# Purchasing Manual

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1 Introduction & Authority

1-100 Purpose

The Maryland-National Capital Park and Planning Commission (Commission) is a bi-county agency empowered by Article 28 of the Annotated Code of the State of Maryland in 1927 to acquire, develop, maintain and administer a regional system of parks within Montgomery and Prince George's Counties, and to prepare and administer a general plan for the physical development of the two counties. In addition, the Commission gained responsibility for the public recreation program in Prince George's County in 1970.

The Commission consists of ten members, five appointed by Montgomery County and five by Prince George's County. The Commission coordinates and acts on matters of interest to both counties, and meets at least once a month. The members of the Commission from each County serve as separate Planning Boards to facilitate, review and administer the matters affecting their respective counties.

The purpose of this Purchasing Manual is to establish and implement effective and efficient purchasing practices and procedures for use by all Commission employees. This Purchasing Manual applies to purchases for supplies, services, or construction involving expenditures of Commission funds under any Contract, except to the extent that the purchases are expressly exempted under the provisions of this Manual.

1-200 Purchasing Authority

The Secretary-Treasurer is responsible for designating a manager within the Finance Department as the Commission's Purchasing Manager. Upon recommendation from the Purchasing Manager, the Secretary-Treasurer establishes purchasing procedures, subject to approval by the Executive Director, to administer the purchasing function. The purchasing policies in Practice 4-10, including the Commission's Anti-Discrimination Program, must be approved by the Commission.

The Purchasing Manager is authorized to sign Purchase Orders for any dollar value and may further delegate his/her Purchase Order signature authorization, subject to the approval of the Secretary-Treasurer. (Appendix A)

The Executive Director is authorized to sign all Contracts on behalf of the Commission. In some instances, the Executive Director may delegate Contract signature authority to the Purchasing Manager (Appendix B). The Secretary-Treasurer or designee must attest all Contracts, unless delegated to the Purchasing Manager (Appendix B). All contracts signed by the Purchasing Manager must be attested by the Secretary-Treasurer or designee. The Executive Director approves purchasing practices established by the Secretary-Treasurer, unless Commission approval is required.

The Purchasing Manual contains functional roles, which may differ with official titles in the Commission's Classification Plan. These are working titles only, descriptive of duties and responsibilities associated with the function of procurement. Using the Commission's Performance Management System, Managers must identify, define, and evaluate factors, functions, and standards related to procurement duties and responsibilities that are assigned.

Employees who make commitments that do not comply with the
**Commission's purchasing policies and procedures may be held personally liable for resolving any unauthorized commitments they make.**

### 1-300 Principles of Public Purchasing

The Commission follows three principles of public purchasing:

- **Equal & Fair Competition:**
  - Ensure fair and equitable treatment of all businesses that wish to conduct business with the Commission.
  - Provide each Vendor with the same information regarding product or service needs/specifications and keep their responses (price quotes) confidential until bids are due.
  - Ensure that the Commission is not an active or passive participant in discrimination against minority, women, or disabled-owned businesses.
  - Provide safeguards for the maintenance of a purchasing system of quality and integrity.

- **Maximization of Competition:**
  - Write specifications to allow the purchasing process to be as open as possible to a number of Vendors.
  - Obtain maximization of competition through outreach and advertising.

- **Best Value at the Lowest Price:**
  - Make purchases at the lowest price for the product or service that best meets the needs of the Originator and maximize value for the Commission's expenditure of public funds.
  - Obtain the maximum economy and timeliness in the use of funds for the purchase of goods and services.
  - Promote economy in Commission purchasing.

### 1-400 Performance Online Purchasing System

The Performance Online Purchasing System (POPS) is the purchasing module of the Commission's Performance Series Financial Management System. POPS is used to initiate requisitions, process Purchase Orders, acknowledge receipt and acceptance electronically for high volume locations so that invoices can be paid in a timely manner, and generate purchasing-related reports. The system allows users to track a purchase through its purchasing life cycle.

POPS may not be accessible to all Commission employees. Each Department Director or designee is responsible for determining employees who require system access, providing necessary IT hardware and software required for system access, and working with the System Administrator in the Secretary-Treasurer's Office to ensure approval paths and systems security rights are established and users are trained.
Department Heads are responsible for establishing processes to allow Commission employees who are unable to access POPS to submit manual requisitions to designated Field Purchasing Aides for data entry in order to enable electronic Purchase Order processing and tracking.

Commission employees who experience technical difficulties or who require training in the use of POPS should contact the System Administrator in the Secretary-Treasurer’s Office.

1-500 Exempt Transactions

The following transactions are not subject to the competitive bidding provisions of this Purchasing Manual, unless specifically directed by the Executive Director; however, competitive processes should be used, if possible, and written agreements or purchase orders are required in most cases:

- auto/equipment repairs covered by insurance payments;
- bank fees;
- charitable or non-profit activities;
- cooperative or consortium purchases, including purchases through the Metropolitan Washington Council of Governments (COG);
- debt service;
- employee reimbursement;
- employee relocation;
- insurance;
- inter-governmental memoranda of understanding or contract agreements;
- land and interests in land, including easements, rights of way, and leases;
- memberships, dues, fees for conferences and seminars, and associated or similar expenses for Commission employees;
- payments to government agencies or not-for-profit institutions;
- petty cash;
- published books, maps, periodicals, newspapers, and technical pamphlets;
- public/private partnerships subject to competition procedures outlined in Section 9 on public-private partnerships;
- regulated public utilities, where services and rates are not negotiable;
- riding Contracts by another governmental entity that have already

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**Effective Date:** 07/01/05
been competitively bid or were legitimate Sole Sources;

r. supplies or services, including Instructors, for resale to the public;

s. travel;

t. Trail extension included in Development Agreement using Developer’s Contractor at the same unit cost provided the Developer.

u. tuition assistance, training courses, and materials provided for Commission employees;

v. visiting speakers, professors, and performing artists; and

w. works of art for public display.
## 2 Ethics & Sanctions in Purchasing

### 2-100 Policy

Officials and employees responsible for the purchase of goods or services or for administering Contracts, shall be guided in their actions by the Commission’s Code of Ethics and the standards for ethical, professional purchasing behavior established by the National Institute of Government Purchasing (NIGP) (Appendix C). In addition, Commission employees are required to adhere to the Maryland Public Ethics Law as set forth in the State Government Article of the Maryland Annotated Code, Sections 15-818 et seq., as well as the Commission’s Fraud, Waste & Abuse Practice (Appendix D).

Employees who make commitments that do not comply with the Commission’s purchasing policies and procedures may be held personally liable for resolving any unauthorized commitments they make.

### 2-200 Purpose

All Commission employees must conduct themselves in a manner, which fosters public confidence in the integrity of the Commission’s purchasing process. Any attempt to realize personal gain by improper discharge of purchasing duties or responsibilities by an employee is a breach of public trust and of the ethical standards of the Commission.

All Commission employees involved, directly or indirectly, in procurement transactions, as defined, on a regular basis, must file a yearly conflict of interest affidavit which will be reviewed by the Department Head.

All Commission employees who are directly responsible for the acquisition of goods, equipment, and supplies must file a financial disclosure statement each year. Directly responsible for a procurement means active participation in the formulation and selection of the specifications, selection of the vendors, evaluation or recommendation of award.

### 2-300 Applicability

Compliance with this policy is required of all participants in the purchasing process as representatives of the Commission. (Commission Practice 5-70A)

### 2-400 Definitions

**Abuse.** The improper use or misrepresentation of actual or apparent Commission authority, including without limitation authority granted or exercised in conjunction with the Commission Merit System Rules and Regulations or other official Commission policies, Administrative Practices or Procedures.

**Bribery.** The offering, giving, receiving, or soliciting of something of value for the purpose of influencing the action of a Commission employee as part of the purchasing process.

**Employee.** As used in this manual, “employee” means any full-time, part-time, contract employee, volunteer of the Maryland-National Capital Park and Planning Commission, or Appointed Official, or any Commissioner serving on the Montgomery County or Prince George’s County Planning Boards.

**Collusion.** An understanding between two or more persons to gain something illegally, to defraud another of his or her rights, or to appear as adversaries though in agreement.
**Conflict of Interest.** An actual or potential situation in which the personal interests of a Vendor, employee or public official are, or appear to be, in conflict with the best interests of the Commission. A conflict of interest would prejudice an individual's ability to carry out duties and responsibilities objectively.

**Fraud.** Any act, omission, fraudulent statement/report or concealment involving the intentional breach of a legal or equitable duty or the violation of federal, state, local laws or Commission policies which results in damage to the Commission in any way, including without limitation the misappropriation of any Commission Property/Resources, including cash. Fraud includes, without limitation, false financial reporting.

**Gratuities.** Anything of value that is presented or promised in anticipation of receiving a consideration, whether or not the consideration is less than, equal to, or greater than the value presented or promised.

**Kickbacks.** Any inducement offered for the award of a Contract or subcontract or order, including payment, gratuity, or offer of employment, made by or on behalf of a Contractor or subcontractor under a Contract to the prime Contractor or higher tier subcontractor.

**Procurement Transaction.** All acts and functions that pertain to the responsibility of the acquisition of any goods, equipment, supplies, insurance, construction or international property, including but not limited to, the description of requirements, selection of sources, preparation and reward of contracts and all phases of contract administration.

**Relative/Family Member.** Relative, by blood or marriage, including a spouse, parent, grandparent, legal guardian, child, brother, sister, in-law, significant other or domestic partner.

**Waste.** The neglect or other improper conduct that results in destruction, damage or a loss in value of Commission property/resources.

### 2-500 Prohibited Acts

The following acts are considered a breach of the Commission’s ethical standards when used to secure participation in the purchasing process:

- a. participation in a purchasing action where a conflict of interest or appearance of a conflict of interest may exist;
- b. use of confidential information;
- c. use of collusion;
- d. use of prestige of office;
- e. receipt of bribes, gratuities, or kickbacks; or
- f. use of contingent fees for the purpose of securing a Commission Contract.
- g. any action, which is prohibited by the Fraud, Waste and Abuse Practice.
h. fail to affirmatively act to report instances of fraud, waste and abuse covered by the Fraud, Waste and Abuse Practice, a copy of which is included in Appendix D.

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**2-510 Conflict of Interest**

a. An employee may not participate directly or indirectly in a purchasing action in which a conflict of interest may exist.

b. A former employee may not participate directly or indirectly in a Commission purchasing action for a period of 18 months after the employment terminated, unless a waiver is granted by the Executive Director.

c. An individual who assists the Commission in the drafting of specifications, construction drawings, documents or requirements, an Invitation for Bids (IFB), or a Request for Proposals (RFP) for a purchase or a firm that employs the individual may not:

   (1) submit a bid or proposal for that purchase; or

   (2) assist or represent another person, directly or indirectly, who is submitting a bid or proposal for that purchase.

d. Assisting in the drafting of specifications, an IFB, or a RFP for a purchase does not include:

   (1) providing descriptive literature, such as catalogue sheets, brochures, technical data sheets, or standard specification “samples,” whether requested by the Commission or provided on an unsolicited basis;

   (2) submitting written comments on a solicitation prepared and published by the Commission as part of the solicitation process;

   (3) providing specifications for a sole source purchase after a sole source determination is made in accordance with the sole source purchase rules in Section 9-900 Sole Source Purchases; or

   (4) providing architectural and engineering services for master planning or other project planning services, as determined by the Purchasing Manager, on a case by case basis, dependent on the scope of such services; however, the determination will appear in the initial solicitation.

e. The Commission will not knowingly enter into any Contracts for the purchase of products or services (including concessions) with its officials or employees or their relatives/family members, or with any entity in which the employee knows he has greater (or knows that a relative as defined herein) than a 5% interest or association, direct or indirect, unless the employee receives a waiver from the Commission.

f. The Commission will not enter into Contracts or agreements for the use, sale, or rental of Commission property by Commission officials, employees, or their relatives/family members, except that Commission employees shall be eligible to:
(1) purchase surplus Commission personal property prior to public sale;

(2) rent and occupy park housing in accordance with Practice 6-50; and

(3) use garden plots on the same basis as offered to the general public, if the Commission makes such plots available.

(4) use Commission facilities and participate in Commission events on the same basis as the general public.

g. An employee shall not be deemed to have a conflict of interest with regard to matters pertaining to a financial interest that the employee or the employee’s immediate family holds in a blind trust.

h. The following are procedures to follow upon discovery of actual or potential conflict of interest.

(1) **Employee:**

   i. Upon discovery of an actual or potential conflict of interest, files a written statement of disqualification with the Office of the General Counsel.

   ii. Withdraws from further participation in the transaction involved.

   iii. If desired, apply to the Office of the General Counsel for an advisory opinion as to what further participation, if any, the employee may have in the transaction.

(2) **Purchasing Manager**

   i. If an employee is involved in or acts upon an action where a conflict of interest exists or is suspected to exist, the Purchasing Manager may refer the action and the employee for a review and recommendation for a personnel action by the Commission Contract Review Committee.

   ii. The Purchasing Manager receives copies of any reports or requests for advisory opinions or waivers from the General Counsel regarding whether a conflict of interest exists.

(3) **Office of the General Counsel:**

   i. Receives conflict of interest issues from employees and provides copies to the Purchasing Manager and Department Head.

   ii. The General Counsel or designee may grant a waiver of the employee conflict of interest provision if the Attorney makes a written determination that the waiver is in the Commission’s interests or that the ethical conflict is insubstantial or remote.

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**2-520 Use of Confidential Information**

An employee or former employee is prohibited from using confidential information not available to the public that was obtained as a result of the employee’s public position for his/her actual or anticipated personal gain or that...
### 2-530 Use of Prestige of Office

An employee shall not intentionally use the prestige of office or public position for that employee’s private gain or that of another. The performance of usual and customary constituent services, without additional compensation, is not prohibited.

### 2-540 Gratuities

a. All employees of the Commission, who are directly or indirectly involved in the Purchasing process on a regular basis, are prohibited from soliciting, demanding, accepting, or agreeing to an offer of employment or gifts, or anything of value, including but not limited to, samples other than those received in connection with an official procurement, entertainment, special personal price considerations, fees, commissions, meals, or other gratuities from Vendors/Contractors doing business with the Commission, including as subcontractors, or in connection with any solicitation, or proposal.

b. Vendors, Contractors, or subcontractors who offer employment or the gratuities listed above to Commission employees may be declared irresponsible Bidders and may be debarred from bidding.

c. Commission Practice 2-24 still applies to all other Commission employees.

### 2-550 Kickbacks/Collusion/Bribery

a. No Contractor or subcontractor shall demand or receive from any of his/her Vendors or subcontractors as an inducement for the award of a subcontract or order, any payment, loan, subscription, advance, deposit of money, services, or anything, present or promised, unless consideration of equal or greater value is exchanged.

b. No subcontractor or supplier shall make, or offer to make any form of kickback.

c. No collusion shall exist between two or more persons to gain something illegally, or to defraud another of his or her rights.

d. No person shall demand or receive any payment, loan, subscription, advance, and deposit of money, services, or anything of value in return for an agreement not to compete on a Commission Contract.

e. If a subcontractor or Vendor makes a kickback or other prohibited payment, the amount shall be conclusively presumed to have been included in the price of the contract, subcontract or order and ultimately borne by the Commission and will be recoverable by the Commission from both the maker and recipient. Recovery from one offending party shall not preclude recovery from other offending parties.

### 2-560 Contingent Fees

A person shall not be retained to solicit or secure a Commission Contract upon an agreement or understanding of any fee or other compensation, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

### 2-600 Sanctions

Sanctions may be imposed for ethical violations to the extent available under the Commission’s policies and the laws of the Annotated Code of Maryland.
2-610 Employees

The Secretary-Treasurer may revoke an employee’s purchasing signature authority related to purchasing transactions and/or participation in the purchasing process, either directly or indirectly.

In addition, the Secretary-Treasurer or the Commission Contract Review Committee may send a recommendation to the Executive Director, to impose any one or more of the following sanctions in accordance with Commission Practice 2-24 on a Commission employee, for violations of the Commission’s ethical standards:

a. oral or written warnings or reprimands, including notations to the employee’s personnel file;

b. collection of the cost of any purchases resulting from a violation of the Commission’s ethical standards through payroll deduction or other collection process;

c. suspension with or without pay for specified periods of time; or

d. termination of employment.

2-620 Non-Employees

The Purchasing Manager may debar or suspend a non-employee or vendor for violations of the Commission’s ethical standards as provided in Section 2. In addition, the Purchasing Manager may recommend to the Secretary-Treasurer and the Executive Director that a Contract be terminated or written warnings or reprimands be sent to the non-employee or Vendor.

Non-employees may appeal a decision by the Purchasing Manager by filing an appeal with the Executive Director within ten (10) calendar days.

2-630 Criminal Penalties

To the extent that violations of the Commission’s ethical standards of conduct constitute violations of the criminal laws of the Annotated Code of Maryland, they shall be punishable as provided therein. Such violations shall be referred to the Office of the General Counsel for further action. Penalties resulting from these violations shall be in addition to the sanctions set forth in this section.
### 3 Purchasing Roles and Responsibilities

**3-100 Purpose**

The purpose of this Section is to summarize the roles and responsibilities defined throughout this Purchasing Manual for the various personnel involved in the purchasing process.

The Purchasing Manual contains functional roles, which may differ with official titles in the Commission's Classification Plan. These are working titles only, descriptive of duties and responsibilities associated with the function of procurement. Using the Commission’s Performance Management System, Managers must identify, define, and evaluate factors, functions, and standards related to procurement duties and responsibilities that are assigned.

**3-200 Roles & Responsibilities**

This section defines the general roles and responsibilities for the following key stakeholders in the Commission’s purchasing processes:

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**3-210 Executive Director**

These following responsibilities shall be carried out by the Executive Director or by another Commission employee designated by the Executive Director:
a. Approves purchasing procedures recommended by the Secretary-Treasurer.

b. Publishes and disseminates the Commission’s Purchasing Manual to all units of the Commission.

c. Reviews and approves requests to waive competitive bidding or quotation procedures.

d. Reviews and approves Purchasing Manager’s recommendations regarding exceptions to the Commission’s Anti-Discrimination Policy.

e. Reviews and executes formal written Contracts, including Major Change Orders. The Executive Director may delegate Contracting authority to the Purchasing Manager to execute certain formal written Contracts and Major Change Orders (Appendix B).

f. Reviews and executes Contracts for Public/Private Partnerships, regardless of dollar amount.

g. Reviews and executes Contracts relating to interests in real estate (i.e. leases, easements, etc.), regardless of dollar amount.

h. Reviews and executes Contracts related to inter-governmental agreements and grants, regardless of dollar amount.

i. Reviews and approves Contracts using the competitive sealed bidding process where award is recommended to a Vendor other than the low Bidder.

j. Delegates responsibility to approve and sign Contracts.

k. Reviews and approves as an exception, a request to seek revised bids on a reduced scope after unsuccessful informal or formal bidding, based on the Purchasing Manager’s recommendations.

l. Reviews and approves sole source justifications, not otherwise delegated.

m. Reviews and approves standardization requests and results as described in Section 9.

n. Operates as the appeals officer in protest proceedings.

o. Acts as appeals officer in debarment and suspension process.

p. Initiates purchasing policy reviews and changes, subject to Commission approval.

q. Chairs and attends Commission Contract Review Committee
(CCRC) meetings.

r. Ensures that all personnel involved in Purchasing and Contract Management duties receive appropriate training in the Commission’s Anti-Discrimination policy.

s. Investigates allegations of discrimination by Vendors or Contractors.

t. Periodically reviews the certification agencies recognized by the Commission.

u. Reviews quarterly MFD utilization reports.

v. Imposes specialized bidding process for a particular procurement, if appropriate.

w. Reviews and approves major change orders not otherwise delegated.

x. Provides overall supervision for Risk Management and its insurance recommendations.

y. Appoints the third committee member to sit on the Commission Contract Review Committee, including contracting with an independent party such as administrative law judge experienced with public body contracts.

3-220 Secretary Treasurer

These following responsibilities shall be carried out by the Secretary-Treasurer or another Commission employee designated by the Secretary-Treasurer:

a. Establishes purchasing procedures, subject to approval by the Executive Director, to administer the purchasing function.

b. Initiates or transmits recommendation for changes in purchasing policy and procedures to the Executive Director for approval.

c. Designates or hires a manager within the Finance Department as the Commission’s Purchasing Manager.

d. Supervises the Purchasing Manager and oversees the Central Purchasing Division.

e. Provides guidance and policy interpretation to the Purchasing Manager on complex purchasing transactions.

f. Delegates Central Purchasing authority based on recommendations from the Purchasing Manager.

g. Delegates field purchasing authority to Field Purchasing Aides, Field Purchasing Assistants, and Field Purchasing Specialists, based upon recommendations from Department Heads.
h. Authorizes Purchase Cards to be issued to employees based upon recommendations from Department Heads.

i. Reviews contract documentation for complex transactions for their fiscal impact on the Commission.

j. Certifies funds for Contracts in excess of $100,000.

k. Attest to Contracts, including all land and interests in land, including easements, leases and rights of way, grants, intergovernmental agreements, and Public/Private Partnerships, unless otherwise delegated. (Appendix B).

l. Approves general insurance and bonding requirements for each of the four (4) types of procurements, based on Risk Management recommendations. (Appendix E).

m. Revokes purchasing authority of employees.

n. Approves waivers or modifications of bonding and insurance requirements in Contracts or in a particular Contract, as recommended by the Purchasing Manager and Risk Management Office.

o. Provides quarterly report of all insurance and bond modifications to the Executive Director.


q. Delegates Finance representative to attend quarterly Advance Procurement Planning Team (APPT) meetings, if needed.

r. Reviews and approves all private use transactions involving Commission funds or other assets.

