

# **Operational Procedures**

## **Supplementing the JEA Procurement Code**

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## PART A: INTRODUCTION

### 1.0 Intent of Operational Procedures

This document is intended to set forth guidelines for JEA Procurement personnel and other JEA personnel only. The Code 2-204(2) permits the CPO to promulgate Operational Procedures that detail procedures for the policies set forth in the Procurement Code (also referred to as the "Code"). This document should be considered supplemental to the Code. Therefore, any discrepancies that may arise between this document and the Code shall be resolved solely by the Chief Procurement Officer (the "CPO").

### 1.1 Definitions

#### 1.1.1 Intent and Usage of Defined Terms

Within this document, terms that are capitalized within the text shall have the specific meanings set forth either in the Code, or herein. When terms are defined in the Code and also herein, they shall have the meaning specifically attributed to them in this document, rather than that stated in the Code. Plural forms of words defined as singular shall have the same effect, and vice versa. When the terms defined in the Code and herein are not capitalized, they shall have the meanings commonly attributed to them and as appropriate for the context of their use.

#### 1.1.2 Defined Terms in the Code

The following terms defined in the Code are incorporated into this document with the same meanings ascribed to them in the Appendix of the Code. The reader should refer to the Code for definitions of the following:

- Award
- Awards Committee
- Change Order
- Chief Procurement Officer
- Code
- Company
- Emergency
- Ex Parte Communication
- Formal
- Informal
- Office of the General Counsel
- Operational Procedures
- Organizational Element
- Request for Qualifications and Statement of Interest
- Solicitation Review Team

#### 1.1.3 Terms Defined for the Operational Procedures

The following terminology is used within this document to more concisely refer to people and processes:

**Awards Coordinator** – The individual within Procurement responsible for coordinating the procedures surrounding Formal Awards.

**Bid, bid** – A document submitted by a vendor in response to an Invitation For Bid (IFB).

**Bidder, bidder** – A vendor who submits a response to an IFB.

**Buyer** –The individual within JEA Procurement assigned by the PCM to perform procedures related to conducting Informal or Formal procurements, which may include creating Formal Solicitations, performing necessary changes to solicitation documents, and otherwise guiding Procurement’s internal customers through procedures for conducting a procurement via the Informal procurement process or the Formal Solicitation Process. Also referred to as a Senior Procurement Agent or Procurement Agent depending on their approval thresholds.

**CCNA** – The Consultants’ Competitive Negotiation Act as defined by Florida Statutes.

**Contract** – An agreement between JEA and a vendor signed by both parties. Once a Contract is executed a Purchase Order shall be issued to the company as its notice to proceed.

**Contract Administrator** – The individual designated by the Organizational Element to manage a vendor’s performance of the Contract for JEA. Also referred to as a JEA Project Manager.

**Contract File** – The collection of documentation associated with a contract that is maintained by the Manager of Procurement Contracts.

**Contractor** – A vendor providing construction or maintenance services to JEA.

**CPO** – The Chief Procurement Officer, having the authority to establish and manage JEA purchasing policies and procedures, as defined in the Code.

**Evaluator** – An individual designated to review a bid, proposal or response to a solicitation.

**Evaluator Team** – The individuals who are designated to review and score, if applicable, bids, proposal, or responses to a solicitation.

**Formal** – Procurement actions (whether awards, purchases, solicitations, etc.) that relate to procurements estimated to exceed \$300,000 over the term of the contract, or otherwise exceed the Informal level.

**Formal Solicitation** – A document used to solicit bids, proposals or responses as part of the Formal Solicitation Process.

**Formal Solicitation Process** – A process under which JEA uses several established methods such as an IFB, RFP, ITN or design-build process to solicit bids, proposals or responses from vendors.

**Informal Solicitation** – Procurements actions (whether awards, solicitations, purchases, etc.) that relate to Informal procurements, as defined in the Code (i.e. those estimated to cost \$300,000 or less, or otherwise exceed the Informal level). Also referred to as Informal procurements.

**Invitation to Negotiate (ITN)** – A type of solicitation document issued by JEA under the Formal Solicitation Process seeking clarifications and best and final offers from qualified respondents.

**Invitation for Bids (IFB)** – A type of solicitation document issued by JEA under the Formal Solicitation Process seeking price bids from qualified bidders.

**JEA Standard** – A purchase of goods or services that have been selected as standard via the JEA standards program or through the actions of a standards committee.

**JSEB** – The City of Jacksonville’s program for Small and Emerging Businesses.

**Lead Evaluator** – The individual identified by the Requestor to lead the compilation of Evaluators’ scores, among other things.

**Manager of Procurement Contracts** – The individual within JEA Procurement who is charged with providing legal and business input regarding solicitations and contracts. Responsibilities also included managing the contract execution process, maintaining Procurement contract files, resolving contract disputes and controversies, and managing JEA’s Vendor Performance Program.

**OGC** – Office of the General Counsel of the City of Jacksonville

**Original Equipment Manufacturer (OEM)** – Goods or services that must be obtained from the original equipment manufacturer or a distributor authorized by the original equipment manufacturer because of the criticality of the item or compatibility within the JEA system.

**Piggy-backing** – Use of a contract for goods or services originally established by another public entity via a public solicitation process.

**Procurement** - The Organizational Element within JEA responsible for, among other things, overseeing the purchasing of goods and services.

**Proposal** – A document submitted by a vendor in response to an RFP.

**Proposer** – A vendor who submits a response to an RFP.

**Proprietary** – Goods or services that must be a certain type, brand, make or manufacturer.

**Procurement Contracts and Services Manager (PCM)** – An individual within JEA Procurement responsible for overseeing the Buyers, managing the content of solicitations and for serving as otherwise authorized by the CPO.

**Purchase Order (PO)**- A buyer-generated [document](#) that [authorizes](#) a [purchase transaction](#). When accepted by the [seller](#), it becomes a [contract binding](#) on both [parties](#). A [purchase order sets](#) forth the [descriptions, quantities, prices, discounts, payment terms](#), date of [performance](#) or [shipment](#), other [associated terms and conditions](#), and identifies a specific seller.

**Procurement Card Administrator** – The individual responsible for administering JEA's Procurement Card program.

**Requestor** – The individual representing the requesting JEA Organizational Element and who will be responsible for overseeing the solicitation process on behalf of the Organizational Element; an internal customer of Procurement.

**Request for Proposals (RFP)** – A type of competitive solicitation document issued by JEA under the Formal Solicitation Process seeking proposals that may or may not include price, from qualified proposers.

**Request for Quotes (RFQ)** – An informal solicitation document released by JEA in order to obtain prices from vendors for procurements that are \$300,000 or less, or otherwise exceed the Informal procurement threshold as defined in the Code.

**Respondent** – A company submitting a response to an Invitation to Negotiate.

**Response** – A document submitted by a Respondent in response to an Invitation to Negotiate.

**Sole Source** – A purchase for which JEA determines there is only one justifiable source for the required goods or services, or a purchase for goods or services that may only be efficiently provided by a firm that initially rendered the goods or services to JEA.

**Solicitation, solicitation** – Any request issued by JEA, whether written or verbal, seeking responses from vendors to provide goods or services; or the process by which responses are sought from vendors for the provision of goods or services.

**Task Authorization** – A document issued by the JEA Contract Administrator or Procurement authorizing a specific scope of work as part of a larger scope of work. Also referred to as a "Work Order".

**Vendor, vendor** – Any Company as defined in Code.

**Vendor Performance Program** – The set of policies and procedures by which JEA assesses and manages the performance of vendors.

## 2.0 Filing of Determinations

### 2.1 General Determinations

Determinations regarding the Operational Procedures or other interpretations of the Code shall be maintained in a master file by the CPO, or designee.

### 2.2 Specific Determinations

Determinations associated with a particular solicitation, Award or Contract shall be maintained by Procurement in the associated solicitation, Award or Contract File.



## PART B: INFORMAL PROCURMENTS

### 1.0 Overview

#### 1.1 Definition of Informal Procurements

Informal Procurements are those purchases that cost \$300,000 or less, and do not warrant the administrative costs associated with the Formal Solicitation Process. JEA does, however, encourage Buyers to seek as much competition as possible or practical for the circumstances surrounding Informal procurements. To promote competition, yet limit administrative effort, JEA has established thresholds for conducting Informal procurements, as summarized in the table below.

Unlike the Formal Solicitations Process, the Buyer is permitted some discretion in determining the number and form of quotations or bids/proposals to obtain. However, the Buyer shall follow the minimum guidelines outlined in below table when conducting Informal procurements.

#### Informal Procurement Thresholds for Solicitation Actions

Estimated Purchase Amount	Solicitation Actions Required
Less than \$10,000	Obtain a minimum of one (verbal or written) quote
Over \$10,000, but less than \$50,000	Obtain a minimum of three written quotes
Over \$50,000, but less than \$300,000	Min. of 3 written quotes, but recommended 5 quotes. Post RFQ on jea.com.

#### 1.2 Exceptions to Informal Procurement Procedures

There are a few exceptions to the Informal Procurement procedures exist, as noted below:

#### Exceptions to the Informal Procurement Procedures

Type and Amount of Purchase	Actions Required
Electrical work estimated to exceed \$75,000	Bids must be obtained via the Formal Solicitation Process
Planning or study work subject to CCNA regulations estimated to exceed \$35,000	Must follow the Formal Solicitation Process for CCNA type procurements
Sole source or limited competition procurements \$300,000 or less, which may include: <ul style="list-style-type: none"> <li>• Emergency</li> <li>• Proprietary</li> <li>• Original Equipment Manufacturer (OEM)</li> <li>• JEA Standard</li> </ul>	Buyer ensures proper documentation and approval of Sole Source procurements. Buyer ensures that Requestor submits required certification for emergency procurement, or standard, proprietary or OEM procurement. Buyer obtains at least one quote from the qualified bidder(s), but may obtain quotes from other bidders if doing so is deemed advantageous to JEA. Price justification for

	reasonableness must be conducted.
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**2.0 Preparing to Solicit Quotes for an Informal Procurement**

**2.1 Role of Requestor in Preparing to Solicit Quotes**

To begin, the Requestor completes a procurement requisition in Oracle, providing the following information with the purchase requisition:

- Technical specifications for materials, products and services, which may include part numbers, item numbers, catalog numbers, system numbers or dimensions. See requirements for Technical Specifications in Part C below.
- Suggested vendors and contact information, including the name of the applicable vendor contact person, their title, work location address, phone number, fax number and email address.
- Certification of Standard, Proprietary or OEM Item (if applicable, check the appropriate box) and written justification for such.
- Certification of Emergency procurement (if applicable) and written justification for such.

The Requestor shall obtain approval of the purchase requisition from all required parties, which may include the Organizational Element’s manager, director and VP.

The Requestor may obtain the required certification forms from JEA’s website.

The Requestor may contact vendors in order to gain an understanding of the market or to provide budgetary estimates for the types goods or services sought, but should avoid obtaining any direct quotations for specific goods or services, or discussing any terms and conditions of providing specific goods or services with vendors.

**2.2 Role of Buyer/Procurement in Preparing to Obtain Quotes**

Procurement’s role in the Informal Procurement process begins when Procurement receives an approved purchase requisition.

As the purchase requisitions are routed to Procurement, they are reviewed to determine if they are under current Contracts, blanket purchase orders, electronic catalogs (to which the customer will go directly and bypass Procurement) or other Contracts that bypass the Informal Procurement process. Buyers are assigned to specific categories of procurements and must manually assign the approved purchase requisitions to themselves based on the category of the purchase.

The Buyer shall review on a daily basis the purchase requisitions in his or her queue, and shall endeavor to process those that have been in the queue longest, or that are identified as more urgent, first. The Requestor may contact the Buyer directly upon approval of the purchase requisition if the purchase will need immediate attention.

The Buyer shall review approved purchase requisitions to ensuring that all information necessary for obtaining quotes is indicated, which may include the following items:

- Sufficiently detailed description of goods or services sought, including indication of any brand or manufacturer requirements, the quantity of goods sought, and any other specific requirements, and that the Technical Specifications as detailed above
- List of suggested vendors, which may include budgetary quotes obtained from vendors within previous 30 days
- Estimate of the total procurement amount
- Delivery requirements, ensuring that the address stated is a reasonable location for receiving the goods and that the Requestor has indicated the JEA contact and his or her contact information who will receive the goods
- A realistic need-by date
- Required certification forms are completed and submitted
- Required approvals and endorsements are included, validating purchase and funding of the procurement

Procurement's goal is to achieve a cycle time of 14 business days on Informal procurements, beginning when the Buyer receives the approved purchase requisition. Procurement may return purchase requisitions to the Requestor to clarify the issues that must be resolved prior to processing the order. If a purchase requisition has problems related to funds approval, missing information or requires other clarifications that cause the Buyer to return the purchase requisition to the Requestor for additional information, the 14-day cycle time shall begin upon resolution of these issues.

The Buyer shall review each purchase requisition for an Informal procurement to determine the appropriate number of vendors to solicit and the appropriate form of the solicitation (verbal or written). The Buyer will initiate the appropriate method of procurement in accordance with the Code, the guidelines established herein and the circumstances of the purchase.

The Buyer shall also contact the JSEB Coordinator to identify potential JSEB qualified vendors that may be capable of bidding on the goods or services. When three or more JSEB qualified firms may provide the goods or services identified, the Buyer shall review the procurement with the JSEB Coordinator and may initiate a sheltered market procurement.

### **3.0 Soliciting for Quotes or Bids/Proposals for Informal Procurements**

If the Requestor submitted suggested vendors, the Buyer will contact those vendors to obtain Informal price quotations. If the Requestor submitted budget estimates from one or more vendors, the Buyer will contact vendors to validate pricing, terms and conditions, delivery, insurance requirements, billing, etc. The Buyer shall utilize any estimates submitted by the Requestor as a starting point for obtaining price quotations. The Buyer may contact additional vendors not submitted by the Requestor to obtain quotes, if the Buyer believes additional vendors can meet or exceed the specifications, that the quotes can be obtained efficiently and that doing so may result in increased value to JEA.

The Buyer will assist the Requestor as needed in identifying potential sources of supply, which may include reviewing vendor lists, conducting market research or reviewing previous sources of identical or similar goods and services.

#### **3.1 Minimum Information to Provide Vendors When Soliciting an Informal Quote or Bid/Proposal**

The Buyer shall ensure that the following information, at minimum, is provided to every vendor solicited for a response to an Informal procurement, regardless of whether the solicitation is made verbally or in writing:

- Bond requirements (if applicable)
- Buyer's contact information
- Due date for submitting a quotation of response
- Delivery and shipping requirements as applicable
- Drawings or plans (if applicable)
- Indemnification
- Insurance and bonding requirements
- Liquidated Damages (if applicable)
- Need-by date or delivery date
- Payment Terms
- RFQ number for reference (if applicable)
- Safety Pre-qualifications and requirements Technical Specifications
- Technical representative contact information (if applicable)
- Time period for which quotations shall be valid
- Warranties

### **3.2 Procurements Under \$50,000**

For procurements under \$50,000, Buyers may verbally solicit quotes from vendors, or may make requests via fax, email, posting on jea.com, or standard written form (i.e. a "hardcopy" document transmitted via U.S. mail or other delivery service), at the Buyer's discretion.

### **3.3 Procurements of \$50,000 or More**

For procurements of \$50,000 to \$300,000, Buyers must solicit quotes in written form, either via an Informal request or an RFQ posted to jea.com. Written form may include fax, email, posting on jea.com or hardcopy form.

In order to broaden its supplier base, JEA will post Informal solicitation documents (RFQs) for goods or services estimated to cost between \$50,000 and \$300,000 on jea.com. As soon as possible following the Buyer's receipt of all necessary approvals and information regarding the procurement from the Requestor, the Buyer shall create an RFQ, attach relevant Technical Specifications, and forward the information to the Bid Office for posting to jea.com.

RFQ's posted to jea.com should include at minimum the following information:

- Acceptable method for responding
- Basis on which award will be made (price only, or best value, including price and other factors such as past performance and quality)
- Bonding requirements (if applicable)
- Delivery location (if applicable)
- Delivery schedule
- Description of goods or services sought
- Due date and time for responses
- Indemnification
- Insurance requirements
- Liquidated Damages (if applicable)
- Payment Terms
- Warranties

The Buyer shall be responsible for ensuring the Bid Office receives an RFQ with the information set forth above, that the Bid Office is notified in a timely manner and receives any updates or corrections to the RFQ prior to the due date for responses, and the RFQ is removed from the site following expiration of the due date for responses.

