association and/or its contractor or subcontractor according to County Risk Management Division

guidelines and easement requirements. Certification of insurance evidencing the required coverage shall be filed with Finance prior to commencement of construction.

3. Field inspections will be performed by the County to ascertain building code compliance, or, if requested by Finance, to ascertain work performed for the wall construction. Notwithstanding any County field inspections, the homeowners' association shall have full responsibility for verification of contractual fulfillment and quality of goods and services.

4. The County shall not be responsible for repair and maintenance of the wall under any circumstances.

5. The County's obligation to disburse funds shall be strictly limited to the actual collections received from the subject MSBU and to the total of any loan proceeds authorized for wall construction and related costs. Finance shall disburse funds only after receipt of written authorization for payment by a legally authorized representative of the homeowners' association.

#### E. Dispute Resolution—

1. Any complaint or dispute concerning disbursement of funds shall be submitted in writing to Finance by a property owner within the subject MSBU. Finance shall not mediate disputes between the homeowners' association and contractor.

2. All written complaints will be reviewed by Finance with assistance from Board staff as appropriate.

3. Finance will respond in writing and will provide a copy of the original complaint and written response to the homeowners' association.

4. In cases where significant unresolved disputes have placed an undue burden on staff resources, Finance may place MSBU funds in the registry of the court.

5. Public records may be reviewed by any party in accordance with public records laws and any copies requested shall be specifically identified and paid for prior to delivery.

**FOR MORE INFORMATION CONTACT:** Orange County Comptroller, Public Works Department, Fiscal and Business Services Division, County Administrator's Office  
**REFERENCE:** F.D.O.T. Manual of Uniform Minimum Standards for Design Construction, and Maintenance for Streets

**6.13.03 CREATION, ADMINISTRATION, AND ABOLISHMENT OF MUNICIPAL SERVICE BENEFIT UNITS (MSBUs) FOR COUNTY MAINTENANCE OF RETENTION POND(S)**

**I. POLICY**

Orange County is granted the authority to establish Municipal Service Benefit Units (MSBUs) under Section 125.01, Florida Statutes.

For the purpose of this Regulation, the term "retention area" will include retention pond(s)/tracts, drainage/retention tract(s), detention/retention tract(s), and/or stormwater/retention tract(s). The Board of County Commissioners (BCC) finds that it is appropriate to consider creation, amendment, or abolishment of MSBUs for any part or all of the unincorporated area of Orange County for operation, maintenance, and administration of County dedicated retention areas that have drainage easements or have been dedicated in fee simple to the County without any restrictions whatsoever to the County.

The Finance and Accounting Department of the Orange County Comptroller's Office ("Finance") administers retention area MSBUs in conjunction with BCC staff as necessary. The Orange County Public Works Department (Public Works) shall perform or cause to be performed minimum maintenance services in the retention areas that are not located on private property.

**II. PROCEDURES**

A. MSBUs established pursuant to Section 125.01(1)(q), Florida Statutes, for retention area operation, maintenance and administrative costs will be considered only for property specially benefitted by such operation and maintenance and for retention areas that have been constructed in accordance with standards approved by the County.

B. Allowable costs in a retention area MSBU may include, but not limited to, mowing, weed control, mosquito control, maintenance and repair of the structural integrity of control devices, periodic major repairs and improvements to the retention area, and/or equipment/tools and their maintenance and replacement needed for services described herein.

C. MSBUs for retention areas may be requested by

developers of new subdivisions or from a minimum of 15% of the property owners of an existing subdivision or contiguous unplatted area of unincorporated Orange County. The minimum size of any MSBU for retention area shall be 10 platted lots/parcels, unless consideration of a smaller installation shall be clearly in the County's interest (example: newly platted subdivision with less than platted 10 lots/parcels) and with Public Works agreement that a need exists for proper maintenance to be performed or caused to be performed by the County.

D. Assessments must be computed in a manner that fairly and reasonably apportions the allowable assessed costs among the parcels of property within the MSBU, based upon objectively determinable assessment units. Generally, assessments levied by the MSBU may be equally apportioned to each platted parcel in the boundaries of the MSBU provided that such apportionment methodology is specifically determined by legislative finding of the BCC in the assessment resolution to fairly and reasonably apportion the assessed costs among such parcels. The BCC hereby finds that such equal apportionment for existing MSBU's on the date of adoption of these regulations fairly and reasonably apportions such costs. The total amount levied will be based upon a budget annually approved by the BCC.

**E. Creation of Retention Area(s) MSBUs**

**NEW SUBDIVISION – DEVELOPER REQUEST**

1. The County subdivision regulations require the developer to submit a written request for the establishment and/or amendment of an MSBU for maintenance of retention area(s) to the Plan Review Section of Public Works. This request shall include the proposed preliminary plat book pages for new subdivisions.

2. Plan Review forwards the letter and the proposed plat to Finance. This information must be received in Finance and the plat recorded by December 31 to be placed on the upcoming November 1 real estate tax bill.

3. Finance shall request a cost estimate from Public Works. The developer shall be solely responsible for all installation costs, and the maintenance and operation associated with the retention area(s) until approval for maintenance is issued by the County, thereby releasing the developer from further responsibility.

4. Finance prepares an MSBU resolution for retention area(s) and requests a public hearing before the BCC. The Clerk to the BCC provides Finance with a public hearing date. A public hearing notice is mailed to the developer and any other property owners of record within the proposed boundaries of the MSBU. The BCC, subject to the public hearing, adopts at its discretion the resolution for the establishment and/or amendment of the MSBU for retention area(s).

5. For all newly approved or amended retention area MSBUs (given compliance with the time deadline stated in Section I.E.2 above), Finance will arrange for the annual assessment to be placed on the upcoming November 1 real estate tax bill.

6. All approved MSBUs are effective as of the initial November 1 real estate tax billing. This ensures that the County will have received funds from the Orange County Tax Collector to pay for retention area(s) operational costs provided for in the MSBU resolution. All retention area(s) operational costs prior to the effective date of the MSBU and all installation costs are the sole responsibility of the developer.

#### EXISTING SUBDIVISION – PROPERTY OWNER REQUEST

1. A written petition to establish and/or amend an MSBU for retention area(s) is required from property owners representing a minimum of 15% of the affected platted lots/parcels. The petition should reference the property owners' names, addresses, parcel id numbers (if available), and telephone numbers. Renters and/or boarders signatures on a property owner petition are not eligible to be counted in the results. This petition must be received in Finance by December 1 to be placed on the coming November 1 real estate tax bill. The completed petition is delivered to:

Orange County Comptroller  
Special Assessments  
Post Office Box 38  
Orlando, Florida 32802-0038

2. Using tax maps, Finance and Public Works define the boundaries of the proposed MSBU and a cost estimate is determined by the County.

3. Finance mails a letter of explanation, a ballot and a return envelope to all of the affected property owners and a minimum of 66-2/3% response from the returned ballots in favor of establishing and/or amending the MSBU is required to continue the process. Renters and/or boarders signatures on a property owner ballot are not eligible to be counted in the results. The minimum balloting period shall be 14 days.

4. Should the ballot be unsuccessful, the property owners may, at their discretion, initiate a follow up petition process. Finance provides a list of all of the affected property owners (renters and/or boarders are not eligible) and an explanation for the petition. The property owners' must obtain a 66-2/3% positive response of signatures from all of the affected property owners on the petition to continue the process.

5. Finance prepares an MSBU resolution for retention area(s) and requests a public hearing before the BCC. The Clerk to the BCC provides Finance with a public hearing date and a public hearing notice is mailed to all affected property owners. The BCC, subject to the public hearing, adopts at its discretion the resolution for the establishment and/or amendment of the MSBU for retention area(s).

6. Any existing retention area(s) shall be brought up to County standards before acceptance by the County. The MSBU shall not be effective until the retention area(s) is accepted by the County and after a public hearing has been held by the BCC.

7. For all newly approved or amended retention area MSBUs (given compliance with the time deadline stated in step 1 above), Finance will arrange for the annual assessment to be placed on the upcoming November 1 real estate tax bill.

8. All MSBUs are effective as of the initial November 1 real estate tax billing. This ensures that the County will have received funds from the collection of the annual assessments to pay for the retention area(s) operational costs provided for in the MSBU resolution.

#### F. Administration of Retention Area MSBUs

1. Upon adoption of an MSBU resolution, the MSBU assessment will be collected pursuant to the Uniform Method of the Levy, Collection, and Enforcement of Non-ad Valorem Assessments, Sections 197.3632 and 197.3635, Florida Statutes. The MSBU assessment is placed on the non-ad valorem portion of the "Notice of Proposed Property Taxes" and on the annual Orange County Real Estate "Notice of Ad Valorem Taxes and Non-ad Valorem Assessments".

2. Public Works will perform the maintenance services or subcontract with a responsible vendor for the performance of maintenance services. The normal standards for documentation and verification of County accounts

payable shall be applicable to MSBU payments.

3. Expenditures for each retention area MSBU will be accounted for by Public Works and fiscal year ending balances will remain within the County fund established for the County-wide retention area MSBUs. Assessments may be adjusted annually as part of the County budget process. It is recognized that each MSBU and the County-wide retention area(s) MSBU fund must carry at a minimum an adequate contingency reserve to cover eligible expenditures from the beginning of the fiscal year to the time that annual assessment revenues are received, and a reserve for periodic major repairs and improvements as needed on a rotation basis established by Public Works. Assessment adjustments for any MSBUs that exceed 20% of the previous year assessment require BCC approval pursuant to Section 197.3632(4)(a), Florida Statutes, at the time the BCC adopts the non-ad valorem assessment roll at a public hearing.

#### G. Abolishment of Retention Area MSBUs

1. An existing MSBU will be considered for abolishment upon the demonstration of majority interest on the part of the property owners in the MSBU and/or the consent of Public Works that it would be in the best interest of the County. Should Public Works conclude that the MSBU continues to be needed for a valid public purpose, the request for abolishment shall be denied. Should Public Works concur that the MSBU could be abolished, the following steps will be taken.

2. Majority interest in the abolishment of MSBU shall be determined as follows:

- a. Any property owner(s) shall submit a request in writing to Finance for a preliminary petition on which to demonstrate an expression of interest in the abolishment of a MSBU. The preliminary petition shall be in a format approved by Finance.
- b. The property owner(s) requesting the preliminary petition shall obtain signatures of property owners (renters and/or boarders are not eligible) representing at least fifteen percent of the platted lots/parcels subject to assessment and return the preliminary petition to finance within 90 days of receipt of the preliminary petition.
- c. Finance will review the preliminary petition and, if it meets the requirements stated above, will

prepare ballots with return envelopes to be mailed to the property owner(s) of each platted lot/parcel as shown on the current tax roll of the County. The cost of material and postage for mailing the ballots will be borne by the property owner(s) requesting the preliminary petition. If desired, said property owner(s) may select to include postage on the return envelopes at their own expense.

- d. Finance will tabulate the results of the balloting. Each platted lot/parcel subject to assessment will be entitled to one vote, which may be cast by any one joint owner or collectively by all owners of the platted lot/parcel. If within 30 days from the mailing of the ballots, responses in favor of abolishment have been received from property owners representing at least a simple majority (50% plus one) of the total number of platted lots/parcels subject to assessment, then majority interest in the abolishment of the retention area MSBU will be deemed to be present.

3. Upon determination that a majority interest for abolishment of the MSBU is present, Finance will, in conjunction with the Orange County Attorney's Office, prepare a resolution for MSBU abolishment for consideration by the BCC. Finance will, in the customary manner prescribed for all MSBUs, schedule a public hearing on the resolution with the BCC and will notify all affected property owners of the public hearing date by mail at County expense. Subject to the public hearing, the BCC will determine at its discretion whether or not to abolish the MSBU.

4. If a majority interest in the abolishment of the MSBU is not demonstrated within the specified time frame, all property owners in the MSBU will be precluded from initiating another MSBU abolishment process for one year from the ballot closing date.

5. The County reserves the right to initiate the abolishment of a retention area MSBU when a public purpose is no longer served, MSBU funding is no longer needed, or other like causes.

6. Uncommitted funds on hand as of the



abolishment date of a MSBU shall be refunded to the platted lot/parcel property owners of record at the date of abolishment on a pro-rata basis commensurate with the method of levy, provided such pro-rata refunds are equal to or greater than \$10.00 each. In those situations where the refund amounts are less than \$10.00 per platted property owner, such amounts shall be considered insignificant and disposed of in accordance with Administrative Regulation 6.05, Disposition of Small Credit Balance Amounts and Unclaimed Checks.

#### H. Dispute Resolution

1. Any complaint or dispute concerning disbursement of funds, conduct of homeowners' association officers or subcontractors, or any other relevant objection shall be submitted in writing to Finance by a property owner within the subject MSBU.

2. All written complaints will be reviewed by Finance with assistance from the Board of County Commissioners' staff as appropriate.

3. Finance will respond in writing, noting correction action taken, if any, and will provide a copy of the original complaint and written response to the homeowners' association.

4. Public records may be reviewed by any party in accordance with public records laws and any copies requested shall be specifically identified and paid for prior to delivery.

5. Finance, with concurrence from the County Attorney's Office, reserves the right to place MSBU funds in the registry of the court in cases where significant unsolved disputes have placed an undue burden on staff resources.

**FOR MORE INFORMATION CONTACT:** Orange County Comptroller's Finance and Accounting Department

**REFERENCES:** Section 717.117(1), Florida Statutes; FSS 125.01; FSS 197.3632; FSS 197.3635; Administrative Regulation 6.05

**APPROVED:** 6/27/06

### **6.13.04 CREATION, ADMINISTRATION, AND ABOLISHMENT OF LAKE MAINTENANCE MUNICIPAL SERVICE BENEFIT UNITS (MSBUs)**

#### I. POLICY

Orange County is authorized to establish Municipal Service Benefit Units (MSBUs) under Section 125.01(1)(q) and (r), Florida Statutes. The Board of County Commissioners (BCC) finds that it is appropriate to consider creation, amendment, or abolishment of MSBUs for certain unincorporated

areas of Orange County for operation, maintenance and administration of lake maintenance. The Finance and Accounting Department of the Orange County Comptroller's Office (Finance) administers lake maintenance MSBUs in conjunction with BCC staff as necessary. The Orange County Environmental Protection Division (EPD) shall perform or cause to be performed minimum maintenance services in the lake areas.

#### II. PROCEDURES

A. MSBUs established pursuant to Section 125.01, Florida Statutes, for lake maintenance and administration will be considered only for property specially benefitted by such lake maintenance.

B. Allowable costs in a lake maintenance MSBU may include maintenance charges, equipment charges, chemicals and pesticide charges, and energy charges intended to provide general lake cleaning, water quality improvement, maintenance, aquatic plant control services, and related administrative costs for governmental collection, administrative and inspection fees.

C. The County may require creation of an MSBU for lake maintenance from a developer of a new subdivision adjacent to a lake within unincorporated Orange County. Alternatively, a minimum of 15% of unincorporated Orange County property owners of the parcels abutting a lake area may request creation of a MSBU for lake maintenance.

D. Assessments must be computed in a manner that fairly and reasonably apportions the allowable assessed costs among the parcels of property within the MSBU, based upon objectively determinable assessment units. Assessments levied by the MSBU may be equally apportioned to each platted lot/parcel in the boundary of the MSBU provided that such apportionment methodology is specifically found by legislative findings of the BCC in the assessment resolution to fairly and reasonably apportion the costs among such parcels. The total amount levied will be based upon a budget annually approved by the BCC. In cases where the lots/parcels are non-homogeneous in nature, such as commercial or mixed use subdivisions, assessment methods using front footage, acreage or other assessment units which result in fair and reasonable apportionment shall be used. All notices, public hearings and assessments provided for herein shall be mailed, published, held and levied in accordance with the procedures set forth in, Sections 197.3632 and 197.3635, Florida

Statutes, for the uniform method for the levy collection and enforcement of non-ad valorem assessments or any successor statutes authorizing the collection of non-ad valorem assessments in the same bill as ad valorem taxes; and any applicable regulations promulgated thereunder (the Uniform Method).

E. New Subdivision – Creation By Development Review Committee shall take place as follows:

1. The County Development Review Committee (DRC) requires the developer to submit a written request for the establishment and/or amendment of an MSBU for lake maintenance to the Plan Review Section of Public Works. Such request shall include the proposed preliminary plat book pages for new subdivisions.

2. Plan Review forwards the written request and the proposed plat to Finance. This information must be received in Finance and the plat must be recorded by December 31 of the year preceding the year in which the assessment is to be placed on the following November 1 real estate tax bill.

3. Finance requests a cost estimate and sketch from EPD. EPD submits the cost estimate to Finance for maintenance charges, chemicals and pesticide charges, and energy charges intended to provide general lake cleaning, water quality improvement, maintenance, aquatic plant control services, and related administrative costs for governmental collection, administrative and inspection fees. Finance estimates the initial annual cost per lot/parcel and submits the estimated initial annual cost for review.

4. Finance prepares an MSBU Resolution for maintenance charges, chemicals and pesticide charges, and energy charges intended to provide general lake cleaning, water quality improvement, maintenance, aquatic plant control services, and related administrative costs for governmental collection, administrative and inspection fees and requests a public hearing before the BCC. The Clerk to the BCC provides Finance with a public hearing date. Consistent with all requirements of the Uniform Method, a notice of public hearing is mailed to the developer and any other property owners of record within the proposed boundaries of the MSBU. The BCC, subject to the public hearing, adopts at its discretion the Resolution for the establishment and/or amendment of the MSBU for lake maintenance.

5. The Resolution creating such MSBU shall comply with all requirements of the Uniform Method and include brief descriptions of the proposed allowable costs, a description of the property to be included in the MSBU and specific legislative findings that recognize

the special benefit to be provided by such lake maintenance to property encompassed within the MSBU and that determine that the assessments to be levied are fairly and reasonably apportioned among such properties.

6. For all newly approved or amended lake maintenance MSBUs (given compliance with the time deadline stated in Step 2 above), Finance will arrange for the annual assessment to be placed on the upcoming November 1 real estate tax bill.

7. All approved MSBUs are effective as of the initial November 1 real estate tax billing. This ensures that Finance will have received funds from the Orange County Tax Collector to pay for maintenance charges, chemicals and pesticide charges, and energy charges intended to provide general lake cleaning, water quality improvement, maintenance, aquatic plant control services, and related administrative costs for governmental collection, administrative and inspection fees provided for in the MSBU resolution.

F. Creation by Property Owner Request

1. A written petition to establish and/or amend an MSBU for lake maintenance is required from property owners representing a minimum of 15% of the affected lots/parcels. The petition should reference the property owners' names, addresses, parcel ID numbers (if available), and telephone numbers. Renters and/or boarders signatures on a property owner petition are not eligible to be counted in the results. This petition must be received in Finance by December 1 of the year preceding the year in which the assessment is to be placed on the following November 1 real estate tax bill. The completed petition is delivered to:

Orange County Comptroller, Office of Special  
Assessments  
201 South Rosalind Avenue, 4<sup>th</sup> Floor  
Orlando Florida 32801

2. Using tax maps, EPD determines the boundaries of the proposed MSBU and prepares a cost estimate.

3. Finance receives the information from EPD and estimates the initial annual cost per lot/parcel. Finance prepares an explanation letter and a ballot. EPD reviews and approves the estimated initial annual cost and the explanation letter and the ballot.

4. Finance mails a letter of explanation, a ballot and a return envelope to all of the affected property owners and a minimum of 66 2/3% of the returned ballots must respond in favor of establishing the MSBU to continue the creation process. Renter's and/or boarder's signatures on a property owner ballot are not eligible to be counted in the results. The minimum balloting period shall be 14 calendar days.

5. Should the ballot be unsuccessful, the property owners' may at their discretion initiate a follow up petition process. Finance provides a list of all of the affected property owners (renters and/or boarders are not eligible) and an explanation for the petition. The property owners' must obtain signatures from 66 2/3% of the affected property owners on the petition to continue the creation process.