3-230 Central Purchasing Division Staff

These following responsibilities shall be carried out by the Central Purchasing Division Staff:

3-230.1 Purchasing Manager

The following responsibilities shall be carried out by the Purchasing Manager or a designated employee of the Central Purchasing Division staff.

a. Supervises the Central Purchasing Division of the Finance Department.

b. Recommends changes to purchasing policies and procedures to the Secretary-Treasurer.

c. Has day-to-day responsibility for overseeing the purchasing function throughout the Commission.

d. Assumes lead role in purchases, including Fixed Price
Agreements and Commission-wide agreements.

e. Approves and signs Purchase Orders.

f. Prepares, reviews or approves solicitation and addenda documents prior to advertisement and issuance, including specifications to ensure specifications are fair and not overly restrictive.

g. Facilitates consolidation of Commission purchases.

h. Investigates and recommends the need for Commission standardizations.

i. Advises the Executive Director on exceptions to the Anti-Discrimination Policy.

j. Responds to bid protests.

k. Debars and suspends firms in accordance with Section 19.

l. Advises in the evaluation and selection process utilized on a solicitation.

m. Advises on negotiation of or negotiates Contracts and any later Contract variations.

n. Attends Commission Contract Review Committee meetings and acts in an advisory capacity to the Commission Contract Review Committee (CCRC).

o. Ensures compliance with purchasing policies and procedures, including Anti-Discrimination program. (Commission Practice 4-10 in Appendix F)

p. Approves sole source purchases, as delegated by the Executive Director.

q. Approves, issues and monitors blanket purchase orders.

r. Transmits to the Executive Director with a recommendation request to seek revised bids after unsuccessful informal or formal bidding.

s. Makes determinations, as required, regarding bid processes, as outlined in Section 9.

t. Cancels solicitations and rejects bids, as appropriate.

u. Conducts bid openings, unless delegated.

v. Compiles and prepares various quarterly and annual reports that track purchasing transactions, including specialized MFD reports.
w. Identifies, addresses and resolves common key issues between the Commission and its Vendors.

x. Responds to Vendor inquiries.

y. Receives Vendor Performance reports from the field and maintains file of same.

z. Shares Vendor information with other user departments.

aa. Develops and manages Vendor Outreach Program, including in-house meetings.

bb. Initiates and chairs Advance Procurement Planning Teams (APPT) to review priorities, purchasing strategies, and MFD availability, as needed.

c. Receives informal bidding documentation and issues purchase order, if appropriate. Mails or otherwise delivers purchase order to Vendor.

dd. Reviews waiver and emergency requests, sends copy to the Secretary-Treasurer and transmits to the Executive Director with recommendation.

ee. Attends or conducts pre-bid conferences and/or site visits.

ff. Assists and monitors proposal evaluations.

gg. Oversees and monitors Purchase Card Program.

hh. Oversees management of the official Vendor and Bidder file.

ii. Consults with the Legal Department on contract matters as needed.

jj. Approves and signs Contracts and major Change Orders for goods and services, as delegated by the Executive Director in Appendix B.

kk. Investigates violations of purchasing policy and reports to the Department Head with a copy to the Commission Contract Review Committee as required.

ll. Provides assistance to Field Purchasing Assistants, Field Purchasing Aides and Field Purchasing Specialists, as needed.

mm. Refers unresolved claims and disputes to the Commission Contract Review Committee.

nn. Resolves difficulties encountered by Purchase Cardholders in Purchase Card transactions.
oo. Provides purchasing training to Field Purchasing Aides, Assistants and Specialists.

pp. Reviews individual transactions for compliance with the Purchasing Policy.

qq. Maintains the official Contracts and Purchase Order files of the Commission.

rr. Ensures all requisitions are in the best interest of the Commission.

ss. Assists in drafting specifications, as needed.

tt. Represents the Commission at interagency meetings and outreach opportunities.

uu. Attests contracts for goods and services as delegated by the Secretary-Treasurer (Appendix B).

3-230.2 Contract Specialists (Buyers):

a. Acts on behalf of the Purchasing Manager, as recommended by Purchasing Manager and approved by the Secretary-Treasurer.

b. Attends and conducts pre-bid or pre-proposal meetings, as needed.

c. Serves on evaluation committees for RFP’s, as needed.

d. Processes and approves Central and other Purchase Orders based upon delegated authority from Purchasing Manager, as approved by the Secretary-Treasurer.

e. Advises and participates in Contract negotiations and any later Contract variations as delegated by the Purchasing Manager.

f. Attends Commission Contract Review Committee meetings, as appropriate.

g. Participates in appropriate Advance Procurement Planning Team meetings.

h. Conducts drawing for tie bids in the presence of at least one (1) witness.

i. Oversees and administers the Purchase Card Program, as assigned by the Purchasing Manager.

j. Assures that all purchasing procedures laid out in this Purchasing Manual are followed to ensure competition, cost effectiveness, and equal opportunity.
k. Carries out other responsibilities to facilitate purchasing as delegated by the Purchasing Manager.

l. Brings violations of the Purchase Card and purchasing policy and procedures to the attention of the Purchasing Manager.

m. Processes the formal competitive processes in accordance with purchasing policy.

n. Assists and monitors bid and proposal evaluations, as needed.

o. Prepares the procurement activity memo and data sheet, as needed.

p. Assigns solicitation numbers after review and approval, and returns package to Field Purchasing Specialists, if applicable.

q. Reviews and approves or prepares and handles formal solicitations from solicitation to award.

r. Mails or otherwise transmits Central Purchase Orders to awardees.

s. Prepares and reviews addenda, as needed.

3-230.3 Contract Technicians

a. Monitors and expedites the flow of documents during the purchasing process.

b. Maintains the Vendor and Bidder files.

c. Reviews and completes the information required in the routing system, including sub-contracting information.

d. Performs surplus bidding process.

e. Reviews incoming requisitions for accuracy.

f. Processes Purchase Orders as delegated by the Purchasing Manager, and approved by the Secretary-Treasurer.

3-240 Department & Division Staff

These following responsibilities shall be carried out by the Commission’s Departments or Divisions’ staff:

3-240.1 Department Head or designee

a. Ensures purchasing policy and Anti-Discrimination Program objectives are achieved on a division and departmental basis.
b. Ensures that compliance with purchasing and Anti-Discrimination Programs is reflected in the personnel job descriptions, and employee evaluations as appropriate.

c. Approves expenditures, including petty cash, payment requests, and requisitions.

d. Provides overall guidance for Departmental projects and mission.

e. Identifies requirements of Division and units that may be consolidated.

f. Ensures that all Department staff with purchasing responsibility participate in training in Purchasing Policy and Anti-Discrimination Policy.

g. Forecasts yearly purchasing requirements and defines priorities and timing of each.

h. Appoints a Contract/Construction Manager to monitor any Contract in excess of the formal bid amount.

i. Ensures that all Contracts/Construction Managers, Contract Administrators, Project Inspectors and other staff involved in Contract Management, receive training in Contract Management.

j. Delegates signature authority, as approved by the Secretary-Treasurer, to selected employees for Check Requests, Change Order Requests, Materials Received Reports, Petty Cash Slips, Requisitions, Capital Outlay Requests, informal bidding and Field Purchase Orders.

k. Reviews and approves bid/proposal packages prior to transmission to the Central Purchasing Division.

l. Reviews waiver or emergency requests and provides justifications for waiver of competition including potential for MFD participation prior to transmission to the Purchasing Manager.

m. Recommends individuals to the Secretary-Treasurer to be Field Purchasing Aides and/or Field Purchasing Assistants, and Field Purchasing Specialists.

n. Recommend individuals to the Secretary-Treasurer to be Purchase Card Holders and Purchase Card Approving Officials (these individuals may also be Field Purchasing Aides or Assistants)

o. Approves the invoices for accepted materials or services.

p. Provides instruction on submission of invoices for
payment.

3-240.2 Originator

a. Anticipates and identifies needed goods or services.

b. Estimates cost of acquisition and verifies that funds are available.

c. Completes the Finance infrastructure form, if applicable.

d. Prepares/provides technical requirements or specifications for goods or services, which permit unrestricted, fair and competitive bidding.

e. Prepares requisition for items $5,000 and under and forwards to the Field Purchasing Aide, together with Vendor recommendation.

f. Prepares requisition for items over $5,000 to $25,000 and forwards to Field Purchasing Assistant.

g. Prepares requisition for items in excess of $25,000 and forwards to Field Purchasing Specialist, if any, or to Central Purchasing Division.

h. Considers MFD availability and participation.

i. Completes memorandum for fixed price agreement and forwards to Central Purchasing.

j. Concurs with award recommendation.

k. Obtains proper approvals for capital outlay items from the Fixed Asset Coordinator, if needed.

l. Determines if Federal/State grant funds are to be used and discusses requirements with the Grant Coordinator in the Finance Department and the Grant Coordinator in the field.

m. Determines if an existing Contract may be used to obtain the needed goods or services.

n. Prepares Waiver of Competition form and justification memos, including Sole Source memo, if needed.

o. Agrees to purchasing process selection criteria, rating sheet and evaluation.

p. Prepares project budget.

q. Estimates Commission resources required to support the
project.

r. Obtains approval for the purchase from the Department Head or designee.

s. Participates in bid or proposal evaluation, as designated.

t. Completes Vendor Performance Form and returns to Central Purchasing.

u. Notifies Central Purchasing that certain purchase orders are ready for closing.

v. Attends and participates in Advance Procurement Planning Team (APPT) meetings, if needed.

w. Inspects and accepts goods and services delivered in compliance with terms and conditions of purchase and approves for payment.

3-240.3 Departmental or Divisional Budget Reviewer

a. Reviews pending requisitions or contract requests to verify availability of funds, prior to transmittal to Department Head.

b. Agrees on a budget.

c. Monitors spending.

d. Develops and coordinates CIP projects and operating budgets, as appropriate.

e. Participates in Advance Procurement Planning Team (APPT) meetings, if needed.

f. Generates and reviews encumbrance reports.

3-240.4 Field Purchasing Aides (The Aide is an employee designated by the Department Head subject to approval by the Secretary-Treasurer.)

a. Performs clerical/administrative support, as needed.

b. Receives completed Requisition from Originator.

c. Reviews requisitions for goods and/or services and verifies the goods and/or services are on the low risk list. If not, sends to Field Purchasing Assistant for contract preparation.

d. Solicits quotes for requisitions valued $5,000 and under, as directed.
e. Utilizes Commission Bidder list for Vendor selection.

f. Enters Requisition and Field Purchase Order into POPS, if Requisition has all final approvals, including specialized approvals.

g. Mails Field Purchase Order to Vendor.

h. Transmits requisitions over $5,000 to $25,000 to the Field Purchasing Assistant.

i. Receives request to use fixed price agreement and issues Field Purchase Orders or requests Central Purchasing to issue a Purchase Order against Fixed Price Agreement.

j. Reviews requisition and sends request for a Blanket Purchase Order to Central Purchasing.

k. Communicates with Field Personnel and the Central Purchasing Division.

l. Obtains business information on new Vendors using Vendor Information form.

m. Trains Field Personnel on the POPS.

3-240.5 Field Purchasing Assistant

a. Can also serve as the Field Purchasing Aide.

b. Receives completed Requisitions or contract requests as delegated under $5,000 which require a contract and requisitions over $5,000 and verifies that Requisition has all final approvals, including specialized approvals.

c. Assists the Originator in formatting informal written solicitations and obtaining bids.

d. Distributes informal Invitation for Bids and is the sole contact for vendors on the informal bids solicitations.

e. Contacts a minimum of five (5) Vendors, including two (2) MFD Vendors for quotes either by fax, email or mail, using the Commission Bidders list.

f. Receives a minimum of three (3) bid responses.

g. Reviews informal bids, completes Procurement Data Sheet and forwards package to Central Purchasing.

h. Transmits completed Requisitions with required approvals over $25,000 to Central Purchasing.

3-240.6 Field Purchasing Specialist
a. Can serve as Field Purchasing Aide and Field Purchasing Assistant, as delegated.

b. Assists the Montgomery Park Development Division or the Prince George’s Park Planning & Development Division with processing purchase transactions related to Capital Improvements Projects (CIP).

c. Provides suggestions to Purchasing Manager regarding purchasing activities and “smart buying” opportunities.

d. Acts as liaison between Field Personnel and the Central Purchasing Division.

e. Assists Originator in writing solicitations.

f. Is the sole contact on CIP project solicitations for Vendors.

g. Obtains Funds Verification from Budget Reviewers and other necessary approvals.

h. Reviews solicitation for purchasing policy compliance and assembles solicitation packages for review and approval by the Central Purchasing Division prior to issuance and distribution.

i. Signs solicitations after review and approval by the Central Purchasing Division.

j. Advertises solicitation and chairs the pre-bid/pre-proposal or site visit conferences.

k. Prepares addenda to the solicitation, as needed, for review and approval by the Central Purchasing Division prior to distribution.

l. Prepares and issues time addenda.

m. Receives bids/proposals at designated area and maintains in a secured area prior to due date and time.

n. Prepares Notice of Intent to Award and collects necessary information from apparent awardee on Anti-Discrimination Program, bonding, insurance, and business information on new vendors using the Vendor Information form.

o. Assembles Contract packages for Contract routing.

p. Transmits Contract packages to Purchasing in a folder together with written memorandum outlining the purchasing activity and including the Procurement Data Sheet and recommendation for award, unless contract has been changed and legal approval is required.

q. Serves as Contract Administrator or facilitates Contract
Administrator duties, as directed.

r. Transmits copy of the approved Contract to the Contractor after its return from the Central Purchasing Division.

3-240.7 Contract Administrator (The Commission employee who coordinates administrative actions taken to assure compliance with the terms and conditions of the contract after award)

a. Responsible for the general administration of the contract.

b. Can also act as the Contract/Construction Manager.

c. Completes contractual paperwork as directed by the Contract/Construction Manager.

d. Advises Contract/Construction Manager of Contractor’s compliance/non-compliance with contract terms.

e. Obtains business information on new vendors and new subcontractors and transmits to Central Purchasing.

3-240.8 Contract/Construction Manager (The Commission employee identified in the Contract to monitor and oversee Contract compliance on behalf of the Commission)

a. Oversees assigned Contract executed by the Commission. The Contract/Construction Manager shall be the Originator or other person knowledgeable of the Contract and assigned by the Department Head to be the Contract / Construction Manager, and lead the Management Team.

b. Monitors ancillary agreements and grants, as required.

c. Can also act as originator and/or Contract Administrator.

d. Attends and participates in Advance Procurement Planning Team meetings, as needed, to identify needs, priorities and purchasing processes, including evaluation.

e. Develops a cost effective Contract management plan and follows the plan to monitor performance.

f. Initiates the Notice to Proceed (NTP) to the awardee, with a copy sent to the Central Purchasing Division.

g. Coordinates site entry for Contractor personnel, if applicable.

h. Initiates, schedules, attends and documents periodic performance conferences (required for construction Contracts), including a pre-performance conference, if needed, and as appropriate for others.

i. Maintains a log of contract meeting minutes, cosigned by
the Contractor; reviews contractor’s invoices under the Contract; ensures that the Commission’s responsibilities are handled appropriately; records and maintains a log of any and all change orders with a notation of the reason the change order is necessary.

j. Monitors and measures Contractors’ performance.

k. Agrees to variations to a Contract within designated authority.

l. Initiates Major Change Orders and Minor Change Orders for Department Head or designee approval and maintains Change Order Log.

m. Ensures that the subcontractors named in the bid or proposal actually participate on the job, and communicates to Purchasing any change in subcontractors.

n. Reviews the list of subcontractors utilized and the percentage as contained in the Contractor’s invoice.

o. Reviews Contractor invoices for accuracy and approves for payment.

p. Monitors costs by category on the project.

q. Provides the Finance Department with data on subcontractors needed to calculate the proportion of MFD participation in subcontracts on Commission projects.

r. Maintains and reviews MFD compliance, including a review of MFD compliance reports and subcontractor verification forms, including payment.

s. Informs the Contractor of failures to comply with technical requirements of the Contract or to show a commitment to customer satisfaction, particularly if the Contractor does not make corrections.

t. Informs the Purchasing Manager of any technical or Contractual difficulties encountered during performance in a timely manner.

u. Initiates and coordinates with the Purchasing Manager and the Legal Department for issuance of correspondence, including cure notices, scheduling delay letters and other Contract performance correspondence. Provides Central Purchasing with copy of same.

v. Monitors and ensures insurance coverage is in effect and notifies Risk Management and Purchasing Manager of any changes.

w. Acts as a point of contact within the Commission and is
responsible for the completion of the Contract in accordance with its terms and conditions.

  x. Initiates Contract closeout procedures and maintains records and copies of warranties.

  y. Performs final inspection/acceptance of work required under the contract, and completes required closing and acceptance documentation.

  z. Notifies the Central Purchasing Division and Risk Management in writing of the date of final completion.

  aa. Verifies that equipment or supplies bought with Commission funds remains within the Commission.

  bb. Completes Vendor Performance form and transmits to Central Purchasing.

  cc. Notifies the Purchasing Manger whenever it is suspected that a Contractor is not fulfilling its Contractual commitments and obligations.

### 3-250 Accounting Division

The Accounting Division of the Finance Department shall carry out these following responsibilities:

  a. Reviews Grants, Contracts and associated documents transacting any Grant or donation of money or property to the Commission.

  b. Ensures that the Commission's resources are managed cost-effectively within agreed financial limits and are properly accounted for.

  c. Certifies funds availability and encumbers funds on Contracts requiring expenditure of Commission monies up to $100,000.

  d. Liquidates encumbrances upon payment or closeout of Contract.

  e. Receives and processes Check Requests and invoices.

  f. Verifies that subcontracting payments are in compliance with the contract.

  g. Ensures that assets are properly accounted for in the financial records, including the infrastructure form.

### 3-260 Office of the General Counsel

These following responsibilities shall be carried out by the General Counsel or designee:

  a. Participates in the drafting of agreements and Contract
documentation, as requested.

b. Prepares standard Contract forms, including terms and conditions, to be used for the four (4) major types of Contracts. Approvals shall take the form of a typed approval on a standard contract form.

c. Prepares special terms and conditions, as needed, based on Advance Procurement Planning Team requirements.

d. Provides advice and support on legal matters affecting the Risk Management Program.

e. Takes legal action against Vendors who do not comply with the Anti-Discrimination Program.

f. Prior to the time of issuance and advertisement, reviews and approves copies of solicitations that do not use the approved, standard Contract forms, including terms and conditions in the draft Contracts. Submits written comments or changes to the Central Purchasing Division within three (3) work days.

g. Reviews and approves all non-standard Contracts, if solicitation and contract not previously reviewed or changes instituted and Major Change Orders (excluding Purchase Orders) for sufficiency of legal form. Approvals shall take the form of a stamp and signature placed by the legal reviewer on the original non-standard Contract.

h. Participates in Advance Procurement Planning Team meetings, as needed.

i. Prepares and publishes a Commission “Contract Manual” which shall specify and include standard Contract terms and conditions (“Standard Contract Forms”) appropriate for certain procurement transactions, including major and minor change orders to any Standard Contract Form.

j. Identifies goods and services that may be acquired on a routine contract utilizing appropriate standard contract forms, and without a transaction-specific legal review.

k. Provides legal advice in the event of bid protests, appeals, debarments and Contract claims and disputes, as requested.

l. Defends the Commission in the event of litigation.

m. Serves in an advisory capacity to the Commission Contract Review Committee.

3-270 Risk Management Office

These following responsibilities shall be carried out by the Risk Management Office in compliance with Practice 2-21:
a. Assesses risks involved in various Commission activities and programs.

b. After approval by the Secretary-Treasurer, establishes and issues insurance guidelines and a checklist for the four (4) major types of Contracts, as well as renovation.

c. Reviews Contracts not using standard insurance requirements to ensure appropriateness of risk and insurance requirements.

d. Prior to issuance and advertisement, reviews and approves insurance requirements for non-standard contracts and submits written comments or changes to the Central Purchasing Division within three (3) work days.

e. Recommends waivers of insurance requirements on a specific contract to the Secretary-Treasurer.

f. Manages risk and liabilities through identification of exposure.

g. Coordinates with Prince George’s Park Planning and Development and Montgomery Park Planning and Development Division to ensure new facilities are listed on the property insurance schedule.

h. Inspects Commission facilities to ensure compliance with various safety and health laws, regulations, and policies.

i. Attends and participates in Advance Procurement Planning Teams meetings, as needed.

j. Monitors and manages insurance claims for the Commission.

k. Recommends to the Secretary-Treasurer a list of low risk activities that need not require insurance and a list of medium and high-risk activities for which insurance is mandatory. (Appendix G)

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3-280 Chief Information Officer

These following responsibilities shall be carried out by the Chief Information Officer or designee:

a. Reviews all requested purchases including software, hardware, licenses, programming agreements, service agreements, technology-related maintenance agreements, and approves any which have Commission-wide impact.

b. Reviews all pending CAS Technology requests and approves, if appropriate.

c. Maintains record of all Commission software licenses.
| 3-290 Fixed Asset Coordinator | The following responsibilities shall be carried out by the Fixed Asset Coordinator or designee:
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>a.</td>
<td>Receives notification of pending capital outlay.</td>
</tr>
<tr>
<td>b.</td>
<td>Enters the capital outlay into the financial system.</td>
</tr>
<tr>
<td>3-300 Human Resources</td>
<td>The following responsibilities shall be carried out by the Personnel Manager or designee:</td>
</tr>
<tr>
<td>a.</td>
<td>Ensures that titles and duties assigned are in compliance with appropriate classification specs.</td>
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<tr>
<td>b.</td>
<td>Ensures that duties performed pursuant to this Manual are in compliance with the Commission's Performance Management Program and other applicable Commission policies.</td>
</tr>
<tr>
<td>3-310 Petty Cash Custodian</td>
<td>a. Reconciles petty cash fund and requests replenishment as needed.</td>
</tr>
<tr>
<td></td>
<td>b. Disburses petty cash reimbursement to Commission employees.</td>
</tr>
<tr>
<td>3-320 Accounts Payable Section, Finance Department</td>
<td>a. Receives approved invoice voucher or other supporting documentation acknowledging receipt and acceptance of goods or services.</td>
</tr>
<tr>
<td></td>
<td>b. Date stamps the incoming invoices.</td>
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<tr>
<td></td>
<td>c. Processes payment requests on contracts and reviews for accuracy, backup documentation and authorized signatures.</td>
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<tr>
<td></td>
<td>d. Matches the original invoices to the purchase orders or uses the matching process with automated online module for payment process.</td>
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<td></td>
<td>e. Receives notice of receipt of inferior materials or services and their rejection.</td>
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<td></td>
<td>f. Receives approval for payment and refers to the check run.</td>
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<tr>
<td></td>
<td>g. Closes out encumbrances each quarter on the Performance Accounting System as notified by the Departmental or Divisional Budget Reviewer.</td>
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<tr>
<td></td>
<td>h. Coordinates liquidations on purchase orders with the Purchasing Division.</td>
</tr>
<tr>
<td>3-330 Audit Division</td>
<td>The following responsibilities shall be carried out by the Audit Division or designee:</td>
</tr>
<tr>
<td>a.</td>
<td>Investigates any non-compliance with the Anti-Discrimination Program, as requested by the Executive</td>
</tr>
</tbody>
</table>
Director or the Purchasing Manager.

b. Conducts procurement audits on a test basis to:

1. Measure compliance to the requirements of Commission Practice 4-10 and the Purchasing Manual.

2. Verify that all goods and services paid for have been received by the Commission.

3. Ensures that Contracts, Purchase Orders and Purchase Cards are managed in an effective and efficient manner.

<table>
<thead>
<tr>
<th>3-340 Commission Employees</th>
<th>The following responsibilities shall be carried out by Commission Employees:</th>
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<tbody>
<tr>
<td></td>
<td>a. Reports any actual or potential conflict of interest.</td>
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<td></td>
<td>b. Withdraws from any transaction in which there is a conflict of interest.</td>
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<tr>
<td></td>
<td>c. Files financial disclosure, as required.</td>
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<tr>
<th>3-350 Potential Bidders/Offerors</th>
<th>Potential Bidders/Offerors have the following rights:</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>a. Have the right to protest the solicitation or award to Purchasing Manager.</td>
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<thead>
<tr>
<th>3-360 Contractor Representative</th>
<th>a. Appointed by the Contractor to serve as the primary representative on a specific Contract with the Commission.</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>b. Works with the assigned Commission Contract/Construction Manager to issue fulfillment of all Contractual commitments and obligations.</td>
</tr>
<tr>
<td></td>
<td>c. Has the right to file claim or dispute with Contract/Construction Manager or Purchasing Manager.</td>
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</tbody>
</table>
4 Anti-Discrimination Program

4-100 Policy

It is the policy of the Commission that:

a. It not be an active or passive participant in discrimination against minority, female, or disabled-owned Vendors (MFDs).

b. Any Bidder seeking to Contract with the Commission shall not discriminate in the selection of subcontractors on Commission projects.

c. MFD (Minority, female, disabled) firms shall not be discriminated against in performance of work for the Commission by the Commission or its prime Contractors.