The Bid Office shall be responsible for posting the RFQs to jea.com. RFQs posted to jea.com will remain open for at least seven days from the date of posting.

### **3.4 Communication With Vendors During Informal Solicitation Process**

All questions during an Informal solicitation should be directed to the Buyer. The Buyer will consult the Requestor and determine whether a response is required. The Buyer may choose to respond directly to the vendor (in cases of simple clarification questions) or may choose to respond via addendum to all the potential vendors (in cases of responses that materially change the solicitation). The Requestor should make every effort to refrain from communicating directly with the vendors during the Informal procurement process prior to Award.

### **3.5 Changes to an Informal Solicitation Prior to Award**

If, at any time during the Informal procurement process the Requestor's requires a revision to the RFQ, the Requestor shall immediately notify the Buyer. Such revisions may require details of the solicitation documents to be revised, such as delivery dates, estimated quantities, Technical Specification changes, or if budgetary constraints require the cancellation of the procurement.

## **4.0 Receiving, Opening and Evaluating Responses to Informal Solicitations**

### **4.1 Required Form of Responses to Informal Solicitations**

While Buyers may verbally request quotes for Informal procurements under \$50,000, vendors must respond with written quotes for all procurements that exceed \$10,000. For Informal procurements, a response received via fax or email may be considered a written response.

Vendors should submit responses according to the requirements stated in the Solicitation. Informal procurements are not publicly opened, but are subject to Florida Public Records Laws. The Buyer shall ensure that the respondents have accurately responded to the request (i.e. shall ensure that the goods or services proposed by the respondent match the requirements of the specifications, shall ensure price quotes are reasonable and accurately reflect the goods or services to be provided, shall ensure any required forms are completed and submitted, etc.).

### **4.2 Timeframe for Submitting Responses to Informal Solicitations**

In general, the Buyer should require vendors to submit Informal responses within the following timeframes:

- Within seven days from the posting date, for procurements posted to jea.com, or
- Within three days from the date of notification of the Informal solicitation.

### **4.3 Review of Responses to Informal Solicitations**

The Buyer shall review responses or price quotations received for completeness and compliance with the details stated in the Solicitation. If work will be awarded based on factors other than

price, the Buyer shall review responses for completeness and the Requestor shall utilize his or her technical expertise to evaluate the response for factors other than price, and to recommend a successful vendor.

For Informal procurements that may be awarded based on factors other than price, the Buyer shall obtain approval from the PCM, or designee, if the evaluation of the responses will be based on factors other than price. The Buyer shall obtain such approval prior to soliciting responses from vendors. The evaluations should consider all responses, but an extended evaluation process, such as is required for Formal Procurements, is neither required, nor cost effective for Informal procurements.

For Informal procurements of CCNA related professional services (i.e. services involving professional architecture, engineering, surveying or landscape design services as set forth in the CCNA statute), the Buyer and Requestor may utilize an Informal evaluation matrix based on the scope of the procurement requirements to score the responses, as described above, provided that the estimated cost of planning or study work involving professional engineering or design services does not exceed \$35,000. For Informal procurements of CCNA related professional services, the Requestor may also utilize the Qualified Proposers List for a related category provided this is approved by the manager of the Organization Element. When the cost of such services is estimated to exceed \$35,000, the Solicitation shall be conducted in accordance with the Formal Solicitation Process for CCNA type procurements.

#### **4.4 When Only One Response Is Received to an Informal Solicitation**

If only one response is received to an RFQ for an Informal procurement (and the procurement was not intended as a Sole Source or Standard, Proprietary or OEM type procurement), then the Buyer and the Requestor shall establish the reasons why no other responses were received. If a satisfactory reason(s) is(are) found, reasonableness of the price received shall be vetted by the Buyer. The Buyer and Requestor may consider taking steps such as the following, if time permits, in making a determination as to the reasonableness the price:

- Conduct market research via the Internet, by contacting known suppliers, or by reviewing advertisements, catalogs or price indices for similar goods or services
- Compare price with prices received for previous procurements of the goods or services, or of similar goods or services.
- Consider experience or knowledge that Buyer or Requestor may have in purchasing the goods or services, or similar goods or services.

If the Buyer and Requestor determine that the price is reasonable, they shall include a statement in the procurement documentation indicating any efforts taken to validate the reasonableness of the price and justify the award to the single respondent.

#### **4.5 Documenting Informal Quotes and Bids/Proposals**

In general, the Buyer should keep documentation of Informal procurements to a minimum in order to maximize the efficiency of such processes. However, the following are minimum guidelines for the documentation Buyers should retain of the verbal and written quotes received for Informal procurements:

- For verbal or written quotes for inventory items, Buyers should summarize the quotations on the purchase requisition form, save of the requisition form, and/or attach written quotations in Oracle.
- For written quotes for non-inventory items, Buyers should attach written quotes to the resulting PO and store them in Oracle.

## 5.0 Award/Approval of Informal Procurements

The authority of various Procurement personnel to approve procurements depends on the estimated amount of the procurement. The following table summarizes the approval thresholds of Procurement personnel.

### Procurement Personnel Informal Procurement Approval Thresholds

Estimated Purchase Amount	Procurement Personnel Authorized to Approve
Less than \$20,000	Any Buyer or Procurement manager
Over \$20,000, but less than \$50,000	Senior Buyer or Procurement manager
Over \$50,000, but less than \$300,000	Procurement managers only

## 5.1 Award and Contracting Method for Informal Procurements

For most Informal procurements, JEA will issue a PO that includes JEA's standard PO terms and conditions as JEA's offer to buy specified goods or services from the vendor, and which shall serve as the sole contracting vehicle for the procurement. The vendor may accept JEA's PO either by signing to indicate written acceptance (if required), or more often, by simply delivering or performing the goods or services indicated. JEA will not accept the vendor's PO terms and conditions unless explicit approval is given by the Manager of Procurement Contracts, or designee. The Buyer shall notify the Manager of Procurement Contracts of any vendor requested changes to JEA's standard PO terms and conditions, and shall wait for approval before issuing the PO.

Buyers shall enter Purchase Orders into Oracle according to established procedures.

The Manager of Procurement Contracts, or designee, may determine criteria under which additional terms and conditions (other than JEA's standard PO terms and conditions) may be required for an Informal procurement. In such cases, JEA may issue a separate set of terms and conditions, in addition to issuing a Purchase Order.

## 5.2 Cancellation of Informal Procurement or Postponement of Procurement

In the event that an Informal procurement is cancelled prior to receipt of quotes or bids, the Buyer shall notify in writing any vendors that submitted responses to an RFQ for a procurement that was estimated to exceed \$10,000, or if the vendor specifically requested notice of cancellation of the procurement.

In the event that quotes are solicited for an Informal procurement, but no award is made resulting from the RFQ, the Buyer shall retain documentation of the quotes or bids/proposals for goods or services in accordance with JEA's record retention policy.

In the event that the Requestor must postpone the award, the Buyer shall retain quotes in accordance with JEA's records retention.

## 6.0 Increases in Dollar Limit of a Procurement Order for an Informal Procurement

In the event that the dollar limit of a PO issued for an Informal procurement must be increased, the Requestor shall complete a purchase requisition indicating the reason for the change and the

amount increase requested, and submit the purchase requisition for approval. Once approved, Oracle will forward the approved purchase requisition to the appropriate Buyer.

The Buyer shall review the purchase requisition for completeness and request additional information, if necessary.

The dollar limit of a PO for which the original amount was \$300,000 or less, may be increased by Procurement personnel depending upon the amount of the requested change, as follows:

**Approval Guidelines for Increases to Informal Purchase Orders**

<b>If original award amount is ...</b>	<b>... and award amount after requested increase will be ...</b>	<b>... then approval is required from ...</b>
\$0 to \$50,000	\$50,000 or less,	Buyer up to his/her approval threshold, Procurement manager, or CPO with concurrence from the Organizational Element manager
\$50,000 to \$300,000	\$0 to \$150,000, and amount of change is less than or equal to 100% of original amount.	Procurement manager or CPO with concurrence from the Organizational Element manager
\$50,000 to \$300,000	\$0 to \$150,000, but amount of change exceeds 100% of original amount.	CPO with concurrence from the Organizational Element manager
\$0, to \$300,000	Over \$300,000	Awards Committee

If PO must be increased in amount that causes the total PO amount to exceed \$200,000, the Requestor shall follow the established procedures for Change Orders to Formal Awards, which must be reviewed by the Awards Committee.

The Buyer shall autocreate the change to the PO, if possible, to reflect the increase and shall include a summary of the reason for the change. The new PO will note that it is a “Changed Purchase Order.” If autocreate is not used, the Buyer shall ensure that the purchase requisition is cancelled immediately following the PO change. The PO number shall be used as the reason for cancellation.

**7.0 Purchasing Card Program (“P-card”)**

JEA’s P-Card program provides a convenient method for approved cardholders to efficiently conduct Informal procurement transactions for specified types of procurements and within the dollar limits afforded to the card holder by Procurement’s documented procedures found in, “PROCEDURES OS A0500 PS 510 Purchasing Card.doc” as amended from time to time. Procurement also conducts periodic audits of P-Card usage, in accordance with the established procedures. The CPO may authorize revisions to the P-Card procedures. JEA personnel should consult Purchasing Card Administrator and/or the established Purchasing Card procedures, retained by Procurement, regarding the use of P-Cards.

**PART C: FORMAL AWARD AND SOLICITATION PROCESSES**

**1.0 Overview of Formal Procurement and Award Process**



## **1.1 Definition of Formal Awards**

Formal Awards are those awards made for procurements of goods or services where the estimated cost will exceed \$300,000.

Formal Awards are conducted via JEA's established Formal Solicitation Processes, whenever possible, so as to ensure the best value for JEA and the most fair procurement of goods and services. The Formal Solicitation Process utilizes a variety of competitive solicitation documents and methodologies to procure goods and services depending upon the type of procurement and JEA's needs.

Some procurements, even if less than \$300,000, are required by law to be procured via a Formal Solicitation Process. Other procurements, even though they exceed \$300,000, may be exempt from the Formal Solicitation Processes (e.g. Sole Source or Emergency procurements).

### **1.1.1 WHEN FORMAL SOLICITATION PROCESSES ARE USED**

The Formal Solicitation Process must be used for all Formal Award procurements, including construction and design-build services, unless one or more of the following applies to the procurement:

- Goods or services are specifically exempted by the JEA Board.
- Procurement may be justified as a Sole Source, OEM or Proprietary procurement.
- Procurement is an approved Piggy-back on an existing contract.

Note, that the Formal Solicitation Process may be optionally used for an Informal procurement if JEA determines that the impact of the procurement justifies the time and effort of conducting a competitive solicitation process. However, in such cases, approval by the Awards Committee is not needed.

## **1.2 Exceptions to the Formal Solicitation Process**

Procurements that would otherwise be subject to the Formal Solicitation Processes, but which the JEA Board has exempted from the Formal Solicitation Processes, include the following types of procurements:

- Generation fuels, Emission Allowances , and associated transport,
- By-products Purchase or Sake of Electric Energy, Electric Generation Capacity, Electric Transmission Capacity and Transmission Services – Short and Long Term Transactions;
- Sale of JEA owned Transmission and Ancillary Services, including applicable Enabling Agreements;
- Environmental Allowances;
- Real Estate , including easements; and
- Community Outreach Procurement.

Other exceptions may include: exemptions approved by the JEA Board from time-to-time

### **1.2.1 Sole Source Awards**

Sole Source Awards for procurements that exceed \$300,000 must be approved by the Awards Committee.

### 1.2.2 Piggy-backing

JEA may choose to piggy-back on an existing contract, in accordance with the Code and the Operational Procedures herein, for a procurement that would otherwise be conducted via the Formal Solicitation Process. In such cases, a Buyer shall be assigned to ensure the following points:

- The scope of the existing contract is substantially similar to the scope and term for which JEA intends to utilize the contract.
- The existing contract was awarded via a fairly conducted, competitive bid or proposal process.
- The existing contract was awarded by a federal, state or municipal entity, or the contract was awarded by a CPO-approved, collaborative sourcing organization.
- The vendor has provided written evidence that use of the source contract is applicable and acceptable.
- The Organization Element that is considered the owner of the existing contract has given permission to JEA to piggy-back on the contract.
- The Organization Element and Buyer have conducted an internal review of the contract and have determined that the terms and pricing of the contract would be in JEA's best interest.

The Manager of Procurement Contracts, if necessary, shall be responsible for the execution of the final Contract resulting from piggy-backing and for maintaining a Contract file in the same manner as established for other JEA procurement Contracts.

### 1.3 Use of Designee for Procurement of Third Party Services on Behalf of JEA

(1) Unless otherwise authorized, JEA shall publicly procure Contracts for consulting and/or brokering services with regard to Employee/Retiree Benefits, Human Resources and Risk Management. Upon Award, the CPO may delegate the consultant/broker to act as JEA's designee to obtain benefit packages and other services (collectively referred to as the "Services") on behalf of JEA. Depending on the cost of the Services, the designee will be required to comply with the following requirements of JEA's Procurement Code:

**(a) Services with Costs that Exceed Informal Procurements/Informal Threshold**

When the designee procures Services on behalf of JEA in which the cost to JEA or its employees will exceed \$300,000, the designee shall be required to follow one the sourcing methods described in the Code. Additionally, the designee shall provide evidence of the public advertisement to JEA prior to the opening of any bids or proposals, and shall provide a bid or evaluation tabulation to JEA prior to JEA executing a Contract for the Services.

**(b) Services with Costs Less Equal to or Less than Informal Procurement Threshold**

When the designee procures Services on behalf of JEA in which the cost to JEA or its employees is not expected to exceed \$300,000, the designee is required to follow the sourcing method the Code. Upon JEA's request, the Designee will provide documentation to JEA demonstrating the designee's compliance with the Code.

## 2.0 Formal Solicitation Document Types

The documents that JEA uses in the Formal Solicitation Process most frequently are Invitations for Bids (IFBs), Requests for Proposals (RFPs), Intent to Negotiate (ITNs), or design-build type.

The following list summarizes the situations in which JEA may or must use an IFB or an RFP, and when JEA can use an ITN or design-build type solicitation procedure. The list is not intended to be exhaustive; therefore, additional situations not addressed below may require the use of a particular document type. Refer to the Code for more detailed information about each type:

### 2.1 Invitation for Bids (IFB)

IFBs may be issued under the following circumstances:

Required when the Code and/or by applicable laws, rules and regulations requires the use of a sealed bidding process (either one or two steps). May be used when Procurement determines that the process may be advantageous to JEA as, for example, for one or more of the following considerations:

- The scope of goods or services desired can be clearly defined.
- The goods or services solicited are sufficiently comparable so that price can be used as the sole determining factor in selecting a bidder.
- The market for goods or services sought is reasonably broad, established and competitive.
- May be used when Procurement otherwise determines the process will yield the best price and value for JEA.

#### 2.1.1 IFB TYPES

- **Competitive Sealed Bid (Low Bid)** – Lowest responsive and responsible bidder whose bid meets or exceeds the Solicitation requirements is awarded the work.
- **Competitive Two-step Bid** – Bidder submits two sealed pieces: a technical proposal and a price proposal. JEA qualifies bidders based on the technical proposal, then opens the price bids of the qualified bidders, and selects the lowest responsive and responsible bidder.
- **Competitive Negotiated Bid** – Bidders submit technical and price proposals in separate sealed envelopes; JEA negotiates technical aspects with bidders and bidders submit technical alternatives and price impact statements. JEA subsequently opens price proposals, and selects bidder with lowest overall cost to JEA. The

### 2.2 Request for Proposals (RFP)

RFPs may be issued under the following circumstances:

Services required by the CCNA statutes to be procured via the CCNA Formal Solicitation Process. May be used when Procurement determines that the process may be advantageous to JEA as, for example, for one or more of the following reasons:

- Price alone should not be the sole selection criterion.
- The scope of goods or services sought cannot be clearly determined at the time of issuance of the Solicitation.
- There is an insufficiently broad market to rely solely upon price-based competition.

May be used for any goods and services not required by the Code or by applicable laws, rules and regulations to be purchased via the Formal Solicitation Process, and when Procurement otherwise determines the process will yield the best price and value for JEA.

### 2.2.1 RFP TYPES

**Evaluated Proposal** – JEA evaluates a range of factors, including price, that will affect the work. JEA may request interviews with, or presentations from, any or all Proposers, and may conduct negotiations with the Proposers.