6. Finance prepares an MSBU resolution for lake maintenance and requests a public hearing before the BCC. The Clerk to the BCC provides Finance with a public hearing date and a public hearing notice is mailed to all affected property owners. The BCC, subject to the public hearing, adopts at its discretion the resolution for the establishment and/or amendment of the MSBU for lake maintenance.

7. The resolution creating such MSBU shall include brief descriptions of the proposed allowable costs, a description of the property to be included in the MSBU and specific legislative findings that recognize the special benefit to be provided by such lake maintenance to property encompassed within the MSBU and that determine that the assessments to be levied are fairly and reasonably apportioned among such properties.

8. For all newly approved or amended lake maintenance MSBUs (given compliance with the time deadline stated in Step 1 above), Finance will arrange for the annual assessment to be placed on the upcoming November 1 real estate tax bill.

9. All MSBUs are effective as of the initial November 1 real estate tax billing. This ensures that EPD will receive funding from the collection of the annual assessments to pay for the lakemaintenance.

G. Administration of Lake Maintenance MSBUs

1. Upon adoption of an MSBU resolution, the MSBU assessment will be collected pursuant to the Uniform Method for the Levy, Collection, and Enforcement of Non-ad Valorem Assessments, Sections 197.3632 and 197.3635, Florida Statutes. The MSBU assessment is placed on the non-ad valorem portion of the "Notice of Proposed Property Taxes" and on the

annual Orange County Real Estate "Notice of Ad Valorem Taxes and Non-ad Valorem Assessments."

2. EPD will disburse MSBU funds directly to the service providers. Service providers can include outside vendors and Orange County staff. The normal standards for documentation and verification of County accounts payable shall be applicable to MSBU payments.

3. Revenues and expenditures for each lake maintenance MSBU will be accounted for separately in Finance, and fiscal year ending balances will remain with each respective MSBU. Assessments may be adjusted annually as part of the County budget process. It is recognized that each MSBU must carry at a minimum an adequate contingency reserve to cover eligible expenditures from the beginning of the fiscal year to the time that annual assessment revenues are received. Assessment adjustments for any MSBUs that exceed 20% require BCC approval pursuant to Section 197.3632(4)(a), Florida Statutes, at the time the BCC adopts the non-ad valorem assessment roll at a public hearing.

H. Abolishment of Lake Maintenance MSBUs

1. An existing MSBU will be considered for abolishment upon the demonstration of majority interest on the part of the property owners in the MSBU.

2. Majority interest in the abolishment of a MSBU shall be determined as follows:

a. Any property owner(s) shall submit a request in writing to EPD for a preliminary petition on which to demonstrate an expression of interest in the abolishment of a MSBU. The preliminary petition shall be in a format approved by Finance.

b. The property owner(s) requesting the preliminary petition must obtain signatures of property owners (renters and/or boarders are not eligible) representing at least 15% of the platted lots / parcels subject to assessment and return the preliminary petition to Finance within 90 days of receipt of the preliminary petition to continue the abolishment process.

c. Finance will review the preliminary petition and, if it meets the requirements stated above, will prepare ballots with return envelopes to be mailed to the property owner(s) of each platted lot/parcel as shown on the current tax roll of the

County. The cost of material and postage for mailing the ballots will be borne by the property owner(s) requesting the preliminary petition. The requesting property owner(s) may opt to provide postage on the return envelopes at their own expense.

d. Finance will tabulate the results of the balloting. Each platted lot/parcel subject to assessment will be entitled to one vote, which may be cast by any one joint owner or collectively by all owners of the lot/parcel. If, within 30 days from the mailing of the ballots, responses in favor of abolishment have been received from property owners representing at least a simple majority (50% plus one) of the total number of platted lots/parcels subject to assessment, then majority interest in the abolishment of the lake maintenance MSBU will be deemed to be present.

3. Upon determination that a majority interest for abolishment of the MSBU is present, Finance will, in conjunction with the County Attorney's Office, prepare a resolution for MSBU abolishment for consideration by the BCC. Finance will, in the customary manner prescribed for all MSBUs, schedule a public hearing on the resolution with the BCC and will notify all affected property owners of the public hearing date by mail at County expense. Subject to the public hearing, the BCC will determine at its discretion whether or not to abolish the MSBU.

4. If a majority interest in the abolishment of the MSBU is not demonstrated within the specified time frame, all property owners in the MSBU will be precluded from initiating another MSBU abolishment process for one year from the ballot closing date.

5. The County may abolish of an MSBU in the absence of a petition for a variety reasons, including but not limited to: annexation by a municipality, burdensome administrative duties associated with the MSBU, frequent property owner disputes, or other considerations making an MSBU unnecessary, inappropriate, unsuitable or otherwise not in the best interests of the public.

6. Uncommitted funds on hand as of the abolishment date of a MSBU shall be refunded to the platted property owners of record at the date of abolishment on a pro-rata basis commensurate with the method of levy provided such pro-rata refunds are equal to or greater than \$10.00 each. In those situations where the refund amounts are less than \$10.00 per platted property owner, such amounts shall be declared de minimis and disposed of in accordance with Administrative Regulation 6.05 Disposition of Small Credit Balance Amounts and Unclaimed Checks.

## I. Dispute Resolution

1. Any complaint or dispute concerning disbursement of funds, conduct of service providers, or any other relevant objections shall be submitted in writing to Finance by a property owner within the subject MSBU.

2. All written complaints will be reviewed by Finance with assistance from BCC staff as appropriate.

3. Finance will respond in writing, noting corrective action taken, if any.

4. Public records may be reviewed by any party in accordance with public records laws and any copies requested shall be specifically identified and paid for prior to delivery.

5. Finance, with concurrence from the County Attorney's Office, reserves the right to place MSBU funds in the registry of the court in cases where significant unresolved disputes have placed an undue burden on staff resources.

**FOR MORE INFORMATION CONTACT:**  
Comptroller's/Finance and Accounting Department; County Attorney's Office

**REFERENCES:** Florida Statutes, Section 125.01 and Sections 197.3632(4)(A); Administrative Regulation 6.05

**APPROVED:** 08/16/16

## 6.13.05 CREATION, ADMINISTRATION, AND ABOLISHMENT OF LAKE MAINTENANCE MUNICIPAL SERVICE TAXING UNITS (MSTUs)

### I. POLICY

Orange County is authorized to establish Municipal Service Taxing Unit (MSTU) under Section 125.01(1)(q) and (r), Florida Statutes. The Board of County Commissioners (BCC) find that it is appropriate to consider creation, amendment, or abolishment of MSTU for certain unincorporated areas of Orange County for operation, maintenance and administration of lake maintenance. The County's Environmental Protection Division (EPD) administers lake maintenance MSTU and coordinates with the Finance and Accounting Department of the Orange County Comptroller's Office (Finance) and other County Divisions as needed. The Orange County Environmental Protection Division shall perform or cause to be performed minimum maintenance services in the lake areas.

## II. PROCEDURES

A. MSTU established pursuant to Section 125.01, Florida Statutes, for lake maintenance and administration will be considered only for property specially benefitted by such lake maintenance.

B. Allowable costs in a lake maintenance MSTU may include labor, maintenance charges, equipment charges, chemicals and pesticide charges, and energy charges intended to provide general lake cleaning, water quality improvement, maintenance, aquatic plant control services, and related administrative costs for governmental collection, administrative and inspection fees.

C. The County may require creation of MSTU for lake maintenance from a developer of a new subdivision adjacent to a lake within unincorporated Orange County. Alternatively, a minimum of 15% of unincorporated Orange County property owners of the parcels abutting or deeded access to a lake area may request creation of a MSTU for lake maintenance.

D. The ad valorem method, Sections 200.066 and 200.071, Florida Statutes, shall be used. This ad valorem tax millage rate may be adjusted and will be levied each and every year thereafter and this ad valorem tax millage rate will continue to be adjusted to collect the revenue needed to cover the expenditures of the MSTU and will continue to be levied until discontinued by the Board. The ad valorem tax millage shall not exceed an ad valorem tax millage rate of three (3) mills or \$3.00 per every one thousand dollars of all taxable assessed real property located within the said MSTU. The ad valorem millage rate will also provide for reimbursement of necessary inspections and staff support expenses by the County and administrative costs incurred by the Orange County Property Appraiser and the Orange County Tax Collector for the collection of ad valorem taxes. Proceeds of collection of such taxes-as provided hereinafter are to be put into a special account by the County to the credit of the MSTU, and are to be used only by the MSTU as provided herein.

E. New Subdivision – Creation By Development Review Committee shall take place as follows:

1. The County Development Review Committee (DRC) requires the developer to submit a written request for the establishment and/or amendment of an MSTU for lake maintenance to the Plan Review Section of the Planning Division. Such request shall include the proposed preliminary plat book pages for new subdivisions.

2. Plan Review forwards the written request and the proposed plat to Finance. This information must be received in Finance and the plat must be recorded by December 31 of the year preceding the year in which the ad valorem tax assessment is to be placed on the following November 1 real estate tax bill.

3. Finance requests a cost estimate, a map, and a list of parcels from EPD. EPD submits the cost estimate to Finance for labor, maintenance charges, equipment charges, chemicals and pesticide charges, and energy charges intended to provide general lake cleaning, water quality improvement, maintenance, aquatic plant control services, and related administrative costs for governmental collection, administrative and inspection fees. Finance estimates the initial annual cost per lot/parcel and submits the estimated ad valorem tax assessment for review to EPD and the Office of Management and Budget. The Office of Management and Budget will evaluate the proposed millage to determine compliance with maximum millage limitations and will verify with the Orange County Property Appraiser that the proposed millage is in compliance with the millage limitation for municipal purposes.

4. Finance prepares an MSTU Resolution for maintenance charges, chemicals and pesticide charges, and energy charges intended to provide general lake cleaning, water quality improvement, maintenance, aquatic plant control services, and related administrative costs for governmental collection, administrative and inspection fees and requests a public hearing before the BCC. The Clerk to the BCC provides Finance with a public hearing date. A public hearing notice is mailed to the developer and any other property owners of record within the proposed boundaries of the MSTU. The BCC, subject to the public hearing, adopts at its discretion the Resolution for the establishment and/or amendment of the MSTU for lake maintenance.

5. The Resolution creating such MSTU shall include brief descriptions of the proposed allowable costs, a description of the properties to be included in the MSTU and specific legislative findings that recognize the services to be provided by such lake maintenance to properties encompassed within the MSTU.

6. For all newly approved or amended lake maintenance MSTUs (given compliance with the time deadline stated in Step 2 above), Finance will arrange for the annual ad valorem tax assessment to be placed on the upcoming November 1 real estate tax bill.

7. All approved MSTUs are effective as of the initial November 1 real estate tax billing. This ensures that Finance will have received funds from the Orange County Tax Collector to pay for labor, maintenance charges, chemicals and pesticide charges, and energy charges intended to provide general lake cleaning, water quality improvement, maintenance, aquatic plant control services, and related administrative costs for governmental collection, administrative and inspection fees provided for in the MSTU Resolution.

#### F. Creation by Property Owner Request

1. A written petition to establish and/or amend an MSTU for lake maintenance is required from property owners representing a minimum of 15% of the affected lots/parcels. The petition should reference the property owners' names, addresses, parcel ID numbers (if available), and telephone numbers. Renters and/or boarders signatures on a property owner petition are not eligible to be counted in the results. This petition must be received in Finance by June 1 of the year preceding the year in which the ad valorem assessment is to be placed on the following November 1 real estate tax bill. The completed petition is delivered to:

Orange County Comptroller, Special Assessments  
201 South Rosalind Avenue, 4<sup>th</sup> Floor  
Orlando Florida 32801

2. Using tax maps, EPD determines the boundaries of the proposed MSTU and prepares a cost estimate.

3. Finance estimates the initial annual cost per lot/parcel and submits the estimated ad valorem tax for review to EPD and the Office of Management and Budget. The Office of Management and Budget will evaluate the proposed millage to determine compliance with maximum millage limitations and will verify with the Orange County Property Appraiser that the proposed millage is in compliance with the millage limitation for municipal purposes. Finance prepares an explanation letter and a ballot. EPD reviews and approves the estimated initial annual cost/ad valorem tax and the explanation letter and the ballot.

4. Finance mails a letter of explanation, a ballot and a return envelope to all of the affected property owners and a minimum of 66 2/3% of the returned ballots must respond in favor of establishing/amending the MSTU to continue the creation process. Renter's and/or boarder's signatures on a property owner ballot are not eligible to be counted in the results. The minimum balloting period shall be 14 calendar days.

5. Should the ballot be unsuccessful, the property owners' may at their discretion initiate a follow up petition process. Finance provides a list of all of the affected property owners (renters and/or boarders are not eligible) and an explanation for the petition. The property owners' must obtain signatures from 66 2/3% of the affected property owners on the petition to continue the creation process.

6. Finance prepares an MSTU resolution for lake maintenance and requests a public hearing before the BCC. The Clerk to the BCC provides Finance with a public hearing date and a public hearing notice is mailed to all affected property owners. The BCC, subject to the public hearing, adopts at its discretion the resolution for the establishment and/or amendment of the MSTU for lake maintenance.

7. The resolution creating such MSTU shall include brief descriptions of the proposed allowable costs, a description of the property to be included in the MSTU and specific legislative findings that recognize the special benefit to be provided by such lake maintenance to property encompassed within the MSTU.

8. All MSTUs are effective as of the initial November 1 real estate tax billing. This ensures that EPD will receive funding from the collection of the annual ad valorem taxes to pay for the lake maintenance.

#### G. Administration of Lake Maintenance MSTU

1. EPD will disburse MSTU funds directly to the service providers. Service providers can include outside vendors and Orange County staff. The normal standards for documentation and verification of County accounts payable shall be applicable to MSTU payments.

2. Revenues and expenditures for each lake maintenance MSTU will be accounted for separately in Finance, and fiscal year ending balances will remain with each respective MSTU. The millage rate may be adjusted annually as part of the County budget process. It is recognized that each MSTU must carry at a minimum an adequate contingency reserve to cover eligible expenditures from the beginning of the fiscal year to the time that annual tax revenues are received.

#### H. Abolishment of Lake Maintenance MSTU

1. An existing MSTU will be considered for abolishment upon the demonstration of majority interest on the part of the property owners in the MSTU.

2. Majority interest in the abolishment of a MSTU shall be determined as follows:

a. Any property owner(s) shall submit a request in writing to EPD for a preliminary petition on which to demonstrate an expression of interest in the abolishment of a MSTU. The preliminary petition shall be in a format approved by Finance.

b. The property owner(s) requesting the preliminary petition must obtain signatures of property owners (renters and/or boarders are not eligible) representing at least 15% of the platted lots/parcels subject to assessment and return the preliminary petition to Finance within 90 days of receipt of the preliminary petition to continue the abolishment process.

c. Finance will review the preliminary petition and, if it meets the requirements stated above, will prepare ballots with return envelopes to be mailed to the property owner(s) of each platted lot/parcel as shown on the current tax roll of the County. The cost of material and postage for mailing the ballots will be borne by the property owner(s) requesting the preliminary petition. The requesting property owner(s) may opt to provide postage on the return envelopes at their own expense.

d. Finance will tabulate the results of the balloting. Each platted lot/parcel subject to ad valorem tax assessment will be entitled to one vote, which may be cast by any one joint owner or collectively by all owners of the lot/parcel. If, within 30 days from the mailing of the ballots, responses in favor of abolishment have been received from property owners representing at least a simple majority (50% plus one) of the total number of platted lots/parcels subject to assessment, then majority interest in the abolishment of the lake maintenance MSTU will be deemed to be present.

3. Upon determination that a majority interest for abolishment of the MSTU is present, Finance will, in conjunction with the County Attorney's Office, prepare a resolution for MSTU abolishment for consideration by the BCC. Finance will, in the customary manner prescribed for all MSTUs, schedule a public hearing on the resolution with the BCC and will notify all affected property owners of the public hearing date by mail at County expense. Subject to the public hearing, the BCC will determine at its discretion whether or not to abolish the MSTU.

4. If a majority interest in the abolishment of the MSTU is not demonstrated within the specified time frame, all property owners in the MSTU will be precluded from initiating another MSTU abolishment process for one year from the ballot closing date.

5. The County may abolish an MSTU in the absence of a petition for a variety of reasons, including but not limited to: annexation by a municipality, burdensome administrative duties associated with the MSTU, frequent property owner disputes, or other considerations making an MSTU unnecessary, inappropriate, unsuitable or otherwise not in the best interests of the public.

6. Uncommitted funds on hand as of the abolishment date of a MSTU shall be refunded to the platted property owners of record at the date of abolishment on a pro-rata basis commensurate with the method of levy provided such pro-rata refunds are equal to or greater than \$10.00 each. In those situations where the refund amounts are less than \$10.00 per platted property owner, such amounts shall be declared de minimis and disposed of in accordance with Administrative Regulation 6.05 Disposition of Small Credit Balance Amounts and Unclaimed Checks.

#### I. Dispute Resolution

1. Any complaint or dispute concerning disbursement of funds, conduct of service providers, or any other relevant objections shall be submitted in writing to Finance by a property owner within the subject MSTU.

2. All written complaints will be reviewed by Finance with assistance from BCC staff as appropriate.

3. Finance will respond in writing, noting correction action taken, if any.

4. Public records may be reviewed by any party in accordance with public records laws and any copies requested shall be specifically identified and paid for prior to delivery.

5. Finance, with concurrence from the County Attorney's Office, reserves the right to place MSTU funds in the registry of the court in cases where significant unresolved disputes have placed an undue burden on staff resources.

**FOR MORE INFORMATION CONTACT:** County's Environmental Protection Division, Office of Management and

## 6.14 AUDITOR SELECTION AND OVERSIGHT

### I. POLICY

It is the policy of the Board of County Commissioners (BCC) that external auditors for the county be selected on a periodic, competitive basis within the guidelines outlined in Florida Statutes. It is further the policy of Orange County that rotation of the auditor or auditing firm will be considered and preferred after a firm serves as auditor for more than two successive contract periods, with each contract period consisting of a one year contract with four annual renewal options (maximum of 10 consecutive years for the two successive contract periods). Such preference for and consideration of rotation assumes adequate competition among qualified firms.

### II. PROCEDURES

Section 218.391, Florida Statutes provides for an auditor selection process in counties, which includes the establishment of an auditor selection committee. Accordingly, the County has designed the following procedural steps to accomplish the selection and oversight of external auditors.

A. The County hereby authorizes the establishment of an Auditor Selection Committee to be appointed whenever a competitive selection is contemplated under this policy. Such Auditor Selection Committee shall consist of:

1. One (1) representative of the BCC to be recommended by the County Mayor and appointed by the BCC that has financial related experience. Such representative may not be the Mayor or a County employee or an employee of one of the elected officials listed in paragraph 3 below.

2. One (1) representative of the Comptroller's Office to be appointed by the County Comptroller and serve as the Committee chair. Such representative may be the Comptroller or a selected representative with financial experience, but cannot be a County employee, Comptroller employee or an employee of one of

the elected officials listed in paragraph 3 below.

3. One (1) representative from the five following Orange County elected officials appointed by each respective elected official: the Clerk of Courts, Property Appraiser, Sheriff, Supervisor of Elections, and Tax Collector. Such representative may be the elected official or a representative with financial expertise, but cannot be a County employee or an employee of any such elected official.

The total Auditor Selection Committee will consist of seven (7) members. County administrative staff shall provide support and serve in an advisory capacity to the Auditor Selection Committee. The meetings of the Auditor Selection Committee shall not exclude the public from its proceedings.

B. The duties of the Auditor Selection Committee shall be to:

1. Establish factors to use for the evaluation of audit service proposals, which shall include ability of personnel, experience, ability to furnish the required services, and such other factors as may be determined by the committee to be applicable to its requirements. Compensation shall also be included as a factor, however, it shall not be a predominant factor used to evaluate proposals.

2. Issue a request for proposals (RFP) for audit services that includes the factors established by the committee. The committee shall publicly announce the RFP and provide them to interested firms.

3. Evaluate proposals provided by qualified firms, then rank and recommend in order of preference three firms deemed to be the most highly qualified to perform the required services after considering the factors established. If fewer than three firms respond to the RFP, the committee shall recommend such firms as it deems to be the most highly qualified.