This Section is a paraphrase of Policy 4-10. A full copy of the Commission's Purchasing Practice 4-10 is in Appendix F. The Commission adopted this revised policy on June 15, 2005.

4-200 Purpose

This Anti-Discrimination Program seeks to ensure that all Vendors, including MFDs, have the same opportunities to succeed or fail in pursuing Commission purchases as any other potential Vendor absent the effects of discrimination. The Anti-Discrimination Program also addresses the treatment of MFDs when performing work utilizing the Commission's funds or other assets.

4-300 Applicability

The Commission's Anti-Discrimination Program applies to purchases that the Commission has delegated to another entity where the purchase involves the expenditure of Commission funds or assets, such as the hiring of subcontractors by prime Contractors engaged by the Commission. The applicability of the Anti-Discrimination policy to purchases using other private or public funds or assets is reviewed by the Purchasing Manager on an individual basis, and a recommendation is made to the Secretary-Treasurer, and approved by the Executive Director.

All Vendors awarded Commission purchases shall not discriminate against any employee or applicant for employment because of age, gender, race, creed, national origin, or disability. If a Vendor is determined by a final order of an administrative agency or a court to be in violation of Federal, State, or County Anti-Discrimination laws, any agreement entered into by the Commission with the Vendor may be terminated or suspended in whole or in part by the Commission, and the Vendor may be debarred from future purchases with the Commission.

4-400 Definitions

MFD Vendor. An MFD Vendor means any entity that engages in commercial transactions and is at least fifty-one percent owned and controlled by one or more minority, female, or disabled persons.
Minority individual. For purposes of this section, minority individuals are limited to members of the following groups: African Americans, Asians (including Pacific Islanders), disabled, female, Hispanics, and Native Americans. For reporting purposes, African American refers to all persons having origins in and of the black racial groups of Africa; Hispanics refers to all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race; Asian includes all persons having origins in any of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands except Hawaii; and Native American includes all persons of American Indian, Eskimo, Aleut, and Native Hawaiian descent.

Mentally or physically disabled. For purposes of this section, mentally or physically disabled means a physical or mental impairment that substantially limits one or more of the major life activities of an individual, as defined in the Americans with Disabilities Act of 1990.

Subcontractor means any entity that has a Contract to supply labor or materials to the prime Contractor to which the Contract was awarded, or to any subcontractor in the performance of the work provided for in such Contract.

4-500 Roles & Responsibilities

This section describes the roles and responsibilities of employees regarding the Commission’s Anti-Discrimination Program.

4-510 Executive Director or Designee

a. Ensures that all personnel involved in purchasing and contract duties receive appropriate training in the Anti-Discrimination policy.

b. Reviews the Purchasing Manager’s recommendations regarding the availability of subcontracting opportunities, if those opportunities are less than normally sought for the type of transaction.

c. Investigates any allegations of discrimination by Vendors or Contractors.

d. Periodically reviews the certification agencies recognized by the Commission.

e. Reports on procurement transactions quarterly to the Commission.

f. Reviews and approves Purchasing Manager recommendations regarding subcontracting opportunities in a public/private partnership.

4-520 Department & Division Staff

4-520.1 Department Heads or designee

a. Responsible for Anti-Discrimination policy compliance and enforcement within the Department and its Divisions.

b. Assures that Department employees receive appropriate purchasing policy and Anti-Discrimination policy training.

4-520.2 Field Purchasing Aides and Assistants
a. Responsible for vendor outreach in its bidding processes.

4-520.3 Contract/ Construction Managers

a. Obtains a list of all subcontractors, the work they are to perform, and the amount they are to be paid at the outset of any project involving subcontracting

b. Reviews the list of subcontractors utilized and monitors the percentage of MFD as contained in the Contractor’s Payment Request.

c. Ensures that the subcontractors named in the bid or proposal are utilized on the job, and notifies Purchasing Manager of any change.

4-530 Purchasing Manager or Designee

a. Reviews recommendations for subcontracting opportunities received from the Originator. If such recommendations deviate from the Commission’s established policy, transmits the request and the Purchasing Manager’s recommendation to the Executive Director for approval.

b. Compiles and prepares annual, and quarterly reports that track the following Purchasing Statistics:

(1) Utilization of MFD Vendors, both as prime Contractors and subcontractors, (on an absolute and percentage basis) by department and purchase category as a percentage of total dollar volume. Utilization as prime Contractors will be examined separately from utilization as subcontractors.

(2) The number of purchases and the dollar amount of purchases going to MFDs (on an absolute and percentage basis) by department, purchase category, ownership status (e.g., African American-owned firms, Asian-owned firms) and size of purchase (e.g., under and over $5,000).

c. Reviews subcontracting utilization for compliance with policy.

d. Reviews and recommends to Executive Director the applicability of MFD policy to public/private partnerships.

4-600 Measures to Prevent Discrimination

The Commission prevents discrimination in its purchasing processes by utilizing several methods of prevention in the following three areas:

a. The dissemination of information regarding Commission purchasing opportunities to the public.

b. The Commission’s Contract conditions regarding bonding and financial status of Bidders.

c. The Commission Competitive Processes.
4-610 Dissemination of Information Regarding Commission Purchasing Opportunities

a. **Notification of firms of opportunities to bid.** The Commission shall establish and maintain a Bidders’ list containing both MFD and majority-owned firms and utilize this list to notify firms of purchasing opportunities. The Central Purchasing Division maintains the Bidders’ list as part of the Commission’s Vendor file. Staff should utilize Vendors from the Bidders list and use the Procurement Data Sheet to track whether MFD Vendors were notified of bid opportunities. The Procurement Data Sheet is used to provide a summary of the procurement and includes the names of the Vendors who were notified of the purchasing opportunity. These sheets are placed in the solicitation files.

b. **Monitoring of MFD procurement on small purchases.** All purchasing opportunities shall be open to MFDs. The Executive Director shall communicate the importance of this policy to all Commission staff directly or indirectly involved with purchasing. The Finance Department shall monitor MFD utilization by department and by dollar amount, submitting these utilization reports to Department Heads and the Executive Director or designee.

4-620 Commission’s Contract Conditions Regarding Bonding and Bidder’s Financial Status

a. **Bonding.** Unless approved by the Secretary-Treasurer, before a specific Contract is bid, bonding shall not be required for Contracts where it would not otherwise be required under the Annotated Code of Maryland.

The designee of the Executive Director shall maintain current information regarding financial and bonding assistance programs offered by other agencies and make such information available to any interested firm.

b. **Review of financial status of Bidders.** The Commission shall use Dun & Bradstreet® information for Contracts in excess of $100,000 to review the financial viability of Bidders to perform the Commission’s work.

4-630 Commission Competitive Processes

a. **Purchases made without competitive bid.** The Commission has a policy of encouraging competition in purchasing where practicable. All waivers of competition require approval of the Executive Director or designee.

b. **Elimination of the practice of rebidding based on revised scope of work.** Except in unusual circumstances as approved as an exception by the Executive Director, the Commission will not ask for revised bids on a reduced scope after initial bids have been submitted and rejected. The Purchasing Manager will submit recommendations to the Executive Director regarding whether rebidding should be conducted with all vendors who submitted a bid, or all vendors who were sent or received bid documents on the project from the Commission, or advertised and rebid. Changes in the scope of projects should be handled with addenda during the solicitation process.

c. **Debarment.** See Section 19 for the Commission’s Debarment procedures.
d. **Bid Protest Procedure.** See **Section 12** for the Commission’s Bid Protest procedures.

e. **Price Preference Program.** The purpose of the price preference program is to remedy the effects of private marketplace discrimination that affects the opportunity for certain groups of firms to effectively compete for Commission purchases in certain areas.

   (1) **Firms eligible for the price preference.** Only those firms currently approved for the price preference or evaluation preference are eligible for the preference.

   (2) **Calculation of price preference.** The price preference for eligible MFDs is five (5) percent of the low bid, not to exceed $50,000 for competitive sealed bid transactions. This preference only applies to eligible MFD prime contractors or consultants. The non-discrimination in subcontracting program element addresses opportunities for MFDs as subcontractors for this type of purchase.

   (3) **Evaluation preference.** The evaluation preference for eligible MFD’s may be set at any level up to ten (10) percent of the total points available for a Request for Proposal or a Statement of Qualifications. This preference only applies to eligible MFD prime contractors or consultants. The non-discrimination in subcontracting program element addresses opportunities for MFD’s as subcontractors for types of procurement.

   (4) The Commission must clearly state in the Request for Proposals (RFP), Request for Qualifications (RFQ), or Invitation for Bids (IFB) the preference to be applied for that particular purchase.

f. **Non-discrimination in subcontracting.** For any **construction or professional services project** that includes substantial subcontracting opportunities, the Commission shall set recommendations to ensure that the Vendor has not discriminated against MFDs in the course of preparing the bid or proposal for the Contract. Specifically, Vendors are required to provide MFDs the opportunity to submit bids and receive awards of subcontracts.

   (1) **Procedures for implementing the non-discrimination in subcontracting program.** A prime Contractor bidding on a Commission Contract in excess of $25,000 is presumed to have not discriminated against MFDs in selecting subcontractors if it complies with one of the three (3) following requirements as submitted with the bid on the Anti-Discrimination form.

   *(Note: The Bidder is not required to submit actual back-up documentation and information unless the Bidder is an apparent awardee and is requested by the Commission to submit the documentation verifying the information on its)*
subcontract utilization form)

i. **Assert that it is not the normal practice of the Bidder to use any subcontractors on the type of Contract at hand.** If the Bidder attests that it does not intend to subcontract any of the work in the Contract, and the Bidder asserts that its normal practice on similar assignments is to not subcontract any of the work, then the Bidder is presumed to be in compliance with the subcontracting program. The Commission will take steps to verify this information.

ii. **Document efforts to solicit MFD bids, and document that MFDs were not the low Bidders or could not be used as subcontractors for other legitimate reasons.** If the Bidder intends to use subcontractors on the Contract, or would normally use subcontractors on similar types of Contracts, the Bidder may comply with the subcontracting program by:

   1. Documenting efforts to obtain bids from MFD subcontractors; or
   2. Documenting that MFD subcontractors submitting bids would be used on the project or would not be used because they did not submit the lowest bids for the particular work, had defects in the bids submitted, or were not qualified to perform the particular work.

iii. **Meet or exceed MFD subcontractor participation on the project.** The Bidder is presumed to have not discriminated against MFD subcontractors if the participation of MFDs as subcontractors in the project meets or exceeds the MFD recommendations set for the project. In this case, the Commission presumes that the Bidder provided opportunities for MFDs to submit bids and that MFDs that submitted the lowest acceptable bids were chosen as subcontractors.

(2) The non-discrimination program, including project recommendations, shall apply not only to the initial Contract award, but also to certain Major Change Orders and amendments that serve to increase the dollar value of the initial Contract. The Originator will make a recommendation to the Purchasing Manager regarding non-discrimination in subcontracting program requirements on Major Change Orders and Contract amendments. The Purchasing Manager will review and transmit the recommendation and any comments to the Executive Director for approval.

(3) Bidders/Offerors will submit the Commission’s standard Subcontracting Forms with their bids/proposals to indicate how they have complied with the non-discrimination requirements.
(4) For a Bidder/Offeror to comply with the non-discrimination in subcontracting requirements through meeting or exceeding the MFD project recommendation, it must comply with the following provisions:

i. With the bid/proposal submittal, the Offeror shall provide a list of all subcontractors on the Subcontract Utilization Form, including proposed MFDs subcontractors that will be utilized toward the satisfaction of project recommendations. This list is a material aspect of the bid. The list shall specify:

1. the name, address, telephone number, fax number, if any, and contact name for the subcontractor;
2. the dollar value and description of the work to be performed by the subcontractor;
3. the value of the work to be performed by the subcontractor as a percentage of the Contract amount;
4. a statement from the Bidder that the dollar amount of work to be performed by the subcontractors on the Contract was agreed upon with the subcontractor prior to bid opening; and
5. a statement from the Bidder that it understands that it must submit an executed letter of intent upon request for each subcontractor listed within 5 working days after bids are opened by the Commission, and that failure to do so will render the bid nonresponsive.

ii. If awarded the Contract, the Bidder must utilize the subcontractors to which letters of intent have been issued.

(5) In order to facilitate prime Contractors’ solicitation of potential subcontractors, the Central Purchasing Division will provide a list of all relevant Vendors included in the Commission-wide electronic Bidders List upon request. This list will also be provided at the pre-bid/pre-proposal or site visit conferences.

(6) **Subcontractor payment.** Throughout the course of a Contract, Commission prime Contractors shall submit forms verifying payment to subcontractors. These forms shall be submitted to the Contract/Construction Manager for review of accuracy. (A sample payment verification form is included in Appendix H)

(7) **Monitoring.** If a Contract/Construction Manager, while fulfilling his/her duties, determines that prime Contractors are not utilizing the subcontractors specified in its Contract in order to comply with the non-discrimination in subcontracting requirement, the Contract/Construction Manager should notify the Purchasing Manager who will notify the Executive Director. Prime Contractors should be allowed to substitute, for cause, new subcontractors for any subcontractors that could not
perform their assigned tasks. If a prime Contractor refuses to comply with the subcontracting plan it submitted with its bid or proposal, or if a prime Contractor submits false documentation of its compliance with such a plan, an investigation shall be undertaken by the Internal Auditor who will notify the General Counsel and Purchasing Manager of findings. If appropriate, the Purchasing Manager will suspend the vendor while the General Counsel reviews other criminal, civil or administrative remedies available, up to and including termination or debarment of the Vendor.
### 4-700 Eligibility for Price Preference Program

To be recognized as eligible for the price preference program, a Vendor must meet the criteria defined by the Anti-Discrimination Policy (See Appendix F: Purchasing Policy).

### 4-800 Tools & Reports

The Commission utilizes the following reports and tools to monitor compliance with the Anti-Discrimination program:

- a. MFD Procurement Statistics Reports (MFD Utilization Reports);
- b. Vendor Information Registration Form and Bidder’s Application; and
- c. Bidders’ and Subcontractors’ Lists.

### 4-810 MFD Procurement Statistics Reports (MFD Utilization Reports)

- a. The MFD utilization reports should include purchases of construction, goods, professional services, and non-professional services.

- b. Purchases made by riding other agencies’ or governments’ contracts will be included in the utilization statistics, regardless of whether the other government has instituted Anti-Discrimination measures, unless otherwise exempted from these reporting requirements.

- c. The following items should **not** be included in the analysis of utilization (neither MFD purchases nor total purchases):

  1. auto/equipment repairs covered by insurance payments;
  2. bank fees;
  3. charitable or non-profit activities;
  4. debt service;
  5. employee Contracts
  6. employee reimbursement;
  7. employee relocation;
  8. insurance;
  9. inter-governmental memoranda of understanding;
  10. intra-governmental charges;
  11. land and interests in land, including easements, rights of way, rents, and leases;
  12. memberships, dues, fees for conferences and seminars, and associated or similar expenses for Commission employees;
(13) other payments to government agencies or not-for-profit institutions;

(14) published books, maps, periodicals, newspapers, and technical pamphlets;

(15) privately funded expenditures of Public/Private Partnerships;

(16) supplies or services for resale to the public;

(17) travel;

(18) tuition assistance and training courses; and

(19) utilities

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**4-820 Bidder/Vendor Registration Form**

a. Except for purpose of the price preference program, MFD status of the Vendor in Commission records will be as reported by the owner on the Bidder’s Application, unless otherwise challenged by an interested party.

b. Information on race, ethnicity, gender, and disability status will be included on the Bidder’s Application filled out by all new Vendors and added to the Bidder’s list.

c. Vendors who do not submit identification data will be identified as majority vendors and presumed to not be MFD businesses.

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**4-830 Bidder Lists**

a. The Commission will include the reported MFD status information on the Commission’s Bidders List.

b. This list may be made available to vendors interested in bidding as prime Contractors on Commission projects or any other interested party as part of the pre-bid/proposal conferences.

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**4-900 Penalties**

a. A person who knowingly misrepresents his or her firm’s status as a minority, female, or disabled-owned business enterprise or its business location for purposes of preference in Commission purchases is subject to the sanctions as provided in the Annotated Code of Maryland and applicable Commission rules, regulations, and practices.

b. The Executive Director or designee shall present any indication of material noncompliance with the Anti-Discrimination Program, with an appropriate recommendation for further investigation by Internal Audit and possible legal action by the General Counsel.

c. The Purchasing Manager may pursue the suspension or debarment of the violator through established proceedings. If criminal violations are suspected, the Purchasing Manager shall refer the violator to the General Counsel for other criminal, civil, or administrative remedies available.

d. Firms that knowingly submit false information concerning their MFD
status on their Bidder’s Application are subject to sanctions up to and including debarment from Commission purchases.

4-1000 Challenges

a. Any interested party may submit a formal challenge to the MFD status information reported by a vendor.

b. When a formal challenge is submitted, the Commission will take steps to further investigate the ownership status of the Vendor in question.

c. If the Commission’s investigation identifies serious questions concerning the truthfulness of the Vendor’s representation of ownership on its Bidder’s Application, the Purchasing Manager or designee has the authority to take actions, including reclassifying the Vendor’s status as “status unknown,” removing the Vendor from the Commission’s Bidders’ list, debarring the Vendor from doing business with the Commission for a period of up to three years, or taking legal action against the Vendor for fraud.

4-1100 Review of the Anti-Discrimination Program

a. The Commission shall undertake an annual review of the effectiveness of and any necessary changes to the Anti-Discrimination Program.

b. The Anti-Discrimination Program shall be terminated by the Commission based upon a determination that there is no longer a need to take measures to ensure that the Commission is not an active or passive participant in discrimination against MFDs.

d. The Anti-Discrimination Policy shall continue as approved by the Maryland State Legislature, until discontinued by the Maryland State Legislature.
5 Vendor Relations

5-100 Policy

The Commission promotes fairness and integrity in its business dealings, and it encourages open and competitive purchases.

An essential element of an effective Purchasing program is the establishment of appropriate policies regarding Vendor relations, communication of these policies to employees, vendors and business partners, mechanisms to monitor adherence and procedures for intervening when policies are not followed.

5-200 Purpose

Effective management of vendor relations:

a. Assures proper performance and effective communication between the Vendor and the Commission.

b. Identifies Vendors that have exceptional performance.

c. Aids the Commission in making a best value determination based on Vendor past performance.

d. Protects the Commission from Vendors with unethical business practices.

e. Identifies Vendors that have repeated delivery and performance issues.

f. Increases competition.

g. Centralizes the responsibility and accountability for purchasing transactions with specialists in the field.

5-300 Definitions

Vendor. A prospective Bidder or offeror who sells goods or services.

5-400 Roles and Responsibilities

Purchasing Manager/Central Purchasing Division Staff

a. Identify and address common key issues between the Commission and its Vendors.

b. Monitor Anti-Discrimination Program.

c. Collect and maintain Vendor information.

d. Respond to Vendor Inquiries regarding doing business with the Commission.

e. Receive and maintain Vendor Performance Reports from field.

f. Share Vendor information with other user departments.

g. Develop and manage Vendor Outreach Program including in-house meetings.

h. Ensure open, honest, and fair competition in compliance with the
5-500 Procedures
The Purchasing Manager has overall responsibility for managing Vendor relations. Key programs that are used to manage the Commission’s relationship with Vendors are:

a. Vendor Registration

b. Vendor Outreach Programs

c. Vendor Evaluation

5-510 Vendor Registration
Prospective Vendors must register by completing a Bidders Application or a Vendor Information Form and returning it to the Central Purchasing Division. The Originator needs to ensure prospective Vendors that it wishes to use for a purchase transaction have completed a Bidders application or a Vendor information form prior to placing orders with the Vendor.

The completed form serves several purposes:

a. The Bidder’s Application is used to identify potential resources for goods and services the Commission needs.

b. It is used to provide accurate up-to-date information on Tax Identification Number, Social Security Number, Address, Telephone Numbers, Fax Numbers, and E-mail information.

c. It is used to record whether or not the Vendor is eligible for MFD status.

d. Registration with Commission identifies the Vendor as desiring to receive solicitations from all the Commission’s Divisions for goods and services the Vendor identifies.

e. The Vendor’s profile will become part of the database that allows the Commission to contact the Vendor when a bidding opportunity arises.
### 5-520 Vendor Outreach Programs

The purpose of Vendor Outreach Programs is to provide the Vendor community the opportunity to meet with Commission personnel to discuss their capabilities and learn of potential purchasing opportunities. These programs help expand the Commission’s Bidder pool and provide better access to a quality pool of Vendors registered with the Commission. Program activities include:

a. Participating at various business community functions such as business association luncheons, business-to-business conferences, and trade shows; and

b. Providing educational programs on doing business with the Commission through local Chamber of Commerce Meetings, trade shows, and cooperative business affairs.