**CCNA Proposal** – JEA must follow the steps established in the Florida Statutes 287.055 relating to the procurement of architecture, professional engineering, landscape architecture, or registered surveying or mapping services.

### 2.3 Intent to Negotiate (ITN)

ITNs may be issued under the following circumstances:

- JEA determines there is competitive market among vendors, and can obtain a best and final offer (the "BAFO") from Respondents.
- Vendors would benefit from clarifications regarding the scope of goods or services sought by JEA.
- JEA requires presentations by vendors to determine the most qualified vendor.

Unless otherwise stated in the ITN Solicitation, an ITN procurement will generally be conducted as described the following procedure:

After the initial Response opening, JEA will select up two (2) to four (4) Respondents (the "Short-list") with which to commence negotiations. A selection committee (hereinafter referred to as the "Selection Committee"), will be appointed by the Chief Procurement Officer (the "CPO"), or his designee, to review and evaluate each Response submitted. The CPO's office will distribute a copy of each Response to each member of the Selection Committee, and the members of the Selection Committee will separately and independently evaluate and rank the Responses using the "Selection Criteria" as stated below in this ITN. JEA will use this ranking to develop the Short-list of companies in which to proceed with contract negotiations.

Prior to developing the Short-list, JEA may request that the Respondents provide additional information to clarify their Response. JEA will NOT allow Respondents to submit additional reference projects or change said reference projects that were initially submitted for the purposes of meeting the Minimum Qualifications stated in this ITN. However, JEA may request clarification of submitted documentation so that JEA may make an accurate assessment in developing the Short-list. JEA must be satisfied that the successful Respondent has the necessary technical expertise, experience, and resource capabilities to satisfactorily perform the Work described in this ITN.

JEA reserves the right to Award a Contract based on the Selection Committee's initial evaluation of the Responses if JEA deems the Responses demonstrate adequate competition, compliance, and responsiveness to this ITN. If JEA determines the previously stated criteria have not been met, JEA will finalize the Short-list and proceed with contract negotiations.

Respondents are cautioned to present the best possible pricing offer in their initial Responses. Failing to do so may result in a Respondent not making the Short-list, and will not be allowed to

proceed with contract negotiations. Additionally, the total Bid amount submitted with the initial Response cannot be increased during the ITN process.

Once a Short-list is developed, the CPO, or his designee, will appoint a negotiating team (the "Negotiating Team"). The Negotiation Team may be comprised of the same individuals as were members of the Selection Committee. JEA reserves the right to negotiate concurrently or separately with the Short-list Respondents. JEA reserves the right to seek clarifications, to request Response revisions, and to request any additional information deemed necessary for proper evaluation of the Responses. JEA reserves the right to incorporate value added services or industry standard innovations recommended by a Respondent into the Contract's scope of work.

A Respondent that is included on the Short-list may be required, at the sole option of JEA, to make an oral presentation, provide additional written clarifications to its Response, or JEA may require site visits to Respondent's facilities. Oral presentations, hand-outs, and written clarifications will be attached to the Respondent's Response and will become a part of the Response as if originally submitted. The CPO or his designee will initiate and schedule a time and location for any presentations which may be required.

As a part of the negotiation process, JEA may contact the references provided by the Respondent for the purpose of independently verifying the information provided in the Response, and to assess the extent of success of the projects associated with those references. JEA also reserves the right to contact references not provided by Respondents. Respondents may be requested to provide additional references. The results of the reference checking may influence the final negotiation, ranking, and Award recommendation.

After written clarifications, oral presentations, site visits, and any other negotiations deemed by JEA to be in its best interest, the Short-list Respondents will be given a deadline to submit their best and final offer (the "Best and Final Offer" or "BAFO"). The negotiation process will stop upon submission of the BAFO. Respondents will not be allowed to make further adjustments to their BAFO or communicate further with JEA, except to respond to requests for clarification from the Negotiating Team.

The JEA Negotiating Team will adjust and calculate the final rankings of the Short-list based on the BAFO submissions. JEA does not anticipate reopening negotiations after receiving the BAFOs, but reserves the right to do so if it believes doing so will be in the best interests of JEA. In the event that JEA reopens negotiations, any final rankings will be revised accordingly.

Negotiations will not be open to the public, but will be recorded. All recordings of negotiations and any records, documents, and other materials presented at negotiation sessions are public records and can be released pursuant to a public records request after a notice of intended decision for this ITN is posted, or thirty (30) days after the opening of the Responses, whichever occurs earlier.

The Award recommendation of the Negotiating Team will be based upon the scoring of the BAFOs and the Selection Criteria described below in this ITN. The Respondent with the highest score will be submitted to the CPO for approval. Once approved, the CPO will then present an Award to the JEA Awards Committee for final approval.

## **2.4 Design-Build Type**

Design-Build is used in cases where general design and construction requirements are known, but detailed design and engineering is not completed, and the CPO has determined that the

approach is in the best interest of JEA. Design-Build type procurements require a multiple-step process that includes the following documents issued in the same order as listed:

**Request for Quotations (RFQ) and Statement of Interest.** JEA reviews the responses received and creates a list of qualified firms.

**Request for Bids**, which shall include a maximum price, issued to no less than three and no more than six of the firms qualified as a result of the RFQ. JEA reviews the Proposals, contacts Proposers for any additional clarifying information that may be necessary, then presents to the Awards Committee a ranking of the Proposers from lowest to highest price with confirmation that the Proposal meet the design needs. The Awards Committee may choose one or more Proposers for the work.

### **3.0 Solicitation Document Creation Processes**

#### **3.1 Creation of Formal Solicitations - Process Overview**

The creation of a Formal Solicitation begins with a Requestor's identification of a need to procure goods or services. The Technical Specifications of the procurement are then included in a Solicitation document in the format appropriate for the procurement type, in addition to other required terms and conditions of the procurement. The requirements for a Technical Specification are provided below.

The following steps are involved in the standard processes for the creation and review of the solicitation document:

1. Requestor completes Phase 1 of the award document found at [ifb.corp.jea.com](http://ifb.corp.jea.com).
2. Requestor obtains require approvals from manager, director and VPs
3. PCM, or designee receives approved request and assigns the request to Buyer
4. Requestor from Organizational Elements provides the Buyer with responses to a questionnaire and with Technical Specifications.
5. The Buyer works with the Requestor to review the questionnaire and Technical Specifications, determine the best method for procuring the goods or services, and determine the necessary provisions in the document.
6. Procurement shall assign the document a tracking number, and a due date for vendor responses.
7. The Buyer creates the Solicitation document using contract module in Oracle.
8. The Buyer then forwards the document for review to the Requestor, and the Buyer and Requestor work together to incorporate any appropriate edits into the document, before submitting the document to the PCM for review.
9. The PCM submits the document for further review by the Manager of Procurement Contracts, JSEB Procurement Coordinator, and OGC (if required).
10. The Buyer incorporates any additional appropriate edits in the document from the PCM, Manager of Procurement Contracts, JSEB Program Coordinator and OGC, and submits the revised version to the PCM and to the Requestor.
11. If an in-person SRT review is required by the PCM, the Buyer schedules the meeting with members of the SRT.
12. If an SRT in-person meeting is not required, the SRT members will review and approve the Solicitation by email.
13. The Buyer is responsible for noting all required edits to the document and for incorporating into the document any edits resulting from the SRT review.
14. The PCM reviews and approves the final document and authorizes the Bid Office to advertise the Solicitation document.

### **3.2. APPROVAL OF SOLICITATION DOCUMENTS**

If the SRT finds no revisions are required, the PCM directs the Buyer to forward the document to the Bid Office for the following:

- establish a procurement file for the Solicitation document,
- adjust the opening date, if required,
- advertise the opportunity and solicit responses,
- receive and tabulate the responses to the Solicitation, and
- post to jea.com.

## **4.0 Content of Formal Solicitation Documents**

### **4.1 JEA Clause Library**

The Code outlines the standard groups of clauses that should be included in JEA Solicitation documents. Procurement maintains a clause library of contract terms and conditions and criteria for the use of such clauses. All Formal Solicitations are assembled using an automated tool containing the standard clauses. While Buyers are permitted to make necessary edits to an individual solicitation document, changes to the clause library may only be made upon approval of the Manager of Procurement Contracts, or designee, who may consult OGC if necessary for assistance in changing standard clauses.

### **4.2 JSEB Requirements**

The Buyer and Requestor shall consult with the JSEB Program Coordinator to determine what requirements should be included in the Solicitation document regarding the use of businesses registered under the City of Jacksonville's JSEB program.

### **4.3 Technical Specification Requirements**

With the assistance from the Buyer, Requestors should ensure their Technical Specifications describes each line item on the Bid, Proposal or Response form, and address the following areas:

- **Specific** - Targeted to the area you are measuring. To set specific performance criteria you must answer: Who? What? (What do I want the contract to accomplish?) Where? When? Why?: (Specific reasons, purpose or benefits of accomplishing the measure.)
- **Measurable** - How will I know when it is accomplished? Ask questions such as How much? How many? Does the necessary data exist? May be quantitative or qualitative, but specific data must consistently be available. Should be simple. If they require a lot of explanation and definition, then collecting data, and translating that data into actions becomes more difficult.
- **Attainable** – Is it realistic in your current environment? Determine if you have accomplished anything similar in the past or ask yourself what conditions would have to exist to accomplish this measure.
- **Relevant** – Is this meaningful to our desired outcome? Don't need too many measures, just make sure you capture what's important. Activity level is not important. The measure must address outcomes under the direct control of the contractor. Perverse incentives.

- Time bound – What kind of time frame should be used? When will the measure taken? For what period?

### 4.3 Establishing Minimum Requirements and Evaluation Criteria

#### 4.3.1. Minimum Requirements to Respond to a Solicitation

All solicitation documents shall contain a listing of the minimum requirements that potential respondents must meet. Such requirements may include a reference to an RBL/ QPL category, or simply list objective, minimum qualifications that can be verified by the Bid Evaluator/Evaluator, for example, pre-qualification, attendance at pre-bid meetings, site visits, etc. The purpose of minimum qualifications, including RBL/ QPL qualification, is to obtain bids/proposal only from bidders/proposers qualified to perform the work. The minimum requirements should be set in a manner that maximizes competition, while ensuring value to JEA. The PCM shall have the authority to modify minimum requirements so they are, in his or her opinion, in the best interest of JEA and do not subjectively limit competition.

#### 4.3.2 EVALUATION CRITERIA

All solicitation documents with an evaluation component shall contain the criteria on which the Bid Evaluator/Evaluator, and the Evaluation Team, will score the response. Depending on the type of solicitation process, the criteria may range from general to specific, or from just a few to several. The following guidelines indicate suggested evaluation criteria for the different types of solicitation processes.

#### Evaluation Criteria Considerations for Formal Solicitations

Document Type	Evaluation Criteria Considerations
Sealed Low Bids & Two-Step Bids	<ul style="list-style-type: none"> <li>• Technical compliance with specifications</li> <li>• Lowest cost</li> </ul>
Design-Build	<ul style="list-style-type: none"> <li>• Professional qualifications</li> <li>• Experience</li> <li>• Availability</li> <li>• Amount of past JEA work</li> <li>• Cost</li> <li>• Proposed team members</li> </ul>
ITN/Proposals (non-CCNA)	<ul style="list-style-type: none"> <li>• Professional qualifications</li> <li>• Experience</li> <li>• Proposed team</li> <li>• Value added services</li> <li>• Cost</li> <li>• JSEB use</li> <li>• Location of offices</li> <li>• Availability</li> <li>• Past JEA work – volume</li> <li>• Past JEA work – performance data via VPP</li> <li>• Innovation</li> </ul>
Proposals (CCNA)	<p>Florida Statutes 287.055 requires that proposals received under the CCNA process include the following factors in evaluating the proposals:</p> <ul style="list-style-type: none"> <li>• Ability of professional personnel</li> <li>• Past performance</li> <li>• Location</li> <li>• Proposed Design Approach/ Solution</li> </ul>



	<ul style="list-style-type: none"> <li>• Recent, current, and projected workloads of the firms</li> <li>• Volume of work previously awarded to each firm by the agency (more work = lower score)</li> </ul>
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It is important that the Buyer and Requestor remain aware that the evaluation criteria stated in the solicitation document must match the criteria included on the evaluation matrix.

When establishing the minimum requirements and evaluation criteria, the Requestor should ensure that the solicitation document requests information from the bidder or proposer, as part of its response, that is adequate and appropriate enough to enable the evaluators to determine whether the bid or proposal meets the criteria. The Requestor, the Buyer and all reviewers of the solicitation document should ensure that the evaluation criteria are general enough to include the widest pool of competitors, yet specific enough to be definitively evaluated.

The establishment of minimum requirements and the evaluation criteria must be completed before the issuance of the solicitation, as they form an important part of the document and should be critiqued during the review of the solicitation document.

#### **4.4 Determining Initial Term of Contract**

The Code specifies guidelines for what the initial term of contracts should be. For some procurements, the term of the contract may be determined by the completion of services or delivery of goods, or by the necessity to meet a deadline.

The PCM may approve a contract for a maximum initial term of five years, with up to two 1-year renewals, unless there is a valid business justification for a longer term. The PCM is responsible for, and is authorized to set the duration and renewal terms for the contract within these limits, or make recommendations regarding consideration of a longer initial term. Contract terms greater than the initial term of five years must be approved via informational item by the Awards Committee.

For contracts where the initial contract period is flexible within the five-year limit, the Buyer should consult the factors outlined in the Code and consider the nature of the goods or services being sought. The Requestor should work with the Buyer and other members of Procurement to determine the term that would result in the best value to JEA.

If JEA plans to award a multi-year contract, then JEA shall obtain, as part of the response, or as part of subsequent negotiations prior to award of the contract, written statements from the bidder/proposer of reasonably firm prices, and/or specific means of determining price changes for subsequent years of the contract. The Manager of Procurement Contracts shall ensure that such information is included in the final contract documents and in the Contract Documentation File.

#### **4.5 Determining if Contract Renewal Option Should Be Offered in Solicitation**

- The Buyer should consider including a contract renewal period in the initial solicitation document only when such a period may be in the best interests of JEA, and when approved by the PCM. Reasons for including a contract renewal option may include, but are not limited to, any of the following:
  - The goods or services required include a long or costly implementation process, or one that is disruptive to JEA operations.
  - The anticipated benefits of establishing a long-term relationship with a vendor would outweigh any benefits gained by undertaking another competitive solicitation.

- If the Requestor and Procurement determine that it would be in JEA's best interests to include the option to renew the contract, the following information should be addressed prior to execution of the original contract:
- The scope of work JEA anticipates including in the renewal.
- The means of pricing the work in the renewal period (either firm prices or specific price determination criteria to be applied upon execution of the renewal option).
- The maximum indebtedness of JEA for work during the renewal period.
- The time period to which the renewal will apply.
- Any required renewals of licenses, permits, certificates, or bonds for the renewal period.
- The maximum number of times that the renewal option may be exercised.
- The minimum performance requirements of the vendor to be eligible for renewal consideration.
- Conditions

#### **4.6 List of Prospective Bidders/Proposers for Supplies and Services**

The CPO, or designee, shall maintain a list of prospective bidders/proposers for supplies and services for award of contracts, known as the Responsible Bidders List (RBL) or Qualified Proposers List (QPL). The list may be subdivided into separate lists, based upon type of supplies, services, construction or other relevant criterion.

##### **4.6.1 LIST OF QUALIFIED BIDDERS/PROPOSERS**

The main objectives for maintaining an RBL/ QPL are:

- to allow JEA to more efficiently identify a pool of qualified bidders for a category of goods or services for which the process of qualifying bidders for the goods or services sought is complex or time consuming,
- and/or to allow JEA to quickly obtain bids from qualified vendors for goods and services that are purchased with relatively high frequency.

Potential bidders/Proposers may be required to pre-qualify under a particular RBL/QPL category in order to bid or propose on those projects. The CPO shall:

- coordinate with the appropriate organizational element managers to establish the necessary qualification criteria; and
- establish the process by which prospective bidders/proposers may prequalify.

Requestors may submit prequalification under a stated RBL/QPL category as a minimum requirement to bid/propose, as long as such requirement does not artificially limit competition. The solicitation document shall state how interested bidders not already RBL/QPL qualified may obtain such qualification.