4. Recommend additional firms if the BCC or its designee is unable to negotiate a satisfactory written contract in accordance with statutory provisions with any of the recommended firms.



5. Serve in an oversight capacity for the duration of the contract, which may include duties such as review of the completed audit, review of management letter comments, contract renewal recommendations, and other audit-related oversight functions as the committee or the BCC may designate.

C. The BCC shall select the highest-ranked qualified firm as evaluated by the committee or must publicly document the reason for not selecting said firm. If the highest-ranked qualified firm is not selected, the BCC shall select the second highest-ranked qualified firm as evaluated by the committee or must publicly document the reason for not selecting said firm. If the first or second highest-ranked qualified firm is not selected, the BCC shall select the third highest-ranked qualified firm as evaluated by the committee or must publicly document the reason for not selecting said firm. Audit services shall be evidenced by a written contract embodying all provisions and conditions of the procurement of such services.

**FOR MORE INFORMATION CONTACT:** County Administrator's Office; County Comptroller's Office  
**REFERENCE:** Florida Statutes, Section 218.39; 218.391  
**APPROVED:** 5/5/92  
**REVISED:** 6/27/06; 11/12/19; 12/01/2020

## 6.15 FEDERAL AND STATE GRANT APPLICATION, APPROVAL, PROCUREMENT, AND MANAGEMENT PROCESS

### I. POLICY

Federal and state grants opportunities offer an important source of funding that may be used to supplement the limited resources of Orange County (the "County"). It is therefore the County's policy to ensure that its residents receive a fair share of any available federal and state grants by encouraging the pursuit of federal and state grants.

This Administrative Regulation is regarding the County's application and receipt of federal and state grant funding only. Privately-funded grants, and grants issued by the County not using state or federal funds are not subject to the provisions of this Administrative Regulation.

The Office of Management and Budget ("OMB") is responsible for county-wide grant coordination through the promotion of grant awareness; the facilitation of department, division, and office grant cooperation; the collection and dissemination of grant opportunities; the establishment of a grant database; and the creation and

coordination of Grants Oversight Committee ("GOC") activities.

The County department, division, or office filing any particular application for a federal or state grant shall ensure compliance with that grant's requirements as provided by the funding agency, any applicable requirements of federal, state, or local law, and as more specifically set forth in the following statutes and regulations (when applicable):

- Section 215.97, Florida Statutes ("Florida Single Audit Act");
- Section 215.971, Florida Statutes ("Agreements Funded with Federal or State Assistance");
- Chapter 69I-5, Florida Administrative Regulations ("State Financial Assistance");
- The Rules of the Auditor General, Chapter 10.550 ("Local Governmental Entity Audits");
- The *Federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* as found in 2 CFR Part 200, or – if the federal awarding agency is the U.S. Department of Health and Human Services, the *Federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards for HHS Awards* as found in 45 CFR Part 75 (collectively, the "Uniform Guidance"); and
- Any other applicable provisions of federal, state, and local law, as well as any funding agency specific directives or guidance as may apply to the specific grant in question.

It is the responsibility of the GOC to: (1) review grant applications drafted by the County's departments, divisions, and offices; and (2) make recommendations to the County Administrator, or departmentally and divisionally assigned Deputy County Administrator or Assistant County Administrator, as to the submittal of such grant applications on behalf of the County.

Members of the GOC shall be selected by the County Administrator or designee to represent the County's

departments, divisions, and offices. The Comptroller's Office and for any elected officials that receive grant awards for which Board action is required are encouraged to participate on the GOC.

With the exception of any provisions that delegate signature authority or specifically require Board approval, the County Administrator, with the consult of the OMB and the County Attorney's Office, may waive or temporarily amend the requirements of this Administrative Regulation for allocations of federal financial assistance that are County-wide, instead of specific to a particular department, division, or office, in scope.

## II. PROCEDURES

### A. *Application Review Process.*

1. Department / Division / Office Responsibilities. When the County receives notification of federal and/or state grant or other funding opportunities, the relevant department, division, or office shall be responsible for:

a. Preparing the application within the required time frame to include getting Board approval, if such Board approval is required by the funding agency; and

b. Submitting a completed Grants Review Form to the OMB Grants Coordinator.

2. Grant Oversight Committee Review. Copies of all grant applications shall be routed through the OMB Grants Coordinator who shall determine if GOC review is required.

a. The GOC will review all new federal and state grants and funding opportunities, except those which seek reimbursement of County funds which have already been expended, or those which have already been approved by the Board for expenditure in the annual budget of the relevant department, division, or office.

b. The GOC will conduct a review of grant or funding opportunity applications, which may include a discussion with, or presentation made by, the applying department, division, or office. Such review shall include, but is not limited to:

(1) An evaluation of the actual cost of the grant, including administrative and indirect costs, operating and maintenance costs, staffing, cost/benefit analysis, risk analysis, interdepartmental impacts, match

requirements, outcome(s), or objective(s) to be achieved by the grant; and

(2) Plans for continuation of services following the termination of a grant.

c. The review of grant applications by the GOC may occur either prior to, or following, the submission of the grant application. However, unless relieved from such obligation by the Director of OMB, or designee, the GOC shall review all federal and state grant applications and issue a recommendation to the County Administrator or designee prior to the grant award being submitted to the Board for approval.

### B. *Delegation of Signature Authority.*

1. In order to better facilitate the County's process in applying for and managing state and federal grant awards, the Board hereby delegates limited signature authority to the following individuals for the following grant-related documents:

#### a. Grant Applications.

(1) Grant applications and any associated reports, forms, or other documents for which the funding agency does not expressly require Board approval, may be signed by the County Administrator or the Deputy/Assistant County Administrator assigned to the department, division, or office applying for the grant in question without prior Board approval.

(2) The Manager of the Orange County Housing and Community Development Division is additionally authorized to sign grant applications and any associated forms or documents for which the funding agency does not expressly require Board Approval, so long as the funding agency in question is the U.S. Department of Housing and Urban Development without prior Board approval.

b. Post-Award Documentation. At times during the management of a grant award, a funding agency may require that a particular award-related report, form, or other document be executed by an individual that has the authority to legally bind the County. The Board hereby authorizes either the County Mayor or the County Administrator to sign any such documents without prior Board approval, so long as those documents do not:

(1) Impact or cloud title to real property, including or not limited to any real property in which the County has a fee-simple, leasehold, or other interest; or

(2) Commit any general funds that were not either: (i) already contemplated by the County as part of the Board-approved grant agreement with the funding agency; or (ii) already specifically approved by the Board in the annual budget of the relevant department, division, or office.

c. Limitations. The above delegations of signature authority are made to the extent that they are not prohibited by the relevant funding agency and should be narrowly construed. Moreover, amendments to, and renewals of, grant award agreements between the County and a funding agency are not considered to be "Post-Award Documentation" for the purposes of this Administrative Regulation.

### C. *Grant Award/Agreement Approval.*

1. If a funding agency approves a grant submitted by the County, Board approval and execution by the County Mayor, or their designee, is required before:

a. Any grant funds are considered to be accepted by the County; and

b. Any funding or award related agreements are entered into between the County and the applicable funding agency.

2. If the grant award is conditioned upon substantial changes to the grant, as such grant had been presented to the GOC prior to its initial recommendation to the Board for approval, additional review by the GOC and OMB may be required by the Director of OMB, or their designee.

3. It is the responsibility of any department, division, or office that is managing, making procurements with, or issuing subawards under, grant funding to understand, implement, and meet the specific requirements imposed upon the County in the relevant grant award and/or grant agreement.

D. *Grant Award/Agreement Amendments*. OMB shall be responsible for establishing written procedures for presenting grant awards and amendments to the Board for approval. Amendments to existing grant awards and agreements may be executed by the County Mayor, the County Administrator, or the designee of

either, so long as they have received specific prior Board approval.

### E. *Renewal/Continuation Process.*

1. Some federal and state grants or funding opportunities are multi-year awards and may be subject to renewal or continuation. Subsequent review(s) for such grant funding or award renewals or continuations by the GOC will be conducted only if there is a substantial change in the original grant agreement or award, or if review by GOC was not previously conducted.

2. Board approval of renewal and continuation documents shall only be necessary if: Board approval is required by the funding agency; the renewal/continuation in question was not contemplated in the original agreement approved by the Board; or if the renewal/continuation in question amends the original agreement in any material manner. If the foregoing conditions are met, either the County Mayor, the County Administrator, or the designee of either, are hereby authorized to execute such renewals or continuations without prior Board approval.

3. If a renewal contains a material amendment, such renewal may be executed as described in Paragraph D ("Grant Award/Agreement Amendments") above.

4. This provision is related to renewals or continuations of funding agreements or awards between the funding agency and the County. Renewals or continuations of any subawards that the County may issue to other agencies or entities shall be subject to the terms of the relevant subaward agreement.

### F. *Procurement Process.*

1. State Grants. All contracts funded by state grants that are not in any way passing through federal funding must follow the procurement process and procedures outlined in the County's Procurement Ordinance, Administrative Regulations, and Procurement Procedure Manual, and relevant State law, unless the specific grant or funding opportunity requires, or provides for, a specific procurement process or procedure. All contracts funded by federally-funded state grants must follow the process outlined in Subsection 2 of Paragraph F ("Procurement Process; Federal Grants") below.

2. Federal Grants.

a. "Contracts," as defined by the Uniform Guidance, that are in whole, or in part, funded by the federal government must follow:

(1) The County's Procurement Ordinance, Administrative Regulations, and Procurement Procedures Manual, unless the funding agency for a specific grant or funding opportunity requires, or provides for, a specific procurement process or procedure; and

(2) The applicable procurement standards of the Uniform Guidance, unless otherwise provided by the federal funding agency or pass-through entity (if applicable).

(3) In the event of conflict between the County Procurement Ordinance, Administrative Regulations, the Procurement Procedures Manual, and the Uniform Guidance, the more restrictive shall apply unless the Uniform Guidance prohibits such additional restrictions.

b. "Subawards," as defined by the Uniform Guidance, may, but are not required to, follow the procurement process listed in subparagraph "a" above, but must at minimum comply with the Uniform Guidance regarding subawards and subrecipients. Such requirements typically include publication of a notice of funding opportunity for competitive subrecipient selection, performance of subrecipient risk assessments, and any other such requirements required by the Uniform Guidance and the relevant federal funding agency's rules, regulations, guidance, or direction.

c. Departments, divisions, or offices that wish to use an alternative process to the procurement process listed in subparagraph "a" above when issuing subawards to subrecipients must have their own written internal procedures regarding how they will comply with the Uniform Guidance, and any other grant-specific rules, regulations, or funding agency guidance.

d. If a department, division, or office wishes to learn which provisions of the Uniform Guidance are applicable to any particular federal grant, it should review that grant's "assistance listings" information on SAM.gov, the terms of the grant agreement, as well as any additional guidance that was issued by the relevant federal funding agency.

#### **G. Federal Contract/Subaward Management.**

1. The County's departments and divisions must make a case-by-case determination whether a federally-funded agreement is either a "contract" or

"subaward" as defined by the Uniform Guidance. Such determination must be clearly identified in the legal instrument used to enter into such contract or subaward with a contractor or subrecipient.

2. All departments and divisions receiving and managing federally-funded grants are responsible for performing comprehensive monitoring to ensure compliance with such federal grant's requirements. This responsibility pertains to requirements of the federal funding agency, or – if applicable – by the state or other direct recipient of federal funds in its role as the pass-through entity.

#### **3. Subrecipient Monitoring.**

a. It is the responsibility of the department, division, or office managing a federal grant award to routinely monitor each subrecipient's programmatic and financial performance. This monitoring must comply with the requirements of the Uniform Guidance, or as otherwise required by the relevant federal funding agency, or – if applicable – by the state or other direct recipient of federal funds in its role as the pass-through entity.

b. Departments, divisions, or offices managing federal grant awards must document the completion of the requisite subrecipient monitoring, which shall include: the time and date of such monitoring; the name of the staff member(s) who performed the monitoring; any findings made during the monitoring; any curative measures imposed upon the subrecipient as a result of such findings; and the results of those curative measures. This documentation must be kept and maintained by the responsible department, division, or office in the related subaward's file.

#### **H. Debarment and Suspension.**

##### **1. Contracts.**

a. All departments, divisions, and offices receiving and managing federal or state grants are required to verify that all contractors being paid with grant funds are not excluded by the federal government (if applicable) and are in good standing with the State of Florida.

b. For procurements where formal solicitations were issued, the Procurement Division shall be responsible for ensuring that the bidder or proposer to whom a grant-funded award is being made is not excluded by the federal government (if

applicable) and is in good standing with the State of Florida.

c. For all other procurements or contracts, the relevant division, department, or office is responsible for ensuring that contractors that are being paid from grant awards are not excluded by the federal government (if applicable) and are in good standing with the State of Florida.

d. Any verification required under this "Contracts" subsection shall occur prior to a contract being executed, and shall be performed by the responsible department, division, or office through the Federal Excluded Parties List/System for Award Management (SAM.gov) (if applicable) and the Florida Convicted/Suspended/Discriminatory Complaint Vendor List.

e. A copy of the confirmation from the SAM.gov system (if applicable) and Florida Convicted/Suspended/Discriminatory Complaint Vendor list must be kept with the respective contract file by the responsible department, division, or office, and the Procurement Division, and must reflect the date upon which confirmation was obtained.

## 2. Subawards.

a. All departments, divisions, and offices receiving and managing state grants, and that are issuing state-funded subawards, are required to verify that all subrecipients are in good standing with the State of Florida. If any portion of a state grant is paid for with a pass-through of federal funding, then the department, division, or office managing such grant must also comply with provision Paragraph H., Subsection 2.b. ("**Debarment and Suspension; Subawards**") below.

b. All departments, divisions, and offices receiving and managing federal grants, and that are issuing federally-funded subawards as defined by the Uniform Guidance, are required to verify that all subrecipients have a unique entity identifier and are in good standing with the federal government and the State of Florida.

c. Any verification required under this "Subawards" subsection shall occur prior to a subaward being executed, and shall be performed by the responsible department, division, or office through the Federal Excluded Parties List/System for Award Management (SAM.gov), the Florida Convicted/Suspended/Discriminatory Complaint Vendor List, or both (if applicable)

d. A copy of the confirmation from the SAM.gov system and Florida Convicted/Suspended Discriminatory Complaint Vendor list, as applicable, must be kept with the respective subaward file by the responsible department, division, or office, and the Procurement Division (if applicable), and must reflect the date upon which confirmation was obtained.

## 3. Both Contract and Subawards.

a. Departments, divisions, and offices responsible for managing federal or state grants shall perform the verifications required in this Paragraph H ("**Debarment and Suspension**") annually based on the anniversary date of the contract or subaward execution, and must retain a copy of such annual verification in their respective subaward or contract file.

b. Contracts awarded to a contractor or subrecipient must include a clause requiring that such contractor or subrecipient perform the above-discussed verifications for all subcontractors or subrecipients with which such contractor or subrecipient subcontracts or issues a subaward with the funds provided by the contract or subaward, or for completion of the project or provision of services funded in whole or in part through the contract or subaward.

### I. *Reporting Requirements of Grants.*

1. The departments, divisions, and offices shall provide the OMB Grants Coordinator notification that financial and performance reports have been submitted to the funding agency in conformance with the funding agency's requirements.

2. Concurrence as to the accuracy of financial reports or related financial information shall be obtained from the Comptroller's Office Finance and Accounting Grants Section, prior to submission to the granting agency.

3. Where applicable, the County must follow the Code of Federal Regulations under the Uniform Guidance, or as otherwise applicable, and the funding agency.

### J. *Interdepartmental Transfers.*

Notwithstanding any provisions in 6.02.03 ("**Budget Transfers and Amendments**") or any other County rule, policy, or regulation to the contrary, Board approval shall not be required for transfers of state or

federal grant funds that are interdepartmental in nature, provided that such transfers are contemplated within, or necessary for the completion of the objectives of, a federal or state award.

**FOR MORE INFORMATION CONTACT:** Office of Management and Budget

**REFERENCE:** Code of Federal Regulations 2 CFR Part 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Award, Final Rule" and/or 45 CFR Part 75 "Uniform Guidance, Cost Principles, and Audit Requirements for HHS Awards"; Section 215.97, Florida Statutes; Section 215.971, Florida Statutes; Chapter 69I-5, Florida Administrative Regulations; Rules of the Auditor General, Chapter 10.550.

**APPROVED:** 6/27/06

**REVISED:** 11/15/16; 5/24/2022

## 6.15.01 IMPACT FEE GRANT GUIDELINES FOR NON-PROFIT ORGANIZATIONS

### I. POLICY

The County's impact fee ordinances require that the fees must be paid upon issuance of a building permit for new development. The ordinances provide various exemptions for certain types of development that do not impact the County's ability to provide services. The ordinances do not provide any exemption for non-profit organizations (NFPs), as recognized by the United States Internal Revenue Service (IRS), that provide services that otherwise might be provided by the county at taxpayer expense. The Board of County Commissioners (BCC) has expressed its intention to assist eligible NFPs in paying their impact fees for new construction. The purpose of this administrative regulation is to implement such a program through the authorization of County grants to eligible NFPs for payment of impact fees.

### II. PROCEDURES

A. *Scope of Program.* Each fiscal year, the BCC may consider whether to budget a sum certain of up to fifty thousand dollars (\$50,000) for the grant program. Each qualified NFP shall be limited to a maximum grant of ten thousand dollars (\$10,000) per fiscal year, unless a larger sum is approved at the sole discretion of a majority of the BCC.

B. For the purposes of this administrative regulation, the term "impact fee" is limited to Orange County's road (transportation), law enforcement, and fire/rescue services impact fees, as defined in Chapter 23 of the Orange County Code.

C. *Application Timeframe.* An NFP may apply any time during the fiscal year.

Any funds not awarded during the fiscal year will not be rolled over and will not be eligible for use in the subsequent fiscal year.

The Community, Environmental, and Development Services Fiscal and Operational Support Division (FOS) shall provide program information on the county's web site ([www.orangecountyfl.net](http://www.orangecountyfl.net)).

Upon request, FOS will mail information to any non-profit organization or its representative that requests to receive such mailings.

D. *Eligibility Criteria.* In order for an NFP to be eligible for a grant pursuant to this program, it must satisfy all of the following criteria. Under no circumstances will any County approval be retroactive or take the form of a partial or complete refund for a prior impact fee payment made by or on behalf of the NFP prior to approval of any grant. Grant payments will be made as a funds transfer by the County from the grant fund to the respective impact fee account.

- The applicant NFP must provide proof that it has been recognized by the IRS as a non-profit organization exempt from taxation under Section 501(c)(3) of Title 26 of the U.S. Code.
- Orange County residents must have an equal opportunity to benefit from the NFP's services at the proposed facility.
- The NFP must provide a service or services that Orange County government could or does itself provide, including but not limited to the following: day care/classroom facilities; family life centers; recreational facilities; youth services centers; criminal justice diversion; substance abuse treatment; after-school programs; homeless shelters; health care counseling.
- New construction which otherwise meets these criteria will be eligible for grant assistance only if the primary purpose of the new structure is for the provision of the type of services identified above, and the NFP provides evidence to that effect.
- At the time of filing its application, the NFP must have previously filed (i) a

building permit application with the Division of Building Safety for the new construction and (ii) an application with the Planning & Zoning Commission and/or Board of Zoning Adjustment, if required.

E. *Process.* Grant applications shall be submitted in writing to the Manager of FOS. At a minimum, the application shall include a cover letter from the NFP's executive director or designee that includes the following:

- An explanation of the mission of the NFP and its history;
- A description of the clientele that is served;
- A detailed description of the primary purpose of the new construction project;
- A statement regarding whether fees will be charged for the service(s) to be provided;
- A financial summary of the NFP for the current fiscal year;
- A verified statement that the property is clear of any outstanding tax liens, regulatory citations, permit violations, code enforcement actions, liens, or delinquencies;
- A budget summary for the proposed construction project;
- The Orange County building permit number(s) for which impact fees are being assessed;
- The square footage of the proposed structure(s);
- The estimated amount of each impact fee; and
- A copy of the NFP's IRS 501(c)(3) certification.