### 5-530 Vendor Evaluation

a. The Contract/Construction Manager, Field Purchasing Aide, Assistant, Specialist or Originator is responsible for communicating written information on Vendor performance on a particular project, as well as any violation of Section 2 hereof, to the Purchasing Manager. This information will be used to assess the responsibility of the Vendor in meeting his/her obligations with the Commission.

b. The information communicated to the Purchasing Manager should include a record of the dates of delivery, whether the goods or services came early, on time, late or not at all. Record any goods or services that had to be returned to the Vendor.

c. The Contract/Construction Manager, Field Purchasing Aide or Originator should also record any goods or services that have been returned.

### 5-540 Anti-Discrimination Policy

The purpose of this policy is to provide equal opportunity for participation in all Commission purchasing transactions (See Section 4 for more detail on Anti-Discrimination Program):

a. For procurements over $5,000 up to $25,000, using the Bidder’s List, solicit at least five (5) bids, two (2) of which must be MFD vendors for informal bidding.

b. For bids over $25,000, using the Bidder’s List, solicit at least ten (10) bids, including at least two (2) MFD vendors from either Prince George’s and Montgomery Counties, or a combination thereof, if available.

c. Prepare and maintain documentation if bid from low Bidder is rejected, giving the complete basis for the rejection and evidence that the rejection was justified.
5-550 Vendor Communication

The Commission promotes fairness and open competition. Central Purchasing has the responsibility to monitor Vendor relationships. Should employee discuss with a vendor specifications for a product or the latest model, Central Purchasing must be advised of such discussions.

Should any Vendor or Contractor feel aggrieved in or by any purchasing transaction, including treatment by any Contract/Construction Manager, it may:

a. Notify the Purchasing Manager or the Executive Director, who will investigate the complaint;

b. File a bid protest;

c. File a claim or dispute;

d. Notify Contract/Construction Manager regarding payment issues first, then the Disbursements Chief.
## 6 Categories of Purchases

### 6-100 Goods
Goods means all supplies, personal property, and commodities, including but not limited to equipment, materials, and printing.

### 6-200 Professional Services
- **a.** A professional service is defined as a service performed by an independent Contractor that requires specialized knowledge and training (often through long and intensive academic preparation) or in-depth experience in a particular field or discipline.
- **b.** Professional services are professional, technical, or consultant services predominantly intellectual in character.
- **c.** Professional services include work performed within the scope of practice of accounting, architecture, land surveying, landscape architecture, programming services and analysis, law, dentistry, medicine, optometry, pharmacy, or professional engineering.

### 6-300 Non-Professional Services (Miscellaneous)
Any work performed by an independent Contractor, not specifically identified as professional services, wherein the service rendered does not consist primarily of acquisition of equipment or materials or the rental of equipment, materials, and supplies is considered miscellaneous services.

### 6-400 Construction
Construction means the process of building, altering, major renovating, remodeling, improving or demolishing any structure, building, or road and any draining, dredging, excavating, grading, or similar work upon real property. Construction does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings or real property.

### 6-500 Non-Competitive Items
Non-competitive items mean goods or services that are exempt from or do not require competition. These items can include purchases made using petty cash, purchase card or Field Purchase Order; sole source purchases, such as software maintenance Contracts; public/private partnerships; and other items for which the Executive Director or designee has waived competition requirement. **THIS DOES NOT NEGATE THE NEED FOR A WRITTEN AGREEMENT OR PURCHASE ORDER.**
7  Advance Procurement Planning

7-100 Purpose

Effective Advance Procurement Planning anticipates priorities, procurement needs and types of procurements rather than simply how to satisfy specific requirements. Participants in the Advance Procurement Planning process will be expected to discuss appropriate procurement methodologies, as well as whether there is any interplay between the Counties permitting consolidation. Additionally, the process will involve discussion and decisions regarding the length of anticipated contracts, the probable amount of MFD subcontracting, the timing of procurements, any anticipated problems, and the level of internal support needed to complete the planned procurements.

Through effective planning, the Commission can:

a. Avoid lost work-hours caused by material stock-outs or shortages.

b. Reduce the number of “rush” purchases.

c. Increase the overall efficiency of the Commission through efficient use of staff time.

d. Identify goods that should be standardized throughout a Department or Commission-wide.

e. Reduce the cost of goods or services through the continuous evaluation and modification of specifications.

f. Better focus and monitor completion on all Capital Improvement Projects earmarked for the fiscal year.

7-200 Definitions

Advance Procurement Planning. The strategic planning process by which the efforts of all personnel responsible for anticipated acquisitions during the fiscal year are coordinated and integrated for a comprehensive plan for fulfilling the Commission’s needs in a timely manner and at a reasonable cost.

7-300 Roles and Responsibilities

7-300.1 Originator

a. Anticipates required needs as part of job duties.

b. Participates on the Advance Procurement Planning Team, as needed, and attends planning meetings of the Advance Procurement Planning Team.

7-300.2 Department Heads or Designee

a. Forecasts yearly purchasing requirements and defines the priority and timing of each purchase.

b. Monitors and identifies annual requirements of Divisions and Units that may be combined for procurement purposes.

7-300.3 Division Chiefs or Designee
a. Participates in the Advance Procurement Planning Team.

b. Maintains and monitors status log on pending procurements.

c. Identifies needed purchasing vehicles.

d. Provides Purchasing Manager with project requirements for the fiscal year, together with priorities.

7-300.4 Purchasing Manager or Designee

a. Facilitates and chairs Advance Procurement Planning Teams (APPT)

b. Meets with APPTs as needed to monitor progress, recommend purchasing strategies, MFD participation, timing of purchases, and length of anticipated Contracts.

7-300.5 Contract/Construction Managers

a. Participates in AAPT to identify purchasing needs, prioritize needs and the procurement process.

b. Alerts team to any problems or potential problems.

7-300.6 General Counsel or Designee

a. Determines special terms and conditions that may be required.

b. Modifies standard Contract language, if needed, based on advance acquisition planning requirements.

7-300.7 Departmental or Divisional Budget Reviewer

a. Participates in Advance Procurement Planning Team (APPT) meetings, as needed.

b. Coordinates CIP projects and operating budgets.

7-300.8 Field Purchasing Specialist

a. Attends Advance Procurement Planning Team (APPT) meetings.

b. Coordinates CIP projects and/or operating budgets.
a. Division Chiefs will provide the Purchasing Manager with their Department’s yearly-anticipated purchase requirements as early as possible in advance of the fiscal year in which formal Contract award(s) is necessary.

b. After fiscal budgetary approval, personnel participating in the Advance Procurement Planning Process are encouraged to seek guidance concerning purchasing lead-times from the Central Purchasing Division in order to allow sufficient time for processing Contract award(s).

c. The Purchasing Manager will establish Advance Procurement Planning Teams (APPT). These teams will include:

   (1) Department personnel involved in anticipated major purchasing activities, including designated originators, Contract administrators, Contract/Construction managers, Project managers, and Budget Reviewers;

   (2) Office of General Counsel representative, if needed;

   (3) Finance Department representative if needed; and

   (4) Risk Management representative, if needed.

d. Department Heads will ensure coordination with the key players within their Department.

e. The Departments will begin advance procurement planning by using Contract administrative lead times provided by the Central Purchasing Division.

f. The Purchasing Manager or designee will meet quarterly as needed with each APPT to review the status of items, priorities and types of purchases and the purchasing methodology to be used. In addition, the APPT will meet to determine the length of Contracts, the amount of MFD subcontracting recommended, and the possible consolidation of needs or award by group.

g. The APPT will provide input in the solicitation development (specifications, evaluation factors, special provisions, etc.) and allow the Purchasing Manager or designee to determine purchasing process.

h. The following items should be considered during the acquisition planning process and/or market research:

   (1) Acquisition background and objectives. What is the requirement and its priority?

   (2) Estimated Cost

   (3) Minimum qualifications regarding capability or performance. Also consider any constraints on these.

   (4) Delivery or performance period requirements.
(5) Trade-offs

(6) Risks

(7) Possible Vendors for the goods or services required, including MFD opportunities

(8) Budget and Funding, including collateral agreements or grants

(9) Product or service descriptions

(10) Management information requirements (Technology)

(11) Impact on other systems or departments

(12) Environmental/energy and security considerations

(13) Opportunities to consolidate purchases

(14) Requirements of collateral agreements or grants.

(15) Other outside pressures

(16) Trade-ins

8  Requisitions/Contract Requests

8-100 Policy

Purchasing transaction methodologies are divided into three (3) types, based on estimated cost. These divisions are:

1. $5,000 and under;
2. Over $5,000 to $25,000;
3. In excess of $25,000

a. When a need is recognized for goods and/or services and the acquisition is allowed to be done by Purchase Order, and is expected to cost $5,000 or less; a requisition is completed by the Originator. The Field Purchasing Aide serving the Originator processes the requisition. Once the requisition is processed and approved, the Field Purchasing Aide posts a Field Purchase Order authorizing the purchase. The Originator may also request the Central Purchasing Division’s assistance in processing requisitions and posting Field Purchase Orders.

b. When a need is recognized for goods and/or services, is allowed to be done by Purchase Order, and is expected to cost over $5,000 to $25,000; the Originator or Field Purchasing Aide prepares a requisition. They then obtain proper approval, and forward the requisition to the Field Purchasing Assistant.

c. When a need is recognized for goods and/or services expected to cost in excess of $25,000, the Originator and the Field Purchasing Aide/Assistant prepares a requisition, obtains proper approval, and forwards the requisition to the Field Purchasing Specialist or Central Purchasing Division for formal competition.

d. **Allowing a Vendor to proceed without a Purchase Order or Contract on the basis of a requisition, is a violation of the Commission's purchasing policy. Sanctions may be taken for such violations.**

e. **The Originator and the Field Purchasing Aides are prohibited from splitting or directing any other person to split larger purchases into smaller increments to avoid competition requirements.**

f. The use of two or more OCA’s for the purchase of one or more items from the same vendor must be on one requisition and not split to avoid competition requirements is considered splitting and is not permissible. Additionally, similar items must not be split into purchases from different vendors to avoid competition requirements.

g. Regardless of estimated cost, if a transaction requires a contract (Appendix G), a memo is written to the Field Purchasing Assistant (or Field Purchasing Specialist, if any, or
Central Purchasing), which includes all pertinent information:

(1) estimated cost/budget
(2) funding sources (account numbers)
(3) vendor’s name and vendor number

h. The Originator and approver of any requisition MAY NOT be the same person.

8-200 Purpose

The requisition or contract request memo serves to specifically define the goods and/or services requested. An accurate and well-planned requisition with clear and definitive specifications will ensure the completion of an economical and timely purchasing transaction.

The overall purpose of a specification is to provide a basis for obtaining supplies, materials, equipment, or services that will satisfy a particular need at an economical cost. A specification should be written to invite maximum reasonable competition and should not be unduly restrictive, nor written so that only one product complies.

8-300 Definitions

**Capital Lease.** A lease that is classified as a purchase by the lessee, and transfers the benefits and risks inherent in the ownership of the property to the lessee. All capital lease transactions must be approved by the Secretary-Treasurer, prior to solicitation.

**Capital Outlay.** Capital Outlay is a purchase of equipment, furnishings, vehicles or other durable goods with an initial individual cost of more than $5,000 and an estimated useful life in excess of one (1) year. Purchases of consumable goods, such as paper or fertilizer, are not considered capital outlays no matter what the dollar amounts.

**Information Technology.** Information Technology includes network applications, data system processing, telecommunications, hardware and software, photo static copiers, and printing equipment.

**Operating Lease.** A lease for which the lessee acquires the rights to use property for only a small portion of its useful life. An operating lease is commonly used to acquire use of equipment on a short-term basis, thus the title is never transferred to the lessee at the end of the lease term.

**Requisition.** A requisition is a Commission form used by departments to originate requests to the Central Purchasing Office or the Field Purchasing Aides/Assistants to procure goods or services from Vendors. The requisition may be either a manual or automated form.
Specification. As part of the requisition or contract request memo, a specification is a description of the physical or functional characteristics or of the nature of a good, service, or construction item. Specifications should include period of warranty, delivery time, maintenance requirements, and environmental considerations, including a description of any requirement for inspecting, testing or preparing a good, service, or construction item for delivery.
8-400 Roles and Responsibilities

8-400.1 Originator

a. Identifies needed goods or services.

b. Drafts specifications and prepares a requisition or contract request memo, which describes the goods and services in a manner, which permits unrestricted, fair and competitive bidding.

c. Forwards the completed form to Field Purchasing Aide or the Central Purchasing Division.

8-400.2 Field Purchasing Aides

a. Reviews all submitted requisitions for completeness and accuracy.

b. If the requisition is valued over $5,000 to $25,000, for which formal competition is not required, sends requisition to the Field Purchasing Assistant.

c. If the requisition requires a contract or a contract request memo is included, transmits documents to the Field Purchasing Assistant.

d. Reviews specifications for Purchase Orders for requisitions $5,000 and under.

e. Issues Field Purchase Order after all approvals and sends copy to Vendor.

8-400.3 Field Purchasing Assistants

a. Reviews requisitions for completeness and accuracy.

b. Works with Originator to prepare WRITTEN solicitation for requisitions valued over $5,000 up to $25,000, including a due date and time.

c. Solicits bids from Vendors on the Commission’s Bidder’s list including at least five (5) Vendors, two (2) of which must be an MFD.

d. Receives a minimum of three (3) responses and reviews bids at the deadline time on the due date. A written “No Bid” is considered a response.

e. Completes Processing Data Sheet and transmits same with backup, to Central Purchasing for purchase order or contract, as applicable.

8-400.4 Departmental or Divisional Budget Reviewer
a. Develops and coordinates capital improvement projects and or operating budgets.

b. Reviews all pending requisitions or contract request memos prior to being presented to the Department Head or designee for approval or rejection of the request.

8-400.5 Department Head or designee

a. Reviews all pending requisitions or contract request memos, and either approves or rejects the request.

8-400.6 Central Purchasing Division

a. Responsible for ensuring that all requisitions are in the best interest of the Commission. All requisitions over $5,000 will be sent directly to the Central Purchasing Division for Purchase Order processing and posting, unless the Field Purchasing Assistant has been trained in informal bidding of transactions over $5,000 to $25,000. In that event, it is the results and documentation of the informal bidding process that are transmitted to the Central Purchasing Division.

b. Reviews specifications to ensure that they will result in a fair and equitable competitive process.

c. Assists in translating an Originator’s need into specifications resulting in the delivery of needed goods and services.

d. Issues Central Purchase Order or processes contract and sends copy to Vendor.

e. If requisition is in excess of $25,000, proceed with formal bidding methodology.

8-500 Preparation of Requisition for Purchase Order or Request to Prepare a Contract

a. Always invest a sufficient amount of time in planning and preparing the requisition or contract request memo for the goods or services needed. Remember the requisition will determine what will be received and how quickly one will receive it.

b. Use the rule, “Six W’s,” when preparing a requisition or contract request memo.

(1) **Who:** Who needs it? Who will receive the goods or services? Who will administer the Contract or purchase order and assure compliance by the Vendor? Who are the recommended Vendors? Who is authorized to approve the requisition or contract request memo?

(2) **What:** What is needed? What are the critical features that
the department must have? What funds will be used to pay for this item? What is the budget estimate? What are the criteria for acceptance or rejection?

(3) **Where:** Where must the item be delivered? Where will it be used?

(4) **When:** When must the item arrive? How must it be packaged? (Note: ASAP is not an adequate answer.) When will personnel be at the location to receive the item? Is pre-notification necessary?

(5) **Why:** Why is the item needed? Why is the delivery time important? Why are certain features important?

(6) **Written Agreement:** Is a purchase order permitted? Is a contract required or recommended?

c. Before initiating any purchase, an Originator should:

(1) Determine that funds are available for the purchase or institute the appropriate budget transfers.

(2) If needed, obtain the appropriate special approvals outlined in 8-900.

(3) Obtain proof of the Commission’s tax exemptions from the Central Purchasing Division, if necessary.

(4) Determine from the Grant Coordinator in the field, if federal or state grant funds are to be used and any special requirements for using these funds from the Grant Coordinator in the field and in the Finance Department.

(5) Determine if the required goods or services can be obtained by utilizing cooperative purchasing or an existing Commission Contract or by creating a bridge to another governmental Contract from another Agency. The Central Purchasing Division maintains a list of Contracts available for bridging/riding.

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### 8-600 Types of Specifications

The development, selection, and use of a particular specification type is dependent on the situation, time, information available and needs of the user. The type of specification selected should provide the most cost effective and efficient approach to the desired results.

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### 8-610 Performance Specifications

Performance specifications (also known as functional specifications) are preferred since they communicate what a product is to do, rather than how it is to be designed. Among the ingredients of a performance specification would be the following:

a. A general nomenclature or description;

b. Required performance characteristics
(minimum/maximum) to include speed, storage, production capacity, life expectancy, usage, frequency of repair, and ability to perform a specific function;

c. Purpose and intent of the procurement (in order to minimize the Commission’s risk);

d. Operational requirements, such as limitations on environment, water or air cooling, electrical requirements;

e. Site preparation requirements for which the Contractor will be responsible, such as electricity, plumbing, or for which the Commission will be responsible;

f. Compatibility requirements with existing equipment or programs;

g. Conversion requirements for maintaining current equipment or system until switching to the new equipment or system;

h. Installation requirements;

i. Delivery date;

j. Maintenance requirements;

k. Supplies and spare parts requirements/guarantees regarding availability and pricing of parts;

l. Quantity and method of pricing;

m. Training Requirements;

n. Warranty; and

o. Service location and response time.

8-620 Design Specifications

a. Design specifications employ dimensional and other physical requirements and concentrate on how a product is fabricated, rather than on how it should perform.

b. Design specifications are normally prepared by architects and engineers for construction or custom manufactured products.

c. Design specifications can also be used for comparative analysis in a standardization process.

d. In addition to the items delineated under 8-610 above, other ingredients of a design specification would be the following:

(1) Dimensions, tolerances and specific manufacturing or
construction processes;

(2) References to a manufacturer's brand name or model number; and

(3) Use of drawings and other detailed instructions to describe the product.

e. If design specifications are used by the Commission, the Vendor must agree to the stated method of fabrication and sign an agreement to that effect.

8-630 Brand Name or “Equal” or “Better” Specifications

a. When a specification mentions a manufacturer's brand name or model number, it should also include the words "or equal or better."

b. In this regard, "or equal or better" is interpreted to mean, "substantially equal and capable of performing the essential functions of the referenced brand name or model or better than the referenced model."

c. If able to do so, the Originator should identify in the requisition any specific features that are absolutely essential to be met.

d. In addition, the items delineated under 8-610 above should be considered.

8-640 Scope of Work for Services

The following is an outline of the types of information that should be included in a scope of work for purchase of professional or other services:

a. **General Requirements.** Describe the Contractor's responsibility to provide a service or product, a specific study, design or report for the Originator.

b. **Specific Requirements.** Address the specific tasks, sub-tasks, parameters, and limitations that must be considered in producing the service or final project. If uncertain of the specific tasks to be performed, make their delineation part of the bid or proposal submission. Such factors as the following should be included:

   (1) Details of work environment

   (2) Minimum or desired qualifications of Vendor and key personnel

   (3) Contact person

   (4) Amount of service needed, including a list of deliverables and their pricing per deliverable (in case of default)

   (5) Location of service
(6) Definition of service unit

(7) Time limitations

(8) Travel regulations or restrictions

(9) Reimbursements of expenses, if any, and limits thereon must be supported with documentation at time of Request for Payment. (Note: reimbursement for expenses cannot exceed those that would be given an employee, e.g., mileage rate)

(10) Special equipment required

(11) Other factors affecting working environment

  c. **Commission Provided Materials or Services.** List any plans, reports, statistics, space, personnel, or other Commission-provided items that will be used by the Contractor.

  d. **Deliverables, Reports and Delivery Dates.** Identify the specific delivery dates for all documentation or other products the Contractor must furnish. Specify the sequence in which deliverables must be submitted.

8-650 Vendor Assistance in Specification Preparation

  a. Vendors who, for compensation or not, help prepare or prepare specifications or invitations for Bids (IFB) or a Request for Proposals (RFP) for or on behalf of the Commission, may not submit a bid or proposal or help another vendor submit a bid or proposal or participate as a subcontractor for any portion of that purchase or disclose information concerning the purchase which is not available to the public.

8-700 “Dos & Don’ts for Drafting Requisitions”

8-700.1 Dos:

  a. Provide as much specific information as possible

  b. Provide a clear and precise description of functional, performance or technical characteristics and specifications, as appropriate. Clear and precise specifications provide a basis for competition, purchasing, receipts, and acceptance.

  c. Inform Vendors for purchases greater than $5,000 that the Commission is seeking “budget estimates only” or “comparative specifications.” Advise Vendors that competition will be obtained in accordance with Commission policies.

  d. Contact the Central Purchasing Division for assistance when needed.

  e. Ensure that the Department Head or designee reviews and approves requisitions on a daily basis.

  f. Communicate the importance of the request.
g. Include the best estimate of costs and/or usage possible. It must contain or be accompanied by adequate specifications for the commodity or source sought, in order to provide a clear basis for competition, purchasing, receipt, acceptance, and payment.

h. Be clear about the expectations of the Commission for the Contractor's performance.

i. Use the word "shall" or "must" to describe a command or mandatory requirement.

j. Use the words "should" or "may" to describe an advisory or optional requirement.

k. State a requirement of fact once and avoid duplication.

l. Define any abbreviations and acronyms used the first time they appear in a document, and/or include them in a glossary or appendix.

m. Use consistent terminology. Use the same words throughout the specification when addressing the same thing.

n. Include appropriate state and federal health and safety regulations, including those of the Maryland Occupational Safety and Health Act (MOSHA) and Consumer Product Safety Commission.

o. Include any specific requirements if funded by a grant.

p. Refer all questions to the Field Purchasing Aide, Field Purchasing Assistant, Field Purchasing Specialist or Central Purchasing.