##### **4.6.2 MAINTENANCE OF THE RBL/QPL**

The Procurement Bid Office shall process new applications to the RBL/ QPL list and maintain the RBL/ QPL list by requiring existing vendors to renew their qualifications according to approved RBL/ QPL procedures. The RBL/ QPL will be used as a source of qualified bidders for goods and services that are purchased repetitively. For goods and services that are infrequently purchased, JEA will include minimum qualifications for bidders on a solicitation by solicitation basis.

##### **4.6.3 REMOVAL OR SUSPENSION FROM JEA'S RBL/ QPL**

Removal or suspension from the RBL/ QPL does not in itself constitute debarment or suspension of bidding privileges. For example, JEA may periodically eliminate categories from the RBL/ QPL that are deemed obsolete or not sufficiently utilized to warrant the effort of maintaining. As a

result of such elimination a particular vendor may be removed from the RBL/ QPL; however, only a specific action of debarment or suspension may revoke the vendor's bidding privileges.

A vendor may be suspended from bidding on a particular category of RBL/ QPL work, however, the vendor may retain its privileges to bid on other JEA work (solicitations where qualification under that RBL/ QPL category are not required) as long the vendor has not been specifically debarred.

## **5.0 Advertising (Public Notice) of Formal Solicitations**

JEA's public notice requirement is designed to increase competition for JEA procurements. This requirement is very important because increased competition can reduce procurement costs and increase procurement quality. Further, JEA is subject to the requirements of laws regarding public notice for certain types of procurements, as outlined below.

In general, public notice of the date when bids or proposals are due in response to a solicitation should be given far enough in advance to allow potential bidders/proposers adequate time to respond to solicitations. For those procurements that do not involve construction related services, advertising requirements are set by JEA policy and may be amended, if necessary, to meet JEA's goals. Procurement recommends, as a minimum, announcing the availability of a solicitation document not less than 21 calendar days before the bid due date, and not less than 5 days before any planned pre-bid meeting.

### **5.1 Construction Related Public Notice Requirements**

For construction related procurements, Florida Statutes (255.0525) specifies advertising requirements for bids for construction related services as follows:

Construction related procurements over \$200,000 require a minimum of 21 days of public notice, with at least 5 days' notice prior to any scheduled pre-bid meeting.

Construction related procurements over \$500,000 require a minimum of 30 days of public notice, with at least 5 days' notice prior to any scheduled pre-bid meeting.

For those situations in which emergency conditions exist, formal advertising requirements may be waived in accordance with the Code.

### **5.2 Type of Notice**

Notice of solicitations shall be arranged and made by the Procurement Bid Office and normally includes publication in the Financial News and Daily Record and, as applicable, other publications having wide distribution to the business community serving JEA's needs. Examples of other publications include the Dodge Report for construction and *The Florida Times Union* for professional services. All advertisements for formal bids or proposals, and some informal advertisements for quotations, are posted on jea.com. Posting on jea.com also meets the public notification requirements. Interested bidders or proposers may register for and download forms and information necessary to bid at jea.com.

### **5.3 Availability of Required Forms to Submit With Bids**

All standard forms that respondent vendor is required to complete are available for download from jea.com. Posting of the forms on the website allows a central place for vendors to find forms and creates efficiencies in the production of solicitation document documents and in bid office procedures. Procurement is responsible for maintaining current forms on the bid form section of the website, but all JEA employees are encouraged to notify Procurement whenever a change is needed to standard bid forms. Examples of such forms include, but are not limited to: Unable to Submit Bid Form, Conflict of Interest Statement, List of Subcontractors, Florida Trench Safety Act Acknowledgement.

## **5.4 Drawings Included With Solicitations**

Interested bidders/proposers may view and download PDF quality drawings on jea.com. The Bid Office will coordinate the production of drawings by JEA's graphics department for in-house use only.

## **6.0 After Solicitation Release and Before Receipt of Bid**

### **6.1 Issuance of Addenda**

In the event that a Formal Solicitation must be amended or altered after the issuance of the Solicitation, Procurement may do so at any time before the bid due date by issuing an addendum to the document. The following steps shall be followed, at minimum, in the issuance of addenda:

- Buyer works with Requestor to prepare a statement of correction to the document using a standard format established by Procurement.
- The PCM shall review the document and either approve, or suggest revisions to the document. The PCM shall consult with the Manager of Procurement Contracts and/or OGC as necessary to ensure the addendum appropriately conveys the change.
- The Requestor shall review and either approve, or suggest revisions to the document.
- The Buyer shall make any necessary changes and submit the final draft to the PCM or designee.
- Once approved, the PCM or designee shall forward the document to the Bid Office for release.
- The Bid Office shall distribute addenda to all potential bidders that have registered for the bid either at jea.com or at the pre-bid meeting.
- The Bid Office shall ensure that the document is labeled and posted properly on jea.com and that copies are available to potential bidders in accordance with the Code.

### **6.2 Pre-bid Meetings**

Most solicitations should require a Pre-Bid Meeting. The Pre-Bid Meeting is one of the few opportunities where JEA and potential Bidders can exchange information. In some instances, the PCM will approve a solicitation with no Pre Bid Meetings. Attendance by potential bidders at the pre-bid meeting is usually mandatory. When attendance at a pre-bid meeting is mandatory, JEA will decline to open bids from any bidders that failed to attend. Potential bidders may not arrive after the time set for the start of the pre-bid meeting in order to be considered in attendance at the meeting.

The Buyer and the Requestor should attempt to set the pre-bid date during the document creation process, allowing for any statutory requirements of advertisement. The SRC should ensure that the pre-bid date is not sooner than 5 business days after first advertisement of the

document and not sooner than 5 business days following actual release of the document, whichever is later.

Attendees at the pre-bid meeting shall include, at a minimum, the Requestor and the Buyer. Other individuals such as other personnel from the Organizational Element who have an interest in the procurement, may attend the pre-bid meeting, if needed.

The Buyer shall distribute a sign-in sheet and make all possible efforts to ensure that each attendee signs in with his or her name, title and the company's full legal name. The Bid Office retains the original copy of the sign-in sheet with the Bid Document File. The Bid Office will provide a copy of the sign-in sheet to the Organizational Element and may, at its discretion, make the document publicly available via jea.com.

The Buyer shall maintain a written record of all questions that arise during the pre-bid meeting for which the answers are not contained within the solicitation document. The Buyer shall record the answers to the questions stated during the meeting, and shall obtain the answer from the appropriate source(s) following the meeting for any unanswered questions. The Buyer shall document such questions and answers in the form of an addendum to the solicitation.

### **6.3 Establishing an Evaluator for Responses to IFBs**

This section addresses those solicitations where selection of a successful bidder will be based solely on price.

The Requestor from the Organizational Element initiating the procurement shall inform the PCM of the name of the individual who will be designated to evaluate the bids received. The Requestor may designate himself or herself to be the Bid Evaluator. The PCM may reject the proposed Bid Evaluator if he or she determines that the person suggested as Bid Evaluator may not have the ability to fairly or completely evaluate the bids, and may require the Requestor to select a different individual to serve as the Bid Evaluator.

### **6.4 Establishing an Evaluation Team and Scoring Matrix for Responses to RFPs, ITNs, or Evaluated Bids**

This subsection addresses those proposals or bids where JEA will consider other factors, which may or may not include price, in the selection of a successful bid or proposal.

The Requestor from the Organizational Element initiating the procurement shall compile a list of the proposed members of the Evaluation Team and submit the list to the PCM. A minimum of three individuals is required for any Evaluation Team, unless otherwise approved by the PCM. The Requestor has the option to include himself or herself as a proposed member of the Evaluation Team. The Requestor shall name one member of the Evaluation Team, which may be himself or herself, as the Lead Evaluator, who shall serve as a contact point between the Organizational Element and Procurement during the establishment of the evaluation matrix, and later, during the actual evaluation of the bids or proposals.

The PCM has the authority to approve the composition of the Evaluation Team, and even after team formation, the PCM may remove individuals from the Evaluation Team in the event the PCM concludes, solely at his or her discretion, that a team member is unwilling or unable to provide an independent evaluation.

The Buyer shall prepare the evaluation matrix and submit such matrix to the PCM prior to advertisement of the solicitation. The Buyer, in compiling the evaluation criteria, shall ensure that the criteria match the requirements of the work stated in the solicitation, although the team may choose to further subdivide the stated evaluation criteria, as further described below. For each evaluation criterion, the team should assign a whole number indicating the maximum possible points for each criterion, or sub-criterion, indicating more points for those criteria that are most integral, and fewer points for those of lesser importance. Points are only awarded, not taken away. The total score of the possible points shall equal 100. Criteria may be further subdivided when constructing the evaluation matrix. The table below shows examples of evaluation criteria as stated in a solicitation and possible sub-criteria for inclusion on the matrix:

**Examples of Evaluation Criteria and Subcriteria**

<b>Evaluation Criteria</b>	<b>Subcriteria</b>
Skills and experience	Skills and education of proposed team members Skills and education of project manager Vendor experience in conducting comparable work Team member experience in performing comparable work Project manager experience in performing comparable work
Design Approach and Workplan	Ability to meet the technical requirements Proposed milestone schedule Demonstrated ability to meet specified schedule Timeline of implementation plan Timeline of mobilization plan

As a guideline, price should never be less than the highest non-price factor unless approved by the PCM.

The PCM may approve, edit and approve as edited, or return the matrix to the Buyer as unapproved. It is the responsibility of the Buyer to ensure that an approved evaluation matrix is prepared prior to receipt of proposals. In the event the Evaluation Team does not have an approved evaluation matrix at the time of receipt of the bids/proposals, such bids/proposals shall be securely held in the Bid Office until an evaluation matrix is approved by the PCM. At that time, the bids/proposals will be released to the Evaluation Team members.

Where a criterion of the Evaluation Matrix calls for a numeric ranking, a simple average of each team member’s score for that criterion shall be used. Where the team requires a formula to establish a standard method of assigning points to criteria, as when assigning points to a range of responses such as proposed prices, the Evaluation Team and the PCM shall agree on such formula before proposals are opened. A formula such as the following may be used in such situations:

$$\text{Number of Points} = \text{Maximum Number of Points for the category} * (\text{Lowest Proposed Price} / \text{Proposers Proposed Price})$$

The following example illustrates the use of this formula (assuming a max of 50 points are given in this category):

<b>Bidder</b>	<b>A</b>	<b>B</b>	<b>C</b>
<b>Price</b>	1,000,000	1,100,000	1,200,000
<b>Points</b>	50	45.5	41.7

Other approaches may be used with the approval of the PCM.

## **7.0 After Bids Are Received - Selection and Award**

### **7.1 Opening of Bids/Proposals/Responses**

All bids/proposals/Responses received on time are publicly opened during the bid opening session. The Bid Office acknowledges receipt of the bids, that the bidders meet any specified safety qualifications, that the bidders are listed on the current JEA Responsible Bidders List (RBL/ QPL) if required, and that the bidders were present at the pre-bid meeting if attendance was mandatory. The Bid Office also provides copies to the attendees of the blank evaluation matrix (when applicable) that will be used to score or rank the bids/proposals.

Procurement retains one copy of each of the responses received. The Evaluation Team will receive the remaining copies of responses in order to complete the evaluation of responses. All submittals shall be released upon request in accordance with the timeframes specified in Florida Public Records Laws.

#### **7.1.1 TWO-STEP OR COMPETITIVE NEGOTIATED BID OPENINGS**

Where the Formal Solicitation Process requires a two-part bidding process, such as for two-step bidding or competitive negotiated bids, Procurement will follow the same public opening procedures as set forth in C(7.1) "Opening of Bids/Proposals," however, Procurement will open only the technical proposal portion of the bid. Procurement may acknowledge receipt of an accompanying price proposal, but the price proposal will remain sealed in accordance with the procedures set forth for two-step bidding or competitive negotiated bidding, as applicable.

#### **7.1.2 WHEN PROCUREMENT DETERMINES NOT TO OPEN RESPONSES**

Procurement will not open bids under some circumstances, which may include, but are not limited to, the following situations:

If the Requestor from the Organizational Element has not assembled an Evaluation Team and/or evaluation matrix, the PCM may delay the opening of all bids.

If bids are received late, late bids will be returned to bidders unopened.

Bids or proposals not meeting minimum qualifications where such is known without opening the bid, as in the case of the bidder not being RBL/ QPL or safety pre-qualified, or if the bidder failed to attend a mandatory pre-bid meeting.

Bids that do not pass all required checks (RBL/ QPL, safety, etc.) will not be opened. The Bid Office will notify the PCM before the scheduled bid opening of any bid that they determine cannot be opened.

Under no circumstances will bids be opened in a non-public setting after the originally scheduled opening. If the reason for timely bid to not be opened is resolved, the PCM and CPO will determine if the bid can be opened and will direct the Bid Office to schedule and host another formal bid opening. No adjustments to any bids will be allowed.

## **7.2 Correction or Withdrawal of Bids**

### **7.2.1 MINOR IRREGULARITIES**

The CPO, or designee, shall ensure that solicitation documents include terms and conditions that allow for correction or waiving of informalities and minor technical defects if the CPO deems that doing so is in the best interest of JEA.

### **7.2.2 CORRECTIONS**

Correction of a bid already received will be considered only if the correction is received by the CPO, or designee, prior to the time announced for opening of bids. All corrections shall be made

in writing, executed and submitted in the same form and manner as the original bid. Corrections submitted by telephone, facsimile or email shall not be considered. Bidders shall not alter bids after the announced time of opening. In case of error in extension of bid prices, unit prices shall govern.

**7.2.3 WITHDRAWAL OF BIDS**

Any bidder may withdraw a bid by giving written notice to the CPO, 21 West Church Street, Jacksonville, FL 32202 at any time prior to the time announced for opening of bids. Bidders may not withdraw or modify their bids for 90 days after the time announced for opening, without the approval of the CPO.

**7.3 Responsibility of Bidders/Proposers**

The determination of responsibility of bidders/proposers is made before the evaluation of the bid/proposal. Reasons for deeming a bidder/proposer as not responsible include, but are not limited to:

- failure to meet the minimum qualifications to bids as set forth in the solicitation;
- failure to supply required information in a timely manner.

A determination of non-responsibility of a bidder/proposer shall be made in one of the following ways:

- The CPO may issue a written determination that the bidder/proposer is not responsible for reasons set forth in the determination; and
- The Awards Committee may determine that a bidder/proposer is not responsible based upon the recommendation of the Evaluator and with the concurrence of the CPO.

**7.4 Selecting a Successful Bidder/Proposer**

Depending upon the solicitation document used as part of the Formal Solicitation Process, the selection of a successful bidder/proposer may contain several aspects. The following table outlines the suggested methods for evaluating responses to each of the types of solicitation documents:

**Evaluation and Selection Steps**

Document Type	Evaluation & Selection Steps
Sealed Low Bids & Two-Step Bids	<ul style="list-style-type: none"> <li>• Engineer/Evaluator ensures technical compliance with the stated specifications</li> <li>• Lowest cost is identified and recommended to PCM</li> </ul>
ITN/Proposals (non-CCNA)	<ul style="list-style-type: none"> <li>• Each member of the Evaluation Team separately evaluates each proposal using the scoring matrix</li> <li>• Request interviews or presentations from proposers, if needed</li> <li>• Select the highest-ranked proposer with whom to negotiate based on the results of the evaluation</li> <li>• Obtain CPO approval to begin negotiations with selected proposer and CPO notification to other proposers of the results of the evaluation prior to start of negotiations with the selected proposer.</li> <li>• Conduct Negotiations</li> <li>• If successful in negotiating, award contract. If not successful, terminate negotiations and begin negotiations</li> </ul>



	with next highest ranked proposer.
Proposals CCNA	<ul style="list-style-type: none"> <li>• Each member of the Evaluation Team separately evaluates each proposal using the scoring matrix</li> <li>• The top three highest scoring responses are calculated by the Buyer, with the highest scoring respondent receiving the first ranking, etc.</li> <li>• Obtain CPO approval to begin negotiations with selected proposer and CPO notification to other proposers of the results of the evaluation prior to start of negotiations with the selected proposer</li> <li>• Evaluation team begins negotiations with the top ranked respondent, in accordance with the Florida Statutes 287.055.</li> </ul>
Design-Build	<ul style="list-style-type: none"> <li>• Professional qualifications, statements of interest are assessed and ranked, including experience, availability, past JEA work, cost, proposed team members</li> <li>• Requests for bids are issued to 3 to 6 qualified firms, and responses are ranked from lowest to highest</li> </ul>

### 7.5 Evaluating Bids Submitted in Response to IFBs

The Bid Evaluator shall review the bids received and ensure their technical compliance with the specifications. The Bid Evaluator shall select the lowest price bid that meets or exceeds the solicitation specifications. The Bid Evaluator shall submit a written statement to the PCM notifying him of the selected bidder.