FOS will forward copies of the application to the County Attorney's Office, the Citizens' Commission for Children Division, and the Neighborhood Preservation and Revitalization Division to develop a staff recommendation to the BCC. FOS staff will respond to the non-profit organization within forty-five (45) days

after the application was filed with notice of the staff recommendation. If the staff recommendation is to approve the application, it will be forwarded to the BCC. If the staff recommendation is to deny the application, the specific reasons for denial will be listed in the notice, and the applicant will have the option to appeal such recommendation to the BCC. The BCC will consider the staff recommendation and determine whether County funds should be used to pay all or a portion of the impact fees (except as limited by II.A above) that are being assessed.

F. *Revocation.* Any grant of funds under this program is conditional and will be automatically revoked if one or more of the following events occurs:

- The grant awarded is not used within twelve (12) months from the date of BCC approval;
- The applicant cancels or materially modifies the project in question;
- The NFP loses or fails to maintain NFP status, as defined herein; or
- The NFP fails to comply with any of the conditions set forth herein.

In the event of revocation of any grant, the applicable funds may be made available to any other qualified NFP during the same fiscal year.

### III. FILING FEES

An NFP will not be charged a filing fee to submit an application under this program.

### IV. AUDITS, RECORDS, AND RECORDS RETENTION

Any NFP receiving a grant pursuant to this program shall establish and maintain documentation, in a format acceptable to Orange County, adequately demonstrating that the construction project was completed and used to provide the services described in the original approved application and shall provide such documentation to Orange County one (1) year after completion of construction. The NFP shall furthermore retain all financial records, supporting documents, and any other documents pertinent to the use of grant funds for a period of three (3) years after completion of any construction related to the impact fee grant. Orange County shall have the right to inspect the NFP's activities and records as

reasonably necessary to confirm compliance with this program.

**FOR MORE INFORMATION CONTACT:** Community, Environmental, and Development Services Fiscal and Operational Support Division; Citizens' Commission for Children  
**REFERENCE:** IRS Section 501(c)(3) of Title 26 of the U.S. Code  
**APPROVED:** 6/27/06  
**REVISED:** 7/10/12; 7/11/17

## 6.16 GIFT CARD GUIDELINES FOR CHILD AND YOUTH RESIDENTIAL PROGRAMS

### I. POLICY

The Youth and Family Services Division provides a program of residential care for children and youth who have been removed from their homes and placed by the State of Florida or who are voluntarily in the care of Orange County. It is important to provide recognition for the significant life events and the accomplishments of the children and youth under the program's care. Acknowledgement of such events and accomplishments through the use of gift cards is appropriate. In order to assure fiscal accountability, the utilization of gift cards must be carefully controlled.

It is the County's policy that gift cards may be presented to child and youth residents in this program for the following purposes and amounts:

#### A. Holidays –

1. Great Oaks Village and Laurel Hills Independence Center - Up to \$200
2. Youth Shelter - Up to \$100

#### B. Birthdays - \$50

#### C. Report Cards - Up to \$75 (maximum of 4 times per year)

#### D. Graduation –

1. High school or General Education Development diploma - \$100
2. Associate's degree or vocational certificate - \$250
3. Bachelor's degree - \$500

#### E. Behavior Modification Incentives – Up to \$100 per year

## II. PROCEDURES

A. The manager of Youth and Family Services and supervisors at all levels are responsible for the appropriate receipt, purchase, security, use and tracking of gift cards utilized in program.

B. Gift cards for the amounts noted above may be purchased with procurement cards.

C. Gift cards that are donated or purchased, and that are not immediately distributed to a resident, must be stored in a secure manner, under conditions meeting the standards required for the storage of cash.

D. Program managers and other responsible parties will ensure that donation documentation, purchasing documentation, gift card tracking logs, and gift card distribution receipts are properly maintained by a designated custodian for all gift cards received as donations or purchased for the program.

E. A gift card distribution receipt must be completed and signed by the employee distributing the gift card, a manager verifying the distribution, and the resident.

F. All recipients of gift cards must complete a W-9 form. The Division will ensure that the completed W-9 form is submitted to the Office of the Comptroller within 7 days of completion.

G. In accordance with the Florida State General Records Schedule for Local Government Agencies, all gift card logs, receipts, and related documents will be maintained for a minimum of 3 years, or longer as required by specific contracts or grants or other funding sources.

**FOR MORE INFORMATION CONTACT:** Youth and Family Services Division  
**REFERENCE:** None  
**APPROVED:** 2/22/11  
**REVISED:** 2/27/23

## 6.17 NEIGHBORHOOD GRANT PROGRAM

### I. POLICY

Orange County has developed a variety of tools for the purpose of rebuilding older neighborhoods and preserving newly established neighborhoods. The Neighborhood Preservation and Revitalization



Division provides funding for neighborhood organizations, nonprofit organizations and businesses to engage in small neighborhood level capital improvement projects that help restore and maintain the physical condition of Orange County neighborhoods. These tools also help to revitalize neighborhoods by bringing residents together around common goals and helping to build pride amongst the residents along with renewed care for their respective neighborhoods.

## II. TYPES OF NEIGHBORHOOD GRANTS

### A. Beautification Grants

Beautification grants are designed to improve the aesthetic quality of neighborhood entranceways. These grants may include landscaping, entranceway signage, minor entrance wall repairs, entry medians and other enhancements to the front of neighborhoods.

### B. Repair Grants

Repair grants are designed to restore conditions to neighborhoods that have fallen into disrepair. These grants may include neighborhood perimeter wall repairs, minor exterior housing repairs within a neighborhood, and other common repair projects.

### C. Capital Improvement Grants

Capital Improvement Grants are designed to help implement small scale improvements to common areas within a neighborhood. These grants may include playgrounds, shelters and pavilions, gazebos, walking or exercise trails, picnic tables and benches, fence repair and wall pressure washing, caulking and painting, and ground and common area lighting and irrigation repairs.

## III. Eligibility

Neighborhood grants are available to neighborhood organizations and nonprofit organizations, including homeowner and condominium associations. Where otherwise indicated, grants may be available to individual citizens. Each applicant must be registered with the Orange County Neighborhood Preservation and Revitalization Division prior to submitting an application for any grant funding.

## IV. Application Criteria

In addition to specific criteria for each individual grant program, all applicants must adhere to the following:

A. Unless otherwise indicated, each organization must have its Board of Directors, Executive Board, or voting members vote on and approve the grant application and the required community match contribution before submitting its application for consideration. A notarized copy of the minutes reflecting the approval vote must be attached to the application.

B. Each organization must have democratically elected officers and must not discriminate based on sex, race, ethnicity, age, religion, disability or sexual orientation. Use of project funds from the neighborhood grant program by community member(s) must not require conversion to a particular faith or belief.

C. Neighborhood organizations must make the project area improved with program grant funds (collectively referred to as "Improvement") available to the public for use. Gated communities and condominium communities may only use grant funds for entranceway improvements abutting major streets/roads. Projects shall not be placed behind gates or within communities with private streets as these areas are not open to the public.

D. The maintenance of any Improvement(s) funded under this grant program shall be the sole responsibility of the grant recipient. The grant recipient must enter into a grant agreement with Orange County wherein all associated maintenance of the Improvement(s) shall be a condition of the grant award. Failure to maintain the Improvement(s) in accordance with applicable standards may result in denial of future grant funding. Improvements shall be subject to auditing which may include staff site visits.

E. It is prohibited for any officer(s) or contact person(s) to receive any financial benefit from this grant program. It is the responsibility of the applicant to notify the County of any conflicts of interests in violation of Orange County Code, policy, or Florida statutes. Grants are subject to audit by the Orange County Comptroller's office and any evidence of violation, misrepresentation or conflict of interest in the use of grant funding will result in loss of grant and/or repayment of grant funds to Orange County.

F. There are no limits on the number of applications an organization may submit each year. Organizations shall only be awarded one grant from the Division, one time per calendar year.

Organizations shall not be awarded grant funds from the Division more than two consecutive years at a time.

V. Approval Process

A. All proposed grant applications shall be reviewed by Division staff prior to final submission for consideration. Such review must occur prior to the application deadline. Incomplete applications received before the application deadline will be returned to the applicant for correction and resubmittal. Incomplete applications submitted after the deadline will be returned to the applicant and will not be submitted for consideration.

B. Completed applications will be scored and ranked by a committee of Division staff. The Neighborhood Grants Advisory Board will review the application scores submitted by staff and recommend selected grant winners to the Board of County Commissioners for final approval.

C. The Board of County Commissioners reserves the right to deny requests for funding, even if all program guidelines and requirements are satisfied in the application.

**FOR MORE INFORMATION CONTACT:** Neighborhood Preservation and Revitalization

**REFERENCE:** None

**APPROVED:** 1/26/16

# PROCUREMENT

## 9.01 CONTRACT NEGOTIATION PROCEDURES

### I. POLICY

The Board of County Commissioners recognizes that negotiated contracts exceeding certain dollar amounts provide significant exposure to the County and require particular care, expertise and skills of pertinent County staff during the negotiation and contract formulation phases. Therefore, this procedure adopts a uniform method of negotiating large dollar volume contracts approved by the Board of County Commissioners and initiates a process to safeguard the best interests of the County through input from proper County staff during the negotiation stages of contract development.

### II. PROCEDURES

A. This procedure shall include contract negotiations in accordance with the Procurement Procedures Manual and as determined to be appropriate by the Manager, Procurement for the term of the agreement.

B. Staff shall be assigned by appropriate Department Directors, or their designees, upon request by the Manager of Procurement, for negotiating contracts meeting the criteria delineated in IIA above. Assigned staff for each procurement under these procedures shall consist of the following members, as determined by the Manager, Procurement:

1. The Director/Manager of the user department/division, or designee.
2. The Manager of Procurement, or designee.
3. County Attorney, or designee.
4. Additional members as required.

C. The Procurement Division may invite assigned staff to attend a non-public pre-negotiation meeting.

D. At the pre-negotiation meeting, the Lead Negotiator shall be the Manager of Procurement unless delegated. The representative of the user division/department shall also explain the details of the project, budget, and existing time constraints. During

this meeting, one or more additional member(s) may be selected to participate during negotiations. Additional pre-negotiation meeting(s) may be scheduled prior to formal negotiations if necessary.

### E. Duties of the Lead Negotiator:

1. Arrange for an appropriate meeting room to be reserved for the negotiation meetings.
2. Maintain and file information/data pertaining to each negotiation meeting, including information supplied by the contractor.
3. Conduct all meetings and serve as the final decision-maker in formulating negotiation strategies and tactics.
4. Recommend, for each significant issue to be negotiated: tentative negotiating strategy, negotiating objectives, minimum position, and maximum position for use during the negotiations. This strategy should be discussed at the pre-negotiation meeting and during the negotiation process, as needed.
5. With the advice and assistance of the Procurement Division and the County Attorney, provide assigned staff an outline or draft of the proposed agreement indicating the scope of work involved in the project and advise of the substance and material provisions to be included in the agreement to be negotiated.
6. Retain authority for final approval of any negotiable points which may need to be agreed upon during the negotiation process.
7. Maintain control over any and all communications and discussions between the County and the party with whom the County is negotiating.
8. Schedule and conduct a final meeting, if necessary, wherein majority concurrence is obtained from staff and the consultant or contracted party.

F. The Procurement Division shall maintain a complete contract file, including a copy of the final signed contract or agreement, copy of payment/performance bonds (if any), all related correspondence, a current certificate evidencing insurance (if required), and copies of all Agenda Items submitted to the Board.

G. An exception to this procedure may be made in emergency situations and shall be handled in accordance with County procedures.

H. Any changes to a contract negotiated under the provisions of this procedure shall be in the form of a written amendment and approved by the proper authority in accordance with County policies and procedures unless such changes are specifically allowed in the contract.

**FOR MORE INFORMATION CONTACT:** Procurement Division, Administrative Services Department

**REFERENCE:** None

**APPROVED:** 6/27/06; 3/21/23

### 9.01.01 RESPONSIBILITIES FOR PREPARING CONTRACTS

#### I. POLICY

The Procurement Division serves as the central coordination point for all County contracts. Operating Department Directors and Division Managers have certain responsibilities for ensuring the timely processing and accurate presentation of contracts.

#### II. PROCEDURES

A. The Procurement Division is responsible for the solicitation award and contract administration support for all contracts awarded under the authority of the Board of County Commissioners.

B. The Manager of the Procurement Division shall ensure that construction contracts when appropriate will contain liquidated damages at a reasonable rate considered on a project-by-project basis.

C. When considered appropriate, the Manager of the Procurement Division, will obtain legal review of liquidated damage provisions prior to issuance of the solicitation. It is the responsibility of the department managing the contract to ensure that adequate documentation is kept to substantiate the amount of actual damages.

**FOR MORE INFORMATION CONTACT:** Procurement Division

**REFERENCE:** Administrative Regulation 9.01.02

**APPROVED:** 6/27/06

*Procurement 2 (03/21/2023)*

### 9.01.02 PROCUREMENT POLICIES AND PROCEDURES

#### I. POLICY

The Procurement Division serves as the central coordination point for establishment of all County contracts with the exception of specified contracts as delegated to other County departments.

#### II. PROCEDURES

A. In accordance with Orange County Code and the Orange County Procurement Procedures Manual, the procurement of all materials, supplies, equipment, construction, and non-professional and professional services is the sole responsibility of the Procurement Division.

B. Article III, Chapter 17, Orange County Code (Procurement Ordinance), which is included as an enclosure in the Procurement Procedures Manual, prescribes the general laws regarding the procurement process, among which are:

1. Procurement Terms and Definitions
2. Authority of the Procurement Division
3. Mandatory limit(s) for publicly noticed competitive bidding, and related requirements
4. Methods of source selection
5. Exemptions from the bidding requirements
6. Bid Protest procedures
7. Suspension and Debarment procedures

C. The Procurement Procedures Manual is a tool for use by departments/divisions wishing to purchase materials, supplies, equipment, construction, and professional and non-professional services. The manual provides information and procedures in the following areas, including but not limited to:

1. Responsibilities and functions
2. Proper instructions for completing requisitions
3. Handling purchase orders
4. Emergency and sole source purchase procedures
5. Term contracts and delivery orders
6. Changes to purchase orders and contracts
7. Procurement card procedures
8. Quotation and bid limits
9. RFP evaluation procedures
10. Exemptions to bidding requirements
11. Handling poor vendor performance

12. Handling invoices
13. Receiving goods and materials
14. RFP and bid protests
15. Procurement of design-build services

To obtain copies of the Procurement Procedures Manual and/or the Procurement Ordinance, contact the Procurement Division.

**FOR MORE INFORMATION CONTACT:** Procurement Division

**REFERENCE:** Orange County Code, Article III, Chapter 17 (Procurement Ordinance); Orange County Procurement Procedures Manual

**APPROVED:** 6/27/06

### 9.01.03 SINGLE-USE PRODUCTS POLICY ON COUNTY PROPERTY

#### I. POLICY

The effects of single-use products and plastic bags have become globally recognized as having lasting negative impacts on the environment. These products can pollute waterways and natural lands, are difficult to collect and contain, take significant time to degrade, and are potentially harmful to wildlife. The Board of County Commissioners wishes to establish a single-use products and plastic bags policy to reduce the use of these products and encourage the use of reusable, recyclable, biodegradable, or compostable materials.

It is the policy of the Board of County Commissioners that neither single-use products nor plastic bags may be sold or disbursed on County property by staff or contracted vendors except as set forth in this Administrative Regulation.

#### II. PROCEDURES

##### A. Definitions.

1. "Biodegradable materials" are manufactured products made entirely of natural materials, such as paper or plant fibers, that will undergo a natural process of deterioration.
2. "Compostable materials" are manufactured products made from uncoated paper, wood, or vegetable-derived plastics.
3. "Contract" is a written agreement between the County and a contracted

vendor.

4. "Contracted vendor" is a product vendor, concessionaire, or lessee of the County.
5. "County property" includes land or facilities owned, operated, managed, or leased by the County.
6. "Plastic" is a human-made synthetic material commonly produced from petroleum and derived from carbon and other elements.
7. "Plastic bags" are bags made of flexible plastic that are not biodegradable provided at the point of sale or distribution.
8. "Plastic stirrers" are plastic tubes or sticks used for mixing a beverage in its container.
9. "Plastic straws" are plastic tubes that are non-biodegradable and are intended for transferring a beverage from its container to the mouth of the drinker.
10. "Polystyrene foam" is a synthetic polymer made from the styrene monomer, commonly known by the name brand Styrofoam®.
11. "Polystyrene foam products" include containers, plates, bowls, cups, and trays.
12. "Recyclable materials" are raw or processed materials that can be recovered or diverted from a non-hazardous waste stream to be reused or repurposed into another item, which may otherwise be produced using raw or virgin materials.
13. "Reusable materials" are manufactured products that are durable and washable, can be used multiple times, and are not typically discarded.
14. "Single-use products" are defined here as polystyrene foam products, plastic straws, and plastic stirrers.

## B. General Guidelines

1. Neither single-use products nor plastic bags may be sold or disbursed on County property by County staff or contracted vendors unless authorized by the County Administrator, a Deputy County Administrator, or a Department Director. The use of reusable, recyclable, biodegradable, or compostable materials is encouraged.
2. County departments and divisions  
Procurement products intended for one-time use and then disposed of in waste streams must follow the product specifications approved by the Chief Sustainability & Resilience Officer. The County will provide a list of product specifications upon request for use in issuing Invitations for Bid and Requests for Proposal.
3. At the time of contract renewal or amendment, all contracts must incorporate this Administrative Regulation by reference and provide notice of this Administrative Regulation to the contracted vendor as applicable.
4. Following contract renewal, if a contracted vendor fails to comply with this Administrative Regulation, the County may terminate the contract or pursue other appropriate contractual remedies set forth in the contract, or both. Additionally, the County may use past non-compliance by a contracted vendor as grounds for precluding the contracted vendor from future County contracts.

## C. County Departments

All County departments and divisions will work cooperatively to further the purpose of this policy and will comply with this Administrative Regulation as of the applicable effective date set forth below.

## D. Exemptions

1. The following are exempt from this

*Procurement 4 (03/21/2023)*

## Administrative Regulation:

- a. single-use products disbursed in compliance with the Americans with Disabilities Act (ADA);
  - b. pre-packaged food that was filled and sealed prior to receipt by a contracted vendor or permittee; and
  - c. packaging of unwrapped raw meat, poultry, and seafood.
2. To allow appropriate time to modify business practices and offer educational materials to facilitate compliance, the following are exempt until January 1, 2021 unless sooner revoked by the County Administrator:
    - a. polystyrene foam products purchased by County Corrections for meals within isolation units;
    - b. plastic bags purchased by County Corrections for staff take-out meals;
    - c. polystyrene foam products purchased at Great Oaks Village for the hand transport of hot food by children;
    - d. pre-packaged meals provided by an outside source and disbursed as part of a Head Start program, including as part of a grant award; and
    - e. pre-packaged meals provided by an outside source and disbursed as part of a Parks & Recreation program.

## E. State of Emergency

This Administrative Regulation will not apply during a state of local emergency declared pursuant to Chapter 2, Article IX, of the Orange County Code.

## F. Effective Dates

This Administrative Regulation is effective as of April 21, 2020 for all new or renewed County contracts and County purchases. County staff may continue to use

and disburse single-use products and plastic bags purchased prior to the effective date.

**FOR MORE INFORMATION CONTACT:** County Administration - Chief Sustainability & Resilience Officer  
**REFERENCE:** None  
**APPROVED:** 04/21/2020

## **9.01.09 RECYCLED PRODUCT PROCUREMENT POLICY**

### **I. POLICY**

The volume of solid waste disposed of within Orange County continues to increase every year. Landfill space is at a premium and it is becoming increasingly difficult to site new landfill. A portion of the material that enters the solid waste stream can be recycled, reused or incorporated in the manufacture of new products. The County's participation in and promotion of recycling programs can reduce this volume of material entering the waste stream thereby extending landfill life expectancy. For recycling programs to be effective, markets must be developed for products that incorporate post-consumer materials in their manufacture, are reusable, or are designed to be recycled. The Board of County Commissioners wish to establish a procurement policy which will encourage and promote the use of recycled products and materials in addition to paper and to strengthen its recycled paper policy.