8-700.2 Don'ts:

a. Assume that the Central Purchasing Division or Vendors are familiar with all your needs.

b. Divide or split requirements to fall under competitive threshold.

c. Copy specifications verbatim from a Vendor's publication.

d. Assume competitive requirements will be waived.

e. Assume the same Vendor will win the order all the time.

f. Use the same Vendor(s) repeatedly for each purchase.

g. Provide information to any one potential Bidder during the bidding process. Refer all questions to the Field Purchasing Assistant, Field Purchasing Specialist or the Central Purchasing Buyer specified in the solicitation. All Bidders must be notified in writing by addendum of any changes or
interpretations, and all Bidders must receive the same information.

h. Authorize any changes to a Purchase Order or Contract. The Central Purchasing Division must issue a Change Order to a Purchase Order.

i. Authorize any Vendors to proceed without a Purchase Order or a fully executed Contract, unless permissible by the Check Request Policy.

j. Sign any document (Purchase Order, agreement, or Contract) that binds the Commission, unless specifically authorized by the Executive Director.

k. Provide requisitions for the purpose of obtaining price estimates. They are to be used only within the Commission and are not to be transmitted to Vendors.

l. Present something as mandatory if it is really optional.

m. Write specifications or scope of work that restrict response to a single Bidder/Offeror.

n. Use broad or vague statements or overly technical language.

o. Use abbreviations and acronyms to prevent misunderstandings.

b. Use ambiguous words and phrases. For example, say "keep driveways clear of snow so that depth does not exceed two inches" or "maintain grass between two and three inches high" rather than "clear snow as required" or "mow grass as necessary."

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**8-800 Procedures**

This Section describes both the procedures for creating a requisition for a Purchase Order either manually or through the Performance Online Purchasing System (POPS).

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**8-810 Manual Procedures**

a. The Originator will identify a need and complete a paper requisition.

b. The Originator will forward the completed requisition or contract request memo to Field Purchasing Aide.

c. The Field Purchasing Aide will review all submitted requisitions and contract request memos. This function will normally be completed on the day that the requisition or memo is received, and no later than the next business day after receiving the requisition.

d. All requisitions reviewed by the Field Purchasing Aide will be delivered to the Budget Reviewer for review.

e. All requisitions reviewed by the Departmental or Divisional
Budget Reviewer will be delivered to the appropriate Department Head or designee either by inter-office mail or by hand for review and approval (or rejection).

f. All requisitions that have been reviewed by the Budget Reviewer and approved by a Department Head or designee will be returned to the Field Purchasing Aide.

(1) All requisitions $5,000 and under with all approvals require the Field Purchasing Aide serving the Originator to process and post the Field Purchase Order.

(2) All requisitions or memos that have all approvals over $5,000 up to $25,000, will be sent to the Field Purchasing Assistant.

(3) All requisitions or memos that have all approvals that are greater than $25,000 are transmitted to Central Purchasing for processing.

8-820 Performance Online Purchasing System Procedures

a. The Originator will identify a need and will complete an electronic requisition. (Note: Contract requests are NOT entered into POPS)

b. The Performance Online Purchasing System (POPS) will electronically route the requisition to the Field Purchasing Aide.

c. The Field Purchasing Aide will review all automated requisitions and key in any manually received paper requisitions into POPS for approval processing. This function will normally be completed on the day that the requisition is received and no later than the next business day after receiving the requisition.

d. All requisitions posted by the Field Purchasing Aide will be sent to the Departmental or Divisional Budget Reviewer’s mailbox for review and approval. The Departmental or Divisional Budget Reviewer should check his/her Performance Series mailbox at least daily to see if there are any requisitions pending his or her review. Simultaneously a pre-encumbrance will be created in the system.

e. All requisitions reviewed by the Departmental or Divisional Budget Reviewer will appear in the pre-assigned Department Head or Designee’s mailbox for review and approval (or rejection). Each Department Head or Designee should check their Performance Series mailbox at least daily to see if there are any requisitions pending their approval.

f. All electronic requisitions that have been reviewed by the Departmental or Divisional Budget Reviewer and approved by a Department Head or designee will be transmitted to the Field Purchasing Aide.
(1) All requisitions $5,000 and under will require the Field Purchasing Aide serving the Originator to process and post the Purchase Order.

(2) All requisitions that have been approved by both a Department Head or designee and the Departmental or Divisional Budget Reviewer that are over $5,000 to $25,000, will be sent to the Field Purchasing Assistant.

(3) All requisitions that have been approved by the Department Head or designee and the Departmental or Divisional Budget Reviewer that are greater than $25,000 are transmitted to Central Purchasing for processing.

8-900 Purchases Requiring Special Approvals

When the Commission has a need for Capital Outlays, Leases, or Information Technology, the purchase will not be commenced until special approvals and/or forms required by the Commission are received. Special rules, signatures, or regulations, apply to these purchases. In addition, any public/private partnership or proposed private use of Commission assets require special approval.

8-910 Capital Outlay

a. Capital Outlay consist of:

(1) **Personal Property** that has a useful life greater than one year and costs more than $5,000 per item. For example, equipment, furnishings, and highway equipment registered with the Commission are personal property. These items are typically tagged for inventory purposes.

(2) **Real Property** consists of land, land improvements, structures, building and rental improvements.

(3) **Infrastructure assets** are roads, bridges, tunnels, drainage systems, dams and street lighting systems.

(4) Capital outlay items may not be purchased on a Purchase Card.

b. The following steps are required to obtain approval for Capital Outlays:

(1) The Originator completes a requisition.

(2) The Field Purchasing Aide receives approval for Capital Outlay from the Department Head or designee.

(3) The Fixed Asset Coordinator enters the Capital Outlay into the Fixed Asset System after order receipt of item and payment of an item.

8-920 Leases

a. Operating Leases or rentals shall not be used to circumvent the Commission’s competitive bidding requirements.

b. Field Purchasing Aides may only initiate short-term equipment leases, that is, a lease for less than 30 days. Only the Central...
Purchasing Division may initiate and review operating, capital and other leases. Originators needing operating and capital leases must contact the Central Purchasing Division.

c. The Department Head or designee must approve all equipment leases.

d. All leases – except short-term equipment leases - shall be reviewed and approved by the Secretary-Treasurer prior to their procurement initiation. Only the Secretary-Treasurer may coordinate and approve any financing necessary for leases.

8-930 Information Technology

Information Technology, when purchased as an integral part of a computer system, the total cost of the computer system including software and hardware, is considered capital outlay. In the current information technology-driven environment, network applications have become a more important part of the electronic equation, and in most cases, the most expensive component that would ultimately affect the whole Commission. Therefore, the determination of what needs to be purchased or not, needs appropriate and special approval.

a. Purchases over $5,000 for hardware or software, must be seen in advance by the Chief Information Officer to maintain current records of Commission technology.

b. Purchases over $5,000 for hardware or software with Commission-wide implications must be reviewed and approved in advance by the Chief Information Officer.

c. The Chief Information Officer will make recommendations to the Executive Director.

d. Any IT purchases that will maintain data necessary for capturing and reporting financial information, must additionally be approved by the Secretary-Treasurer or designee to assure integration with corporate financial systems and proper internal controls are incorporated.

e. The Chief Information Officer must maintain a record list of all Commission software licenses, with number of users and expiration dates.
9 Source Selection Methods

9-100 Policy

It is the policy of the Commission that all Contract procurements in excess of $5,000 be awarded through a competitive purchasing process, except as otherwise provided in this Purchasing Manual. These competitive processes are described in this Section.

9-200 Purpose

The aim of any good purchasing function is to obtain goods and services of the proper quality at the best possible price. Soliciting quotes from Vendors encourages competition and lowers prices. In certain cases, however, it may be impractical to secure bids for specific types of goods or services.

The Commission utilizes several competitive methods to select Vendors for purchase order or contract awards. The amount of competition required varies based upon the estimated dollar amount of the purchase and category of purchase. Small dollar purchases utilize processes that do not require formal competition, while larger purchases require more formal documented competition.

The Central Purchasing Division is available to answer questions regarding the appropriate source selection method.

9-300 Definitions

Best value. As predetermined in the solicitation, the overall combination of quality, price, warranty requirement, maintenance requirements, and various elements of required services that in total is optimal relative to the Commission’s needs.

Bid. An offer submitted by a prospective Vendor in response to an Invitation for Bids (IFBs).

Brand name specification. A specification that utilizes a brand name product as a measuring stick for purposes of competition. The determination of brand name “or equal”, “or better” in this case would be based on comparison of the offered item versus the brand name.

Competitive Sealed Bidding. A method of Contractor selection utilizing a written Invitation for Bids (IFB), public opening and announcement of all bids received, evaluation of bids based upon the requirements set forth in the invitation and award to the lowest responsive, responsible Bidder.

Competitive Sealed Proposals. A method of Contractor selection utilizing various evaluation criteria to recommend the awardee of the Contract, of which price is only one criterion. All RFPs (formal and informal) are handled by Central Purchasing or designee.

Cooperative Purchasing. A form of inter-governmental purchasing in which one agency performs the award and solicitation process on behalf of a number of agencies, but separate Contracts or purchase orders are executed by a participating agency and the Vendor.
Emergency Purchase. An emergency is a sudden unexpected occurrence that poses clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services. Poor planning or procrastination does not constitute an emergency purchase. In the event the Executive Director is unavailable, the Executive Director's designee authorizes an emergency purchase, and notification is sent to the Executive Director.

Invitation for Bids. An invitation for providers of a product or service to bid on the right to supply that product or service to the individual or entity that issued the invitation. Such will indicate with reasonable accuracy the quantity and location of the work to be done or the character and quality of the material to be furnished and the time and place of the opening of the bids.

Minor Informality. A minor defect or variation of a bid or proposal from the exact requirements of the Invitation for Bids, or the Request for Proposals, which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured and does not give a competitive advantage as a result thereof.

Request for Proposals. A solicitation for providers of a product or service to bid on work or materials for which proposals are required and various factors, in addition to price, will be considered in the selection of the Contractor.

Responsible Bidder or Offeror. A Vendor who has submitted a bid or proposal and has the capability, in all respects, to perform fully the Contract requirements and the moral and business integrity and reliability that will assure good faith performance and who has been prequalified, if required.

Responsive bid. A bid that conforms in all material respects to the requirements contained in the solicitation (i.e., the Invitation for Bids). These requirements include specifications of the goods and services to be provided, the delivery or performance schedule, warranty, and any other material aspects required in the IFB or RFQ.

Sole Source Purchase. A “Sole Source” purchase means that the goods or services are unique and that the Vendor, to the best of the requester's knowledge and belief, based upon the thorough research of the requester, is the only known source in the United States at that time from whom the product/service can be obtained. Sole Source purchase also includes goods or services that are available solely through one Vendor because the manufacturer limits distribution to one sole Vendor in a specific geographic region.

Solicitation. An Invitation for Bids or Request for Proposals (RFPs) to Vendors to submit responses or offers.
Specifications. Description of the physical or functional characteristics or of the nature of a good, service, or construction item. Specifications should include period of warranty, delivery time, maintenance requirements, environmental considerations, and description of any requirement for inspecting, testing or preparing a good, service, or construction item for delivery.

Standardizations. Directed purchase of goods that the Commission determines to be goods, equipment or supplies for which uniformity is necessary, or otherwise in the public interest.
## 9-400 Small Dollar Purchases ($5,000 and Under) using Field Purchase Orders (FPO)

This Section applies to purchases costing $5,000 and under, using Field Purchase Orders, as provided in this Manual.

Purchases $5,000 and under requiring a Contract can be handled by the Field Purchasing Aide/Assistant/Specialist or the Central Purchasing Division.

The Commission does **not** require documented competition for small dollar purchases; however, employees are encouraged to solicit Vendor quotes to the extent practicable and to solicit MFD Vendors. When the need for a particular product or service or when several products from one Vendor can be consolidated, the purchase must be consolidated, not subdivided. **Splitting purchases into multiple transactions to avoid the Commission’s competition requirements is prohibited.**

## 9-410 Roles & Responsibilities

### 9-410.1 Originator

a. Anticipates and identifies needed goods or services.

b. Estimates cost of acquisition and determines that funds are available.

c. Prepares/provides technical requirements or specifications for goods or services.

d. Prepares requisition for items $5,000 and under appropriate for a Field Purchase Order (FPO), and forwards to the Field Purchasing Aide.

e. Considers MFD availability and participation.

f. Obtains the required approvals.

### 9-410.2 Departmental or Divisional Budget Reviewer

a. Verifies funds are available.

### 9-410.3 Field Purchasing Aide

a. Receives pending electronic or manual requisitions appropriate for a FPO.

b. Reviews and enters manually received requisitions into POPS.

c. Obtains informal quotes, if any, and selects Vendor.

d. Verifies purchase is appropriate for the Field Purchase Order (FPO) by checking the list in Appendix G.

e. Processes Field Purchase Order, after all approvals are received.
9-410.4 Department Head, Division Chief or Other Designee

a. Recommends individuals to the Secretary-Treasurer to be Field Purchasing Aides, Assistants and Specialists.

b. Reviews pending requisitions and either approves or rejects the request.

9-410.5 Secretary-Treasurer

a. Delegates field purchasing authority to Field Purchasing Aides and Assistants based upon recommendation from Department Head.

9-410.6 Central Purchasing Division

a. Provides assistance to Field Purchasing Aides/Assistants in processing small purchases.

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9-420 Field Purchase Order Procedures

Field Purchase Orders may be used for the purchase of goods of $5,000 and under, as listed as appropriate for a Field Purchase Order in Appendix G. Purchases made using petty cash or purchase cards do not require a Field Purchase Order. Refer to Section 16 Invoice & Payment Procedures for the procedures for making purchases using the two methods of payment. The following steps apply to purchases made using a Field Purchase Order:

a. The Originator determines a need and has the appropriate Budget Reviewer approve the proposed purchase, and has received any special approvals, including the Grant Coordinator in the field and the Grant Coordinator in the Finance Department, if any federal, state or other grant funds are involved.

b. The Originator completes a manual or electronic requisition, obtains the necessary approvals and sends it to the Field Purchasing Aide designated by the Department Head to process requisitions.

c. The Field Purchasing Aide receives the electronic or manual requisition to process. The Field Purchasing Aide reviews the requisition and verifies it is appropriate for a FPO (Section G). If so, the Field Purchasing Aide enters any manually received requisitions into POPS.

d. The Field Purchasing Aide selects a Vendor.

   (1) The Field Purchasing Aide determines if more than one informal quote is desired for purchases $5,000 and under.

   (2) If more than one informal quote is not desired, the Field Purchasing Aide selects the Vendor.

   (3) When practicable or as needed, the Field Purchasing Aide may obtain two informal quotes.
i. The Field Purchasing Aide shall use the Commission Bidders List to select Vendors for quotes under the Field Purchase Order threshold.

ii. The Field Purchasing Aide shall consider the availability of Vendors participating in the Commission’s Anti-Discrimination Program when selecting a Vendor.

iii. The Field Purchasing Aide will select the lowest bid based on cost factors. The Field Purchasing Aide should remember to ask for Freight on Board (FOB destination) and for a written quote when soliciting informal quotes.

(4) The Field Purchasing Aide shall ensure that the selected Vendor is on the Commission’s Bidders List and has not been suspended or debarred by any state or federal agency. (Appendix M).

(5) If the Vendor is not on the Bidders List, the Field Purchasing Aide must complete the Vendor Information Registration Form and send it to the Central Purchasing Division.

(6) The Field Purchasing Aide will also supply the vendor with a Bidder’s Application to complete and return.

(7) The Field Purchasing Aide may seek assistance from the Central Purchasing Division regarding completion of the Field Purchase Order, especially when soliciting informal quotes, unless Field Purchasing Assistant is available.

e. The Field Purchasing Aide processes a manual or electronic requisition, enters the Vendor Information, enters a reference to the written quotation and posts a Field Purchase Order, after all approvals are received.

f. Field Purchase Orders cannot be used when a written Contract is required (Appendix G). If a written contract is required, the requisition or contract memo should be sent to the Field Purchasing Specialist, if any, or to the Central Purchasing Division for processing.

g. The Field Purchasing Aide mails the Field Purchase Order to the Vendor.

h. The Originator must perform an inventory of items received and compare them with the Field Purchase Order to the Vendor. The Originator must confirm that all items appearing on the Vendor’s invoice were delivered as ordered.
This Section applies to purchases over $5,000 up to $25,000, unless otherwise indicated in this Purchasing Manual. Purchases appropriate for the use of purchase orders are listed in Appendix G. If the item or service requires the use of a contract, the information is sent to the Field Purchasing Specialist or the Central Purchasing Division.

Informal Bids or Quotations are required for purchases that are estimated to cost more than $5,000 to $25,000. Any of the competitive sealed procedures (see below) may be incorporated into this method of purchase at the discretion of the Field Purchasing Assistant/Specialist or at the direction of the Purchasing Manager. 

Only the Central Purchasing Division, or designee may utilize the Sealed Proposal method of purchasing.

9-510 Roles & Responsibilities

9-510.1 Originator

a. Identifies a need and completes a requisition after checking to verify a Purchase Order is appropriate, either electronically or manually.

b. Obtains approval from the Department Head or designee prior to sending requisition to the Field Purchasing Aide.

9-510.2 Departmental or Divisional Budget Reviewer

a. Verifies funds are available.

9-510.3 Field Purchasing Aide

b. Inputs manual requisition into POPS.

c. Reviews requisition and transmits to Field Purchasing Assistant.

9-510.4 Field Purchasing Assistant

a. Prepares, enters or receives a request for a requisition or a contract from the Field Purchasing Aide either manually or in POPS. The Field Purchasing Assistant will conduct the informal bidding.

b. Prepares written solicitations.

c. Contacts a minimum of five Vendors, including two MFD Vendors for quotes, either by fax, email, or mail using the Commission’s Bidders list.

d. Receives at least three (3) responses, and reviews the responses, sending the Procurement Data Sheet and a recommendation to the Central Purchasing Division for award, after verifying that the proposed awardee has not been suspended or debarred by a State of Maryland or federal agency.

e. The Central Purchasing Division will prepare or assist in preparing
a Contract or Purchase Order, as applicable.

Note: A minimum of three (3) responses must be received. A written “No Bid” is a response under this Section.

9-510.5 Department Head or Designee

a. Recommends individuals to the Secretary-Treasurer to be Field Purchasing Assistants.

b. Reviews pending requisitions and contract requests, and either approves or rejects the request.

9-510.6 Purchasing Manager or designee

Reviews the requisition, award recommendation, and other supporting documentation and issues Central Purchase Order or prepares/assists in preparation of Contract.

a. Assists Field Purchasing Assistants in identifying Vendors to contact and processing requisitions.

b. Contacts Vendors for written quotes, if assistance is requested by the Field Purchasing Assistant or there is no assigned Field Purchasing Assistant.

c. Mails or otherwise transmits Purchase Orders to awardees or mails contract to apparent awardee for execution.

9-520 Informal Bids or Quotes Procedures

a. The Originator will enter a requisition into POPS, or submit a paper requisition to the Field Purchasing Aide designated by the Department Head to process requisitions, unless a written contract is required.

b. The requisition or contract request will be sent to the Department Head or designee for approval and the appropriate Budget Reviewer.

c. The Field Purchasing Assistant will receive the approved manual/electronic requisition or a contract request from the Field Purchasing Aide or Department Head designee to process.

d. The Field Purchasing Assistant reviews the specifications and prepares a written solicitation.

e. Prices shall be solicited from at least five (5) Vendors using the Commission’s Bidder’s list, at least two (2) of which are MFD Vendors.

f. The Field Purchasing Assistant will obtain written prices by either soliciting via fax, email, mail or by issuing a written request for quotes, or bids using an Informal Invitation for Bids (IFB) or Request for Quotations. The Field Purchasing Assistant may request the assistance of the Central Purchasing Division.
g. The Field Purchasing Assistant receives a minimum of three (3) responses and ascertains the apparent low bidder by:

1. Calculating each bid amount by multiplying the gross price by any prompt payment discount offered and subtracting the results;

2. Ascertaining the apparent low bidder and multiplying the low price by the cost preference amount (105%) to see if the preference is relevant;

3. Reviewing to see if any bids are within the 5% cost preference range;

4. If so, reviews to see if any bids within the 5% cost preference range have been submitted by an MFD as recorded in the Commission Bidder’s List. Then ascertains if said MFD vendor has applied for and received Commission eligibility for a cost preference in the appropriate category;

5. If the MFD listing itemizes preference, contacts Central Purchasing Division to verify the MFD eligibility for a cost preference;

6. The Field Purchasing Assistant reviews the bid submitted to ensure that it conforms to the specification;

7. The Field Purchasing Assistant also verifies that the proposed awardee has not been suspended nor debarred by any State of Maryland or federal agency by contacting Central Purchasing.

h. The Field Purchasing Assistant will complete a Procurement Data Sheet that includes the award recommendation to the low bidder as adjusted by a prompt payment discount and determination of the cost preference applicability. The Assistant will then electronically forward the request to Central Purchasing. If the recommended awardee is not on the Commission’s bidders list, the Field Purchasing Assistant will complete the Vendor’s Information Form and supply the Vendor with a Bidder’s Application to complete and return. If the recommendation is to award to a Bidder other than the lowest Bidder, the Field Purchasing Assistant will note the reason on the data sheet and attach any supporting documentation.

i. If the transaction requires a contract, the Field Purchasing Assistant will transmit the memo request for Contract to Central Purchasing together with the bidding documentation.

j. The Purchasing Manager or designee will review the documentation and if appropriate, make the award and issue a Central Purchase Order using POPS or prepare a Contract for processing.

k. The Central Purchasing Division mails the Purchase Order to the
Vendor.

1. The Originator must perform an inventory of items received and compare them with the order to the Vendor. The Originator must confirm that all items appearing on the Vendor’s invoice were delivered as ordered.
9-600 Blanket Purchase Orders

a. The purpose of Blanket Purchase Orders is to allow Field Personnel to quickly purchase recurring items of small dollar values over a period of time. ONLY CENTRAL PURCHASING CAN ISSUE BLANKET PURCHASE ORDERS.

b. The following restrictions apply to Blanket Purchase Orders:

1. The total amount of these purchases may range from $500 to $20,000 per Vendor per year, but no more than $5,000 per quarter may be spent, unless a competitive bid or waiver of competition is used.

2. Only one Blanket Purchase Order may be issued per Vendor per year for each organizational unit within the Commission, unless otherwise approved by the Purchasing Manager (see Appendix A for a list of organizational units).

3. A Blanket Purchase Order will be issued for one (1) organizational cost account (OCA). If an organizational unit has more than one OCA, the $20,000 limit per Vendor applies to all OCAs assigned to the organizational unit.

4. Blanket Purchase Orders expire when funds are exhausted. No individual purchase may exceed $5,000 nor may the total of the individual orders exceed $5,000 per quarter.

