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MEMORANDUM

TO: Mayor Jerry L. Demings
and
County Commissioners

FROM: Jeffrey J. Newton, County Attorney *JJM*
Aleas Koos, Assistant County Attorney *ARK*
Contact: (407) 836-7320

DATE: April 6, 2020

RE: **Consent Agenda Item for the Board Meeting on April 21, 2020** New Administrative Regulation No.: 9.01.03, titled "Single-Use Products Policy On County Property"

I. EXPLANATION & SUMMARY OF PROPOSED REGULATION:

The regulation was reviewed in depth and revisions were made to ensure that the regulation is consistent with current practices and procedures.

It is our intent to place the proposed new regulation on the April 21, 2020 Consent Agenda for approval by the Board.

II. ACTION REQUESTED:

Approval of proposed new Administrative Regulation No.: 9.01.03, titled "Single-Use Products Policy On County Property"

AMC
Attachment

c: Byron Brooks, County Administrator
Randy Singh, Deputy County Administrator
Joel D. Prinsell, Deputy County Attorney
Aleas Koos, Assistant County Attorney



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APR23'20am11:19

RCUD

ADMINISTRATIVE REGULATIONS

CHANGE 50

MEMORANDUM

To: All Administrative Regulations
From: Anna M. Caban, Legal Administrative Supervisor
County Attorney's Office
Date: April 22, 2020
Subject: New Administrative Regulation 9.01.03

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

- Attachment 1: Revised Table of Contents and Index prepared to properly reflect all revisions to date.
- Attachment 2: New Administrative Regulation 9.01.03, titled "Single-Use Products Policy on County Property"

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

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PURCHASING

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 which the total cost, fees, or revenues of the contract are estimated (or reasonably expected) to exceed \$500,000 or as determined by the Manager, Purchasing and Contracts 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, Purchasing and Contracts.

C. This procedure shall include revenue contracts, such as concession agreements.

D. Staff shall be assigned by appropriate Department Directors, or their designees, upon request by the Manager of Purchasing and Contracts, 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, Purchasing and Contracts:

1. The Director/Manager of the user department/division, or designee.
2. The Manager of Purchasing and Contracts, or designee.
3. County Attorney, or designee.
4. Additional members as required.

E. The Purchasing and Contracts Division may invite assigned staff to attend a non-public pre-negotiation meeting.

F. At the pre-negotiation meeting, the Lead Negotiator shall be the Manager of Purchasing and Contracts 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.

G. 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 Purchasing and Contracts Department 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 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.

H. The Purchasing and Contracts 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.

I. An exception to this procedure may be made in emergency situations and shall be handled in accordance with County procedures.

J. 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: Purchasing and Contracts Division, Administrative Services Department
REFERENCE: None
APPROVED: 6/27/06

9.01.01 RESPONSIBILITIES FOR PREPARING CONTRACTS

I. POLICY

The Purchasing and Contracts Division serves as the

Purchasing 2 (04/21/2020)

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 Purchasing and Contracts 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 Purchasing and Contracts 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 Purchasing and Contracts 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: Purchasing and Contracts Division
REFERENCE: Administrative Regulation 9.01.02
APPROVED: 6/27/06

9.01.02 PROCUREMENT POLICIES AND PROCEDURES

I. POLICY

The Purchasing and Contracts 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 Purchasing Procedures Manual, the procurement of all materials, supplies, equipment, construction, and non-professional and professional services is the sole responsibility of the Purchasing and Contracts Division.

B. Article III, Chapter 17, Orange County Code (Procurement Ordinance), which is included as an enclosure in the Purchasing Procedures Manual,

prescribes the general laws regarding the procurement process, among which are:

1. Procurement Terms and Definitions
2. Authority of the Purchasing and Contracts 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 Purchasing 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:

- A. 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 Purchasing Procedures Manual and/or the Procurement Ordinance, contact the Purchasing and Contracts Division.