In the event that the Bid Evaluator disqualifies the lowest price bid, the Bid Evaluator should submit to the PCM the justifiable reasons for why JEA does not expect the lowest-priced bidder to be capable of rendering the proposed services or supplying the proposed goods to JEA as stated in the solicitation. The PCM has the authority to form a separate evaluation team to review the bids in order to justify the Bid Evaluator's selection. The PCM also has the authority to override the Bid Evaluator's selection of a bidder, or the selection of a bidder made by any team formed to evaluate the bid.

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### 7.6 Evaluating Bids/Proposals Submitted in Response to Evaluated Bids or RFPs/ITNs

The PCM, or his designated alternate, shall oversee and provide assistance to the Evaluation Team through the completion of its tasks. The PCM may, at his or her discretion, choose either to assist the Lead Evaluator in the completion of the evaluation process, or may choose to serve as the Lead Evaluator himself or herself including preparing an evaluation to be considered along with other team members' evaluations. The PCM may also, at his or her discretion, prepare an evaluation to be considered in the same manner as the other Evaluation Team members' evaluations, at the request of the Organizational Element or when requested to do so by the CPO.

Each evaluator shall use the pre-established evaluation matrix and shall separately and independently score the proposals based on his or her own interpretation of the information in

the proposal. The Evaluation Team will only evaluate proposals that meet the minimum requirements stated in the solicitation and that were submitted by proposers whose companies meet the minimum requirements stated in the solicitation. The Team members shall not communicate with each other regarding the specific scoring of the proposals until all Evaluation Team members have completed the evaluation.

The Lead Evaluator shall designate one Evaluation Team member to be responsible for checking references submitted as part of the respondents' proposals. Prior to contacting any of the references, this individual shall prepare a script of questions to be asked of each reference and submit the script to the PCM for approval and if necessary, editing by the PCM. The designated team member shall prepare copies of the responses to the script of questions and distribute them to each of the Evaluation Team members. The Evaluation Team shall grade the references based on their interpretation of the responses obtained from the script of questions.

Upon completion, each Evaluation Team member shall email to the Buyer, and only to the Buyer, his or her completed evaluation matrices.

Where the Evaluation Team determines that presentations by the respondents are needed to clarify or obtain additional information necessary to complete the evaluations, the PCM shall ensure that the Evaluation Team does not enter into any form of negotiations with respondents, and that the Team limits all discussions to clarification of JEA's requirements and clarification of respondents' proposals.

The Buyer shall compile the scores and submit copies of each of the individual team members' scores and a compiled team score to the PCM for review. The Buyer shall be responsible for providing the PCM with additional details regarding the processing of the scores when requested. The PCM shall schedule and facilitate a team scoring meeting. During the meeting, the team members will review and discuss any evaluation criteria for which there are outlying scores and will be afforded the opportunity to change their scores if they wish. Where, at the determination of the PCM, justifiable differences of opinion exist among the team, such outliers may stand. Where differences of opinion exist among team members, and in the determination of the PCM, such differences are indefensible, the PCM may, with the CPO's approval, eliminate an individual's score or scores from inclusion in the final evaluation.

Where JEA intends to make multiple awards, the Evaluation Team shall establish a range of combined scores that it reviews whereby bids/proposals in that range are to receive an award.

If no negotiations are to be conducted, then upon completion of the scoring and after the PCM and CPO have approved the compiled scores, the Requestor shall draft a recommendation to the Awards Committee for award of the contract in accordance with the recommendations of the Evaluation Team. The Requestor shall submit the recommendation to the PCM for approval. The CPO, or designee, shall forward approved recommendations to the Bid Office for inclusion on the Awards Committee agenda. Only Awards Committee recommendations approved and made by the CPO, or designee, shall be submitted to the Awards Committee.

When negotiations will be conducted with the selected bidder/proposer, the PCM shall forward to the CPO the results of the Evaluation Team. If the CPO approves such evaluations, the Bid Office will notify all bidders/proposers of the results of the Evaluation Team. JEA shall not conduct any negotiations with the selected bidder/proposer, or any other bidders/proposers, prior to this notification by the Bid Office to all bidders/proposers. In addition, such notification shall serve as the starting point for the limited timeframe during which bidders/proposers may submit a protest regarding the evaluation process or results.

## **7.7 Bid Documentation File**

The Bid Office will transfer or otherwise make available to the Manager of Procurement Contracts the Bid Documentation File prior to the start of negotiations with selected vendor. The file may include, but is not limited to, the goods listed herein:

- Original and copy of spec book
- Bid advertisement
- Newspaper Advertisement Affidavit
- Invitation to Bid
- Cover sheet – Plan holder list
- Addenda and fax confirmations
- Solicitation/specification and all addenda
- Pre-bid meeting sign-in sheet
- Unable to Submit Bid forms (returned from vendors)
- Bid evaluation/scoring matrix
- Bid tabulation sheet
- Bids/Proposals
- Completed evaluator scoring matrices (individual scores and compiled scores)
- Letters to bidders/proposers (if applicable)
- CPO approval of ranking (printed email)
- Approved Awards Committee agenda item
- Required licenses submitted as part of the Bid/Proposal
- Insurance (if provided)
- Bonds (if provided)
- Rejection letters
- Signed award

## **7.8 Negotiations**

### **7.8.1 RESPONSIBILITIES**

The PCM, or designee, shall lead and be responsible for the proper and effective performance of all negotiations. All pre-award negotiations shall follow a well-designed negotiation plan and shall include those individuals considered to be of value to JEA in negotiating the contract. Unless otherwise determined by the PCM, or designee, all negotiations shall be conducted by a negotiations team comprised of the appropriate technical, business and legal representatives.

The PCM, or designee, shall be responsible for leading the negotiation team through the negotiation process, which shall include at least the following responsibilities:

- Opening the negotiation meetings;
- Obtaining any additional facts needed to support continued proposal analysis and negotiation;
- Reviewing facts and identifying negotiation issues;
- Bargaining on the issues;
- Reaching agreements on the issues; and
- Closing the negotiation session(s).

### **7.8.2 GENERAL PRACTICES FOR NEGOTIATIONS**

Prior to the start of any negotiations, the Requestor shall submit to the PCM, or designee, for his or her approval a list of names of the individuals proposed to be included on the negotiation

team and the roles of each individual during the negotiations. The PCM, or designee, has the authority to modify such list, and also to remove any individual from the negotiation team at any time if, in the sole determination of the PCM, or designee, the individual is detrimental to the effective conduct of negotiations.

- The PCM, or designee shall develop or adopt, document and follow a negotiation process addressing his or her responsibilities. For each negotiation, the PCM, or designee, shall lead the negotiations team in developing a written, contract-specific negotiating plan.
- The PCM, or designee, shall ensure the following elements of a good negotiation are prepared:
  - The supply market is properly analyzed and understood by the team and such knowledge is incorporated into a negotiating plan.
  - A BATNA (Best Alternative to Negotiated Agreement) is established.
  - The meeting room is properly set up.
  - That team members are available and prepared to perform their assigned roles in implementing the negotiation plan.
  - The number of team members participating in any negotiation session should be as small as practical, but large enough to provide the support required.
  - The PCM, or designee, should consider having the entire team present for the opening of negotiation. This permits everyone to hear the opening comments and participate in the introductions. It also visually demonstrates JEA's position is a team position.
  - For other sessions, the PCM, or designee, should only include team members whom he or she expects will actively participate in the session.
- That the negotiating team member participation is productive. Further, the PCM, or designee, shall exercise the control necessary to ensure effective communications while presenting a unified position to the respondent's team.
- Ask for support from appropriate team members when needed to clarify or emphasize a negotiation position.
- Interrupt when team members enter into an uncontrolled discussion with the respondent.
- Do not permit side conversations between team members and the respondent's team.
- Use caucuses to review, and when appropriate, adjust the team position.
- Use breaks to relieve tension and control the pace of negotiations.

The pre-established negotiating plan is followed, unless conditions sufficiently change during negotiations, to require the alteration of the initial negotiation plan. In such cases, a revised plan shall be developed and followed.

The PCM, or designee, shall be present in all negotiating sessions with the respondent, or shall designate a qualified alternate.

The PCM, or designee, shall ensure that a written record or recording of all offers, counteroffers, agreements and unresolved issues is maintained.

### **7.8.3 NEGOTIATIONS FOR CCNA TYPE SERVICES**

Negotiations are required by statute for all CCNA related procurements, and for these types of procurements the PCM, or designee, shall refer to the procedures outlined in the Florida Statutes, and shall follow the elements of good negotiation stated above in C (7.8.2) "General Practices for Negotiations."

#### **7.8.4 NEGOTIATION OF ITNS**

SEE SECTION 2.3 TITLED "INTENT TO NEGOTIATE (ITN)".

#### **7.8.5 NEGOTIATION OF TECHNICAL PROPOSALS - COMPETITIVE NEGOTIATED BIDDING.**

Negotiations of technical proposals for competitive negotiated bids shall be made in accordance with the procedures outlined in the Code and incorporating the elements of good negotiation outlined above in C (7.8.2) "General Practices for Negotiations."

For such negotiations, the PCM, or designee, shall maintain a negotiations log for each bidder. At minimum, the log shall contain separate sheet or sheets for each exception taken containing a record of all negotiations regarding the exception (original wording, wording of compromises offered and accepted, dates of negotiations, etc.) The PCM, or designee, shall prepare a summary containing the results of negotiations with each bidder.

#### **7.8.6 NEGOTIATION IN LIEU OF RESOLICITATION WHEN BIDS EXCEED AVAILABLE FUNDS**

The Code permits the CPO or designee, to negotiate the scope of service and cost of solicited supplies, services, construction or real estate with the lowest bidder meeting or exceeding the specifications rather than undertaking another competitive solicitation if:

- the Bid Evaluator/Evaluator, with the concurrence of the PCM, determines that time or economic considerations preclude resolicitation of work; and
- the appointed employee prepares a statement of the possible revisions to the supplies, services, construction or real estate solicited and resulting impacts on cost for review by the CPO, or designee; and
- if the CPO, or designee, approves negotiations with the lowest bidder.
- Upon approval of the CPO, or designee, the Evaluator may negotiate the procurement with the lowest bidder.

#### **7.8.7 AWARD OR CANCELLATION AFTER NEGOTIATIONS**

Upon conclusion of negotiations, the Evaluator shall prepare its recommendation to the Awards Committee for consideration and action. The actions that the Awards Committee may take include, but are not limited to award of the contract and cancellation of the solicitation.

### **8.0 Tied Responses to Formal Competitive Solicitations**

#### **8.1 Tie Bids - Competitive Sealed Bids**

##### **8.1.1 APPLICABILITY**

When the Bid Evaluator determines that two or more bids are judged low bid meeting or exceeding specifications in accordance with the evaluation criteria applied to all bids received, then the following tie-breaking steps may be utilized.

##### **8.1.2 ALTERNATE BIDS**

If the needs of JEA permit, the PCM, or designee, shall obtain from the tie bidders, and tie bidders only, one alternate bid each, which shall include an alternate price and more detailed qualifications statements. The Bid Evaluator shall evaluate alternate bids in the same manner as original bids, using the criteria set forth in the solicitation document. The Bid Evaluator shall then select the low bid or alternate bid meeting or exceeding specifications.

If the needs of JEA do not allow time to receive alternate bids, or if after receiving alternate bids, tie bids still exist, then the Bid Evaluator shall submit to the PCM a statement that documents the reasons for recommending award to one of the bidders over the other based on the qualifications

statements submitted by Bidders, or bidders' past performance for JEA on other work including those documented by the Vendor Performance program. The PCM may approve this recommendation and proceed following the established formal awards processes from this point, or may defer the recommendation to the CPO for approval or rejection of the recommendation. The Bid Evaluator shall be prepared to document and explain his or her recommendation decision before the Awards Committee.

## **8.2 Tie Rankings – Competitive Sealed Proposals**

### **8.2.1 APPLICABILITY**

In the event that two or more evaluated bids or proposals received in response to an RFP, are scored or ranked as highest (when "highest" is set forth as the response being of best value to JEA), then the following procedures may be utilized.

### **8.2.2 RANKING ACCORDING TO PRICE**

The Evaluator shall further rank tied proposers, and tied proposers only, in order of preference by price with the tied proposer offering the lowest price ranked first in order of preference, the tied proposer offering the second lowest price ranked next in order of preference and so forth until the tied proposer offering the highest price is ranked last of the tied proposers in order of preference.

If the Evaluator determines that tied proposers cannot or should not be further ranked in order of preference according to price, then the Evaluator shall notify the PCM and the CPO, or PCM (as long as he or she did not submit an Evaluation of the proposals as part of the original Evaluation Team), shall further evaluate the tied proposers according to the established evaluation criteria and make a recommendation as to the preferred vendor.

If the tie cannot be resolved using the methods described above, the amount of work previously awarded to each proposer may be used as a criteria to break the tie. In order to encourage new firms to do business with JEA, The proposer with the least amount of work awarded would then rank the highest. In the alternate, the tie could be resolved by random drawing of names provided this drawing is conducted in a public forum.

3-204 Competitive Sealed Proposals (Selection Procedures for Supplies and Services)

## **9.0 Formal Awards**

### **9.1 Award Requests**

#### **9.1.1 FORM OF REQUESTS FOR REVIEW AND ACTION.**

Upon completion of the evaluation process, the Evaluator shall complete a purchase requisition and Phase 2 of the electronic awards request form prescribed by Procurement, which is available on the JEA internal network: Quest, Enabling Processes, Procurement Services, Purchasing, Formal Bid and Award System. The Evaluator shall secure any required endorsements, including any required endorsement by the finance and budget and performance measurement groups, and summary of the evaluation results. These endorsements shall be secured prior to the Award Request being placed on the agenda for the Awards Committee.

The Awards request must have the proper approvals from the Organizational Element Manager, Director and VP of the Requestor's Organizational Element. In addition to the above approvals and endorsements, the awards request must provide signature lines for the CPO, and the Manager, Budget Services, or the Organization Vice President or Chief Officer. If the CPO determines that additional approvals or information regarding the awards request are necessary, the CPO shall have the authority to hold an awards request for inclusion on a future Awards

Committee agenda pending receipt of the additional information. The CPO shall have the authority to hold an Award Request for failure to obtain prior endorsements and approvals required prior to the deadline for Awards Committee, or if the Award Request does not, in the opinion of the CPO, comply with the requirements of the Code, or otherwise is not in the best interest of JEA. In the event that the CPO determines that the Award Request does not comply with the requirements of the Code, or is not otherwise in the best interest of JEA, the Requestor may not proceed to Award Committee without the approval of the Chief Operating Officer..

The Evaluator shall submit the Award Request with required endorsements to the PCM for preparation of the award recommendation. The PCM will ensure that documentation is sufficient and correct and submit it to the Bid Office for inclusion on the Awards Committee agenda.

The CPO, or designee, may conduct an internal meeting prior to finalization of the Awards Committee agenda, in order to coordinate details of the award recommendations with the PCM, Manager of Procurement Contracts, the Awards Coordinator and any Buyers who have an award on the upcoming agenda. Other JEA personnel may be included in the meeting, and the representative of OGC may also be included. The meeting shall be held at a time that allows sufficient time for revision to be made to the agenda before the posting of the agenda at least 48 hours prior to the relevant Awards Committee Meeting.

### **9.1.2 LATE REQUESTS**

Awards requests received by Procurement after the Friday preceding an Awards Committee meeting shall be held by Procurement for inclusion on the next subsequent Awards Committee meeting agenda.

- The Awards Committee shall not review and act upon late requests unless the following conditions are met:
- The CPO recommends the Award as in compliance with the Purchasing Code and in the best interest of JEA;
- the request has all endorsements required for Awards Committee action;
- the CPO/director of procurement has determined that there is a compelling reason for the Awards Committee to immediately act upon the request; and
- the Requestor and/or other appointed employee from the Organizational Element requesting the award is present at the Awards Committee meeting to respond to any questions the Awards Committee members may have.

The CPO shall present any late requests that meet all of the above criteria to the Awards Committee.

## **9.2 Awards Committee**

The Awards Committee provides the authority for JEA to enter into its contracts. The purpose and responsibilities of the Awards Committee are outlined in the Code, and the procedures by which awards are made and Contracts are formed are further described herein. In addition, the Awards Committee Philosophy statement is included as Appendix 5.