### **II. PROCEDURES**

A. County departments and units shall develop product specifications to incorporate a requirement for the use of recycled materials, reusable products, and products designed to be recycled to the maximum extent practicable, subject to an alternative showing that either the performance of the product will be jeopardized or that the product will negatively impact health, safety or operational efficiency. The County shall use such specifications in issuing Invitations for Bid and Requests for Proposal.

B. The Manager of Procurement for the County shall have authority to review product and service specifications to determine whether they require or exclude the use of recycled products, reusable products, or products designed to be recycled.

C. In the event that such specifications do exclude the use of recycled products or require the use of virgin materials, and a product or service exists with

recycled content, then such exclusions or requirements must be eliminated unless the pertinent department or unit can demonstrate to the satisfaction of the Manager of Procurement that these recycled products would not achieve a necessary performance standard.

D. Vendors competing to provide products or services to the County, including printing services, must demonstrate that they will comply with the specifications developed pursuant to this resolution.

E. Recycled paper shall be purchased and used in all copy machines that will accept it. County staff will work to encourage the copier industry to develop copiers that will accept recycled paper.

F. The Procurement Division shall purchase and/or lease copiers which are capable of utilizing recycled paper, provided that they meet the needs of the County with regard to function.

G. When recycled products are purchased, the County shall require the vendor to undertake reasonable efforts to label these products to indicate recycled materials content. The County shall use for its stationery and envelopes recycled paper that includes post-consumer recycled content and indicate on the paper and the envelope that they contain recycled material.

H. Any person or vendor who can demonstrate that a particular product or material with recycled content may be beneficially used instead of another product may request the County to evaluate such product or material. If such product or material is found to be beneficial, the County may incorporate the specifications of such product or material into its approved specifications for future Invitations for Bid or Requests for Proposal.

I. The County will cooperate to the greatest extent feasible with neighboring city and county governments in an effort to develop a comprehensive, consistent and effective procurement effort intended to stimulate the market for recycled products, reusable products, and products designed to be recycled.

J. All related County departments and units shall work cooperatively to further the purpose of this resolution.

**FOR MORE INFORMATION CONTACT:** Procurement Division  
**REFERENCE:** None  
**APPROVED:** 11/24/92  
**REVISED:** 6/27/06

**9.01.10 CONTINUING CONTRACTS FOR  
ENGINEERING, ARCHITECTURAL,  
SURVEYING AND MAPPING AND/OR  
LANDSCAPE ARCHITECTURAL  
SERVICES**

**I. POLICY**

It is in the best interest of the County to maintain effective control over contract expenditures, in part through maximizing competition, specifying scope of work, establishing authority and approval levels, and defining terms used in contractual matters.

This Administration Regulation applies to contracts with architects, engineers, land surveyors/mappers, and landscape architects, that are entered into in compliance with Florida Statutes 287.055.

**II. PROCEDURES**

**A. Definitions:**

“Continuing Contract” shall mean a contract for architectural, engineering, landscape architectural or surveying and mapping services established on an annual or ongoing basis whereby the firm provides professional services to the County for projects for which construction costs do not exceed the threshold limits prescribed by the Consultants’ Competitive Negotiation Act, section 287.055, Florida Statutes, as may be amended, or for work of a specified nature as outlined in the contract required by the County. The continuing contract specifies the scope of services to be performed, hourly rate schedule, overall multiplier (including overhead and profit), and duration of the contract. Services for specific projects within the scope of the contract, which constitute a single or grouping of designs for construction, renovation, or rehabilitation activities; for studies; or for work of a specified nature, are rendered on an as needed basis by means of a negotiated task authorization as defined below. Pricing shall be included in project-specific task authorizations issued against the continuing contract. Continuing contracts are established by means of competitive Requests for Proposal with award approved by the Board of County Commissioners in accordance with Administrative Regulation 9.01.13.

“Task Authorization” shall mean a project-specific work order issued against a continuing contract. Task authorizations specify the specific project, project schedule and completion time, detailed scope of services and total compensation for the task authorization.

*Procurement 6 (03/21/2023)*

“Study Activity” shall mean professional services involving research, investigation and/or evaluation which result in the presentation of findings, recommendations, and/or a general plan for resolving a problem or need, but which do not involve the preparation of specific project designs, plans, specifications or other documents for use in obtaining priced proposals or awarding construction contracts.

B. Engineering and architectural services contracts may be established on a continuing basis for a period of one (1) year, renewable at one (1) year intervals and generally for a maximum period of five (5) years. Contracts will include a clause that allows the County to terminate at any time without cause, with payment made for services rendered and accepted through the effective date of termination.

C. Work in progress on task authorizations at the time of expiration of the contract will continue until completion of all work specified in the task authorization.

D. “Additional Services” clauses within the contract shall include a statement that the consultant shall submit a proposal to the County, and any additional services shall be agreed to in writing by contract amendment prior to the delivery of the services. Said proposal shall include scope of services, schedule and a “not to exceed” or “lump sum” price.

E. All task authorizations should be negotiated on a lump sum basis to the extent possible. Such task authorizations should include an attached fee proposal showing the manpower classifications, hours, contract hourly rate, break-even multiplier, profit margin, reimbursable amounts, and subconsultant fees to determine overall lump sum cost.

F. Any amendment, or additional service exceeding the limitations specified in the Procurement Ordinance must be approved by the Board of County Commissioners prior to notice to proceed being issued to the consultant. Task authorizations, amendments and additional services must be directly related to the scope of work delineated in the continuing contract.

G. Prior to an amendment, task authorization, or additional service being approved under the terms of this Regulation, sufficient funds for the services must be available in an appropriate, approved budget line item.

H. The following approval authority is hereby effective for authorization of task authorizations,



amendments, and additional services to continuing contracts:

1. The Manager of Procurement or their designee(s) shall be authorized to approve individual task authorizations and additional services, within the overall scope of the continuing contract.

2. The Procurement Committee shall be authorized to initially approve the continuing contract, subject to Board approval.

3. The Manager of Procurement or their designee(s) shall be authorized to approve amendments to individual task authorizations up to the Board approval limit.

4. Task authorizations shall not be artificially divided to circumvent the above approval requirements.

**FOR MORE INFORMATION CONTACT:** Procurement Division

**REFERENCE:** Orange County Code, Florida Statute 287.055; Administrative Regulation 9.01.13

**APPROVED:** 11/3/92

**REVISED:** 6/27/06; 3/21/2023

## 9.01.13 PROCEDURE FOR COMPETITIVE PROPOSAL AWARDS

### I. POLICY

Orange County's commitment to full and open competitive procurement requires that the Board of County Commissioners approve the award of procurement in accordance with Article III, Chapter 17, Orange County Code (Procurement Ordinance). Such awards are made under the "competitive proposal" process when the competitive sealed bidding process cannot be conveniently used.

Also, Orange County's selection process for professional architectural, engineering, landscape architectural and land surveying/mapping services must be in accordance with Section 287.055, Florida Statutes, which is commonly referred to as The Consultants' Competitive Negotiations Act.

### II. PROCEDURES

The purpose of these procedures is to establish a fair, equitable and impartial process by which the Board of County Commissioners makes awards in "competitive proposal" procurement for services of all types and when the Board otherwise selects architects, engineers, landscape architects and surveyors/mappers in

accordance with the requirements of Section 287.055, Florida Statutes.

The Manager of Procurement and the staff of the Procurement Division retain overall control of the administration of the "Competitive Proposal" process, including scheduling, record keeping, distribution of proposals, and other materials and preparation of all documents and recommendations required by the Board of County Commissioners, County Mayor and County Administrator.

The following delineates specific responsibilities of appropriate parties during this process. These procedures also incorporate the methodology whereby the Board of County Commissioners makes awards in "competitive proposal" procurement.

#### A. Procurement Division

1. Obtains budget amount and purchase requisition when appropriate, from the initiating division allocated for the project.

2. Approves selection criteria in consultation with Initiating Division.

3. In accordance with the County Procurement Ordinance issues Request for Proposal (RFP), including identification of evaluation criteria and weights.

4. Reviews received proposals in order to determine "prima facie" responsiveness.

5. Distributes responsive proposals to members of the Procurement Committee.

#### B. Business Development Division

1. Reviews and evaluates proposals according to M/WBE criteria and forwards recommendations to the Procurement Committee members via the Procurement Division.

2. Reviews joint venture agreements submitted with proposals to:

a. Determine whether or not M/WBE certification should be issued.

b. Assure that no non-M/WBE firm acts as a broker for M/WBE firms, a review should be made of the appropriateness of a Project Manager being an employee of a non-M/WBE firm wherein the M/WBE

firm is identified as a 51% (or more) joint venture partner.

The above determinations should be disseminated to the Procurement Committee during their evaluation meeting.

3. Provides statistical information to the Procurement Committee related to M/WBE participation by incumbent consultants on current continuing contracts. Should the statistical information indicate M/WBE participation is currently less than the percentage previously promised by the consultant for the existing contract, an additional determination should be made whether there are sufficient reasons for not achieving the promised goal.

4. Upon recommendation from the Business Development Division, the Procurement Committee may deduct points from incumbent proposers on the M/WBE wherein current providers are not meeting goals on existing continuing contracts.

#### C. *Initiating Division*

1. May request that the Procurement Division consider additional criteria or changing of criteria weights prior to RFP issuance, unless otherwise authorized by the Manager of Procurement or designee.

2. May request that the Procurement Division appoint a voting Technical Committee (subject matter experts with no conflicts of interest) or non-voting Technical Advisors (staff experts, stakeholders, or contracted consultants with no conflicts of interest) in support of the Procurement Committee.

3. A cross-over committee member may present the recommendation of the technical committee to the Procurement Committee. This review team shall support the scoring as specified in the scoring criteria defined in the Request for Proposals.

#### D. *Procurement Committee*

1. *General.* "Procurement Committees" shall be formed for the purpose of providing technical expertise, information and evaluations to the Board regarding proposals.

2. *Procurement Committee Composition.* The Procurement Committee shall be comprised of the following voting and non-voting members:

*Board Delegate.* One member of the Board of County Commissioners shall be the monthly  
*Procurement 8 (03/21/2023)*

delegate to the Procurement Committee.

The Board member shall sit on the Procurement Committee for one full calendar month. Participation on the Committee is discretionary for the Board member delegated for any specific month. If the month in which a Commissioner served has expired, the Commissioner will continue to remain as the Board delegate for any specific project that is in the review/evaluation process prior to month's end. If the Commissioner chooses not to participate, the Committee shall proceed as if the Commissioner were in attendance.

*User-Department or User-Agency Delegate.* The director of the department or agency of county or state government that will be the primary user or consumer of the procured service shall reserve, or appoint a member of the using department or agency to serve on the Procurement Committee.

*User Division Delegate.* The manager of the division or agency of County or State government that will be the primary user or consumer of the procured service shall reserve or appoint a member of the using division or agency to serve on the Procurement Committee.

*County Administration-Delegate.* The County Administrator may serve or appoint a representative to serve on the Procurement Committee.

*At-Large Technical Delegate.* A person shall be designated to serve on the Procurement Committee who shall have special expertise germane to the procurement, or shall represent a second user division or agency (if more than one division or county agency is expected to make extensive use of the procured services), or shall otherwise be a person that provides useful assistance to the particular procurement. The At-Large Technical Delegate may be County staff, a member of another agency, or a member of the community.

*Business Development Delegate.* The Manager of Business Development Division shall serve or designate a person to serve on the Procurement Committee who shall represent the County's MBE/WBE program as a voting member.

*Procurement Committee Chairperson.* The Procurement Committee shall be chaired by the Manager of Procurement or designee, who shall be a non-voting member. The Chairperson shall assume those duties and responsibilities conducive to adherence to proper procedures and fair and consistent evaluation of all proposers and shall be in charge of all administrative

processes and procedures concerning the Procurement Committee and its deliberations.

3. *Procurement Committee Procedures.*

- a. Procurement Committee members shall individually review and score all submittals by proposers, and such individual scorings shall be done utilizing resources provided by the Procurement Division. Also, scorings shall be based on the criteria provided in the RFP or in administrative regulation. During deliberations and discussion by the Committee, individuals may change initial scoring based on the merits of the discussion provided such changes are initiated by the individual.
- b. The Chairperson of the Procurement Committee shall insure that minutes of Procurement Committee meetings are maintained.
- c. An announcement of each meeting of the Procurement Committee shall be posted as required by Administrative Regulation No. 2.09.01.
- d. The Manager of Procurement may require oral presentations by short-listed firms for any proposal in exceptional situations. The proposer's project manager who is named as the "day-to-day project manager" may be required to be present at such oral presentations.
- e. When an oral presentation is to be part of the selection process, that fact will be advertised, when possible, in the RFP.
- f. A majority of the members of the Procurement Committee shall constitute a quorum.
- g. Selection and scoring shall be by consensus if possible. If the Chairperson deems consensus impossible, he may so declare, and selection and ranking then shall take place by averaging the scores of the committee members. All scoring data

shall be maintained by the Procurement Division for filing, verification, and final validation for correctness (accuracy). Decisions made at the meeting cannot be revised without reconvening a quorum and obtaining a majority vote of the Procurement Committee members. In the event a quorum is not possible due to changes in personnel, substitute committee members may be appointed at the discretion of the Manager of Procurement in accordance with the composition prescribed herein.

E. *Procurement.* Posts recommended short-list and handles formal protests in accordance with Section 17-313 of the Orange County Code.

Submits an alphabetized list with consensus scores, as appropriate, of the top proposers to Agenda Development for submission to the Board of County Commissioners. Also, the Manager of Procurement shall submit a report summarizing the findings of the Procurement Committee.

F. Board of County Commissioners. Selects an awarded proposer(s) (and generally two ranked alternates), and authorizes contract negotiations and execution of the contract provided the negotiated contract does not exceed the stated budget for the project services.

G. *Initiating (User) Division or Agency.*

1. Enters into contract award negotiations with the top ranked proposer selected by the Board. Such negotiations shall be conducted by the initiating agency or division with assistance, as necessary or desirable, from the County Administrator, the County Attorney, the Procurement Division, and other County Divisions as required.

2. Submits the negotiated contract to the Procurement Division for review and execution.

H. The Procurement Division obtains review by the Business Development Division, if applicable, reviews the contract for price acceptability, and executes the contract.

I. All discussions between staff and consultants regarding projects for which a Request for Proposals has been issued, but selection not yet made, must first be routed through Procurement Division. This includes the time frame from advertisement until contract execution

(except for negotiations). This does not preclude the Business Development Division from providing at large guidance concerning contracting goals and minority and women owned business subcontracting availability.

J. A statement must be included in each Request for Proposals (RFP) advising prospective proposers to contact the Procurement Division should they have any questions or concerns related to the proposal. Should technical concerns/questions arise outside the expertise of the Procurement Division, the initiating division will be contacted by Procurement staff to obtain the answer(s). Procurement staff will request the initiating division to respond and will relay the answer(s) to the inquiring consultant and Procurement staff may issue an addendum to all prospective proposers when the answer involves an issue of importance to prospective proposers. RFPs will require technical questions to be submitted in writing.

K. The decisions of the Procurement Committee are not final and must be ratified by the Board of County Commissioners. Therefore discussions between County staff and consultants regarding projects for which they have proposed, after Procurement Committee meetings and prior to Board approval, must be routed through the Procurement Division.

L. Any proposer who initiates any discussions with staff in any manner other than as described above is subject, at the sole discretion of the Board, to disqualification from the particular procurement.

M. Except for negotiation sessions with the Board-approved indicated awardee, divisions should continue referring proposers to the Procurement Division until after execution of the final contract.

N. All RFPs must state that Orange County is bound by statements made or information given during the procurement consideration and award process **ONLY** when such statements or information are written and executed under authority of the Manager of Procurement or his/her designee.

O. Notice is hereby given that these policies and procedures exist solely for the convenience and administrative efficiency of Orange County. No proposer or other third party gains any rights by virtue of these policies and procedures or the application thereof, nor shall any proposer or third party have any standing to sue or cause of action arising herefrom.

P. The foregoing procedures and the general considerations of application as set forth below will

*Procurement 10 (03/21/2023)*

serve:

1. to provide better communication and prevent misunderstanding between prospective proposers and County staff;

2. to provide the Procurement Division as a centralized control point through which proposers may obtain information; and

3. to provide the Procurement Division as a focal point through which proposers may submit proposal recommendations.

**FOR MORE INFORMATION CONTACT:** Procurement Division, Administrative Services Department  
**REFERENCES:** Orange County Code, Article III, Chapter 17 (Procurement Ordinance); Florida Statutes, Section 287.055; Administrative Regulation 2.09.01  
**APPROVED:** 8/4/92  
**REVISED:** 4/13/93; 6/27/06; 3/21/23

#### 9.01.14 PROTEST MEETINGS WITH THE BOARD OF COUNTY COMMISSIONERS

##### I. POLICY

A. It is the policy of the Orange County Board of County Commissioners, as outlined in Section 17-313(g) of the Orange County Code, that following a decision by the Protest Committee an aggrieved bidder may meet with members of the Board upon the timely delivery of a letter of objection. A "protest" meeting is any meeting between a Board member and bidder(s) to discuss the Protest Committee's decision regarding a specific request for proposal upon the timely receipt of a letter of objection. The protest meeting is open to the public.

B. For purposes of this Regulation, "County bulletin board" means the bulletin board located in the atrium on the first floor of the County Administration Center. This bulletin board is used for posting of all public meeting notices, long-range agendas, and Board of County Commissioners meeting agendas. Only the Agenda Development Office has the authority to post to this bulletin board.

## II. PROCEDURES

### Protest Meetings -

A. The Agenda Development Office shall generate a meeting notice for all protest meetings.

B. Notice of each protest meeting may be posted only by the Agenda Development Office, and each notice must specify the date, location (including street address), time, and specific request for proposal that will be discussed during the meeting. The specified request for proposal is the only topic that may be discussed at the meeting.

C. Notices for each protest meeting shall be posted such that there are no fewer than two full working days between the day the notice is posted and the day the protest meeting is held.

D. Notices for all protest meetings shall be posted on the County bulletin board, and such posted notice shall constitute the only required notice for a protest meeting. The County staff shall endeavor to also post the protest meeting on the County internet website. However, failure to post the protest meeting on the website shall not be deemed a failure to post the required notice. Furthermore, in the event the notice posted on the website conflicts with or is not consistent with the notice posted on the bulletin board, the notice posted on the bulletin board shall control.

E. Minutes of protest meetings shall be taken and kept by the County Comptroller, acting as Clerk of the Board, who shall make the minutes available for public inspection. The County Comptroller shall make an electronic tape recording of each entire meeting.

F. The content of the protest meeting minutes shall include the date, time, location, topic of the meeting, the names of all meeting participants, and any other information the County Comptroller may elect to include.

G. Protest meetings may be held only in a County meeting room or meeting room at some governmental building where the public may freely attend. No sign in shall be required of any person desiring to attend a protest meeting. Under no circumstance may the meeting be held at a private club, restaurant, or any establishment with restrictive membership where the public may not freely attend and observe.

**FOR MORE INFORMATION CONTACT:** Agenda Development Office, County Administrator's Office; Procurement Division, Administrative Services Department  
**REFERENCE:** Orange County Code, Section 17-313  
**APPROVED:** 6/27/06

## 9.01.15 DISCRIMINATION COMPLAINTS PURSUANT TO THE ORANGE COUNTY PROCUREMENT ORDINANCE

### I. POLICY

It is hereby declared that equal opportunity and non-discrimination shall be the County's policy intended to assure equal opportunities to every person, regardless of race, religion, sex, color, age, disability, or national origin, in pursuing, securing or holding contracts or subcontracts with Orange County. It is also the policy of the County that person(s) doing business with the County shall recognize and comply with this policy and that the County shall not expend public funds in a manner that would encourage, perpetuate or foster discrimination. The specific steps required to file, investigate and resolve any complaints pursuant to Section 17-288 of the Orange County Code (the "Code Section") regarding compliance with this policy are promulgated herein. The County Administrator or duly authorized designee may conduct educational and public information activities that are designed to promote the policy of this regulation.