FOR MORE INFORMATION CONTACT: Purchasing and Contracts Division

REFERENCE: Orange County Code, Article III, Chapter 17 (Procurement Ordinance); Orange County Purchasing 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 purchasing 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 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. PROCEDURE

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 Purchasing and Contracts 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 Purchasing and Contracts 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 Purchasing and Contracts 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 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: Purchasing and Contracts 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 \$1,000,000, for study activities when the fee for such professional services does not exceed \$50,000, 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.

"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. 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 Purchasing and Contracts shall be authorized to approve 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 Purchasing and Contracts 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: Purchasing and Contracts Division
REFERENCE: Orange County Code, Florida Statute 287.055, Administrative Regulation 9.01-13
APPROVED: 11/3/92
REVISED: 6/27/06

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 Purchasing and Contracts and the staff of the Purchasing and Contracts 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. Purchasing and Contracts Division

1. Obtains budget amount and purchase requisition when appropriate, from the initiating division allocated for the project.
2. Confirms selection criteria 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 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 Purchasing and Contracts 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 Committee 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.
2. May establish a proposal review team of three (3) or more persons within the department.
3. Each member of the proposal review team may independently evaluate and score each proposal. Such evaluation shall be based on criteria (attached Exhibit 1*) as defined in Exhibit 2*. Exhibits can be obtained from the Purchasing and Contracts Division.
4. Total scores and present a recommendation of the initiating division to the

*Exhibits can be obtained from the Purchasing and Contracts Department.

Procurement Committee. This review team shall support the scoring of one voting member only.

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 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 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 Purchasing and Contracts, 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 Purchasing and Contracts. 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 Chairman 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 Purchasing and Contracts 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 Purchasing and Contracts 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 Chairman 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 Purchasing and Contracts for filing, verification, and final validation for correctness (accuracy). Decisions made at the meeting cannot be revised without full consensus of the Procurement Committee members.

E. *Purchasing and Contracts.* 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 Purchasing and Contracts 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 Purchasing and Contracts Division, and other County Divisions as required.

2. Submits the negotiated contract to the Purchasing and Contracts Division for review and execution.

H. The Purchasing and Contracts Division obtains review by the Business Development Division, 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 Purchasing and Contracts Division. This includes the time frame from advertisement until contract execution (except for negotiations).

J. A statement must be included in each Request for Proposals (RFP) advising prospective proposers to contact the Purchasing and Contracts Division should they have any questions or concerns related to the proposal. Should technical concerns/questions arise outside the expertise of the Purchasing and Contracts Division, the initiating division will be contacted by Purchasing and Contracts staff to obtain the answer(s). Purchasing and Contracts staff will request the initiating division to respond and will relay the answer(s) to the inquiring consultant and Purchasing and Contracts 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 Purchasing and Contracts 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 Purchasing and Contracts 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 Purchasing and Contracts 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 Purchasing and Contracts Division as a centralized control point through which proposers may obtain information; and
3. to provide the Purchasing and Contracts Division as a focal point through which proposers may submit proposal recommendations.

FOR MORE INFORMATION CONTACT: Purchasing and Contracts 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

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, Purchasing and Contracts 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 purchasing context.

III. PROCEDURE

A. Complaints

Complaints of discriminatory acts as specified in the Code Section shall be presented in writing to the 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 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 feels 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 Purchasing Manager. The Purchasing 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 Purchasing Manager. The Purchasing 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 Purchasing 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 Purchasing 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 Purchasing Manager. Thereafter, the Purchasing 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 Purchasing 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 Purchasing 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

(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.

2. 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.