### **9.2.1 AGENDA PREPARATION AND DISTRIBUTION**

By Monday of each week, Procurement's Awards Coordinator shall prepare a draft of the Awards Committee agenda. This agenda shall contain the date, time and place of the meeting and list requests for review and action received by Procurement no later than Friday of the prior week and approved by Procurement for consideration by the Awards Committee.

The Awards Coordinator shall obtain approval of the agenda from the CPO, or designee, prior to posting and distribution of the agenda. The Awards Coordinator shall post the approved agenda to jea.com by 10:00 AM on the Tuesday immediately preceding the relevant Awards Committee meeting. Such posting shall serve as notice to the public of the meeting, in accordance with the requirements of the Florida Government in the Sunshine law.

#### **9.2.2 COMMITTEE MEMBERS' REVIEW PRIOR TO THE MEETING**

The Awards Committee members shall review all requests to ensure that each has the proper endorsements and complies with the requirements of the Code and its Operational Procedures. The Awards Coordinator delivers copies, either electronically or in hard copy, of the award requests to all Awards Committee members on Wednesday afternoon prior to the Awards Committee meeting. The requests shall be maintained in Procurement until the Awards Committee meeting.

#### **9.2.3 AWARDS COMMITTEE REVIEW AND APPROVAL**

The Awards Committee shall review all items according to the terms set forth in the Code . The CPO shall email items approved by the Awards Committee to the Chief Executive Officer for final approval. The approved Award Committee item and the final approval by the CEO shall indicate the authorization to proceed with preparation of the Contract Documents.

#### **9.2.4 MEETING MINUTES**

The Awards Coordinator shall prepare minutes of the Awards Committee meeting in accordance with the Florida Government in the Sunshine law. In the event that no Awards Committee meeting is held for a given week, the Awards Coordinator shall document such by posting a notice on jea.com in the same format as normal Awards Committee meeting minutes, but stating that no meeting of the Awards Committee was held.

### **9.3 Role JEA Awards Committee in Reviewing the Water and Sewer Expansion Authority (WSEA) Awards Requests**

The Water and Sewer Expansion Authority (WSEA), by its charter, is subject to award contracts pursuant to the JEA Procurement Code.

The Awards Committee shall confirm that the solicitation and selection process was completed fairly and in accordance with the JEA Procurement Code. Subject to having the Office of General Counsel form approve the contract, the WSEA Board will be the only entity with authority to authorize WSEA to enter into a contract. The contract will be binding upon WSEA when the Chairperson of the WSEA Board and the vendor actually execute the contract.

2-403 Awards Committee Procedures

2-404 Duties of the Awards Committee

### **9.4 Cancellation of Formal Awards**

Formal awards may only be cancelled with the approval of the Awards Committee. An appointed employee from the Organizational Element may request that an award be cancelled, by making a recommendation to the CPO, or designee, that states reasons why cancellation of the award are in JEA's best interest. Procurement may also make a recommendation to the Awards Committee that an award be cancelled. The individual(s) requesting cancellation of the award shall attend the Awards Committee meeting at which the request is discussed and may be required to answer questions from the Awards Committee regarding the request.



## **9.5 Cancellation of Invitations for Bids or Requests for Proposals.**

Formal competitive solicitations (e.g. Invitations for Bids or Requests for Proposals) may be canceled by Awards Committee action. If an Evaluator, with the concurrence of the PCM, recommends this action to the Awards Committee, the Evaluator must include cogent and compelling reasons for this action. Cogent and compelling reasons include, but are not limited to:

- all bids or proposals received in response to the solicitation fail to meet the requirements of the solicitation document;
- all bids or proposals do not meet the needs of JEA;
- all bids or proposals exceed the funds budgeted and available for the procurement;
- the procurement is no longer required; or
- changes in circumstances make cancellation prudent.

## **10.0 After Award**

### **10.1 Use of Contracts**

All Formal awards, except for the procurement of goods, shall use a contract as the means of establishing the definitive agreement between the parties. A PO referencing the contract terms and conditions of the formal specification will be used for the procurement of goods and shall be incorporated by reference on the PO, however, the PO should not modify terms of the Solicitation. If a formal contract is executed, all changes to the contract shall be made via an amendment to the contract, by Purchase Order, or by a means otherwise specified in the contract.

#### **10.1.1 CONTRACT EXECUTION**

An award made by the Awards Committee, except for the one time procurement of goods, requires the execution of formal contract documents between JEA and the selected vendor(s). An award made by the Awards Committee does not, in itself, constitute a Contract with the selected vendor(s). Following award, Procurement shall send the information necessary for Contract preparation to the Manager of Procurement Contracts. The Manager of Procurement Contracts shall coordinate preparation and execution of the Contract with OGC. All award recommendations are subject to JEA and the vendor's successful execution of a Contract in the form required by OGC.

For those awards where negotiation of contract terms and conditions may be permitted, the Manager of Procurement Contracts shall be responsible for coordinating the negotiations, including all communications, document reviews and meetings, between the Requestor, the selected vendor, the vendor's representatives and OGC. In the event that JEA and the vendor fail to reach mutually agreeable terms and conditions within 30 days from the date of award, the Manager of Procurement Contracts may recommend future action to the CPO, including cancellation of the award, negotiation with the next highest ranked Bidder/Proposer, or resolicitation of the goods or services, as appropriate. The Contract Manager shall ensure that documentation of the negotiations process is retained in the Contract Documentation File.

### **10.2 Conforming Contract Documents**

The Manager of Procurement Contracts shall be responsible for the execution of the final contract documents following all negotiations and after award of the contract, and properly conforms the

final contract documents. Whether performed by the Manager of Procurement Contracts or Contract Administrator, the individual conforming the contract document shall make every effort to produce a single conformed document, referencing other documents only as needed and when doing so, clearly stating an order of precedence for such documents.

The Manager of Procurement Contracts shall ensure that a copy of the conformed final contract documents are maintained by Procurement in the Contract Documentation File and/or in accordance with Procurement's established document storage procedures.

### **10.3 Contract Administration**

The Organizational Element shall designate an individual as the Contract Administrator for each contract. JEA may require that the Director of the Contract Administrator to sign the signature page of the contract upon award.

The Contract Administrator shall coordinate with the Manager of Procurement Contracts and participate in the conforming of the contract documents. After the contract documents have been conformed, the Contract Administrator shall be the individual responsible for ensuring that the Contractor meets the technical and business terms and conditions of the contract. During the term of the contract, the Contract Administrator should maintain a record of all changes and correspondence related to the contract and shall coordinate with the Manager of Procurement Contracts and Procurement as necessary to resolve any concerns.

### **10.4 Contract Documentation File**

The Manager of Procurement Contracts shall be responsible for maintaining copies of documents related to all contracts that are approved by the JEA Awards Committee, unless a contract or agreement is exempt from Procurement review as identified by the Code, or as exempted by the JEA Board.

Examples of documentation to be included in the Contract Documentation File include the following:

- Contract signed by JEA and the Contractor
- Specifications, schedules and other attachments and references
- Signed amendments to the contract documents
- Change orders
- Documentation of contract negotiations, when applicable
- Contract renewal or extension terms
- Conformed contract document as prepared by the Manager of Procurement Contracts or Contract Administrator
- Bonds or Letters of Credit
- Insurance Certificates
- Warranties issued by others, yet incorporated in the work

When the Contract Documentation File is no longer needed for frequent reference, as after the conclusion of negotiations or after an amendment has been finalized, the Manager of Procurement Contracts should ensure that the Contract Documentation File is filed or re-filed in accordance with Procurement's established policies for centralized document storage.

## **11.0 Bonds, Letters of Credit, and Insurance Certificates**

The Manager of Procurement Contracts shall oversee and be responsible for the collection, maintenance and filing of all insurance certificates, payment and performance bonds, and letters of credit (if applicable) not already collected as part of the Formal Solicitation Process. The Manager of Procurement Contracts shall review such documentation with the appropriate personnel in JEA Safety, Risk Management, or other Organizational Elements. The Manager of Procurement Contracts shall also ensure such licenses, insurances and other certifications shall be renewed and updated.

The Manager of Procurement Contracts shall file a hard copy of the documents in the designated Procurement files and shall store any electronic copies in Procurement's designated shared electronic files.

### **11.1 Bid Security**

Procurement generally requires a bid bond for any work that will require the vendor to secure performance and payment bonds after award. (JEA may also accept alternative forms of security such as cash, money order, a certified check, a cashier's check, or an irrevocable letter of credit in lieu of a bid bond.) The purpose of the bid bond is to provide some protection to JEA in the event that the Contractor is unable to obtain the necessary permits, certificates, licenses, bonds, or funding to enable the Contractor to begin work as required in the Contract. In such an event, JEA may retain the bid bond amount as damages for lost productivity and for the cost of rescinding the award and obtaining another vendor capable of performing the work. In general, JEA requires bidders to submit with their bids a bid bond in the amount of 5 percent of their bid, however, the CPO and PCM have the authority to alter this amount.

The CPO or PCM may determine what constitutes a minor irregularity and may accept the bid with the irregularity, if doing so is deemed to be in the best interest of JEA. If the CPO or PCM determines, with the concurrence of OGC, that a bidder has failed to comply in a substantive manner with the bid bond requirement, then the CPO or Purchasing manager shall issue a written determination by certified mail that the bid fails to comply with the requirements and is therefore rejected.

### **11.2 Contract Performance and Payment Bonds**

In the event that F.S. 255.05 is revised, the statute shall prevail over requirements set forth herein and these procedures shall be updated to reflect the revised requirements. Payment bonds assure that all persons supplying labor or materials in connection with work are paid as required by law. Performance bonds assure that the Company will perform the work and fulfill the obligations of the contract.

Samples of the bond forms may be included in the solicitation documents with the sample contract terms and conditions, or may be referenced in the solicitation documents as available for download from [jea.com](http://jea.com) prior to the bid due date. JEA's standard contract terms and conditions shall contain a standard clause, approved by OGC, to be included in solicitations where payment and performance bonds will be required to be executed by the successful bidder.

#### **11.2.1 WHEN A CONTRACT REQUIRES A PAYMENT AND PERFORMANCE BOND**

As stated in the Code, JEA shall comply with the requirements of F.S. 255.05, which require JEA Contractor's to provide a payment and performance bond for all construction services contracts estimated to exceed \$200,000.

#### **11.2.2 DETERMINING REQUIRED AMOUNT OF PAYMENT AND PERFORMANCE BONDS**

While the statute requires JEA contractors for construction services in excess of \$200,000 to provide a payment and performance bond, the statute does not stipulate the amount of the bond required. JEA determines the amount of bond that the contractor must provide for construction services in excess of \$200,000, which is based on the following guidelines, but which may ultimately be determined by the CPO. In order to preserve fair competition, solicitation documents will state whether the amount of the required bond will be 100 percent of the bid amount or will be determined another way. The CPO, or designee, may determine on an exception basis, if the third method outlined below will be used.

1. For construction services contracts in excess of \$200,000 that are awarded based on a fixed price amount (i.e. contracts where JEA awards a set amount for a stated scope of work), the Contractor shall be required to submit a bond in an amount equal to 100 percent of the total fixed price (i.e. an amount equal to the total estimated cost of the construction services contract).
2. For multi-year contracts for construction services in excess of \$200,000 that are awarded on a time and materials basis with a not-to-exceed amount, JEA will require the Contractor to provide a bond in an amount that JEA determines to be equal to the estimated cost of services performed during one year of the contract. While the required amount of the bonds shall be based on the cost of services for a one-year period, the required bonds shall be in effect for the stated amount during the entire term of the contract. The CPO, or designee, may determine at a later date if the amount of the required bonds may be reduced (at his or her discretion, considering factors such as the state of completion of the work, reduction of the risk to JEA, etc.). If the bond amount is reduced, the CPO, or designee, shall make a written determination, stored in the Contract Documentation File, of the basis for reducing the required amount of the performance and payment bonds
3. For construction services contracts in excess of \$200,000 where JEA determines it is not possible or advantageous for JEA to require the contractor to either provide a bond for 100 percent of the estimated contract amount (e.g. if the contract is a sole source procurement or an emergency procurement), or for an amount equal to the cost of services for one year, then with the CPO's approval, JEA may perform a risk analysis to determine an amount that corresponds to the amount of work at risk during a given time period, either the contract term, or for portion of the term that corresponds to specific portions of the scope of work. JEA shall then require the Contractor to provide a bond, or alternate form of security, in the amount determined to be at risk.

#### **11.2.3 ALTERNATIVE FORMS OF SECURITY IN LIEU OF BONDS**

As provided by Florida Statutes 255.05(7), a Contractor may submit an alternative form of security, in lieu of a bond, "in the form of cash, a money order, a certified check, a cashier's check, an irrevocable letter of credit, or a security of a type listed in part II of chapter 625 [Florida Statutes]." JEA will determine the required amount of such alternative forms in the same manner as it determines the bond amount requirements for construction contracts in excess of \$200,000.

Alternative forms of security submitted in lieu of bonds are subject to the vetting and approval, within the statutory limitations, of the CPO, or designee.

#### **11.2.4 BONDS FOR CONSTRUCTION CONTRACTS OF \$200,000 OR LESS, OR CONTRACTS FOR OTHER GOODS AND SERVICES**

Statute permits JEA to exempt Contractors for provision of construction services of \$200,000 or less from providing a payment and performance bond. However, the Code provides JEA the authority to determine whether or not to require performance and payment bonds for such contracts (i.e. construction contracts estimated to be equal to or less than \$200,000), and permits the CPO to determine when the risk to JEA of warrants requiring bonds or alternative security for contracts of \$200,000 or less.

In addition, the CPO may determine when the risk to JEA for work other than construction services may warrant requiring the Contractor to provide a bond or additional security.

### **11.3 Warranty Bonds**

Warranty bonds are intended to guarantee performance of warranty work during the warranty period stated in the contract. Florida Statutes neither require that JEA obtain warranty bonds from Contractors, nor prohibit JEA from obtaining a warranty bond from a Contractor. The CPO, or designee, may determine when the provision of a warranty bond may be advantageous to JEA.

### **11.4 Bond Forms**

The CPO, or designee, shall maintain the current form of the bid security, contract performance and payment bonds required by JEA and approved by OGC. Such forms may be included as examples in solicitation documents, or may be placed for reference on [jea.com](http://jea.com).

## **12.0 Contract Renewals, Extensions and Amendments**

### **12.1 Contract Renewals**

The preferred action is to undertake another competitive solicitation when the original term or funding authorization of an existing contract has been reached. However, if contract renewal options exist for a contract, then one or more of the following factors may indicate a situation when exercising the renewal option may be desirable:

- The general terms of the renewal were included as part of the contract documents and when applicable, the terms of the renewal were included as part of the negotiations of the contract and have already been mutually agreed upon.
- The item or services sought would otherwise require large implementation costs (i.e. high vendor learning curve, longer lead times, etc.) if JEA were to change vendors.
- The goods or services currently provided by the vendor, which may include value-added services, are believed to be a better value to JEA than JEA expects it could otherwise obtain by undertaking another competitive solicitation. The Awards Committee encourages market research to substantiate this claim for renewing a contract.
- JEA anticipates that in the near future, it will no longer require the goods or services, or significant aspects of the goods or services are likely to change soon, and the cost of undertaking another competitive solicitation the work at the present time would not be justified by the limited amount of time that JEA would continue to require the specific goods or services.
- There is sufficient cap space under the original award amount to cover the renewal period and JEA is satisfied with the vendor's performance.

- There is not sufficient funding authorization under the original award amount to cover the renewal period, but JEA believes that it can create a solid argument based on economics, service quality or any of the factors listed above to justify the renewal to the Awards Committee.

Acceptable or top performance, in and of itself, is not considered by the Awards Committee to be a valid reason for offering a contract renewal.

Contract renewals will normally be offered in one-year increments, with a maximum of two renewals per contract, unless otherwise approved by the CPO.

Situations in which JEA rejects the exercising of a renewal option may include any of the following:

- The goods or services will no longer be required.
- No renewal options remain on the contract.
- Awards Committee or the Organizational Element's VP reject the option to renew.
- JEA believes it may get a better deal or obtain a better-performing vendor if the contract were re-bid.
- There is no funding remaining for the renewal.

Contract renewals should not be extended to vendors whose performances have been scored as "Unacceptable" under the Vendor Performance Program, unless the provision of the goods or services by any other vendor would be extremely impractical or detrimental to JEA.