### II. OBJECTIVE

It is the objective and intent of this regulation to establish the procedure(s) by which an individual seeking award of a County contract or as a party to a County contract, alleges discrimination based on race, religion, sex, color, age, disability, or national origin in the award of any contract, or implementation of any public contract. A complaint pursuant to this regulation is the means to have allegations of discriminatory practices investigated. Investigations performed by the County in connection with violations of the Code Section shall be limited to those claims specifically alleging violations against the County, County employees or contractors by one alleging discriminatory acts in the contracting or procurement context.

### III. PROCEDURES

#### A. Complaints

Complaints of discriminatory acts as specified in the Code Section shall be presented in writing to the

*Procurement 11 (03/21/2023)*

Office of Professional Standards, (hereinafter "OPS"). All complaints shall be filed at the bidding stage or during the term of the contract and within twenty (20) business days from the date of the alleged discriminatory act(s). A complaining party under this policy must be the party that experienced the alleged discriminatory act(s). Failure to file a complaint within the prescribed time period shall render the complaint null and void. Complaint forms shall be available through OPS.

#### B. Complaint forms

Complaint forms shall be executed, under oath, before a notary public and shall contain the following:

1. Full name and contact information of the complainant.
2. Full name, company or employer of the alleged wrongdoer, e-mail address and mailing address, if available. If the alleged wrongdoer is a County employee, identify County department or division with whom the alleged wrongdoer is employed.
3. Date of the alleged offense.
4. Contact telephone number and title of project manager or senior individual responsible for contract management.
5. General statement of the facts of the alleged offense including the basis of discrimination complaint (race, religion, sex, color, age, disability, or national origin).
6. Complaint forms that are incomplete because said forms do not include the information identified in this subsection or are not executed before a notary public shall be returned to the complainant for completion.

#### C. Notification

After the filing of a complaint, OPS shall forward a copy of the complaint to the appropriate division manager and all individuals identified therein by hand-delivery or certified mail. Thereupon, the individuals against whom the allegations are made may file a written answer regarding the complaint by hand-delivery or U. S. mail to OPS within twenty (20) calendar days from the date of the receipt of the *Procurement 12 (03/21/2023)*

complaint. Upon receipt of an answer, a copy of the same shall be forwarded to the complainant by OPS via U. S. mail.

#### D. Amending a complaint

A complaint or answer may be amended at any time determined to be fair and reasonable by OPS. A copy of an amended complaint or answer shall be promptly forwarded to the respective parties.

#### E. Investigation

Following receipt of a completed complaint form, OPS shall commence such investigation as deemed appropriate to ascertain the facts and issues involved. For those complaints relating to contract bids, such investigations shall commence upon receipt of the completed complaint form in accordance with this Regulation. Unless award of the contract without delay is necessary to protect substantial interests of the County government, the County Administrator or duly authorized designee may direct the postponement of a contract award for a reasonable period not to exceed sixty (60) calendar days (if any), pending the findings of such investigation.

#### F. Insufficient evidence or allegations

If OPS deems that there is not sufficient evidence to form a belief that a violation of the Code Section has occurred, OPS shall take no further action with respect to the alleged offense and shall so notify the complainant and all affected person(s) by certified mail, return receipt requested.

#### G. Conciliation

1. If OPS determines there are reasonable grounds to believe that a violation of the Code Section has occurred and can be resolved by conciliation, OPS shall attempt to conciliate the matter by methods of initial conference and mediation with all interested parties and such representatives as the parties may choose to assist them. If OPS deems it advisable and of benefit to the concerned parties, the services of a disinterested facilitator may be designated for the purpose of conciliation.

2. If the parties desire to conciliate, the terms of the conciliation shall be reduced to writing in a form approved by OPS, and must be signed by the complainant and the alleged offender(s) and approved by OPS and County Administration. The conciliation agreement is for conciliation purposes only and does

not constitute admission by any party that any law has been violated.

3. If OPS determines that there has been a failure of a party to act in good faith in the conciliation process or that a party has failed to comply with terms agreed to in the conciliation process, then OPS may proceed to subsection H below.

H. Failure to resolve

In the event of a failure to resolve an issue through conciliation, all evidence gathered and findings made, relevant to any alleged violation of the Code Section, shall be submitted by OPS, with any findings as outlined below.

I. OPS Findings

1. Binding Process. If it is determined that a violation of the Code Section has occurred in the bidding process, then OPS shall issue a written finding of violation of the Code Section. OPS shall submit a copy of the determination that a violation of the Code Section has occurred to the Procurement Manager. The Procurement Manager shall furnish a copy of the final determination or finding of noncompliance with the Code Section to the complaining party, any person found to have violated the Code Section, and others made a party to the investigation or conciliation. Thereafter, no County contract shall be awarded under this bid to a firm or person(s) determined to have violated the Code Section.

2. Contract Implementation. If OPS determines that a person or entity has violated the Code Section during the implementation of an awarded contract, OPS shall submit its determination to the Procurement Manager. The Procurement Manager shall furnish a copy of the final determination or finding of noncompliance with the Code Section to the complaining party, any person found to have violated the Code Section, and others made a party to the investigation or conciliation. The Procurement Manager may terminate said contract or may afford the contractor(s) or subcontractor(s) affected by an allegation of discrimination an opportunity to demonstrate to the satisfaction of the Procurement Manager that the breach of the non-discrimination provision of the Code Section has been corrected. The presentation of such evidence to satisfy this requirement must be made within a reasonable time (not exceeding twenty (20) days) as determined by the Procurement Manager. Thereafter, the Procurement Manager shall enter a further determination declaring whether or not

the breach has been corrected, furnishing copies thereof to the affected person(s), OPS, the County Attorney's Office and County Administration. Any person(s) failing to correct such violation of the Code Section within the time period permitted by the Procurement Manager be deemed in breach of contract, and the contract may be terminated. Further, the contractor may be suspended from the award of any future County contracts for a period not to exceed two (2) years as determined by the Procurement Manager, pursuant to provisions of the Orange County Procurement Code.

3. Appeal Rights. No further County appeals or remedies shall be available to any party based upon alleged violations of the Code Section. However, charging parties not satisfied with the results of the OPS investigation may exercise their right to file with another relevant agency, jurisdiction or court of law at any time.

J. Jurisdiction of other public agencies

The County recognizes that local, state and federal agencies also have jurisdiction over claims of alleged discrimination and these other public agencies have different and independent filing requirements and procedures with various applicable time limitations to file such complaints. Claimants shall be advised to consult with their own legal counsel, since filing a claim of discrimination pursuant to this Regulation does not toll or extend any filing deadlines with state or federal agencies or the courts. All local, state or federal claims must be filed directly and independently by the claimant with the applicable local, state and federal agencies having jurisdiction over the same or similar allegations asserted by the complainant. If a claim of discriminatory practices is filed with another public agency, the County may abate its proceedings under this regulation until the separate complaint is resolved or dismissed by such other public agency.

K. Legal/administrative proceedings

Any party may file an independent claim or cause of action with a court or administrative agency of competent jurisdiction, or may file an appeal or writ of certiorari with the appropriate court or agency, in which event further inquiry under this regulation shall be abated or terminated in deference to the court or administrative agency jurisdiction.

**FOR MORE INFORMATION CONTACT:** Office of Professional Standards

**REFERENCE:** Section 17-288, Orange County Code; Title VII, Civil Rights Act of 1964 (as amended)

**APPROVED:** 2/19/08

**9.02 MINORITY / WOMEN-OWNED BUSINESS**

**I. POLICY**

The Board of County Commissioners recognizes the challenges many minority and women-owned businesses may experience when participating in the County's procurement process. In an effort to facilitate the involvement of minority and women-owned business enterprises ("M/WBE") in the County's procurement program, the Board has created the M/WBE certification process, as set forth in Chapter 17, Division 4, of the Code (also referred to as the "Minority / Women Business Enterprise Ordinance" or "the Code") to be administered by the County's Business Development Division ("BDD"). As required by the Code, the Board hereby adopts these administrative regulations to serve as the guidelines for the M/WBE program.

**II. PROCEDURES**

These procedures shall apply to all minority and/or women-owned businesses seeking either M/WBE certification or re-certification. All terms utilized in these administrative regulations shall be as defined in the Minority/ Women Business Enterprise Ordinance unless otherwise indicated. Contractors seeking to utilize minority or women-owned businesses must ensure that any such business possess an Orange County M/WBE certification. Any minority or women-owned business which fails to obtain certification or re-certification, or whose certification has been revoked, shall not meet the requirements necessary for the County's M/WBE participation goals.

**A. Certification guidelines requirements:**

Before certification will be issued, the following criteria must be met:

1. *Minority-owned business shall meet the definition set forth in the Code.*

(a) Is at least fifty-one (51) percent owned by minorities or, in the case of a publicly-owned business, at least fifty-one (51) percent of the voting stock of which is owned by minorities;

(b) The minority ownership exercises actual day-to-day management and control of the business;

(c) The enterprise is located in the relevant market area;

(d) Is legally organized;

(e) Demonstrates the capability (i.e. sufficient employees, equipment, facilities, supplies, etc.) to perform a specific line of business;

(f) Operates separately from a non-minority or woman-owned firm;

(g) Provides a commercially useful business function according to customs and practices of the industry; and

2. Has a net worth which is less than two million three hundred thousand dollars (\$2,300,000.00) at the time of application to become certified. Women-owned business shall meet the definitions of "women-owned" businesses as defined in the Code.

(a) Is at least fifty-one (51) percent owned by women or, in the case of a publicly-owned business, at least fifty-one (51) percent of the voting stock of which is owned by women;

(b) The woman/women ownership exercises actual day-to-day management and control of the business;

(c) Is located in the relevant market area;

(d) Is legally organized;

(e) Demonstrates the capability (i.e. sufficient employees, equipment, facilities, supplies, etc.) to perform a specific line of business;

(f) Operates separately from a non-minority or non-woman-owned firm;

(g) Provides a commercially useful business function according to customs and practices of the industry; and

(h) Has a net worth which is less than two million three hundred thousand dollars (\$2,300,000.00) at the time of application to become certified.



B. Basis for denial of certification:

Through these administrative regulations as adopted by the Board the compliance officer shall be delegated the necessary authority to deny certification to those applicants failing to meet the criteria set forth in either sections A or B above, as well as those who meet the definition of "Conduit", "Front", and/or "Pass-through" as more specifically defined in section 17-319 of the Code.

The Board further authorizes the compliance officer to deny certification to any minority or women-owned business if there is substantial evidence that the business was established to circumvent the net worth limitations set forth in section 17-332.

C. Certification Procedures:

1. Certification approval or denial shall take place within sixty (60) business days of the date a complete application is submitted. The County shall not charge or assess an applicant fees associated with the certification or recertification process. All applicable information and applications relating to the certification or recertification process shall be available on-line, or will be provided by mail upon request. Certification information shall also be available in the Business Development Division Office located at 400 E. South Street, Orlando, FL 32801 during normal business hours. Any firm denied certification based upon its failure to meet any of the ordinance criteria, including the net worth requirements, as established by the Code, shall be ineligible to reapply for certification for a period of no less than three (3) years from the date of the certification denial.

2. The compliance officer has the authority to request the submittal of additional information from applicants to complete an application or to substantiate certification requests. After written request, applicants will be afforded five (5) business days to provide the requested information or their application may be returned without any further action by the County.

3. Upon receipt of all documentation, the BDD shall review the application and associated file for compliance with the requirements set forth in these administrative regulations and the applicable provisions of the Code. Once an application and file is found to be complete, it will be forwarded to the compliance officer for final review and subsequent approval or denial.

4. Approved applicants shall receive certification, which shall be valid for one (1) year from the date of issuance.

5. Recertification shall occur within thirty (30) business days of the expiration date of the application. As indicated above, applicants for recertification shall pay no fees to the County in connection with the recertification process. Firms shall be advised of the expiration of their certification within thirty (30) days of the expiration date. Those firms recertified within the allotted time shall have their certification renewed for an additional two (2) year period. Failure to apply for recertification within those thirty (30) days shall result in the expiration of the M/WBE certification. In the event that the certification is renewed within twelve (12) months from the date of expiration, a new application for recertification shall not be required. Those firms who do not possess a valid and current certification shall be prohibited from submitting a bid as a minority or women-owned business.

6. Applicants who are denied certification by the compliance officer shall be informed of such determination in writing by regular U.S. Mail within thirty (30) days of such decision. Such notification shall include the necessary information by which applicants may appeal the decision of the compliance officer as further outlined in Section E below.

7. Certification revocation shall occur in the event that a firm fails to comply with the requirements of the Ordinance regardless of whether the information is provided by the firm or determined by the Compliance Officer. Such revocation shall cancel the ability of said firm to represent itself as an "Orange County Certified M/WBE" for a period of not less than two (2) years from the conclusion of the longest lasting contract. No new M/WBE contracts shall be entered with any firm who holds a "revoked" status at that time.

(a) Any firm whose certification has been revoked retains the right to appeal such revocation in accordance with the Code and these administrative regulations. Filing for such appeal shall be as set forth above.

(b) In the event the Appeals Committee upholds the compliance officer's determination to revoke the M/WBE status, the firm shall immediately lose its ability to acquire any additional work from the County as a certified M/WBE. If, however, the revocation is overturned, the certified firm shall retain

its certification until the required date of recertification.

D. Certification denial and/or revocation appeals:

All appeals for certification denials shall be heard by the Minority/Women Business Enterprise Advisory Committee (which shall also be known as the "Appeals Committee") in accordance with section 17-329 of the Code. Any applicant wishing to appeal a certification denial or revocation by the compliance officer shall comply with the procedures as set forth below.

E. Appeal procedures:

1. Firms that have been denied certification, recertification or have had their certification revoked by the compliance officer may appeal such action to the

"M/WBE Business Enterprise Advisory Committee."

2. Appellant must inform the compliance officer in writing of their intent to appeal within ten (10) business days from the receipt of the denial or revocation letter.

3. The compliance officer shall acknowledge such request and schedule an appeal at the next available regularly scheduled meeting. No more than two (2) appeals shall be scheduled for each meeting. A firm that holds a certification at the time of its appeal shall maintain that designation until the Committee renders a decision on the appeal.

F. Miscellaneous procedures:

The Board hereby authorizes the compliance officer to create additional forms and qualifications that may be required to carry out the day-to-day operations of the BDD so long as they are in compliance with the Code and these administrative regulations. Any procedures that may be created which in any way conflict with or exceed the authority provided by the Board to the compliance officer either in the Code or these administrative regulations shall require approval by the Board.

G. Conflict with Ordinance:

In the event that there is a conflict between a provision of these administrative regulations and the Ordinance, the Ordinance shall prevail and be applied in the evaluation of any application for  
*Procurement 16 (03/21/2023)*

certification, recertification or appeal or denial of certification or recertification.

**FOR MORE INFORMATION CONTACT:** Business Development Division

**REFERENCE:** Chapter 17, Article III, Division 4, Sections 17-318 thru 17-334 (Minority/Women Business Enterprise Ordinance)

**APPROVED:** 02/07/12

## INDEX

<b>A Regulation No.</b>	
Abandoned Property Found by County Employees, Lost.....	11.07
Absence:	
Acting County Administrator .....	2.02
Acting Department Managers and Division Directors .....	2.03
Access to Public Records .....	2.06
Accounting, General.....	6.03
Acquisition of Real Property .....	6.05.02
Acting County Administrator .....	2.02
Administration of Wall Construction MSBUs, Creation and.....	6.13.02
Administrative Regulations:	
General Policy Definition.....	1.02
Advisory Boards.....	3.02
Financial Disclosure.....	2.08
Public Meeting Notices .....	2.09.01
Equal Employment Opportunities Plan -	
Objectives & Responsibilities .....	2.14.02
Affordable Housing Expedited Review .....	4.08.01
Affordable Housing Threshold Criteria.....	4.08
Agenda Items, Preparation of Commission .....	3.01
Travel Policy .....	3.04
Alcohol in County Parks and Facilities,	
Use of.....	2.16.04
Allegations of Fraud, Reporting .....	2.16.02
Animal Services .....	11.09
Applications:	
Affordable Housing.....	4.08.01
Appointments:	
Advisory Boards.....	3.02
Assignment and Utilization of	
Building Space .....	8.01
Attorney, County	
Requests for Assistance.....	2.11
Authority to Execute Routine Documents	
Relating to Convention Center .....	11.03.03
Audits (General Accounting).....	6.03
Auditor Selection.....	6.14
Authorized Use of County Vehicles .....	8.07
Automobile Liability Insurance.....	2.12.08
<b>B</b>	
Balances Due, Costs of Collecting	
Outstanding .....	10.03
BCC, Commission Staffing.....	06.003
Billing:	
Printing and Copy Center Services.....	2.05.01

BCC	
Agenda Items.....	3.01
Seal.....	2.07.03
Bond Waiver Procedures.....	6.02.06
Bonds, Issuance of Revenue .....	6.02.04
Break Room Facilities, Designated	
Employee .....	8.10
Budget:	
Budget Transfers and Amendments.....	6.02.03
Capital Revenues and Expenditures .	6.01.02
General Capital Budget .....	6.02.01
General Operating Budget.....	6.02
Implementation of Capital Improvements Program.....	
Building and Facility Security .....	8.04
Building Operation and Maintenance .....	8.06
Building Space, Assignment and Utilization of .....	
.....	8.01
Bulletin Boards, County .....	2.09.01
Bumper Stickers (Markings on County Vehicles) .....	
.....	8.07.02
Burial and Cremation Services .....	11.01.01

<b>C</b>	
Capital Budget, General .....	6.02.01
Capital Improvements Program,	
Implementation of.....	6.02.02
Capital Revenues and Expenditures .....	6.01.02
Care and Maintenance of County-Owned Vehicles.....	
.....	8.07.01
Cash, Petty.....	6.03.01
Telephones (Land-Line), Cellular Telephone, and Other Instant Communication Devices .....	
.....	11.06
Ceremonies, Official County .....	2.10
Charges, After Hours.....	10.03.05
Checks, Dishonored.....	10.03.01
Chemical Spills, Fuel and.....	2.12.10
Children, Youth and Family Services	
Department/Recreation Facilities .....	8.11
CIP (Capital Improvement Program).....	6.02.02
Citizens:	
Citizen Injury in County Buildings.....	2.12.05
Communicating with Citizens .....	5.01
Convention Center	
Convention Center Pricing .....	11.03.02
Convention Center Promotion .....	11.03.01
Convention Center Regulations.....	11.03
Civil Emergency Management	
Disaster Planning and Control.....	2.19

Emergency County Operations, Hazardous Materials.....	10.01
Emergency County Operations, Manmade.....	10.01
Emergency County Operations, Natural.....	10.01
Civil Summons, Complaint or Lawsuit Against a County Employee.....	2.12.09
Code of Ethics, Public Employees.....	7.13
Collecting Outstanding Balances Due, Costs of.....	10.03
Collision Damage Waiver (Automobile Liability Insurance).....	2.12.08
Commission Agenda Items, Preparation of.....	3.01
Commission Staffing.....	06.003
Common Area Maintenance MSTUs, Creation, Administration, and.....	6.13.01
Communicating with Citizens.....	5.01
Competitive Proposal Awards, Procedures for (supersedes 9.01.08).....	9.01.13
Complaint of Discrimination, Investigation of.....	2.14.01
Complaint or Lawsuit Against a County Employee, Civil Summons.....	2.12.09
Communicating with Citizens.....	5.01
Equal Employment Opportunity (EEO) Commission Charges.....	2.14.03
Investigation of Complaints of Discrimination.....	2.14.01
Computer.....	6.05.03
Concurrency (Concurrency Management Office Capacity Reservation Fee and Impact Fee Refund Policy).....	4.04.01
Conflict of Interest (Public Employees Code of Ethics).....	7.13
Construction Building Fees for County Construction.....	6.07
Sidewalk Policy.....	11.05.07
Contract Administration (Procurement Policies and Procedures).....	9.01.02
Contracts and Legal Documents, Delegation of Authority to Sign.....	06.004
Contracts for Engineering, Architectural, Surveying and/or Landscape Architectural Services, Handling of Continuing (Long-Term).....	9.01.10
Contract Preparation Responsibilities, Division/Department.....	9.01.01
Control of County Property.....	6.05.01
Convention Center Pricing.....	11.03.02
Convention Center Promotion.....	11.03.01
Convention Center Regulations.....	11.03
Coordinator:	