5. Blanket Purchase Orders may not be renewed once the original amount has been expended, unless otherwise authorized by the Purchasing Manager. Requests to renew Blanket Purchase Orders must be submitted to the Purchasing Manager in writing.

6. Blanket Purchase Orders are not encumbered.

7. Blanket Purchase Orders cannot be used when insurance or a formal written Contract is required for the purchase.

8. Blanket Purchase Orders cannot be used by a unit if the Purchase Card is being used for the same vendor.

9. Blanket Purchase Orders cannot be used for capital outlay purchases, lease payments, maintenance agreements or rental payments.

9-610 Roles & Responsibilities

9-610.1 Originator

a. Identifies a need and completes a requisition.

9-610.2 Field Purchasing Aide / Field Purchasing Assistant

a. Reviews requisitions and sends request to Central Purchasing.
9-610.3 Purchasing Manager or designee

a. Issues Blanket Purchase Orders.

b. Monitors Blanket Purchase Orders to ensure purchasing procedures are followed.

9-620 Blanket Purchase Order Procedures

a. The Originator identifies the need for a Blanket Purchase Order, typically at the beginning of the calendar year.

b. The Originator completes a requisition to request a Blanket Purchase Order and sends it to the Field Purchasing Aide or Assistant who transmits it to the Central Purchasing Division. The Blanket Purchase Order requisition must contain the following information:

   (1) the name of the Vendor from whom the purchases are to be made;

   (2) if the vendor is not on the Commission’s bidders list, complete and attach the Vendor Information Form.

   (3) a description of the items to be purchased, together with the cost basis (i.e. percent discount, unit price, etc.);

   (4) the total amount of the purchase estimated on a yearly basis;

   (5) the organizational cost account (OCA) for the Originator’s organizational unit; and object level code

   (6) the duration of the Blanket Purchase Order requested; and

   (7) The basis of the pricing.

c. The Originator may obtain the available balance on any Blanket Purchase Order from POPS. If the Originator needs immediate assistance, contact the Accounts Payable Section, Finance Department.

d. The requisition, must contain the name and signature of both the Originator and the person approving the requisition. The individual approving the Blanket Purchase Order cannot be listed as a person authorized to pick up goods from the Vendor.

e. The Purchasing Manager or designee receives the requisition, reviews the request, and issues the Blanket Purchase Order. A Blanket Purchase Order will generally be issued within seven (7) calendar days of the submission of the requisition.

f. The Originator arranges for delivery or pickup of items ordered. The Originator should instruct Vendors to reference the Blanket PO number on their invoices.
g. The Originator must perform an inventory of items received and compare them together with the pricing with the blanket order to the Vendor. The Originator must confirm that all items appearing on the Vendor's invoice were delivered as ordered and priced carefully.
This Section applies to repetitive purchases made using a Fixed Price Agreement (Contract) for goods or services. To utilize this type of procurement requires two steps. The first step is for Central Purchasing to establish a Fixed Price Agreement (see Section 13 Purchase Order & Contract Award regarding the procedures for awarding a Fixed Price Agreement). Once the Fixed Price Agreement is in place, purchases may be placed against it using a Purchase Order.

### 9-710 Roles & Responsibilities

**9-710.1 Originator**

a. Identifies need and completes requisition, including the Contract number of the Fixed Price Agreement.

**9-710.2 Departmental or Divisional Budget Reviewer**

a. Verifies funds are available.

**9-710.3 Field Purchasing Aide or Field Purchasing Assistant**

a. Reviews requisition and obtains necessary approvals.

b. Issues Purchase Order (FX) after receiving required approvals, if $5,000 and under.

**9-710.4 Purchasing Manager or Designee**

a. Establishes Fixed Price Agreements against which Purchase Orders are issued. Each Fixed Price Agreement will contain instructions as to its use.

   (1) If Fixed Price Agreements are competitively and formally bid, Purchase Orders may be placed by Central Purchasing in any amount.

   (2) If Fixed Price Agreements are executed without competition, only Field Purchase Orders $5,000 and under may be placed.

b. Monitors Purchase Orders to ensure purchasing procedures are followed.

### 9-720 Purchase Orders Against Fixed Price Agreement Procedures

The following are principles of Central Purchase Orders, as they apply to Fixed Price Agreements:

**9-720.1 Field Purchase Orders $5,000 and Under;**

**9-720.2 Central Purchase Orders Over $5,000**

**9-720.1 Field Purchase Orders $5,000 and Under Pursuant to Fixed**

a. The Originator completes a requisition and transmits to the appropriate Budget Reviewer and then to the Field Purchasing Aide or Assistant.

b. The Field Purchasing Aide / Assistant verifies the item is covered.
## Price Agreement

by the Fixed Price Agreement.

c. If questions exist regarding discounts or the appropriate ordering catalog to be used, contact the Central Purchasing Division.

d. The Field Purchasing Aide / Assistant verifies the item is covered by the Fixed Price Agreement (contract) and issues a Field Purchase Order after all approvals are obtained.

e. The Field Purchasing Aide shall ensure that the following is placed on the order:

   "This purchase order is subject to the terms and conditions of Contract No.__________.”

f. The Originator arranges for delivery or pickup of items ordered. The Originator must provide the Vendor the Contract number of the Fixed Price Agreement together with the Field Purchase Order Number is being placed to avoid delay in payment of invoices.

g. The Originator must perform an inventory of items received and compare the items and pricing with the purchase order. The Originator must confirm that all items appearing on the Vendor’s invoice were delivered as ordered.

## 9-720.2 Central Purchase Orders Over $5,000 Pursuant to Fixed Price Agreement

a. The Originator completes a requisition and receives approval from the appropriate Budget Reviewer.

b. The Field Purchasing Aide verifies the item is covered by the Fixed Price Agreement and completes a requisition in excess of $5,000.

c. After all required approvals are received, the Field Purchasing Aide, or Assistant, or Specialist transmits the requisition with all needed documentation to Central Purchasing.

d. The Purchasing Manager or designee will issue a Central Purchase Order against the Fixed Price Agreement.

e. Central Purchasing shall ensure that the following is placed on the order:

   “This Purchase Order is subject to the terms and conditions of Contract No.__________.”

f. The Originator must perform an inventory of items received and compare them with the purchase order to the Vendor. The Originator must confirm that all items and prices appearing on the Vendor’s invoice were delivered as ordered.
9-730 Written Contract

a. When there are services or goods over $5,000, a written contract request or requisition is transmitted to the Field Purchasing Assistant who will conduct informal bidding and then transmits the results to Central Purchasing.

b. A Field Purchasing Specialist, if assigned, will assist Central Purchasing in the formal process required for procurements in excess of $25,000.
9-800  Competitive Purchases Over $25,000

a. For purchases in excess of $25,000, the Commission uses one of the three (3) different methodologies for formal competitive purchases:

9-810  Competitive Sealed Bids: Price is a determining factor.

9-820  Competitive Sealed Proposals: Price is one of several evaluation factors.

9-830  Competitive Two-Step Proposals: Technical evaluation followed by competitive pricing.

b. Unless otherwise authorized by this Purchasing Manual, all purchases over the Informal Quote threshold of $25,000 must be made using one of these methods. The fact that the procurement is formally bid does not automatically determine that a transaction requires a Contract.

9-810  Competitive Sealed Bids

a. This Section applies to the specific requirements for making a purchase using the Competitive Sealed Bidding method.

b. A competitive sealed bid is a formal solicitation used to request prices for goods or services through public notice. They are used when cost is the primary factor for award and the estimated cost is above the Informal Quote limit of $25,000.

c. The Central Purchasing Division will strive to process purchases made by competitive sealed bid in sixty (60) days from the date a completed IFB packet is received from the Originator to the date of Purchase Order or Contract execution.

9-811  Roles & Responsibilities

9-811.1 Originator/Contract Manager

a. Identifies a need and develops specifications.

b. Obtains approvals.

c. Sends requisitions or contract request to Field Purchasing Aide or Assistant for processing, if no Field Purchasing Specialist.

d. Participates in bid evaluation, as designated.

9-811.2 Field Purchasing Aide or Field Purchasing Assistant (If no Field Purchasing Specialist)

a. Obtains all required approvals, reviews and transmits requisition and specifications or contract memo to Central Purchasing or to Field Purchasing Specialist.

b. Coordinates activities between field personnel and Central Purchasing, if needed.
9-811.3 Field Purchasing Specialist (Note: Field Purchasing Specialists may not be involved in all formal Competitive processes.)

a. Assists in developing specifications and obtains all required approvals.

b. Assembles Invitation for Bids (IFB) packets (or requests assistance from the Central Purchasing Division to assemble packets).

c. Sends the IFB package for review to the Central Purchasing Division.

d. After assignment of solicitation number, advertises IFBs and attends pre-bid conferences and site visits.

e. Reviews bids and MFD participation.

f. Send vendor an Intent to Award letter and requests and reviews bidder information from apparent awardee.

g. Preares Procurement Activity Memo, Data Sheet and Contract Routing Sheet or Requisition.

h. Coordinates purchasing activities between Field Personnel and the Central Purchasing Division.

9-811.4 Departmental or Divisional Budget Reviewer

a. Agrees on a budget.

b. Verifies funds are available.

c. Monitors spending.

9-811.5 Department Head or designee

a. Reviews and approves IFB packets before sending to Central Purchasing for approval.

9-811.6 Purchasing Manager or designee

a. If a Field Purchasing Specialist is assigned to the Originator, the Field Purchasing Specialist will prepare the IFB packet utilizing standardized Commission documents, special terms and conditions, and the specifications initiated by the Originator. The Field Purchasing Specialist will coordinate his/her activities with the Purchasing Manager or designee.

b. If a Field Purchasing Specialist is not assigned to the Originator, the Originator will request that the Purchasing Manager or designee prepare the IFB packets for advertisement.

c. Once approved by Central Purchasing issues the solicitation
number and returns solicitation package to the Field Purchasing Specialist, if any.

d. Attends pre-bid conferences and/or site visits, as needed.

e. Assists and monitors bid evaluation, as needed.

f. Review bids and MFD participation.

g. Sends Notice of Intent to Award and requests and receives bidder information, as needed, from apparent awardee.

h. Issues Purchase Orders or prepares contract for routing.

i. Prepares or reviews the Procurement Activity Memo and Data Sheet, if no Field Purchasing Specialist.

j. Maintains files on all formal competitive processes.

9-811.7 General Counsel or designee

a. Prior to issuance and advertisement, reviews and approves copies of solicitations that do not use the preapproved, standard Contract forms, including terms and conditions and draft Contracts.

9-811.8 Risk Management

a. At the time of issuance and advertisement, reviews and approves insurance requirements and checklist for nonstandard solicitations and contracts.

9-811.9 Secretary-Treasurer

a. Prior to issuance and advertisement, reviews and approves solicitations that do not use the approved standard Contract forms, including terms and conditions.

9-812 Competitive Sealed Bids Procedures

The following principles of the competitive process apply to the Competitive Sealed Bids process:

9-812.1 Preparation of Invitations for Bids (IFB), including specifications

9-812.2 Issuance of Public Notice (advertisements, etc.) and distribution to the Originator, Secretary-Treasurer, Risk Management Office and General Counsel, if required

9-812.3 Bid Conferences and Site Visits

9-812.4 Addenda to IFB

9-812.5 Submission of Bids

9-812.6 Withdrawal or Modification of Bids
9-812.7 Receipt and Safeguarding of Bids

9-812.8 Late Bids

9-812.9 Bid Opening, Tabulation, and Examination by Competitors

9-812.10 Determination of Bidder's Responsiveness and Responsibility

9-812.11 Mistakes in Bids
   a. Identified by Commission or Bidder
   b. Minor Informality

9-812.12 Tie Bids

9-812.13 Recommendation of Award in Competitive Sealed Bidding

9-812.14 Contract Award Approval

9-812.15 Cancellation of Solicitation and Rejection of all Bids

9-812.16 Confidentiality within the Competitive Process and the Maryland Public Information Act (State Government Article of the Maryland Annotated Codes Sections 10-611, et seq.)

9-812.1 Preparation of Specifications - Invitations for Bids (IFBs)

   a. Originators or Field Purchasing Specialists (FPS) are responsible for the first draft of specifications to be submitted to the Central Purchasing Division. Lengthy and complex specifications may be submitted to the Central Purchasing Division on diskette in Microsoft Word or emailed to the Purchasing Manager or designee. Be certain that the diskette label or email subject line properly identifies the data. After the Purchasing Manager or designee has reviewed the specifications and writes or reviews the special and standard terms and conditions of the solicitation, and contract, the Originator or Field Purchasing Specialist will be forwarded a draft for review. The Purchasing Manager or designee and Originator may meet if needed to discuss required changes.

   b. After all required approvals are obtained, the Originator sends a requisition or memo to the Field Purchasing Specialist or Purchasing Manager or Designee requesting the preparation or review of an IFB for the goods, services, or construction to be purchased. This memo will include:

      (1) Estimated cost/budget, together with completed infrastructure cost breakdown form for construction or renovation Contracts

      (2) Funding source (account number) and other information, such as a copy of the grant, PDF, account numbers to
charge advertising costs, etc.

(3) Suggested Vendors, if any

(4) Additional Vendor outreach suggestions, if any

(5) Copy of other agency's Contract if award will be based on other agency's contract (riding/bridging)

c. If a Field Purchasing Specialist is assigned to the Originator, the Field Purchasing Specialist will prepare the IFB packet utilizing standardized Commission documents, special terms and conditions, and the specifications initiated by the Originator and transmit the packet to Central Purchasing.

d. If a Field Purchasing Specialist is not assigned to the Originator, the Originator will request that the Purchasing Manager or designee prepare the IFB packets for advertisement.

e. The Central Purchasing Division or designee will review or prepare the IFB utilizing standardized Commission documents, special terms and conditions, and the specifications initiated by the Originator.

f. Each IFB packet must contain the following information:

(1) Description of the goods, materials, and/or services to be procured

(2) Place, time and date for pre-bid conference and/or site visit

(3) General instructions to Bidders, including the place, time, and date for submission of bids

(4) General Conditions

(5) Special Conditions (if applicable)

i. Projects subject to the Anti-Discrimination in Subcontracting Program Contractor will include a description of the program in this section

ii. Basis of award

(6) Construction General Conditions (if applicable)

(7) Specifications

(8) Pricing Schedule, including basis of award

(9) Name of Field Purchasing Specialist or Contract Specialist to contact with questions

(10) Name of Construction/Contract Manager
(11) Required forms, including Sample Contract Form, Vendor Information Form, Non-Discrimination Form, Subcontracting Form, Reference Forms, Insurance Checklist, and bonding forms, as applicable.

g. If the Central Purchasing Division approves the package, it will assign a solicitation number and return it to the Field Purchasing Specialist, if a Field Purchasing Specialist is involved. At the time of distribution, the Field Purchasing Specialist will provide Central Purchasing with a final copy of the solicitation. If no Field Purchasing Specialist is involved, Central Purchasing will complete the competitive process.

9-812.2 Issuance of Public Notice & Distribution

a. The Commission will provide public notice of the date and time set in the solicitation (IFB) for the pre-bid conference and/or site visit as well as the deadline for submission of bids.

b. When establishing a date and time for receipt of bids, the Commission must allow time for Vendors to adequately respond. The Commission must give public notice of the solicitation (IFB) as approved by the Purchasing Manager, prior to the date set for the receipt of bids by posting in a designated public area, publication in newspapers of general circulation, or publication on the Commission’s Purchasing website and other websites as deemed appropriate by the Purchasing Manager. The list of currently used papers and websites for public notice are located in Appendix I.

c. The Central Purchasing Division will handle advertising for Commission purchases unless otherwise authorized. The Field Purchasing Specialists handle the advertising for the CIP projects.

d. The Commission must advertise all purchases over $25,000.

e. In addition to public notice, notices of the solicitation must be sent to at least ten (10) Vendors on the Commission’s Bidders List, including at least a total of two (2) MFD Vendors from either Prince George’s or Montgomery Counties, or one from each county, if available.

f. Each solicitation (IFB) file must include the commodity code(s) used, to choose vendors to send copies of the notice of solicitation, as well as any other vendors included, and a record of the advertisement.

g. Prior to issuance and advertisement, the Central Purchasing Division will distribute copies of the solicitation to the Originator, Secretary-Treasurer, General Counsel or designee (if standard Contract forms are not used), and the Risk Management Office.

(1) The General Counsel or designee reviews and approves copies of solicitations that do not use the pre-approved, standard Contract forms, including terms and conditions and Contracts specifically approved. The General Counsel will return comments within three (3) work days.
(2) The Risk Management Office reviews and approves insurance requirements and checklist for non-standard Contracts. The Risk Management Office will submit comments to the Central Purchasing Division within three (3) work days.

(3) The Secretary-Treasurer Office reviews and approves solicitations for non-standard Contracts. The Secretary-Treasurer Office will submit comments to the Central Purchasing Division within three (3) work days.

9-812.3 Pre-Solicitation Conferences and Site Visits

a. Pre-solicitation conferences and/or site visits provide an opportunity for the Commission to emphasize and clarify critical aspects of solicitations, eliminate ambiguities or misunderstandings, and permit Vendor input.

b. Pre-solicitation conferences and site visits may be mandatory or non-mandatory. Caution should be used when scheduling pre-solicitation conferences to allow enough notice to prospective Bidders to permit attendance. Mandatory meetings may limit competition and should not be used unless on-site visits or other complex issues deem them necessary. If a Vendor or its agent does not attend a mandatory pre-solicitation conference or site visit, any bid submitted will be deemed non-responsive.

c. During a pre-solicitation conference, the Commission staff advises attendees of any special or technical requirements contained in the solicitation and allows attendees to ask questions about the solicitation and the work to be performed. The Anti-Discrimination Program will be reviewed and discussed and a computerized bidders’ list will be available for pick-up at any conference or site visits. Emphasize that only the named Purchasing contact should be contacted for information on the IFB.

d. An attendance roster shall be maintained and if a transcript is made, it shall be a public record.

e. The date and time of a pre-solicitation conference and/or site visit must be included in the solicitation and in any notice sent or advertisement placed regarding the solicitation.

f. Any information disseminated, including questions and answers, at the pre-solicitation conference or site visit must be sent to all Vendors who were provided with a copy of the solicitation by mail, electronically, or pick-up from the Commission.

g. If a Field Purchasing Specialist handles the advertisement of the IFB, the Field Purchasing Specialist will provide Central Purchasing with a complete copy of the IFB.

9-812.4 Addenda to Solicitations

a. Any revision or alteration to either the solicitation or Contract documents issued to the public must be made in writing. All Vendors who were sent a solicitation directly or who otherwise obtained the solicitation from the Commission must be sent the Addendum. In addition, any clarification made to one Vendor must
be disseminated to all Vendors.

b. Addenda, other than time only, to solicitations must be identified as such and must be reviewed by Central Purchasing, prior to its distribution. The Bidder must acknowledge receipt of all addendum issued and copies of the signed acknowledgements must be included with the Bidder’s submission of his/her bid.

c. Addenda will be numbered consecutively.

d. An extension of time will be given, if in the judgment of the Purchasing Manager or designee, after consultation with the Field Purchasing Specialist, there is inadequate time for the Vendors to adequately address the factors in the Addendum before the issuance by the Field Purchasing Specialist or Central Purchasing.

9-812.5 Submission of Bids

a. The Bidder is responsible for the timely delivery of the bid in a sealed envelope to the exact location and name designated in the solicitation prior to the time specified for receipt of bids.

b. The Bidder is responsible for the delivery of the bid. If using U.S. Mail or a delivery service, the Bidder should ensure that the bid is addressed properly. Bids received after the official due date and hour are rejected. The official date and hour used in receipt of responses is that time on the clock or automatic time stamp of the Commission’s Central Purchasing Division Office or other location designated by the solicitation.

c. Any bid received after the designated time for receipts of bids will be deemed late, and will be returned to the bidder unopened.

d. Bids that are hand delivered must be received in the Central Purchasing Division (or other location if so designated in the solicitation) and time and date stamped prior to the bid due time. Bids delivered to the mailroom, lobby, or other Commission office will not be accepted, if not received by the designated location by the time and date specified.

e. Sealed envelopes or boxes containing bids must be clearly marked, as identified in the instructions of the solicitation.

9-812.6 Withdrawal or Modification of Bids

a. A Bidder may amend or withdraw a bid at any time prior to the due date and time. A person authorized to represent the person or Vendor that submitted the bid must sign the request to withdraw in writing.

b. Bids may not be withdrawn for ninety (90) calendar days after the bid opening, unless otherwise specified in the solicitation, and remain valid during that period.

9-812.7 Receipt & Safeguarding Bids

a. All bids received before the time set for opening must be dated, time stamped, and kept unopened and secured in the Central Purchasing Division (or other designated location approved by the Purchasing Manager).
b. Before the bid opening, information about the identity and number of bids or proposals received is confidential and will only be made available to Commission employees who have a need for such information as determined by the Purchasing Manager.

c. When bid samples are “submitted as required,” they must be handled with sufficient care to prevent disclosure of characteristics before bid opening.

d. Unidentified bids or modifications to bids may be opened solely for the purpose of identifying the Bidder. If a sealed bid is opened because of the Bidder’s failure to clearly label it as a bid or the bid is opened by mistake, the person who opened the bid will immediately write his or her signature, job title, and the date on the envelope, along with an explanation of the opening and the solicitation number.

e. Bids opened by mistake or for identification purposes must be resealed immediately and placed in a secured area. No information contained in them may be disclosed prior to the public bid opening.

### 9-812.8 Late Bids

a. Any bid received after the designated due date and time for receipt of bids will be deemed late and will be returned to the sender unopened.

### 9-812.9 Bid Opening, Tabulation, and Examination by Competitors

#### a. Bid Opening

1. All bids received prior to the time set for public opening shall be opened at the appointed time and place in the presence of one or more witnesses. The Purchasing Manager or designee will open the bids.

2. The total amount of each bid shall be read aloud and recorded on a bid tabulation sheet. Individual item prices contained within the bid may also be read aloud if practicable. Any prompt payment discounts offered by the Bidders shall be read aloud.

3. All bid bonds and certified checks shall be identified by solicitation number, placed in an envelope, and stored in a secure place by the Purchasing Manager or designee.

4. Any unusual or questionable circumstances in connection with the bid opening must be reported to the Purchasing Manager immediately.

5. Under no circumstances will Commission staff at the bid-opening make any comment that can be considered an opinion or ruling.