## **12.2 Contract Extensions**

The use of contract extensions is not the recommended method for continuing contracts for goods or services. Where such method may be necessary, consult the Procurement Code and appropriate Procurement personnel.

Situations in which an extension may be practicable and advantageous to JEA include when:

- the length of the extension is substantially less than one fiscal year;
- the end for the need for the supplies or services is foreseeable;
- current market conditions are abnormal;
- substantial economies are available to JEA;
- an emergency condition or force majeure exists;
- resolicitation is underway, but the new vendor has not yet been identified, or contract has not yet been finalized.

## **12.3 Contract Amendments**

Contract amendments to contracts that were formally awarded shall be conducted in accordance with the terms and conditions stated in the contract documents to be amended.

The Awards Committee shall consider requests for amendments to contracts that affect the dollar amount of award when any one or more of the following conditions are applicable:

the award amount prior to amendment exceeded \$300,000 and no amount was set forth as SWA; or  
the amendment will cause the award amount of the contract to exceed \$300,000; or  
the amendment amount will cause the total award amount to exceed the amount set forth (as a percentage or dollar amount) in the original award as SWA amount; or  
one or more terms and conditions of a contract for which the price is equal to or greater than \$300,000 are subject to substantial change(s), including change in schedule, price, conditions of performance, or other factors increasing risk to JEA.

### **12.3.1 COMBINING PROCUREMENT ACTIONS WITH AN EXISTING CONTRACT**

JEA may realize administrative efficiencies by combining separate procurement actions into an existing contract, providing that the method of solicitation for the separate procurement actions is in accordance with the requirements of the Code.

The Awards Committee may consider and approve an amendment to a contract with a Contractor that would increase the dollar amount of the current award in order to reduce the number of contracts with the same contractor if:

award of the separate procurement action would be made to the same contractor; and  
amending the current contract to include the separate procurement action(s) would reduce administrative costs.

Examples of the above include, but are not limited to, increasing the dollar amount of an award to include a separate procurement action solicited and awarded to the contractor in accordance with the requirements of the Code, or to include a sole source award to the contractor subsequent to the existing award.

### **12.3.2 AMENDMENT INCREASING AN AWARD ORIGINALLY LESS THAN \$300,000 TO \$300,000 OR MORE**

A JEA appointed employee may request that the dollar limit of a Purchase Order in an amount less than \$300,000 be increased by an amount that would result in a Purchase Order of more than \$300,000. In this event, the Awards Committee must examine the facts and circumstances of the initial and subsequent procurement actions and determine if a single purchasing requirement was fragmented in order to establish the initial contract using Informal procurement procedures. The Procurement Code prohibits fragmenting purchasing requirements in order to fall within the Informal procurement procedures, and the Awards Committee shall not approve a contract amendment for such an increase if it determines that the purchasing requirements were deliberately fragmented in order to fall within the Informal procurement procedures.

### **12.3.3 FORM OF REQUEST FOR CONTRACT AMENDMENT**

Requests shall be submitted to Procurement in an email requesting approval along with a quote detailing the cost for the additional work. Once approved by procurement, the Requestor shall submit an approved purchase requisition containing background and discussion information required by Procurement and the recommended action.

## **13.0 Change Orders to Formal Awards**

Change Orders shall be required when the amount of a formally awarded contract must be increased, unless the contract contains an SWA account with available funds, and there exists a valid business justification for doing so. When the amount of an initial award has been exhausted, JEA's preference is to undertake another competitive solicitation. However, Change

Orders may be approved when required to complete the initial scope of work, or to complete newly discovered requirements within the scope. Change Orders shall not be used to prolong a contract term in order to include work not contained in the original scope and not required to complete the original scope.

To request a Change Order, the JEA employee requesting the change shall do the following:

Submit to Procurement an email requesting approval along with a quote detailing the cost for the additional work. Once approved by procurement, the Requestor shall submit an approved purchase requisition containing background and discussion information required by Procurement and the recommended action.

Submit to Procurement a completed awards request form.

The CPO, or designee, may approve single Change Orders for up to 10 percent of the amount most recently approved by the Awards Committee.

If a Change Order exceeds 10 percent of the amount most recently approved by the Awards Committee, the request will be placed on the Awards Committee agenda. The Awards Committee shall review, and either approve or deny the request.

#### **14.0 Supplemental Work Authorizations (SWA)**

For procurements of certain construction related services, the PCM may authorize the inclusion of a predetermined SWA account as a separate line on the Bid Form to be submitted by the bidder. The SWA account shall be based on JEA's estimated amount for the cost of the services and shall be added to the Bid price submitted by each Bidder prior to evaluation.

The inclusion of an SWA account for certain construction related services permits the necessary flexibility for the authorized JEA Representative to quickly authorize necessary changes to the work and reduces the amount of time lost to inactivity, as the nature of such work is inevitably subject to minor, unforeseen changes.

Generally, the amount included on the Bid Form for the SWA account amount shall not exceed 10 percent of the total award amount.

All contracts approved with SWA accounts, shall contain contract language stating the terms and conditions of payment for work performed under an SWA order, including method of cost calculation for the SWA work and payment conditions.

In the event a minor change is required for a contract with an existing SWA account, the authorized JEA Representative, which may be an Inspector, Engineer, Project Manager, or other individual supervising the performance of work, shall issue a written SWA order on the established SWA form available at [jea.com](http://jea.com).

The Company shall not perform any work required by the SWA until both the authorized JEA Representative and the Company's representative with authority to enter into agreements, have signed the SWA. The JEA Representative shall be responsible for maintaining records of all SWAs and shall monitor the amount remaining in the SWA account.

In the event that a change is required, but the SWA account does not contain sufficient funds, the JEA Representative shall follow the established procedures for requesting a formal change order, which shall require the approval and review of the Awards Committee.



## 15.0 Protests, Debarment and Suspension, Protest Appeals and Contract Controversies

### 15.1 Protests of Solicitation and Award Process

The Procurement Code sets forth the deadlines by which protests of Solicitations or Awards must be received by the CPO, and the acceptable format in which individuals or companies must file a protest in order to be considered a valid protest.

Failure to submit a timely protest shall result in the protest being rejected.

#### Deadlines for Submitting Protests of Solicitations or Awards

Protested Action	Deadline
Solicitation process (IFB, RFP, ITN) (e.g. contents of Solicitation including Minimum Qualifications, evaluation process, selection criteria, Technical Specification, or Addenda)	A Solicitation protest must be submitted within five (5) calendar days prior to the Bid/Proposal/Response opening date.
Rejection of bid	Within 48 hours of receipt of written notification from JEA of rejection of bid.
Award	Within 48 hours of notification of award. (Posting of the Award Committee agenda, or issuance of JEA's Intent to Award, shall mark start of the 48 hour window.)

### 15.2 Contract and Breach of Contract Controversies

In the event that a controversy regarding a contract or the breach of a contract cannot be resolved via the JEA's established procedures for protests and appeals, JEA shall refer the matter to OGC and will refrain from taking any further actions regarding the controversy until OGC determines the proper actions for resolution.

## **PART D: CLAUSE & DOCUMENT MANAGEMENT**

### **1.0 Centralized Storage of Final Contract Documents**

The Manager of Procurement Contracts shall ensure that all Procurement Contracts are stored in a centralized location. The Manager of Procurement Contracts shall ensure the proper maintenance of hardcopies and/or electronic copies of all documents, and the Manager of Procurement Contracts shall take reasonable measures to ensure that the storage of all related documents is as centralized and accessible as possible.

The PCM shall ensure proper storage of the Bid Documentation Files.

### **2.0 Ongoing Clause Review and Documentation**

The Manager of Procurement Contracts shall be responsible for administering any changes that should be made to JEA's standard contract clauses. This updating shall be performed on both an on-going basis—as resulting from changes to contracts, audit findings or other contract issues or questions—and on periodic clause review basis. Following the completion of any significant changes to clause language or changes to the rules for when certain clauses must be included or excluded, the Manager of Procurement Contracts shall provide a memo to the appropriate Procurement personnel documenting the changes.

#### **2.1 Regular Review**

The Manager of Procurement Contracts shall, not less than once per two years, and with the assistance of OGC, review all of the clauses in JEA's standard clause library. . If the Manager of Procurement Contracts questions the appropriateness of a clause, he or she shall solicit the necessary input from other parties within JEA or from OGC, to determine whether changes to the clause should be made. The Manager of Procurement Contracts shall make necessary changes to clauses and shall add clauses to the library. The Manager of Procurement Contracts should also consider, as part of the clause review, the situations that govern the use of each clause.

#### **2.2 Modifications to Clauses**

From time to time, modifications may be necessary to ensure clauses reflect JEA's best interests and current applicable laws, rules and codes. JEA personnel may request modifications to clauses, additions of new clauses or deletion of obsolete clauses by contacting the Manager of Procurement Contracts.

From time to time, it may be necessary to update the rules for which clauses appear in certain circumstances. JEA personnel who believe adjustment in the rules for using a particular clause should submit the request change and reasons for such change in writing to the Manager of Procurement Contracts. The Manager of Procurement Contracts shall review the change and either approve the change, deny the change or submit the change to the CPO and/or OGC for review.

## **PART E: OTHER PROCUREMENT PROCEDURES**

### **1.0 Sole Source Awards**

Given the minimum requirement for one properly documented verbal quotation for procurements of \$10,000 or less, procurements of \$10,000 or less shall not be considered sole source procurements.

Sole source procurements, as suggested by the name, are those procurements where only one justifiable source for the goods or services exists. The reasons for conducting a sole source procurement must be properly documented and approved in accordance with the guidelines herein.

In the event that JEA awards a sole source contract for a procurement estimated to meet or exceed \$300,000, or that would otherwise be conducted via a Formal Solicitation Process, the PCM shall be responsible for ensuring that JEA has appropriate documentation to support the sole source contract. Such documentation shall clearly state the reasons for the sole source award, which may include emergency or a single source of supply able to meet the requirements. The PCM has the authority to reject an Organizational Element's request for a sole source award.

### **1.1 Review and Approval of Sole Source Procurements**

Upon receipt of an approved purchase requisition, Procurement personnel shall review and may approve or reject sole source procurements less than \$300,000. All sole source procurements exceeding \$50,000 must be approved by a Vice President or Chief. In addition, sole source procurements that will meet or exceed \$300,000 shall require the review and approval of Awards Committee.

The CPO may deny requests, or recommend that the Awards Committee deny requests, for sole source procurements if more than one source can be identified as meeting or exceeding the requirements, if the CPO suspects that competition is being artificially limited or if the sole source procurement is not deemed to be within the best interested of JEA.

#### **1.1.1 STANDARDIZATION**

The CPO, or designee, may send a copy of the Certificate of Sole Source to the appropriate standardization committee or department, if any. The standardization committee or department may review the item or service procured as part of its standardization process (find substitutes, other sources of supply or adopt as a standard, as appropriate).

### **1.2 Reporting Requirements for Sole Source Awards**

The CPO, or designee, shall record all approved sole source procurements in excess of \$300,000 and in accordance with Procurement Code, shall report the sole source procurements quarterly to the JEA Board.

## **2.0 Standard, Proprietary and Original Equipment Manufacturer Items**

All three types—standard, proprietary and OEM—allow JEA to set recognized requirements for specific goods or services, and to limit competition to only those suppliers that are capable of providing the defined goods or services. In some cases, only one vendor capable of providing the required goods or services may exist, thereby making the procurement a default sole source procurement; however, the Requestor should follow the process for JEA standard, proprietary or OEM procurements outlined herein, and not the process outlined for sole source procurements.

Other JEA procurement methods limit competition as well, such as prequalifying suppliers or soliciting a particular RBL/ QPL category. However, JEA standard, proprietary and OEM intend to qualify goods or services that are to be provided, rather qualify suppliers based on experience or quality. Any supplier capable of providing the specified goods or services may be permitted to bid.

Where the Requestor may accept a substitute in place of the specified goods or services, the Buyer should ensure that an “or equal” clause is included in the Instructions to Bidders section of the solicitation document. The Requestor and Buyer are encouraged to consider any alternatives that satisfy the requirements of the goods or services and may provide lower total cost and/or greater long term value to JEA.

## **2.1 Certification of Standard, Proprietary and OEM Items**

The Requestor initiating a procurement of a standard, proprietary or original equipment manufacturer item shall complete the form for Certification of Standard, Proprietary or Original Equipment Manufacturer Item, found at Quest, Enabling Processes, Purchasing, indicating the appropriate circumstance, and attach the form to the purchase requisition prior to securing any required approvals. The approval of the purchase requisition shall constitute affirmation of the Certificate of Standard, Proprietary or Original Equipment Manufacturer Item. A copy of the certification statement is in Appendix 1.

## **2.2 Review and Approval of Standard, Proprietary and OEM Items**

Standard, proprietary and OEM procurements for Informal procurements shall be reviewed and approved according to established Informal procurement procedures. The Awards Committee shall review and approve all standard, proprietary or original equipment manufacturer item procurements of \$300,000 or greater.

### **2.2.1 STANDARDIZATION**

The CPO shall send a copy of the Certificate of Standard, Proprietary or Original Equipment Manufacturer Item to the appropriate standardization committee or department, if any. The standardization committee or department may review the item or service procured as part of its standardization process (find substitutes, other sources of supply or adopt as a standard, as appropriate).

### **2.2.2 REPURCHASES/REORDERS OF STANDARD, PROPRIETARY AND OEM ITEMS**

Inventory items that have been certified as standard, proprietary or original equipment manufacturer items may be identified as such in Oracle, or on the purchase requisition. The Buyer may use such information as a basis for their solicitation of the items. Identification in this manner eliminates the need for certification review of each repurchase/reorder.

### **2.2.3 SOLICITATION DOCUMENT FOR STANDARD, PROPRIETARY AND OEM ITEMS**

The proper solicitation document to use may depend upon the character of the item rather than the price of the item. On a case-by-case basis, the CPO or designee may specify the solicitation document to use.

## **2.3 Standardization Programs or Committees**

Organizational Element Managers may establish programs or committees for the purpose of identifying items that meet or exceed JEA specifications. Such programs or committees shall document all measures taken to establish JEA standard items, including sufficient detail and reasons for establishing the recommended standards.

## **3.0 Emergency Procurements**

If a procurement falls under the emergency conditions defined in the Code, the emergency procurement procedures shall apply. Emergencies shall be as defined in the Code. In general, the Awards Committee may consider those procurements that would otherwise be subject to the Formal Solicitation Process as an emergency procurement when a period of 60 days or less remains within which to complete the procurement.

JEA employees who are authorized to approve purchase requisitions are also authorized to approve emergency procurements. Oracle will generate a PO number for approved emergency purchase requisitions. The Buyer will finalize and create the confirming PO, as soon as possible thereafter; however, in many cases the emergency procurement is already underway or has already been completed by the time the Buyer receives the purchase requisition, Certification of Emergency Procurement and other required documentation.

### **3.1 Competition Requirements for Emergency Procurements**

The Requestor initiating an approved emergency procurement shall employ such competition as is practicable under the circumstances. When possible, Requestors initiating emergency procurements are encouraged to notify Procurement prior to selecting a vendor, and enlist the aid of the Buyers in soliciting for the procurement. For emergency procurements that would otherwise be subject to the Formal Solicitation Process, the Buyer should attempt, at minimum, to obtain as many Informal quotes as possible for the goods or services sought. If possible, the number of vendors solicited for emergency procurements of Informal procurements should be in accordance with the Informal procurement requirements as established herein and in the Code.

In some instances, as when an emergency procurement must be made outside of normal Procurement business hours, it may be necessary for an appointed JEA employee to initiate and complete the emergency procurement prior to contacting Procurement.

### **3.2 Certification of Emergency Procurement**

The Requestor initiating the emergency procurement shall certify that the supplies or services must be procured on an emergency basis by completing the Certification of Emergency Procurement form available on Quest The Certification of Emergency Procurement included in Appendix 2 shall be used for this purpose, which shall accompany the emergency purchase requisition when routed for approval. Approval of the emergency purchase requisition shall constitute affirmation of the Certificate.

### **3.3 Ratification of Emergency Procurement**

As soon as practicable, the Requestor shall submit the completed form and approved purchase requisition to the Buyer for documentation in the Procurement File, and shall request ratification of the emergency procurement in the following manner:

- For Emergency procurements less than \$300,000, complete and send an approved purchase requisition, Certification of Emergency Procurement and any other documents pertaining to the purchase to Procurement for issuance of the confirming Purchase Order; or Emergency procurements of Informal procurements may be approved according to the established Informal procurement procedures.
- For Emergency procurements of \$300,000 or greater, in addition to the Certification of Emergency Procurement and approved purchase requisition, the Requestor shall prepare a request for ratification by the Awards Committee and submit it to the PCM as soon as possible thereafter. The Awards Committee shall review and consider the procurement and the Requestor shall be prepared to answer questions regarding the procurement.