Records, Disposition of Public.....	2.06.01
Copies: Copy Center Services, Printing and.....	2.05.01
Copying Charges (Access to Public Records).....	2.06
Receipts (Access to Public Records).....	2.06
Cosmetic Maintenance.....	11.05.05
Cost Allocation System - Self Insurance Program.....	2.12.02
Costs of Collecting Outstanding Balances Due.....	10.03
Counselors, Equal Employment Opportunities (EEO).....	2.14.04
County Facilities, Use of.....	8.12
County Motor Vehicle Operations.....	2.12.04
County Vehicles, Authorized Use of.....	8.07
Creation and Administration of Wall Construction MSBUs.....	6.13.02
Creation, Administration, and Abolishment of Municipal Service Benefit Units (MSBUs) for County Maintenance of Retention Pond(s).....	6.13.03
Creation, Administration, and Abolishment of Lake Maintenance Municipal Service Benefit Units (MSBUs).....	6.13.04
Creation, Administration, and Abolishment of Lake Maintenance Municipal Service Taxing Units (MSTUs).....	6.13.05
Credit Account Policy - Resource Recovery Department, Orange County Public Utilities Division.....	10.03.08
Cremation Service, Burial and.....	11.01.01
Customers on Life Support.....	10.03.04

**D**

Decals (Markings on County Vehicles).....	8.07.02
Defensive Driving Course (DDC).....	2.12.03
Definitions: Executive Orders, Purpose/Introduction.....	06.001
General Policy (Administrative Regulations).....	1.02
Records, Disposition of Public.....	2.06.01
Delegation of Authority to Sign Contracts and Legal Documents.....	06.004
Deposits.....	10.03.07
Designated Employee Break Room.....	8.10
Designation of Roadways, Honorary.....	3.06
Digital / Electronic Signatures.....	2.24
Disaster Planning and Control.....	2.19
Disclosure of Financial Interest.....	2.08
Discontinuation of Service.....	11.01.14

Discounts and Special Offers to County  
 Employees.....7.13.01  
 Discrimination, Investigation of  
 Complaints of ..... 2.14.01  
 Dishonored Checks..... 10.03.01  
 Disposition of Public Records ..... 2.06.01  
 Disposition of Tangible Personal Property ...., 6.05.04  
 Ditches (Lot Pipe Installation)..... 11.05.03  
 Division/Department Contract Preparation  
 Responsibilities ..... 9.01.01  
 Dues for Professional Organizations/  
 Memberships, Payment of ..... 6.08

**E**

Emergency County Operations, Hazardous  
 Materials..... 10.01  
 Emergency County Operations, Manmade ..... 10.01  
 Emergency County Operations, Natural ..... 10.01  
 Employee Benefits:  
 Discounts and Special Offers to County  
 Employees..... 7.13.01  
 Employee Break Room Facilities, Designated.... 8.10  
 Employee Code of Ethics, Public ..... 7.13  
 Employee Service Awards..... 7.13.02  
 Fuel and Chemical Spills..... 2.12.10  
 Energy Conservation ..... 8.13  
 Environmentally Sensitive Lands  
 Acquisition ..... 11.07.01  
 E-Pass Transponder Assignment Policy,  
 Vehicle ..... 8.07.06  
 Equal Employment Opportunities (EEO)  
 Commission Charge(s) ..... 2.14.03  
 Establishing Affirmative Action Objectives  
 And Timetables ..... 2.14.02  
 Establishment of Fees for County Services. .... 6.06  
 Events, Reimbursement for Meals and  
 Sponsorship of..... 7.14  
 Executive Orders, Purpose/Introduction..... 06.001

**F**

Facilities Development, Exempt from  
 Zoning Regulations; Public Meeting  
 Procedures ..... 8.09  
 Facilities, Use of County ..... 8.12  
 Facility Security, Building and ..... 8.04  
 Fees:  
 Establishment of Fees for County Services. 6.06  
 Payment of Fees on County Construction.... 6.07  
 Transportation Impact Fee - Square Footage  
 Aggregation Requirements.....4.07  
 Federal and State Grant Application Approval,  
 Procurement, and Management Process..... 6.15  
 Financial Disclosure..... 2.08

Firefighters; Death Benefits.....2.12.12  
 Fraud, Reporting Allegations of..... 2.16.02  
 Fuel and Chemical Spills. ....2.12.10  
 Funds (Petty Cash). .....6.03.01

**G**

General Accounting.....6.03  
 General Capital Budget. ....6.02.01  
 General Operating Budget.....6.02  
 Gifts (Public Employees Code of Ethics) .....7.13  
 Gift Card Guidelines for Child and Youth  
 Residential Programs .....6.16  
 Grants, Federal and State Grant Application  
 Approval, Procurement, and Management  
 Process .....6.15  
 Graphics Reproduction  
 Data Processing Department (Printing and  
 Copy Center Services).....2.05.01  
 Gratuities (Public Employees Code of Ethics) 7.13  
 Grievances (EEO Counselors).....2.14.04  
 Guidelines, Executive Orders. ....06.001

**H**

Handling of Continuing (Long-Term) Contracts for  
 Engineering, Architectural, Surveying and/or  
 Landscape Architectural Services. ....9.01.10  
 Harassment, Investigation of Charges of  
 Sexual.....2.14.05  
 Health Information Privacy Policy  
 and Procedures for HIPAA .....2.23.01  
 HIPAA Standards for Implementation.....2.23  
 Honorary Designation of Roadways .....3.06  
 Housing Expedited Review, Affordable ....4.08.01  
 Housing (Projects) Threshold Criteria,  
 Affordable .....4.08  
 Hydrant Meters.....10.02

**I**

Impact Fee .....4.01  
 Impact Fee (Concurrency Management  
 Office Capacity Reservation Fee and  
 Impact Fee Refund Policy).....4.04.01  
 Impact Fees:  
 Implementation of Capital Improvements  
 Program.....6.02.02  
 Industrial Pre-Treatment Program .....11.01.03  
 Injury in County Buildings, Citizen .....2.12.05  
 Installation, Lot Pipe. ....11.05.03  
 Installation, Terms for Payment.....10.03.06  
 Instructions, Executive Orders.....06.001  
 Insurance:  
 Automobile Liability Insurance.....2.12.08

Cost Allocation System - Self	
Insurance Program	2.12.02
Personal Property Insurance Coverage	2.12.07
Intergovernmental Relations	2.04
Intergovernmental Safety Program	2.12.01
Interoffice Mailings (Uniform Mailing Requirements)	2.07.02
Introduction	1.01
Inventory of Records (Disposition of Public Records)	2.06.01
Investigation of Charges of Sexual Harassment	2.14.05
Investigation of Complaints of Discrimination	2.14.01
Invoice Payment Procedures	6.12
Issuance and Control of Forms	2.05
Issuance of Revenue Bonds	6.02.04

**J**

Janitorial:	
Building Operation and Maintenance	8.06

**L**

Land Acquisition, Environmentally Sensitive	11.07.01
Lawsuit Against a County Employee, Civil Summons, Complaint	2.12.09
Lease of County Vehicles, Purchase or	8.07.03
Legal:	
Parliamentary Rules of Procedure (Rules of Procedure for BCC)	3.03
Requests for Legal Staff Work	2.11
Letters of Credit Securing Payments of Liability Insurance, Automobile	2.12.08
Lost or Abandoned Property Found by County Employees	11.07
Lot Pipe Installation	11.05.03
Lounge, Designated Employee Break Room	8.10

**M**

Mailing Requirements (Uniform Mailing Requirements)	2.07.02
Maintenance, Building Operation and Care and Maintenance of County-Owned Vehicles	8.07.01
Cosmetic Maintenance	11.05.05
Markings on County Vehicles	8.07.02
Mass Mailings by Board Members	3.05
Meals and Sponsoring of Events, Reimbursement for	7.14
Media:	
News Releases	5.02
Newsletter, Public Information	

Index 4 (12/13/2022)

and/or Public Relations Publications	5.02.01
Media Policy, Social	5.02.02
Meeting Notices, Public	2.09.01
County Bulletin Boards	5.02.02
Memberships, Payment of Dues for Meters, Hydrant	10.02
Method of Payment	6.12.01
Microfilming of Records (Disposition of Public Records)	2.06.01
Minority / Women-Owned Business	9.02
Motor Vehicle Operations, County	2.12.04
Moving Expenses, Reimbursement of Employees for Travel or	7.12.01
Municipal Service Taxing Units	6.13.01
MSBUs, Creation and Administration of Wall Construction	6.13.02
MSTUs, Creation, Administration, and Abolishment of Common Area Maintenance	6.13.01
MSTUs, Creation, Administration, and Abolishment of Lake Maintenance Municipal Service Taxing Units	6.13.04
Good Faith Effort	9.01.07

**N**

Neighborhood Grant Program	6.17
News Releases	5.02
Newsletters, Public Information and/or Public Relations Publications	5.02.01
Non-Profit Organizations, Impact Fee Grant Guidelines for	6.15.11

**O**

Office Keys (Building and Facility Security)	8.04
Official County Ceremonies	2.10
Operating Budget, General	6.02
Operating Revenues and Expenditures	6.01.01
Operation and Maintenance, Building Operations:	8.06
Emergency County Operations, Hazardous Materials	10.01
Emergency County Operations, Natural	10.01
Emergency County Operations, Manmade	10.01
Orange County Personnel Policies	7.01
Orange Spiel (Newsletter, Public Information and/or Public Relations Publications)	5.02.01
Outstanding Balance Due, Costs of Collecting	10.03

Outstanding Employee Performance Bonus  
 Payment .....7.03.03

**P**

Parks and Recreation  
 Departments .....2.16.01  
 Delegation of Limited Authority  
 to Execute Agreements Relating  
 to Parks and Recreation  
 Instructors..... 2.16.03  
 Use of Alcohol in County Parks and  
 Facilities ..... 2.16.04  
 Use of County Parks by County  
 Parliamentary Rules of Procedure (Rules of  
 Procedure for BCC)..... 3.03  
 Payment of Dues for Professional  
 Organizations/Memberships..... 6.08  
 Payment of Fees on County Construction ..... 6.07  
 Payment Procedures, Invoice ..... 6.12  
 Payroll ..... 6.03.02  
 Personal Automobiles..... 2.12.08  
 Personal Property Insurance Coverage..... 2.12.07  
 Personalized Stationery (Uniform  
 Stationery Requirements)..... 2.07.01  
 Personnel Policies for Orange County Fire  
 Department ..... 7.11  
 Personnel Policies, Orange County ..... 7.01  
 Petty Cash..... 6.03.01  
 Pipe Installation, Lot ..... 11.05.03  
 Portable Hydrant Meters..... 10.02  
 Postage (Uniform Mailing Requirements)..... 2.07.02  
 Preparation and Presentation of Speeches ..... 5.01.01  
 Preparation of Commission Agenda Items ..... 3.01  
 Pricing, Convention Center. .... 11.03.02  
 Printing and Copy Center Services..... 2.05.01  
 Procedures:  
 Bond Waiver Procedures..... 6.02.06  
 Competitive Proposal Awards,  
 Procedures for ..... 9.01.13  
 Parliamentary Rules of Procedures  
 (Rules and Procedures for BCC). .... 3.03  
 Procurement Policy, Recycled Product ..... 9.01.09  
 Professional Organizations/Memberships,  
 Payment of Dues for ..... 6.08  
 Promotion, Convention Center ..... 11.03.01  
 Property:  
 Acquisition of Real Property ..... 6.05.02  
 Authorized Use of County Vehicles ..... 8.07  
 Care and Maintenance of County-  
 Owned Vehicles ..... 8.07.01  
 Control of County Property ..... 6.05.01  
 Disposition of Tangible Personal  
 Property ..... 6.05.04  
 Lost or Abandoned Property Found ..... 11.07

Solicitation on County Property .....8.05  
 Proposal Awards, Procedures for  
 Competitive.....9.01.13  
 Public Contact:  
 Operational Support Section/Fiscal &  
 Customer Service..... 11.01.07  
 Wastewater Department .....11.01.06  
 Water Department .....11.01.05  
 Public Employees Code of Ethics.....7.13  
 Public Information and/or Public Relations 5.02.01  
 Publications, Newsletter .....5.02.01  
 Public Meeting Notices.....2.09.01  
 Public Records, Access to.....2.06  
 Disposition of Public Records.....2.06.01  
 Public Records, Disposition of.....2.06.01  
 Public Relations Publications, Newsletters,  
 Public Information and/or.....5.02.01  
 Public Utilities Construction Inspection ..11.01.04  
 Public Utilities.....2.01  
 After Hours Charges ..... 11.01.16  
 Application for Service .....11.01.11  
 Billing Adjustments ..... 11.01.20  
 Credit Account Policy .....6.03.04  
 Construction.....2.01  
 Customers on Life Support..... 11.01.15  
 Deposits .....11.01.19  
 Discontinuation of Service ..... 11.01.14  
 Dishonored Checks ..... 11.01.12  
 Fiscal & Customer Service.....2.01 &  
 ..... 11.01.07  
 Method of Payment .....11.01.18  
 Public Contact .....11.01.07  
 Public Utilities Construction Inspection ..... 11.01.04  
 Terms for Payment in Installments.....11.01.17  
 Water Department - Public Contact: ...11.01.05  
 Pump Stations (Wastewater Department -  
 Public Contact).....11.01.06  
 Purchase or Lease of County Vehicles. ....8.07.03  
 Purpose/Introduction of Executive Orders 91.001

**R**

Real Property, Acquisition of .....6.05.02  
 Records Center (Disposition of Public  
 Records) .....2.06.01  
 Coordinator .....2.06.01  
 Disposal Authorization.....2.06.01  
 Retention Schedule.....2.06.01  
 Recreational Facilities, Children, Youth  
 and Family Services Department. ....8.11  
 Recycled Product Procurement Policy .....9.01.09  
 Regulations, Convention Center .....11.03  
 Reimbursement:  
 Form (Travel).....7.12  
 Meals and Sponsorship of Events.....7.14

Reimbursement of Employees for Travel or Moving Expenses.....	7.12.01
Reporting Allegations of Fraud.....	2.16.02
Requests for Assistance, Orange County's Office --.....	2.11
Requirements for Acceptable Letters of Credit Securing Payments of Impact Fees.....	4.06
Revenue Bonds, Issuance of.....	6.02.04
Revenue Collection.....	6.03.03
Risk Management.....	2.01
Automobile Liability Insurance.....	2.12.08
Citizen Injury in County Buildings.....	2.12.05
Civil Summons, Complaint, or Lawsuit.....	2.12.09
Defense Driving Course.....	2.12.03
Fuel and Chemical Spills.....	2.12.10
Intergovernmental Safety Program.....	2.12.01
Motor Vehicle Operations.....	2.12.04
Personal Property Insurance Coverage ..	2.12.07
Safety .....	2.12
Roadways, Honorary Designation of.....	3.06
Rules of Procedure for Board of County Commissioners .....	3.03

S

Safety and Risk Management.....	2.12
Safety Belts (County Motor Vehicles Operation).....	2.12.04
Sale of Vehicles (Surplus County Vehicles).....	8.07.04
Seal.....	2.07.03
Security, Building and Facility.....	8.04
Self Insurance Program .....	2.12.02
Sensitive Lands Acquisition, Environmentally .....	11.07.01
Sexual Harassment, Investigation of Charges .....	2.14.05
Sidewalk Policy.....	11.05.07
Signatures, Digital / Electronic .....	2.24
Single-Use Products Policy on County Property.....	09.01.03
Smoking in the Workplace .....	06.002
Social Media Policy.....	5.02.02
Solicitation on County Property .....	8.05
Speaking Engagements.....	5.01.01
Special Events .....	2.10
Speeches.....	5.01.01
Spills, Fuel and Chemical.....	2.12.10
State of the County Message .....	2.18
Stationery (Uniform Stationery Requirements).....	2.07.01
Storage (Disposition of Public Records) .....	2.06.01
Summons.....	2.12.09
Sunshine Law Provisions.....	2.09
Supervision, Commission Staffing .....	06.003

Index 6 (12/13/2022)

Surplus County Vehicles .....	8.07.04
-------------------------------	---------

T

Tangible Personal Property, Disposition of...	6.05.04
Telephone Systems Control.....	2.13
Threshold Criteria for Affordable Housing Projects.....	4.08
Travel .....	7.12
Travel Policy.....	3.04
Reimbursement of Employees for Travel or Moving Expenses.....	7.12.01
TM/ECON Mitigation Bank Phase IV Credits, Policy Regarding Use of ..	11.07.02

U

Uniform Mailing Requirement.....	2.07.02
Uniform Seal Requirement.....	2.07.03
Uniform Stationery Requirements.....	2.07.01
Unlicensed Contracting .....	11.08
Use of Alcohol in County Parks and Facilities .....	2.16.04
Use of County Facilities.....	8.12
Use of County Parks by County Departments ..	16.01
Use of County Vehicles, Authorized.....	8.07
Utilization of Building Space, Assignment .....	8.01

V

Vehicle: Authorized Use of County Vehicles.....	8.07
Care and Maintenance of County- Owned Vehicles.....	8.07.01
Markings on County Vehicles.....	8.07.02
Purchase or Lease of County Vehicles..	8.07.03
Surplus County Vehicles.....	8.07.04
Vehicle Operations.....	2.12.04
Vehicle Take Home Assignment Policy..	8.07.05
Vehicle Toll Card Assignment Policy..	8.07.06


W

Wall Construction MSBUs, Creation and Administration of .....	6.13.02
Waiver, Bond Procedures.....	6.02.06
Waivers of Conflict of Interest for Outside Legal Counsel, County Attorney's Office --.....	2.11.01
Water Quality Capital Projects Prioritization .....	4.09
Wellness Program: Children, Youth & Family Services Department Recreation Facilities.....	8.11
Working Lunches (Reimbursement for Meals and Sponsorship of Events).....	7.14



# PROPOSED REVISIONS

3/6/2023

 <p style="text-align: center;"><b>ORANGE COUNTY ADMINISTRATIVE REGULATIONS</b></p>	No.: 9.01
	Date: 6/27/06
	Approved By: BCC
Title: <b>CONTRACT NEGOTIATION PROCEDURES</b>	Page 1 of 3

## I. POLICY

The Board of County Commissioners recognizes that negotiated contracts exceeding certain dollar amounts provide significant exposure to the County and require particular care, expertise and skills of pertinent County staff during the negotiation and contract formulation phases. Therefore, this procedure adopts a uniform method of negotiating large dollar volume contracts approved by the Board of County Commissioners and initiates a process to safeguard the best interests of the County through input from proper County staff during the negotiation stages of contract development.