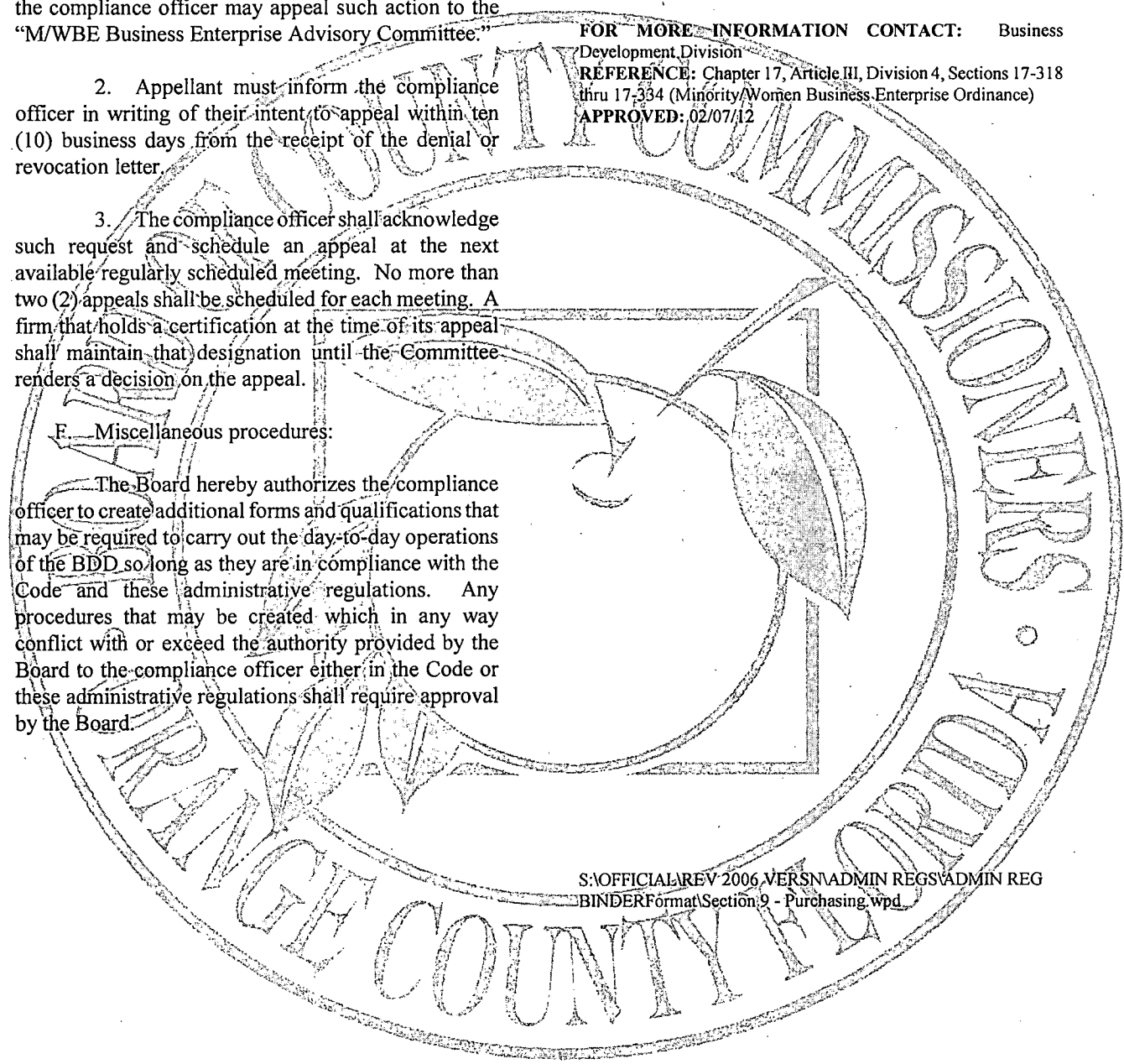
G. Conflict with Ordinance:

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 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



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NEW ADMIN. REG.

02/03/2020

 ORANGE COUNTY ADMINISTRATIVE REGULATIONS	No.: 9.01.03 NEW
	Date:
	Approved By:
Title: SINGLE-USE PRODUCTS POLICY ON COUNTY PROPERTY	Page 1 of 4

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.



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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 purchasing 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.



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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 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;



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- 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