### **3.4 Reporting Requirements for Emergency Procurements**

The Procurement Code requires the CPO to report all emergency procurements in excess of \$300,000 to the JEA Board on a quarterly basis. The Requestor may be called upon to explain the emergency conditions and procurement to the JEA Board.

### **4.0 Task Authorizations**

Task Authorizations authorize a Company to perform specific tasks within a broader scope of work, subject to terms and conditions previously established in an executed JEA contract with the vendor. A contract in which work is large in scope or price, complex in nature or scope, contains numerous indefinable elements at the time of award, or includes a long contract term (5 years or more), may benefit from the use of Task Authorizations to permit work to be performed in stages that allow better synchronization of work tasks, scheduling and funding.

All Task Authorizations shall reference a master contract. Task Authorizations may contain contract terms and conditions that amend the original contract provided the Task Authorization does not significantly alter the original scope of work. Each Task Authorization may set forth, in as much detail as necessary, requirements for completion of the portion of work authorized by the Task Authorization including, but not limited to, specific deliverables, schedules for payment and dates when work will be accepted.

Task Authorizations must be accompanied by a funded and approved purchase requisition before issuance.

### **5.0 Vendor Performance Program Requirements**

All JEA contracts for procurements of goods or services over \$300,000 may include JEA's standard contract language detailing the Vendor Performance Program. For non-service contracts, where the Requestor, Buyer or Manager of Procurement Contracts believes the Vendor Performance Program would be beneficial, the Buyer shall ensure that the Vendor Performance Program language is included in the solicitation. Solicitation documents that include the Vendor Performance Program language either shall include a blank copy of the scorecard, or shall

reference a location at jea.com where bidders may download for their review a blank copy of the scorecard JEA will use to assess the Contractor's performance of the contract. JEA will reject bids that take exception to the Vendor Performance Program policy or to the scorecard criteria language. The PCM shall ensure that such language is included in the final solicitation document.

The Project Manager for each contract over \$300,000 may evaluate the Contractor's performance and complete a scorecard at least once during the contract term (for contracts of one year or less) or at least once per year of the contract term (if applicable), whichever is more frequent. The Project Manager may perform a scorecard evaluation at any time during the term of the contract, in addition to the frequency required by the contract. The Project Manager shall work with Procurement's designated Vendor Performance Program Administrator and other Procurement personnel as necessary to resolve any performance issues and to ensure that scorecards are completed in accordance with the Vendor Performance Program policy set forth in the contract language. JEA will only consider contract renewals for companies whose performance has been evaluated and documented by an "Acceptable" scorecard.

In instances where JEA cannot identify an existing scorecard with fewer than four metrics that might be marked "Inapplicable" for the purchase, Procurement may develop a new scorecard to be used in evaluating the purchase in a fair, consistent and meaningful manner.

Should a deficiency in the scorecard criteria language be identified, the Vendor Performance Program Administrator (VPP Admin) should be notified as quickly as possible. The VPP Admin shall be responsible for documenting the deficiency and for working with the Manager of Procurement Contracts to make the necessary changes to the language in all places where the language appears. The changes shall be applicable to those scorecards created for future contracts and shall not be applied retroactively. The VPP Admin shall be responsible for ensuring that all amended or new scorecards become available for vendor review and download on jea.com.

The Organizational Element may designate an individual who will serve as the performance evaluator (generally the Project Manager) for the contract. The performance evaluator shall be responsible for completing scorecards as required by the Vendor Performance Program policy.

During any bid or proposal evaluation process, the PCM or Lead Evaluator may request that the VPP Admin provide to the Evaluation Team copies of completed scorecards documenting past work performed for JEA by one of the current proposers, if the solicitation included past performance for JEA as an evaluation criterion.

## **6.0 Cooperative Procurement Agreements**

### **6.1 Consideration of a Cooperative Procurement**

Any appointed employee may initiate consideration of a cooperative procurement agreement by presenting the cooperative procurement agreement to CPO, or designee.

The CPO or designee shall review all cooperative procurement agreements presented by appointed employees to identify the steps necessary to determine feasibility. The CPO, or designee, shall advise the requesting appointed manager of:

- (a) required management reviews and approvals;
- (b) required OGC reviews and approvals;
- (c) overall feasibility of the project from the procurement prospective; and
- (d) other procurement procedures available to achieve the desired results, if any.

The CPO, or designee, may choose to conduct the initial review with the OGC representative, depending upon the specifics of the proposed agreement.

## **6.2 Entering Into a Cooperative Procurement Agreement**

Cooperative procurement agreements shall be subject to the review and approval procedures of the Awards Committee.



## **PART F: NON-PROCUREMENT CONTRACTS AND AGREEMENTS**

### **1.0 Approval of Non-Procurement Contracts**

The CPO shall approve all non-Procurement contracts and agreements over \$300,000 to which JEA intends to be a party prior to the execution of the contract or agreement by an Organizational Element, unless:

- The Code provides exemption for it from being procured through the CPO
- A Board-approved Directive clearly states the process to be followed and does not require approval through the CPO
- It is a residential, commercial or industrial utility service sales agreement

The Organizational Element shall send the proposed agreement or contract to the CPO for review. The CPO may require the Manager of Procurement Contracts to review the legal and commercial aspects of the document and the goods or services described. The CPO shall either approve the document, suggest changes to the document, or reject the document and shall notify the Organizational Element of his or her decision. The Organizational Element shall not enter into such contracts or agreements that have not been approved by the CPO and the Vice President overseeing the Organizational Element, when such approval is required.

Procurement will sign and retain these contracts. The Organizational Element is responsible for presenting potential contracts to Procurement early in the development/negotiation stages. Procurement cannot be responsible for contracts developed and approved outside of this process without Procurement oversight.

## **PART G: RESPONSIBILITIES**

### **1.0 Responsibilities of PCM**

- Determine whether a procurement should be competitively bid.
- Determine if a sole source award or use of a piggy-back contract is appropriate.
- Determine the type of formal award process and associated documents that should be used.
- Choose the appropriate sourcing methodology.
- Oversee and manage creation of solicitation documents.
- Attend all formal bid openings.
- Prepare and submit to the CPO all recommendations for award.
- Oversee and manage the Bid/Proposal evaluation processes.
- Ensure comments from Procurement staff and OGC are incorporated into solicitation documents.
- Ensure advertisements and notices are issued in accordance with the Code and all applicable laws, rules and regulations.
- Manage the bidding process, including receipt of bids, rejection of bids, and bid related protests.
- Seek input and guidance from OGC as appropriate.
- Maintain the Bid Documentation File with all required documentation and any additional relevant documentation.
- Coordinate the transfer of knowledge and the Bid Documentation File to the Manager of Procurement Contracts after award.
- years.

### **2.0 Responsibilities of the Manager of Procurement Contracts**

The Manager of Procurement Contracts is an individual within Procurement who has the experience and authorization to perform the following responsibilities related to the formal awards process and contract management functions of Procurement:

1. Review solicitation documents when requested by PCM and suggest document revisions.
2. Address legal concerns in solicitation and contract documents and consult with OGC as needed.
3. Ensure contract terms protect JEA's interests.
4. Ensure contract terms clearly define vendors' expected performance requirements.
5. Ensure multi-year contracts contain bidder's statement of firm prices or method by price escalation may be determined in future years.
6. Lead contract negotiations with selected vendors when conducted.
7. Conform final contract documents.
8. Participate in issues surrounding the Vendor Performance Program as needed.
9. Maintain Contract Documentation File with all required documentation and any additional relevant documentation appropriate for all contracts, including non-procurement contracts subject to approval by the CPO.
10. Lead, or designate an alternate to lead review of clause library, with OGC assistance, not less than once every two Obtain copies of the bond certificates, letters of credit and insurance certificates.

### **3.0 Responsibilities of the Contract Administrator**

The Contract Administrator is an individual within an Organizational Element of JEA who has the experience and authorization to perform the following responsibilities, among others, related to overseeing the actual performance of the contract:

1. Maintain a record of all changes to the contract terms or schedules.
2. Oversee the performance of all of the contract's terms and conditions.
3. Coordinate as necessary with Procurement and other Organizational Elements during the term of the contract to resolve issues.
4. Prepare the Vendor Performance Program scorecard-based evaluation, if applicable.
5. Serve as main point of communication between JEA and the Contractor.
6. Focus on making best business decisions for JEA when authorizing work and approving invoices;
7. Improve Contract compliance by measuring vendor performance, applying liquidated damages, and holding the vendor accountable to Contract requirements;
8. Unless otherwise approved by the Director of the Organizational Element, payment retainage shall be in accordance with Florida Statute 255.078, as amended;
9. Take invoice payment discounts when appropriate; and
10. Ensure all invoices are processed per the Contract pricing and terms.

#### **4.0 Use of OGC**

The PCM or Manager of Procurement Contracts may consult JEA's representative from OGC if any of the following issues arise at any time during the competitive solicitation process or other formal award process, from document creation to contract execution:

- JEA cannot determine which solicitation process may be required by law for a designated procurement.
- JEA cannot determine the meaning or implications of a clause.
- JEA cannot determine a response to a clause to which a bidder or potential vendor has taken exception.
- JEA cannot determine legal or business implications of an issue that arises during negotiations with potential vendors.
- The goods or services sought fall outside those normally procured by JEA.
- The procurement involves collaboration with another utility or a utility industry partner.
- The Requestor desires to create innovative or unique performance requirements and incentives.
- The procurement is of the same or similar type as a procurement that has been involved in recent litigations at other public entities.
- JEA reaches an impasse in the negotiations process with a potential vendor.
- The procurement may require compliance with special laws, rules or regulations not normally encountered in JEA procurements (such as federal or international laws).

Where questions arise requiring legal counsel, consult the Purchasing Manager or Manager of Procurement Contracts. The PCM or Manager of Procurement Contracts may then, at his or her discretion, forward the issue to OGC for review.

### **5.1 Legal Services Other Than Bond Counsel**

In lieu of utilizing the source selection and contract formation procedures set forth in the Code, the CPO may recommend to the Awards Committee an award of a contract for legal services in any amount, other than bond counsel if, and only if:

- Office of General Counsel has approved the employment of the outside legal counsel; and
- Office of General Counsel has negotiated the terms and conditions of the contract.

## Appendix 1: Awards Committee Philosophy

Feb 9, 2006  
Revised Sept 21, 2016

- Overall guidance provided in the JEA Procurement Code.
- To promote fair and open competition, Awards Committee decisions will ensure JEA work is publicly procured to obtain the best value to JEA, while serving JEA's best interests.
- The following guidelines will be used to support this philosophy.
  - **Sole Source procurements** will be approved on an exception basis when there is only one justifiable source that can satisfy JEA's best interests.
  - **Emergency procurements** will be approved when there is not sufficient time to go through the Formal Bidding Process ( $\leq 60$  days) and Informal quotes have been obtained.
  - **Sole Source & Emergency procurements** approved by Awards Committee are reported to the JEA Board on a quarterly basis to ensure this is properly controlled.
  - **The normal maximum term length for contracts will be 5 years unless there is a valid business justification for a longer term.** Large initial costs from strategically sourcing an item, e.g. large start up or implementation costs to JEA for switching vendors, and/or long lead times.
  - **Contract renewals will not be approved without business justification.** A vendor that is meeting performance levels is not adequate justification. Market research which can show that JEA's current prices are below market or that critical expertise is needed for continuity are good examples as a business justification. Contract renewals will normally be approved in one year increments.
  - **Change Orders that add money to an initial contract will require business justification.** Preference is to re-bid work when the initial contract amount has been spent. Change orders should be approved when required to complete the initial scope of work or for newly discovered requirements within the initial scope. Change Orders should not be used to keep a contract open to start "new work".
  - **Piggybacking on other contracts will also require business justification.** Piggybacking is an approved method for JEA. It allows JEA to leverage another agencies successful competition and reduce internal resource expenditures and costs. However, a solid business justification should be made for piggybacking to document the decision and reduce the opportunity or perception of favoritism.
- Organizational VP or Chief will make recommendation to Awards Committee.

**Appendix 2: Standard, Proprietary or OEM Item Form**

***Certification of Standard, Proprietary or  
Original Equipment Manufacturer Item  
For Purchase Requisition No. \_\_\_\_\_***

**3-207 Procurement of Standard, Proprietary and Original Equipment  
Manufacturer Items.**

A contract may be awarded for supplies or services with limited competition when, under operational procedures, the chief purchasing officer or designee determines in writing that the supplies or services:

- (a) have been selected as a JEA standard in the course of a standards program or through the action of a standards committee (standard); or
- (b) must be a certain type, brand, make or manufacture (proprietary); or
- (c) must be obtained from the original equipment manufacturer or a distributor authorized by the original equipment manufacturer because of the criticality of the item or compatibility within the JEA system (original equipment manufacturer).

**Category**

The procurement item is (check the appropriate description):

\_\_\_\_\_ Standard      \_\_\_\_\_ Proprietary      \_\_\_\_\_ Original Equipment

Manufacturer

**Certification**

I the undersigned certify that the specific supplies, services or construction described in the above referenced purchase requisition are the only such supplies, services or construction that will fulfill the intended need for the following reasons:

\_\_\_\_\_  
Signature of appointed employee initiating the procurement request

\_\_\_\_\_  
Date

***This Certification shall be attached the purchase requisition when routed for approval.  
Approval of the purchase requisition shall constitute affirmation of this Certification.***

**Appendix 3: Certification of Emergency Procurements Form**  
***Certification of Emergency Procurement***

**Contract or Purchase Order Number:** \_\_\_\_\_ **Amount: \$** \_\_\_\_\_

**3-208 Emergency Procurements.**

Notwithstanding any other provision of this Code, the chief purchasing officer or designee may make or authorize others to make emergency procurements when there exists an emergency as defined in the Procurement Code, provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

**COMMENTARY:**

(1) This section authorizes the procurement of supplies, services, construction or real estate where the urgency of the need does not permit the delay involved in utilizing other methods of source selection.

(2) While in a particular emergency an award may be made without any competition, the intent of this Code is to require as much competition as practicable in a given situation.

**Basis of Emergency**

I the undersigned certify that the specific supplies, services, construction or real estate described in the above referenced purchase requisition must be procured on an emergency basis for the following reasons:

- \_\_\_\_\_ a reasonably unforeseen breakdown in machinery;
- \_\_\_\_\_ a threatened termination of an essential service;
- \_\_\_\_\_ the development of a dangerous condition;
- \_\_\_\_\_ the development of a circumstance causing curtailment or diminution of an essential service;
- \_\_\_\_\_ the opportunity to secure significant financial gain through immediate or timely action; or
- \_\_\_\_\_ the opportunity to avoid significant financial loss through immediate or timely action.

**Brief Description of Services/Supplies**

**Solicitation Summary** (List all solicitations, quotations and indicate contractor/supplier selected)

**Explanation of Basis of Selection** (Price, availability, delivery or specify other basis)

\_\_\_\_\_  
Signature of appointed employee certifying the emergency procurement

\_\_\_\_\_  
Date

***This Certification shall be attached the purchase requisition when routed for approval.  
Approval of the purchase requisition shall constitute affirmation of this Certification.  
This emergency procurement shall be reported to the JEA Board in accordance with***

Appendix 4:

***Direct Procurement of Engineering Services  
Certification***

***For Purchase Requisition No:*** \_\_\_\_\_

**Per the Purchasing Code, procurements of CCNA Services less than \$35,000 are Exempt from Competitive Solicitation:**

**Project Information and Scope**

*CPI #/O&M Account:* \_\_\_\_\_

*Project:* \_\_\_\_\_

*Short Project Description:*

*Contract Amount:* \_\_\_\_\_

*Recommended Consultant:* \_\_\_\_\_

*QPL Category:* \_\_\_\_\_

**Certification**

I the undersigned certify that the specific professional services described in the above referenced purchase requisition will fulfill the intended need for the following reasons:

\_\_\_\_\_  
Signature and Printed Name of appointed director

\_\_\_\_\_  
Date

***This Certification shall be attached the purchase requisition when routed for approval.  
Approval of the purchase requisition shall constitute affirmation of this Certification***