#### b. Bid Tabulation

1. The Purchasing Manager or designee will evaluate the bids and write an evaluation and summary memo recommending
the lowest responsible and responsive Bidder to the Originator. If a Field Purchasing Specialist opens the bids, the Field Purchasing Specialist will evaluate the bids and write an evaluation memo recommending the lowest responsible and responsive Bidder to the Purchasing Manager or designee. In determining the lowest bid, the Purchasing Manager, designee or Field Purchasing Specialist, as applicable:

(i) Calculates each bid amount by multiplying the gross price by any prompt payment discount and subtract that amount from the bid number;

(ii) Ascertains the apparent low bidder and multiplies the low price by the cost preference amount (105%) to see if the preference is relevant;

(iii) Reviews to see if any bids are within the 5% cost preference range;

(iv) If so, reviews to see if any bid within the 5% cost preference range has been submitted by an MFD as recorded in the Commission Bidder’s List. Then ascertains if said MFD vendor has applied for and received Commission eligibility for a cost preference in the appropriate category;

(v) If the MFD listing itemizes preference, contacts Central Purchasing Division to verify the MFD eligibility for a cost preference;

(vi) The Field Purchasing Assistant reviews the bid submitted to ensure that it conforms to the specification;

(vii) The Field Purchasing Assistant also verifies that the proposed awardee has not been suspended nor debarred by any State of Maryland or federal agency.

(2) If the Originator agrees with the Purchasing Manager or designee’s recommendation, the Originator will acknowledge agreement by sending an email to the Purchasing Manager or designee. If the Originator does not agree, the Originator must provide the Purchasing Manager or designee with an explanation of why he/she disagrees with the recommendation within ten (10) calendar days.

(3) Bids shall be unconditionally accepted without alteration or correction except as provided elsewhere in this Manual.

(4) Bids shall be evaluated only based on the requirements set forth in the IFB, which may include criteria such as inspection, quality, warranty, delivery, and suitability for a particular purpose.

(5) Subjective evaluations of products, particularly where bid
samples or product descriptions are submitted, may properly be used in determining whether a product offered by a Bidder is acceptable as an “approved equal.” Determination of “approved equal” shall be in the sole discretion of the Commission.

(6) Criteria that affects the bid price shall be objectively measurable and may take into account not only acquisition costs, but the cost of their ownership, which relates to the quality of the product, including life cycle cost factors, such as maintainability and reliability. Delivery time may also be a factor in award. Any such criteria must be set forth in the Invitation for Bids.

(7) Award may not be made to a Bidder submitting a higher quality item than the minimum required by the IFB description, unless that Bidder also has the lowest evaluated bid price in accordance with the objective criteria set forth in the IFB.

c. Examination by Competitors

(1) Bidders can request to see the bids at the bid opening, subject to approval of the Purchasing Manager or designee.

(2) The tabulation of the bids shall be made available for public inspection as soon as possible after the bid opening. Once the bid opening is complete, bids shall be maintained in a secure area and kept confidential until award is completed.

9-812.10
Determination of Bidder’s Responsiveness and Responsibility

a. The Commission shall award a Contract or Purchase Order to the lowest responsive bid from a responsible Bidder:

(1) Determination of Non-responsiveness

i. A bid may be rejected as non-responsive if the Bidder imposes conditions that modify the IFB, e.g., fails to meet specifications, delivery schedule, or limit the firm’s liability, giving that firm an advantage over other Bidders. There cannot be any conditions on the bids, especially after the public opening. The bid, as is, must meet all the requirements of the specifications included within the IFB.

ii. A low Bidder may be requested to delete objectionable conditions from its bid if these conditions do not go to the substance, as distinguished from the form, of the bid.

iii. A condition goes to the substance of a bid where it affects price, quantity, delivery of the items, specifications, or scope of work offered or limits the liability of the Bidder.

(2) Determination of Non-responsibility

i. A bid may be rejected as non-responsible if the Bidder is
not capable of fully performing the Contract requirements because the Bidder does not have demonstrable integrity, reliability, equipment, or licensing that assures good faith performance.

ii. A bid from a debarred or suspended Contractor by a State of Maryland or federal agency will be rejected as not responsible.

b. If a Bidder fails to supply required or requested information within the requested time frame that the Commission needs to be able to determine responsiveness and responsibility on a timely basis, the Bidder may be deemed non-responsive and non-responsible.

9-812.11 Mistakes in Bids

a. Mistakes Identified by the Commission or Bidder

(1) After bid opening, authorized Commission staff shall examine all bids for mistakes.

(2) If Commission staff detects an apparent mistake, other than those involving extension of unit prices (Note: unit prices prevail over totals) or other arithmetic errors, the Purchasing Manager or designee shall request a verification of the bid from the Bidder. The verification request must include the time and due date; such a verification request must be approved by the Purchasing Manager. If the Bidder fails to respond to the verification request within the time allotted, the bid may be considered as originally submitted or may be rejected as non-responsive by the Purchasing Manager.

(3) Bidders alleging a mistake must provide the Purchasing Manager with requested supporting documentation, such as the Bidder’s file copy of the bid, original worksheets, subcontractors’ and suppliers’ quotations, published price lists, and any other evidence of the mistake, the manner in which it occurred, and the bid actually intended.

(4) If the Bidder alleges a mistake, the Purchasing Manager will make an administrative determination regarding whether the Bidder is allowed to correct or withdraw the bid.

(5) If the apparent low bidder is twenty percent (20%) less than the next ranked Bidder, the Bidder will be asked to affirm its pricing. The amount of the next low bid must not be disclosed.

b. Minor Informality

(1) If a bid contains a minor informality, as determined by the Purchasing Manager or designee, the Purchasing Manager or designee shall either give the Bidder an opportunity to cure the deficiency or waive the deficiency, whichever is to the advantage of the Commission.

c. Extension of Bids
Any bid, whose validity date is not extended pursuant to a request to extend by the Commission, shall be rejected.

### 9-812.12 Tie Bids

- Tie bids are responsive bids from responsible Bidders that are identical in price, terms, and conditions.
- When tie bids are received, the Purchasing Manager or designee will conduct a random drawing of the tied Bidders, to determine the winning Vendor.
- The drawing will be verified and certified by at least one witness.

### 9-812.13 Recommendation of Award

- A Procurement Data Sheet and a procurement summary memo must be submitted to the Purchasing Manager recording all responses for every purchase using formal competitive sealed bidding.
- This form and memo is used to recommend the Bidder for award by contract or purchase order.
- This form includes the MFD status of all Vendors contacted and all Vendors submitting bids.
- This memo also describes the MFD subcontracting plan of the apparent awardee, as recommended.

### 9-812.14 Cancellation or Rejection of Bids

- The Commission may cancel the solicitation and reject all bids after a bid due time but prior to award, if the Purchasing Manager, after consultation with the Department Head or designee, determines it is in the best interest of the Commission.
- The solicitation must be cancelled if all bids are to be rejected. The Purchasing Manager shall document cancellation actions in writing. The reasons for cancellation or rejection shall be made as part of the Contract file. Reasons for cancellation or rejection can vary as listed:
  1. The terms and conditions were inadequate, ambiguous or otherwise deficient;
  2. The supplies or services are no longer required;
  3. The IFB/RFP did not provide for consideration of all factors of cost to the Commission;
  4. The bids received indicate that the needs of the Commission can be satisfied by a less expensive article differing from that on which the bids were received;
  5. There is a reason to believe the bids may not have been independently arrived at in open competition, were collusive, or were submitted in bad faith;
  6. All bids received reflect unreasonable or fiscally unacceptable
prices.

c. The Commission shall not cancel or reject a solicitation solely to avoid awarding a Contract to a particular responsive and responsible Bidder.

d. The Purchasing Manager or designee shall notify each Bidder that the solicitation has been cancelled and its bid rejected and the reason for such action.

e. If all bids have fiscally unacceptable prices, are non-responsible or non-responsive, each Bidder may be contacted for a “best and final price”.

f. Except in unusual circumstances as approved as an exception by the Executive Director, the Commission will not ask for revised bids with differences in scope from the bidders who responded after initial bids have been submitted. All Vendors who picked up or received the IFB from the Commission shall be sent the IFB containing the revised scope. If the IFB contains a scope substantially different from the advertised IFB, the revised IFB must be advertised. The Purchasing Manager will submit recommendations to the Executive Director regarding whether rebidding to a subset of Bidders is appropriate. Changes in the scope of projects should be handled with amendments during the solicitation process.

9-812.15 Confidentiality

a. Once opened, bids shall be maintained in a secure place and kept confidential until award.

b. All bids from the formal competitive sealed bid processes shall be retained at Commission offices for a three (3) year period. These documents may be viewed by unsuccessful Offerors or other interested parties after the award.

c. Proprietary information cannot be disclosed to unsuccessful Bidders or other interested parties. Materials submitted with bids that are designated as confidential by the Bidders, such as drawings, samples, ideas, trade secrets, or pending patents, shall be treated as such consistent with the Maryland Public Information Act.

d. All purchasing-related requests pursuant to the Maryland Public Information Act shall be referred to the Purchasing Manager for answer, with the assistance of the General Counsel, if requested.
9-820 Competitive Sealed Proposals

a. This Section applies to the specific procedural requirements for making a purchase using the Competitive Sealed Proposals method.

b. The competitive sealed proposal method consists of a formal solicitation used to solicit offers for goods or services from Vendors when competitive sealed bidding may not be practical or in the best interest of the Commission. This method may only be used when price is only one factor affecting the cost and quality of the services or items, and as approved by the Purchasing Manager.

c. The Central Purchasing Division will strive to process purchases made by competitive sealed proposals within 120 days from the date a completed Request for Proposals (RFP) packet is received from the Originator to the date of Contract execution.

9-821 Roles and Responsibilities

9-821.1 Originator/Contract/Construction Manager

a. Identifies a need and develops specifications.

b. Obtains approvals.

c. Transmits to Field Purchasing Aide or Assistant, if no Field Purchasing Specialist.

d. Participates on Evaluation Committee, if requested.

9-821.2 Field Purchasing Aide or Field Purchasing Assistant (if not Field Purchasing Specialist)

a. Reviews the specifications and obtains all required approvals.

b. Completes memorandum requesting the procurement. Coordinates purchasing activities between Field Personnel and the Central Purchasing Division, if needed.

c. Sends memorandum and draft specifications to the Central Purchasing or the Field Purchasing Specialist for processing.

9-821.3 Field Purchasing Specialist (FPS)

a. Assists in developing specifications and obtains all required approvals.

b. Assembles Request for Proposals (RFP) packets or requests assistance of Central Purchasing to assemble.

c. Sends RFP package for review to the Central Purchasing Division.

d. After assignment of solicitation number, advertises RFP and attends pre-proposal conferences and site visits.

e. Coordinates purchasing activities between Field Personnel and
Central Purchasing Division.

f. Reviews proposals together with Central Purchasing Division

g. Sends selected Vendor an Intent to Award

h. Prepares Procurement Activity Memo, Data Sheet, and Contract Routing Sheet or requisition.

9-821.4 Department Head or designee

a. Reviews and approves RFP packets before sending to the Purchasing Manager for approval.

9-821.5 Departmental or Divisional Departmental or Divisional Budget Reviewer

a. Agrees on a budget.

b. Verifies funds are available.

c. Monitors spending.

9-821.6 Purchasing Manager or designee

a. If a Field Purchasing Specialist is assigned to the Originator, the Field Purchasing Specialist will prepare the RFP packet utilizing standardized Commission documents, special terms and conditions, and the specifications initiated by the Originator. The Field Purchasing Specialist will coordinate his/her activities with the Purchasing Manager or designee.

b. If a Field Purchasing Specialist is not assigned to the Originator, the Originator will request that the Purchasing Manager or designee prepare the RFP packets for advertisement.

c. Prepares or reviews RFP packets prior to advertisement.

d. Prepares or reviews Addenda, for other than time, prior to issuance.

e. Attends pre-proposal conference and/or site visits, as designated.

f. Once approved, issues the solicitation number and returns solicitation package to the Field Purchasing Specialist, if applicable.

g. Participates on and monitors Evaluation Committee.

h. Prepares and/or reviews the Procurement Activity Memo and Data Sheet.

i. Maintains files on all RFPs and proposals received.

9-821.7 General Counsel or designee
a. Prior to issuance and advertisement, reviews and approves copies of solicitations that do not use the approved, standard Contract forms, including terms and conditions and draft Contracts.

### 9-821.8 Risk Management

a. At the time of issuance and advertisement, reviews and approves non-standard insurance requirements and checklist.

### 9-821.9 Secretary-Treasurer

a. Prior to issuance and advertisement, reviews and approves copies of solicitations that do not use the approved, standard Contract forms, including terms and conditions.

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9-822.14 Cancellation of Solicitation and Rejection of all Proposals

9-822.15 Confidentiality within the Competitive Process and the Maryland Public Information Act (State Government Article of the Maryland Annotated Code, Sections 10-611 et. Seq.)

9-822.1 Preparation of RFP

a. Originators or Field Purchasing Specialists are responsible for the first draft of specifications to be submitted to the Central Purchasing Division. Lengthy and complex specifications may be submitted to the Central Purchasing Division on diskette in Microsoft Word or emailed to the Purchasing Manager or designee. Be certain that the diskette label or email subject line properly identifies the data. After the Purchasing Manager or designee has reviewed the specifications and writes or reviews the special and standard terms and conditions of the solicitation, the Originator or Field Purchasing Specialist will be forwarded a draft for review. The Purchasing Manager and the Originator and/or Field Purchasing Specialist may meet if needed to discuss required changes.

b. After all required approvals are obtained, the Originator or Field Purchasing Specialist sends a memo to the Purchasing Manager or designee requesting the preparation or review of an RFP to procure goods or services. This memo will include:

(1) Estimated cost/budget, together with completed infrastructure cost breakdown form for construction or renovation Contracts;

(2) Funding source (account number) and other information such as copy of grant, PDF, account numbers to charge for advertising, etc.;

(3) Suggested Vendors, if any;

(4) Additional Vendor outreach suggestions, if any

c. If a Field Purchasing Specialist is assigned to the Originator, the Field Purchasing Specialist will prepare the RFP packet utilizing standardized Commission documents, special terms and conditions, specifications, rating criteria and rating sheet.

d. The Central Purchasing Division will review or prepare the RFP utilizing standardized Commission documents, special terms and conditions, the specifications, rating criteria, rating sheet and Evaluation Committee membership prior to issuance of a solicitation number.

e. Each RFP packet must contain the following information:

(1) Description of the goods, materials, and/or services to be procured.

(2) Place, time and date for pre-solicitation conference and/or site
visit.

(3) General instructions to Offerors, including the place, time and date for submission of proposals.

(4) Projects subject to Anti-Discrimination in subcontracting program will include a description of the program.

(5) General Conditions

(6) Special Conditions, including the evaluation criteria and information required to be in the proposal

(7) Construction General Conditions (if applicable)

(8) Specifications/Scope of Services

(9) Pricing Schedule

(10) Evaluation Criteria

(11) Name of RFP contact for questions

(12) Name of Construction/Contract Manager

(13) Required forms, including a sample Contract, Vendor Information Form, Non-Discrimination Form, Subcontracting Form, Reference Forms, Insurance Requirements, and bonding forms (as applicable)

(14) If the Central Purchasing Division approves the package, it will assign a solicitation number and return it to the Field Purchasing Specialist, if involved.

(15) If no Field Purchasing Specialist involved, Central Purchasing will complete the steps in the competitive process.

9-822.2 Issuance of Public Notice

a. The Commission will provide public notice in the solicitation of the date and time set for the pre-proposal conference and/or site visit and the deadline for the submission of proposals.

b. When establishing a date and time for receipt of proposals, the Commission must allow time for Vendors to adequately respond. The Commission must give public notice of the solicitation as approved by the Purchasing Manager, prior to the date set for the receipt of proposals by posting in a designated public area, publication in newspapers of general circulation, or publication on the Commission’s Purchasing website and other websites as deemed appropriate by the Purchasing Manager. The list of currently used papers and websites for public notice are located in Appendix I.

c. The Central Purchasing Division will handle advertising for Commission purchases unless otherwise authorized. Advertising for Capital Improvement projects shall be handled by designated Field
Purchasing Specialists, unless the Originator or the Field Purchasing Specialist request that the Central Purchasing Division handle advertisement of the solicitation.

d. The Commission will advertise all purchases over $25,000.

e. In addition to public notice, notices of the solicitation must be sent to at least ten (10) Vendors on the Commission’s Bidders List, including a total of at least two MFD Vendors from either Prince George’s or Montgomery Counties, or a combination of both, if available.

f. Each solicitation file must include the commodity code(s) used to choose Vendors to send copies of the Notice of Solicitations, as well as any other Vendors to which the notices were sent, and a record of the advertisement.

g. Prior to issuance and advertisement, Central Purchasing will distribute copies of the solicitation to the Originator, General Counsel or designee and the Secretary-Treasurer (if standard Contract forms are not used), as well as the Risk Management Office if standard insurance checklists are not used.

(1) The General Counsel or designee reviews and approves copies of solicitations that do not use the approved, standard Contract forms, including terms and conditions and draft Contracts and will return comments within three (3) work days.

(2) The Risk Management Office reviews and approves insurance requirements and checklists. The Risk Management Office will notify Central Purchasing of any problems within three (3) work days.

(3) The Secretary-Treasurer reviews and approves copies of solicitations that do not use standard contract forms, including terms and conditions and draft contracts. The Secretary-Treasurer will notify Central Purchasing of any problems within 3 days.

### 9-822.3 Pre-Solicitation Conferences and Site Visits

a. Pre-solicitation conferences provide an opportunity for the Commission to emphasize and clarify critical aspects of solicitations, eliminate ambiguities or misunderstandings, and permit Vendor input.

b. Pre-solicitation conferences and site visits may be mandatory or non-mandatory. Caution should be used when scheduling pre-solicitation conferences to allow enough notice to prospective Offerors to permit attendance. Mandatory meetings may limit competition and should not be used unless on-site visits or other complex issues deem them necessary. If a Vendor or its agent does not attend a mandatory pre-solicitation conference or site visit, any offer submitted will be deemed non-responsive.

c. During a pre-solicitation conference, the Commission staff advises
attendees of any special or technical requirements contained in the solicitation and allows attendees to ask questions about the solicitation and the work to be performed. The Anti-Discrimination Program will be reviewed and discussed at any conference or site visits, and a computerized bidder's list will be available for pickup at any conference or site visits. At the conference, it will be emphasized that only the named Purchasing contact should be contacted for information on the RFP.

d. An attendance roster shall be maintained and if a transcript is made it shall be a public record.

e. The date and time of a pre-solicitation conference and/or site visit must be included in the solicitation and in any notice sent or advertisement placed regarding the solicitation.

f. Any information, including questions and answers, disseminated at the pre-solicitation conference or site visit, must be sent to all Vendors who were provided with a copy of the solicitation by mail, electronically, or picked up the solicitation from the Commission.

g. If a Field Purchasing Specialist handles the advertisement of the RFP, the Field Purchasing Specialist will provide Central Purchasing with a full copy of the RFP.

9-822.4 Addenda to Solicitations

a. Any revision or alteration to either the solicitation or Contract documents issued to the public must be made in writing. Any information disseminated to an individual Offeror must be sent to all Offerors who were sent a solicitation. All Offerors who were sent a solicitation directly or who otherwise obtained the solicitation from the Commission must be sent the Addendum. In addition, any clarification made to one Vendor must be disseminated to all Vendors.

b. Addenda to solicitations must be identified as such and must be reviewed by Central Purchasing, prior to its distribution unless the addenda is for a time extension only. The Offeror must acknowledge receipt of all addenda issued. Copies of the signed acknowledgements must be included with the Offeror's submission of his/her proposal.

c. Addenda will be numbered consecutively.

d. An extension of time should be given if, in the judgment of the Purchasing Manager after discussion with the Field Purchasing Specialist, there is inadequate time for the Vendors to adequately address the factors in the Addendum before issuance by the Field Purchasing Specialist or Central Purchasing.

9-822.5 Submission of Proposals

a. The Offeror is responsible for the timely delivery of the proposal in a sealed envelope to the exact location and name designated in the solicitation prior to the time specified for receipt of proposals.

b. The Offeror is responsible for the delivery of the proposal. If using U.S. Mail or a delivery service, the Offeror should ensure that the
proposal is addressed properly. Proposals received after the official date and hour will be rejected. The official date and hour used in receipt of responses is that time on the clock or automatic time stamp of the Commission's Central Purchasing Division Office or other location designated by the solicitation.

c. Proposals that are hand delivered must be received in the Central Purchasing Division (or other location if so designated in the solicitation) and time and date stamped prior to the proposal due time. Proposals delivered to the mailroom, lobby, or other Commission office will not be accepted, if not received by the designated location.

d. Sealed envelopes or boxes containing proposals must be clearly marked, as identified in the instructions of the solicitation.

e. Any proposal received after the designated time for receipt of proposals will be deemed late and will be returned to the sender unopened.

9-822.6 Withdrawal or Modification of Proposals

a. An Offeror may amend or withdraw a proposal at any time prior to the due date and time. A person authorized to represent the person or Vendor that submitted the proposal must sign the request to withdraw in writing.

b. Proposals may not be withdrawn for 120 calendar days after the proposal opening, unless otherwise specified in the solicitation, and remain valid during that period.

9-822.7 Receipt & Safeguarding Proposals

a. All proposals received before the time set for opening must be dated, time stamped, and kept unopened and secured in the Central Purchasing Division (or other designated location approved by the Purchasing Manager).

b. Before the proposal opening, information about the identity and number of proposals received is confidential and will only be made available to Commission employees who have a need for such information as determined by the Purchasing Manager.

c. When proposal samples are "submitted as required," they must be handled with sufficient care to prevent disclosure of characteristics before proposal opening.

d. Unidentified proposals or modifications to proposals may be opened solely for the purpose of identifying the Offeror. If a sealed proposal is opened because of the Offeror's failure to clearly label it as a proposal, or proposal is opened by mistake, the person who opened the proposal will immediately write his or her signature, job title, and the date on the envelope, along with an explanation of the opening and the solicitation number.

e. Proposals opened by mistake or for identification purposes must be resealed immediately and placed in a secured area. No information contained in them may be disclosed.
9-822.8 Late Proposals

a. Any proposal received after the designated due date and time for receipt of proposals will be deemed late and will be returned to the sender unopened.

9-822.9 Proposal Opening

a. All proposals will only be opened after the due date and time. There is no public opening of proposals.

b. The Central Purchasing Division or Field Purchasing Specialist will safeguard the original of each proposal. The proposals are confidential and should be treated as such even after the opening of the proposals.