## II. PROCEDURES

A. This procedure shall include contract negotiations ~~in which the total cost, fees, or revenues of the contract are estimated (or reasonably expected) to exceed \$500,000 or as determined in accordance with the Procurement Procedures Manual and as determined to be appropriate~~ by the Manager, Procurement for the term of the agreement. ~~This procedure covers:~~

- ~~1. Negotiations with consultants and professionals (excluding architects/ engineers) after initial nomination in accordance with existing RFP, RFQ and other proposal procedures;~~
- ~~2. Sole source purchases exceeding the specified amount;~~
- ~~3. Any other contract not awarded through fixed priced bidding exceeding the specified amount.~~

~~B. This procedure shall not include contracts or purchase orders issued via competitive sealed bidding. Also competitive sealed proposal requirements with price as a selection factor may be excluded as determined by the Manager, Procurement.~~

~~C. This procedure shall include revenue contracts, such as concession agreements.~~

B. Staff shall be assigned by appropriate Department Directors, or their designees, upon request by the Manager of Procurement, for negotiating contracts meeting the criteria delineated in IIA above. Assigned staff for each procurement under these procedures shall consist of the following members, as determined by the Manager, Procurement:



**ORANGE COUNTY  
ADMINISTRATIVE REGULATIONS**

No.: 9.01

Page 2 of 3

1. The Director/Manager of the user department/division, or designee.
  2. The Manager of Procurement, or designee.
  3. County Attorney, or designee.
  4. Additional members as required.
- C. The Procurement Division may invite assigned staff to attend a non-public pre-negotiation meeting.
- D. At the pre-negotiation meeting, the Lead Negotiator shall be the Manager of Procurement unless delegated. The representative of the user division/department shall also explain the details of the project, budget, and existing time constraints. During this meeting, one or more additional member(s) may be selected to participate during negotiations. Additional pre-negotiation meeting(s) may be scheduled prior to formal negotiations if necessary.
- E. Duties of the Lead Negotiator:
1. Arrange for an appropriate meeting room to be reserved for the negotiation meetings.
  2. Maintain and file information/data pertaining to each negotiation meeting, including information supplied by the contractor.
  3. Conduct all meetings and serve as the final decision-maker in formulating negotiation strategies and tactics.
  4. Recommend, for each significant issue to be negotiated: tentative negotiating strategy, negotiating objectives, minimum position, and maximum position for use during the negotiations. This strategy should be discussed at the pre-negotiation meeting and during the negotiation process, as needed.
  5. With the advice and assistance of the Procurement ~~Department~~ Division and the County Attorney, provide assigned staff an outline or draft of the proposed agreement indicating the scope of work involved in the project and advise of the substance and material provisions to be included in the agreement to be negotiated.
  6. Retain authority for final approval of any negotiable points which may need to be agreed upon during the negotiation process.
  7. Maintain control over any and all communications and discussions between the County and the party with whom the County is negotiating.



**ORANGE COUNTY  
ADMINISTRATIVE REGULATIONS**

No.: 9.01

Page 3 of 3

8. Schedule and conduct a final meeting, if necessary, wherein majority concurrence is obtained from staff and ~~copies (minimum of two copies) of the contract are signed by the consultant or contracted party.~~ ~~NOTE: A copy of the final contract shall be submitted to all assigned staff for review prior to placement on the Board Agenda.~~
- F. The Procurement Division shall maintain a complete contract file, including a copy of the final signed contract or agreement, copy of payment/performance bonds (if any), all related correspondence, a current certificate evidencing insurance (if required), and copies of all Agenda Items submitted to the Board.
- G. An exception to this procedure may be made in emergency situations and shall be handled in accordance with County procedures.
- H. Any changes to a contract negotiated under the provisions of this procedure shall be in the form of a written amendment and approved by the proper authority in accordance with County policies and procedures unless such changes are specifically allowed in the contract.


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**FOR MORE INFORMATION CONTACT:** Procurement Division, Administrative Services  
Department

**REFERENCES:** None

# PROPOSED REVISIONS

3/6/2023

 <p style="text-align: center;"><b>ORANGE COUNTY ADMINISTRATIVE REGULATIONS</b></p>	No.: 9.01.10
	Date: 11/03/92
	Approved By: BCC Revised: 6/27/06
Title: <b>CONTINUING CONTRACTS FOR ENGINEERING, ARCHITECTURAL, SURVEYING AND MAPPING, AND/OR LANDSCAPE ARCHITECTURAL SERVICES</b>	Page 1 of 3

## I. POLICY

It is in the best interest of the County to maintain effective control over contract expenditures, in part through maximizing competition, specifying scope of work, establishing authority and approval levels, and defining terms used in contractual matters.

This Administration Regulation applies to contracts with architects, engineers, land surveyors/mappers, and landscape architects, that are entered into in compliance with Florida Statutes 287.055.

## II. PROCEDURES

### A. Definitions:

“Continuing Contract” shall mean a contract for architectural, engineering, landscape architectural or surveying and mapping services established on an annual or ongoing basis whereby the firm provides professional services to the County for projects for which construction costs do not exceed \$1,000,000, ~~for study activities when the fee for such professional services does not exceed \$50,000,~~ the threshold limits prescribed by the Consultants’ Competitive Negotiation Act, section 287.055, Florida Statutes, as may be amended, or for work of a specified nature as outlined in the contract required by the County. The continuing contract specifies the scope of services to be performed, hourly rate schedule, overall multiplier (including overhead and profit), and duration of the contract. Services for specific projects within the scope of the contract, which constitute a single or grouping of designs for construction, renovation, or rehabilitation activities; for studies; or for work of a specified nature, are rendered on an as needed basis by means of a negotiated task authorization as defined below. Pricing shall be included in project-specific task authorizations issued against the continuing contract. Continuing contracts are established by means of competitive Requests for Proposal with award approved by the Board of County Commissioners in accordance with Administrative Regulation 9.01.13.

“Task Authorization” shall mean a project-specific work order issued against a continuing contract. Task authorizations specify the specific project, project schedule and



**ORANGE COUNTY  
ADMINISTRATIVE REGULATIONS**

No.: 9.01.10

Page 2 of 3

completion time, detailed scope of services and total compensation for the task authorization.

“Study Activity” shall mean professional services involving research, investigation and/or evaluation which result in the presentation of findings, recommendations, and/or a general plan for resolving a problem or need, but which do not involve the preparation of specific project designs, plans, specifications or other documents for use in obtaining priced proposals or awarding construction contracts.

- B. Engineering and architectural services contracts may be established on a continuing basis for a period of one (1) year, renewable at one (1) year intervals and generally for a maximum period of ~~three (3) years~~ five (5) years. Contracts will include a clause that allows the County to terminate at any time without cause, with payment made for services rendered and accepted through the effective date of termination.
- C. Work in progress on task authorizations at the time of expiration of the contract will continue until completion of all work specified in the task authorization.
- D. “Additional Services” clauses within the contract shall include a statement that the consultant shall submit a proposal to the County, and any additional services shall be agreed to in writing by contract amendment prior to the delivery of the services. Said proposal shall include scope of services, schedule and a “not to exceed” or “lump sum” price.
- E. All task authorizations should be negotiated on a lump sum basis to the extent possible. Such task authorizations should include an attached fee proposal showing the manpower classifications, hours, contract hourly rate, break-even multiplier, profit margin, reimbursable amounts, and subconsultant fees to determine overall lump sum cost.
- F. Any amendment, ~~task authorization~~ or additional service exceeding the limitations specified in the Procurement Ordinance must be approved by the Board of County Commissioners prior to notice to proceed being issued to the consultant. Task authorizations, amendments and additional services must be directly related to the scope of work delineated in the continuing contract.
- G. Prior to an amendment, task authorization, or additional service being approved under the terms of this Regulation, sufficient funds for the services must be available in an appropriate, approved budget line item.
- H. The following approval authority is hereby effective for authorization of task authorizations, amendments, and additional services to continuing contracts:
  - 1. The Manager of Procurement or their designee(s) shall be authorized to approve



**ORANGE COUNTY  
ADMINISTRATIVE REGULATIONS**

No.: 9.01.10

Page 3 of 3

individual task authorizations and additional services, within the overall scope of the continuing contract, ~~up to and including the Board approval limit.~~

2. The Procurement Committee shall be authorized to initially approve ~~individual task authorizations over the Board approval limit within the overall scope of the continuing contract,~~ subject to Board approval.
3. The Manager of Procurement or their designee(s) shall be authorized to approve amendments to individual task authorizations up to the Board approval limit.
4. Task authorizations shall not be artificially divided to circumvent the above approval requirements.


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**FOR MORE INFORMATION CONTACT:** Procurement Division

**REFERENCES:** Orange County Code, Florida Statutes, Section 287.055;  
Administrative Regulation 9.01.13

# PROPOSED REVISIONS

3/6/2023

 <p style="text-align: center;"><b>ORANGE COUNTY ADMINISTRATIVE REGULATIONS</b></p>	No.: 9.01.13
	Date: 08/04/92
	Approved By: BCC Revised: 04/13/93; 6/27/06
Title: <b>PROCEDURES FOR COMPETITIVE PROPOSAL AWARDS</b>	Page 1 of 8

## I. POLICY:

Orange County's commitment to full and open competitive procurement requires that the Board of County Commissioners approve the award of procurement in accordance with Article III, Chapter 17, Orange County Code (Procurement Ordinance). Such awards are made under the "competitive proposal" process when the competitive sealed bidding process cannot be conveniently used.

Also, Orange County's selection process for professional architectural, engineering, landscape architectural and land surveying/mapping services must be in accordance with Section 287.055, Florida Statutes, which is commonly referred to as The Consultants' Competitive Negotiations Act.

## II. PROCEDURES:

The purpose of these procedures is to establish a fair, equitable and impartial process by which the Board of County Commissioners makes awards in "competitive proposal" procurement for services of all types and when the Board otherwise selects architects, engineers, landscape architects and surveyors/mappers in accordance with the requirements of Section 287.055, Florida Statutes.

The Manager of Procurement and the staff of the Procurement Division retain overall control of the administration of the "Competitive Proposal" process, including scheduling, record keeping, distribution of proposals, and other materials and preparation of all documents and recommendations required by the Board of County Commissioners, County Mayor and County Administrator.

The following delineates specific responsibilities of appropriate parties during this process. These procedures also incorporate the methodology whereby the Board of County Commissioners makes awards in "competitive proposal" procurement.

### A. *Procurement Division*



**ORANGE COUNTY  
ADMINISTRATIVE REGULATIONS**

No.: 9.01.13

Page 2 of 8

1. Obtains budget amount and purchase requisition when appropriate, from the initiating division allocated for the project.
2. ~~Confirms~~ Approves selection criteria ~~with~~ in consultation with Initiating Division.
3. In accordance with the County Procurement Ordinance issues Request for Proposal (RFP), including identification of evaluation criteria and weights.
4. Reviews received proposals in order to determine "prima facie" responsiveness.
5. Distributes responsive proposals to members of the Procurement Committee ~~and also distributes a list of non-responsive proposals, if any, including thereon the reasons for such determination.~~

**B. *Business Development Division***

1. Reviews and evaluates proposals according to M/WBE criteria and forwards recommendations to the Procurement Committee members via the Procurement Division.
2. Reviews joint venture agreements submitted with proposals to:
  - a. Determine whether or not M/WBE certification should be issued.
  - b. Assure that no non-M/WBE firm acts as a broker for M/WBE firms, a review should be made of the appropriateness of a Project Manager being an employee of a non-M/WBE firm wherein the M/WBE firm is identified as a 51% (or more) joint venture partner.

The above determinations should be disseminated to the Procurement Committee during their evaluation meeting.

3. Provides statistical information to the Procurement Committee related to M/WBE participation by incumbent consultants on current continuing contracts. Should the statistical information indicate M/WBE participation is currently less than the percentage previously promised by the consultant for the existing contract, an additional determination should be made





**ORANGE COUNTY  
ADMINISTRATIVE REGULATIONS**

No.: 9.01.13

Page 3 of 8

whether there are sufficient reasons for not achieving the promised goal.

4. Upon recommendation from the Business Development Division, the Procurement Committee may deduct points from incumbent proposers on the M/WBE wherein current providers are not meeting goals on existing continuing contracts.

*C. Initiating Division*

1. May request that the Procurement ~~Committee~~ Division consider additional criteria or changing of criteria weights prior to RFP ~~issuance in accordance with item 1B above. Criteria and weights may be revised by majority vote of the Procurement Committee prior to RFP issuance only~~ issuance, unless otherwise authorized by the Manager of Procurement or designee.
2. ~~May establish a proposal review team of three (3) or more persons within the department.~~
23. ~~Each member of the proposal review team may independently evaluate and score each proposal. Such evaluation shall be based on criteria (attached Exhibit 1<sup>\*</sup>) as defined in Exhibit 2<sup>\*</sup>. Exhibits can be obtained from the Procurement Division.~~ May request that the Procurement Division appoint a voting Technical Committee (subject matter experts with no conflicts of interest) or non-voting Technical Advisors (staff experts, stakeholders, or contracted consultants with no conflicts of interest) in support of the Procurement Committee.
34. ~~Total scores and~~ A cross-over committee member may present the recommendation of the ~~initiating division~~ technical committee to the Procurement Committee. This review team shall support the scoring ~~of one voting member only~~ as specified in the scoring criteria defined in the Request for Proposals.

*D. Procurement Committee*

1. *General.* “Procurement Committees” shall be formed for the purpose of providing technical expertise, information and evaluations to the Board regarding proposals.

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<sup>\*</sup>Exhibits can be obtained from the Procurement Department.



**ORANGE COUNTY  
ADMINISTRATIVE REGULATIONS**

No.: 9.01.13

Page 4 of 8

2. *Procurement Committee Composition.* The Procurement Committee shall be comprised of the following voting and non-voting members:

*Board Delegate.* One member of the Board of County Commissioners shall be the monthly delegate to the Procurement Committee.

The Board member shall sit on the Procurement Committee for one full calendar month. Participation on the Committee is discretionary for the Board member delegated for any specific month. If the month in which a Commissioner served has expired, the Commissioner will continue to remain as the Board delegate for any specific project that is in the review/evaluation process prior to month's end. If the Commissioner chooses not to participate, the Committee shall proceed as if the Commissioner were in attendance.

*User-Department or User-Agency Delegate.* The director of the department or agency of county or state government that will be the primary user or consumer of the procured service shall reserve, or appoint a member of the using department or agency to serve on the Procurement Committee.

*User Division Delegate.* The manager of the division or agency of County or State government that will be the primary user or consumer of the procured service shall reserve or appoint a member of the using division or agency to serve on the Procurement Committee.

*County Administration-Delegate.* The County Administrator ~~shall~~ may serve or appoint a representative to serve on the Procurement Committee.

*At-Large Technical Delegate.* A person shall be designated to serve on the Procurement Committee who shall have special expertise germane to the procurement, or shall represent a second user division or agency (if more than one division or county agency is expected to make extensive use of the procured services), or shall otherwise be a person that provides useful assistance to the particular procurement. The At-Large Technical Delegate may be County staff, a member of another agency, or a member of the community.

*Business Development Delegate.* The Manager of Business Development Division shall serve or designate a person to serve on the Procurement



**ORANGE COUNTY  
ADMINISTRATIVE REGULATIONS**

No.: 9.01.13

Page 5 of 8

Committee who shall represent the County's MBE/WBE program as a voting member.

*Procurement Committee Chairperson.* The Procurement Committee shall be chaired by the Manager of Procurement or designee, who shall be a non-voting member. The Chairperson shall assume those duties and responsibilities conducive to adherence to proper procedures and fair and consistent evaluation of all proposers and shall be in charge of all administrative processes and procedures concerning the Procurement Committee and its deliberations.

3. *Procurement Committee Procedures.*

- a. Procurement Committee members shall individually review and score all submittals by proposers, and such individual scorings shall be done ~~on ranking sheets provided for in the County's administrative regulations or otherwise provided by the Manager of Procurement~~ utilizing resources provided by the Procurement Division. Also, scorings shall be based on the criteria provided in the RFP or in administrative regulation. During deliberations and discussion by the Committee, individuals may change initial scoring based on the merits of the discussion provided such changes are initiated by the individual.
- b. The ~~Chairperson~~ man of the Procurement Committee shall insure that minutes of Procurement Committee meetings are maintained.
- c. An announcement of each meeting of the Procurement Committee shall be posted ~~at the Procurement Division at least one (1) working day prior to the meeting, and posted~~ as required by Administrative Regulation No. 2.09.01.
- d. The Manager of Procurement may require oral presentations by short-listed firms for any proposal in exceptional situations. The proposer's project manager who is named as the "day-to-day project manager" may be required to be present at such oral presentations.
- e. When an oral presentation is to be part of the selection process, that fact will be advertised, when possible, in the RFP.



**ORANGE COUNTY  
ADMINISTRATIVE REGULATIONS**

No.: 9.01.13

Page 6 of 8

- f. A majority of the members of the Procurement Committee shall constitute a quorum.
  - g. Selection and scoring shall be by consensus if possible. If the Chairperson~~man~~ deems consensus impossible, he may so declare, and selection and ranking then shall take place by averaging the scores of the committee members. All score sheets must be submitted to the Manager of Procurement scoring data shall be maintained by the Procurement Division. for filing, verification, and final validation for correctness (accuracy). Decisions made at the meeting cannot be revised without full consensus reconvening a quorum and obtaining a majority vote of the Procurement Committee members. In the event a quorum is not possible due to changes in personnel, substitute committee members may be appointed at the discretion of the Manager of Procurement in accordance with the composition prescribed herein.
- E. *Procurement.* Posts recommended short-list and handles formal protests in accordance with Section 17-313 of the Orange County Code.
- Submits an alphabetized list with consensus scores, as appropriate, of the top proposers to Agenda Development for submission to the Board of County Commissioners. Also, the Manager of Procurement shall submit a report summarizing the findings of the Procurement Committee.
- F. Board of County Commissioners. Selects an awarded proposer(s) (and generally two ranked alternates), and authorizes contract negotiations and execution of the contract provided the negotiated contract does not exceed the stated budget for the project services.
- G. *Initiating (User) Division or Agency.*
- 1. Enters into contract award negotiations with the top ranked proposer selected by the Board. Such negotiations shall be conducted by the initiating agency or division with assistance, as necessary or desirable, from the County Administrator, the County Attorney, the Procurement Division, and other County Divisions as required.
  - 2. Submits the negotiated contract to the Procurement Division for review and



**ORANGE COUNTY  
ADMINISTRATIVE REGULATIONS**

No.: 9.01.13

Page 7 of 8

execution.

- H. The Procurement Division obtains review by the Business Development Division, if applicable, reviews the contract for price acceptability, and executes the contract.
- I. All discussions between staff and consultants regarding projects for which a Request for Proposals has been issued, but selection not yet made, must first be routed through Procurement Division. This includes the time frame from advertisement until contract execution (except for negotiations). This does not preclude the Business Development Division from providing at large guidance concerning contracting goals and minority and women owned business subcontracting availability.
- J. A statement must be included in each Request for Proposals (RFP) advising prospective proposers to contact the Procurement Division should they have any questions or concerns related to the proposal. Should technical concerns/questions arise outside the expertise of the Procurement Division, the initiating division will be contacted by Procurement staff to obtain the answer(s). Procurement staff will request the initiating division to respond and will relay the answer(s) to the inquiring consultant and Procurement staff may issue an addendum to all prospective proposers when the answer involves an issue of importance to prospective proposers. RFPs will require technical questions to be submitted in writing.
- K. The decisions of the Procurement Committee are not final and must be ratified by the Board of County Commissioners. Therefore discussions between County staff and consultants regarding projects for which they have proposed, after Procurement Committee meetings and prior to Board approval, must be routed through the Procurement Division.
- L. Any proposer who initiates any discussions with staff in any manner other than as described above is subject, at the sole discretion of the Board, to disqualification from the particular procurement.
- M. Except for negotiation sessions with the Board-approved indicated awardee, divisions should continue referring proposers to the Procurement Division until after execution of the final contract.
- N. All RFPs must state that Orange County is bound by statements made or information given during the procurement consideration and award process **ONLY**



**ORANGE COUNTY  
ADMINISTRATIVE REGULATIONS**

No.: 9.01.13

Page 8 of 8

when such statements or information are written and executed under authority of the Manager of Procurement or his/her designee.

- O. Notice is hereby given that these policies and procedures exist solely for the convenience and administrative efficiency of Orange County. No proposer or other third party gains any rights by virtue of these policies and procedures or the application thereof, nor shall any proposer or third party have any standing to sue or cause of action arising herefrom.
- P. The foregoing procedures and the general considerations of application as set forth below will serve:
1. to provide better communication and prevent misunderstanding between prospective proposers and County staff;
  2. to provide the Procurement Division as a centralized control point through which proposers may obtain information; and
  3. to provide the Procurement Division as a focal point through which proposers may submit proposal recommendations.

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**FOR MORE INFORMATION CONTACT:** Procurement Division, Administrative Services Department

**REFERENCES:** Orange County Code, Article III, Chapter 17 (Procurement Ordinance); Florida Statutes, Section 287.055; Administrative Regulation 2.09.01