9-822.10 Determination of Non-responsibility

a. After the proposal opening, proposals will be first reviewed by the Purchasing Manager or designee.

b. The Central Purchasing Division or designee will determine whether any Offerors have been debarred or suspended by a State of Maryland or federal agency.

c. Proposals from Offerors who have not been debarred or suspended will then be distributed to the Evaluation Committee chosen to evaluate the proposals.

d. A proposal may also be rejected as non-responsible if the Offeror is not capable of fully performing the Contract requirements because the Offeror does not have demonstrable integrity, reliability, equipment or licensing that assures good faith performance.

e. If an Offeror fails to supply information that the Commission needs to be able to determine responsiveness and responsibility, within the specified time frame, the Offeror may be deemed non-responsive and non-responsible.
9-822.11 Mistakes in Proposals

a. Mistakes Identified by the Commission or Offeror

(1) After proposal opening, authorized Commission staff shall examine all proposals for mistakes.

(2) If Commission staff detects an apparent mistake, other than those involving extension of unit prices (Note: Unit prices prevail over totals) or other arithmetic errors, the Purchasing Manager shall request a verification of the proposal from the Offeror. The verification request must include the time and due date; such a verification request must be approved by the Purchasing Manager. If the Offeror fails to respond to the verification request within the time allotted, the proposal may be considered as originally submitted or may be rejected as non-responsive by the Purchasing Manager.

(3) Offerors alleging a mistake must provide the Purchasing Manager with requested supporting documentation, such as the Offeror's file copy of the proposal, original worksheets, subcontractors’ and suppliers’ quotations, published price lists, and any other evidence of the mistake, the manner in which it occurred, and the proposal actually intended.

(4) If the Offeror alleges a mistake, the Purchasing Manager will make an administrative determination regarding whether the Offeror is allowed to correct or withdraw the proposal.

b. Minor Informality

(1) If a proposal contains a minor informality, as determined by the Purchasing Manager or designee, the Purchasing Manager or designee shall either give the Offeror an opportunity to cure the deficiency or waive the deficiency, whichever is to the advantage of the Commission.

9-822.12 Proposal Evaluation

a. Evaluation Committee.

(1) The Commission uses an Evaluation Committee to evaluate competitive proposals.

(2) The Committee consists of a minimum of three (3) Commission employees and the Purchasing Manager or designee, who is responsible for ensuring compliance with the Commission’s purchasing policies and procedures. The Evaluation Committee members are determined prior to the issuance of the solicitation.

(3) After proposal opening, the Purchasing Manager or designee meets with the members of the Evaluation Committee and distributes copies of the proposals and rating sheets. Members of the Evaluation Committee shall keep the information contained in the proposals confidential until awarded. Only the members of the Evaluation Committee should discuss the proposals and each will sign a
b. **Evaluation Criteria.**

(1) Prior to the issuance of the solicitation, the Originator and Central Purchasing will develop a list of evaluation criteria, a rating sheet, and an evaluation methodology. The evaluation criteria shall be included in the RFP. The evaluation criteria used to evaluate the proposals must match the criteria in the RFP.

(2) Examples of criteria may include the following items:

   i. Offeror’s understanding of the task or problem
   ii. Offeror’s approach or methodology to be used
   iii. Prior history and experience of the Offeror in similar types of tasks
   iv. Resources and key personnel, including Vendor’s key contact
   v. Work schedule
   vi. Price, including all cost components
   vii. MFD participation

   (a) The evaluation points for MFD participation are only available to a prime contractor, who has received a Commission eligibility letter for preference in the appropriate purchasing category.

(3) The evaluation methodology shall include an assignment of weights to the evaluation criteria. The weighting factor may remain confidential until Contract award.

c. **Evaluation of Responsiveness.**

(1) The Evaluation Committee must include the Field Purchasing Specialist or Central Purchasing representative and will first consider the responsiveness of a proposal to any terms and conditions of the RFP and to the scope of work.

(2) Proposals that do not meet mandatory terms and conditions may be rejected without discussion. Examples include the minimum experience of the Offeror and failure to meet insurance requirements.

(3) The Evaluation Committee may ask for clarifications in writing, if necessary, with the approval of the Central Purchasing Division.

d. **Proposal Scoring.**
(1) Each member of the Evaluation Committee will read and rate each proposal.

(2) The Evaluation Committee shall meet and discuss the proposals and adjust their individual scoring based on the Committee’s discussion, as appropriate.

(3) The Evaluation Committee determines which proposals are most acceptable and in the competitive range.

e. Negotiation.

(1) The Evaluation Committee may accept the highest ranked Offeror without discussion or might request additional information from other Offerors for any needed clarification. Any additional information needed from the Offeror will be requested by the Field Purchasing Specialist or Central Purchasing.

(2) Presentations and/or discussion sessions may be requested from all Offerors in the competitive range, but the amount of time given to each Offeror must be uniform. During discussions with one Offeror, the Offeror may wish to modify their proposals based upon the discussions.

(3) Committee members shall not divulge information to an Offeror, which is contained in another Offeror's proposal.

(4) Based upon the contents of the presentations and discussions, the members of the Evaluation Committee may adjust their scoring to reflect that content.

(5) If the pricing changes during the process, the points awarded for cost must be adjusted to reflect the change.

f. Best & Final Offer.

(1) After the final ranking and resolution of any and all differences other than cost, the top Offerors may be contacted for “best and final” pricing. Scores must be adjusted to reflect any changes in price.

(2) Any proposal received in response to a RFP shall be considered to be an offer and may be accepted without further discussion, negotiation, or other notice.

(3) The Evaluation Committee will judge the offers based on the previously established evaluation criteria, adjusting the price or other points to reflect the final offer.

(4) Each member of the Evaluation Committee will give a numeric score to each proposal for each criterion, including MFD participation.

(5) The Evaluation Committee will recommend the Offeror for

award by written memorandum based upon evaluation of best and final offers.

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<tr>
<th>9-822.13</th>
<th>Recommendation of Award</th>
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<tbody>
<tr>
<td>a.</td>
<td>The Evaluation Committee Chair will complete a Procurement Data Sheet and a procurement summary memo recommending an Offeror for Contract award. The Evaluation Committee must submit the proposed contract, data sheet, summary memo and Composite Rating Sheet to the Purchasing Manager or designee to record all solicitations and responses for every competitive purchase. This form includes the MFD status of all Vendors contacted and all Vendors submitting proposals.</td>
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<td>b.</td>
<td>In addition, all proposals will be sent to Central Purchasing, together with all rating sheets.</td>
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<td>c.</td>
<td>The data sheet, summary memo and proposed contract is used to recommend award by contract and will be routed for award approval.</td>
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<tr>
<td>d.</td>
<td>A record of all proposals received by the Commission will be maintained in the solicitation file by the Central Purchasing Division.</td>
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<th>9-822.14</th>
<th>Cancellation or Rejection of Proposals</th>
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<tr>
<td>a.</td>
<td>The Commission may cancel the solicitation and reject all proposals after a proposal due date and time, but prior to award, if the Purchasing Manager, after consultation with the Department Head or designee, determines it is in the best interest of the Commission.</td>
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| b.       | The solicitation must be cancelled if all proposals are to be rejected. The Purchasing Manager shall document cancellation actions in writing. The reasons for cancellation or rejection shall be made as part of the Contract file. Reasons for cancellation or rejection can vary as listed. It is possible that Commission will need to cancel an intended procurement or reject all proposals. If so, Commission staff should follow the procedures described below.

If it is determined to be in the best interest of the Commission to cancel an intended procurement, such determination shall be made prior to the opening of bids, if possible. Proposals received prior to opening shall remain unopened and returned to the bidders together with a notice of cancellation of the procurement.

All bids may be rejected after opening, but prior to award, if the Purchasing Manager determines that such rejection is in the best interests of the Commission for one or more of the following reasons:

1. the terms and conditions were inadequate, ambiguous or otherwise deficient;
2. the supplies or services are no longer required;
(3) the IFB/RFP did not provide for consideration of all factors of cost to the Commission;

(4) the bids received indicate that the needs of the Commission can be satisfied by a less expensive article differing from that on which the proposals were received;

(5) there is reason to believe the proposals may not have been independently arrived at in open competition, were collusive, or were submitted in bad faith;

(6) all Offerors received reflect unreasonable or fiscally unacceptable prices.

When it is necessary to reject all proposals, the Purchasing Manager shall notify each Offeror that all bids have been rejected, and the reasons for such action.

c. The Commission shall not cancel or reject a solicitation solely to avoid awarding a Contract to a particular responsive and responsible Offeror.

d. If revised proposals are requested, all Offerors must be given an opportunity to revise its proposal, unless mandatory requirements were not met.

e. The Purchasing Manager shall notify each Offeror that the solicitation has been cancelled and its proposal rejected and the reason for such action.

**9-822.15 Confidentiality**

a. Proposals shall be opened, reviewed by the Field Purchasing Specialist or Central Purchasing Division staff and distributed to the Evaluation Committee members who shall keep the information contained in the proposals confidential until award.

b. Materials submitted with proposals that are designated as confidential by the Offerors, such as drawings, samples, ideas, trade secrets, or pending patents, shall be treated as such consistent with the Maryland Public Information Act. All purchasing-related requests pursuant to the Maryland Public Information Act, shall be answered by the Purchasing Manager, with the assistance of General Counsel.

**9-822.16 Debriefing the Offerors**

a. Unsuccessful Offerors will be notified by mail after the Contract Award. A sample letter is attached in Appendix J.

b. Any unsuccessful Offeror may request a debriefing within fifteen (15) calendar days after Contract award. Such a request shall be made in writing to the Central Purchasing Division. The Purchasing Manager or designee will coordinate the debriefing.

c. The debriefing will include a discussion of the evaluation of the Offeror's proposal, citing the deficiencies and weaknesses.

d. The debriefing will not include point-by-point comparisons with the
proposals of others or discussions of information contained in other Offerors’ proposals. The information discussed will be in accordance with the Maryland Public Information Act.

a. The Central Purchasing Division or Field Purchasing Specialist shall prepare a summary of the discussion of any debriefing and include it as part of the RFP file. All rating sheets, notes, copies of proposals will be returned to the Central Purchasing Division for disposition.
9-830
Competitive Two-Step Proposal Process

a. This section applies to the specific procedural requirements for making a purchase using the Competitive Two-Step Proposal process.

b. A Competitive Two-Step Proposal process is a meld of the competitive sealed bid and the competitive sealed proposal methodology. The first step of a Two-step process is a technical evaluation, which narrows the competing firms to a “short list” based on qualifications, experience, and other non-price factors. The second step is a review of the cost proposals submitted by the short-listed firms and award to the lowest price submitted. The two-step process is best used when technical or artistic evaluation is of prime importance. This method of source selection may only be used if approved by the Purchasing Manager.

c. The Central Purchasing Division will strive to process purchases made by the Competitive Two-Step Proposal process within 120 days from the date a correctly completed two-step Request for Proposal (RFP) packet is received from the Originator or Field Purchasing Specialist to the date of Contract award.

9-831 Roles & Responsibilities

9-831.1 Originator or Contract Manager

a. Identifies a need, develops specifications, and writes memorandum requesting procurement.

b. Obtains approvals.

c. Transmits to Field Purchasing Aide or Assistant, if no Field Purchasing Specialist.

d. Participates on Evaluation Committee, if designated.

9-831.2 Field Purchasing Aide or Field Purchasing Assistant

a. Assists in developing specifications, if needed.

b. Reviews memorandum requesting a Two-Step procurement and obtains approvals. Coordinates purchasing activities between Field Personnel and the Central Purchasing Division, if needed.

c. Sends draft package to the Central Purchasing Division or Field Purchasing Specialist for processing.

9-831.2 Field Purchasing Specialist

a. Assists in development of specifications and obtains all required approvals.

b. Assembles RFP packets or requests assistance of Central Purchasing to assemble packets.

c. Sends RFP package for review to Central Purchasing Division.
d. After assignment of solicitation number, advertises RFP and attends pre-proposal conferences and site visits.

e. Coordinates purchasing activities between Field Personnel and Central Purchasing Division.

9-831.3 Department Head or designee

a. Reviews and approves RFP packets before sending to the Purchasing Manager for approval.

9-831.4 Purchasing Manager or designee

a. If a Field Purchasing Specialist is assigned to the Originator, the Field Purchasing Specialist will prepare the Two-Step RFP packet utilizing standardized Commission documents, special terms and conditions, and the specifications initiated by the Originator. The Field Purchasing Specialist will coordinate his/her activities with the Purchasing Manager or designee.

b. If a Field Purchasing Specialist is not assigned to the Originator, the Originator will request that the Purchasing Manager or designee prepare the two-Step RFP packets for advertisement.

c. Prepares or reviews Two-Step RFP packets prior to advertisement.

d. Once approved, assigns the solicitation number and returns solicitation package to Field Purchasing Specialist, if applicable.

e. Advertises Two-Step RFPs unless a Field Purchasing Specialist is designated.

f. Attends Pre-proposal conference and/or site visit, as needed.

g. Prepares or reviews Addenda, except for time only, prior to issuance.

h. Participates on and monitors Evaluation Committee.

i. Prepares or reviews Procurement Activity Memo and Data Sheet.

j. Routes contracts for award approval.

k. Maintains files on all Two-Step RFPs and proposals received.

9-831.5 Departmental or Divisional Departmental or Divisional Budget Reviewer

a. Agrees on a budget.

b. Verifies funds are available.

c. Monitors spending.
9-831.6 General Counsel or designee

a. Prior to issuance and advertisement, reviews and approves copies of solicitations that do not use the approved, standard Contract forms, including terms and conditions and draft Contracts and send comments to Central Purchasing within three (3) work days.

9-831.7 Risk Management

a. Prior to issuance and advertisement, reviews and approves non-standard insurance requirements and checklists and sends comments to Central Purchasing within three (3) work days.

9-831.8 Secretary-Treasurer

a. Prior to issuance and advertisement, reviews and approves non-standard contract forms and checklists and sends comments to Central Purchasing within 3 working days.

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9-832 Competitive Sealed Two-Step Proposals Procedures

The following principles of the competitive process apply to the Competitive Sealed Two-Step process:

9-833.1 Preparation of Solicitation, including specifications, evaluation criteria, rating sheet, and acceptable score.

9-833.2 Issuance of Public Notice (advertisements, etc.) and distribution to the Originator, General Counsel’s Office, Risk Management Office and Secretary-Treasurer Office, if needed.

9-833.3 Pre-Solicitation Conferences and Site Visits

9-833.4 Addenda to Solicitations

9-833.5 Submission of Proposals

9-833.6 Withdrawal or Modification of Proposals

9-833.7 Receipt and Safeguarding of Proposals

9-833.8 Late Proposals

9-833.9 Proposal Opening

9-833.10 Determination of Non-Responsibility

9-833.11 Mistakes in Proposals

   a. Identified by Commission or Submitter

   b. Minor Informality

9-833.12 Proposal Evaluation for Technical Proposal (Step One) and Pricing Proposal (Step Two)
9-833.13 Recommendation for Award

9-833.14 Cancellation of Solicitation and Rejection of all Offers

9-833.15 Confidentiality within the Competitive Process and the Maryland Public Information Act (State Government Article of Maryland Annotated Code, Sections 10-611, et seq)

9-832.1 Preparation of RFP

a. Originators or Field Purchasing Specialists are responsible for the first draft of specifications to be submitted to the Central Purchasing Division. Lengthy and complex specifications may be submitted to the Central Purchasing Division on diskette in Microsoft Word or emailed to the Purchasing Manager or designee. Be certain that the diskette label or email subject line properly identifies the data. After the Purchasing Manager or designee has reviewed the specifications and writes or reviews the special and standard terms and conditions of the solicitation, the Originator or Field Purchasing Specialist will be forwarded a draft for review. The Purchasing Manager and the Originator and/or Field Purchasing Specialist may meet if needed to discuss required changes.

b. After all required approvals are obtained, the Originator or Field Purchasing Specialist sends a memo and requisition to the Purchasing Manager or designee requesting the preparation or review of Two-Step RFP to procure goods or services. This memo will include:

(1) Estimated cost/budget, together with completed infrastructure cost breakdown form for construction or renovation Contracts
(2) Funding source, or other information such as copy of the grant, PDF, account number for advertising, etc.
(3) Suggested Vendors, if any
(4) Additional Vendor outreach suggestions, if any.

c. The Central Purchasing Division will review or prepare the RFP utilizing standardized Commission documents, special terms and conditions, and the specifications, evaluation criteria, rating sheet, acceptable Step One score and Evaluation Committee membership prior to issuance of a solicitation number.

d. If a Field Purchasing Specialist is assigned to the Originator, the Field Purchasing Specialist will prepare the RFP packet utilizing the standardized Commission documents, special terms and conditions, and specifications.

e. Each Two-Step RFP packet must contain the following information:

(1) Description of the goods, materials, and/or services to be purchased.
procured;

(2) Place, time and date for pre-solicitation conference and/or site visits;

(3) General instructions to Offerors, including the place, time, and date for submission of the two parts of the proposals;

(4) Description of the Anti-Discrimination or Subcontracting Program;

(5) General Conditions;

(6) Special Conditions, including the evaluation criteria and information required to be in the technical proposal and the pricing proposal;

(7) Construction General Conditions (if applicable);

(8) Specifications/Scope of Services;

(9) Pricing Schedule;

(10) Evaluation Criteria, including acceptable Step One technical score;

(11) Name of Two-Step RFP contact for questions;

(12) Name of Construction/Contract Manager;

(13) Required forms, including a sample Contract, Bidder Registration Form, Non-Discrimination Form, Subcontracting Form, Reference Forms, Insurance Requirements, and bonding forms (as applicable)

(14) If Central Purchasing Division approves the package, it will assign a solicitation number and return it to the Field Purchasing Specialist, if involved; and

(15) If no Field Purchasing Specialist, involved, Central Purchasing will complete the steps in the competitive process.

9-832.2 Issuance of Public Notice

a. The Commission will provide adequate public notice prior to the date set in a solicitation for submission of proposals.

b. When establishing a date and time for receipt of proposals, the Commission must allow time for Vendors to adequately respond. The Commission must give public notice of the solicitation, prior to the date set for the receipt of proposals by posting in a designated public area, publication in newspapers of general circulation, or publication on the Commission’s Purchasing website and other websites as deemed appropriate by the Purchasing Manager. The list of currently used papers and websites for public notice are located in Appendix I.
c. The Central Purchasing Division will handle advertising for Commission purchases unless otherwise authorized. Advertising for Capital Improvement projects shall be handled by designated Field Purchasing Specialists, unless the Originator or the Field Purchasing Specialist request that the Central Purchasing Division handle advertisement of the solicitation.

d. The Commission will advertise all purchases of over $25,000.

e. In addition to public notice, notices of the solicitation must be sent to at least ten (10) Vendors on the Commission’s Bidders List, including at least a total of two MFD Vendors from either Prince George’s or Montgomery Counties, or one from each county, if available.

f. Each solicitation file must include the commodity code(s) used, a copy of the list of firms to which the notices were sent and a record of the advertisement.
9-832.3 Pre-Solicitation Conferences and Site Visits

a. Pre-solicitation conferences provide an opportunity for the Commission to emphasize and clarify critical aspects of solicitations, eliminate ambiguities or misunderstandings, and permit Vendor input.

b. Pre-solicitation conferences and site visits may be mandatory or non-mandatory. Caution should be used when scheduling pre-solicitation conferences to allow enough notice to prospective Offerors to permit attendance. Mandatory meetings may limit competition and should not be used unless on-site visits or other complex issues deem them necessary. If a Vendor or its agent does not attend a mandatory pre-solicitation conference or site visit, any offer submitted will be deemed non-responsive.

c. During a pre-solicitation conference, the Commission staff advises attendees of any special or technical requirements contained in the solicitation and allows attendees to ask questions about the solicitation and the work to be performed. The Anti-Discrimination Program will be reviewed and discussed at any conference or site visits, and a computerized bidder’s list will be available for pickup at the conference or site visit.

d. An attendance roster shall be maintained and if a transcript is made it shall be a public record.

e. The date and time of a pre-solicitation conference and/or site visit must be included in the solicitation and in any notice sent or advertisement placed regarding the solicitation.

f. Any information disseminated at the pre-solicitation conference, site visit, or in response to a telephone question must be sent to all Vendors who were provided with a copy of the solicitation by mail, electronically, or pick-up from the Commission. At the meeting, it will be emphasized that only the named Purchasing contact should be contacted for information on RFP.

g. If a Field Purchasing Specialist handles the advertisement of the RFP, the Field Purchasing Specialist will provide Central Purchasing with a full copy of the Two-Step RFP.

9-832.4 Addenda to Solicitations

a. Any revision or alteration to either the solicitation or Contract documents issued to the public must be made in writing. All Offerors who were sent a solicitation directly or who otherwise obtained the solicitation from the Commission must be sent the Addendum. Any information transmitted to any one Vendor must be sent to all Vendors.

b. Addenda to solicitations must be identified as such, and the Offeror must acknowledge receipt of all addenda issued. Copies of the signed acknowledgements must be included with the Offeror’s submission of his/her proposal.

c. Addenda will be numbered consecutively.
d. An extension of time should be given, if in the judgment of the Purchasing Manager there is inadequate time for the Vendors to adequately address the factors in the Addendum before issuance by the Field Purchasing Specialist or Central Purchasing.

9-832.5 Submission of Proposals

a. The Offeror is responsible for the timely delivery of the proposal in a sealed envelope to the exact location and name designated in the solicitation prior to the time specified for receipt of proposals.

b. The Offeror is responsible for the delivery of the proposal. If using U.S. Mail or a delivery service, the Offeror should ensure that the proposal is addressed properly. Proposals received after the official date and hour are rejected. The official date and hour used in receipt of responses is that time on the clock or automatic time stamp of the Commission’s Central Purchasing Division Office or other location designated by the solicitation.

c. Proposals that are hand delivered must be received in the Central Purchasing Division (or other location if so designated in the solicitation) and time and date stamped prior to the proposal due time. Proposals delivered to the mailroom, lobby, or other Commission office will not be accepted, if not received by the designated location.

d. Sealed envelopes or boxes containing proposals must be clearly marked, as identified in the instructions of the solicitation.

e. Proposals received after the designated time and date in the solicitation are late and will be returned to the Vendor unopened.

9-832.6 Withdrawal or Modification of Proposals

a. An Offeror may amend or withdraw a proposal at any time if the Commission receives such a request in writing prior to the due date and time. A person authorized to represent the person or Vendor that submitted the proposal must sign the request in writing.

b. Proposals may not be withdrawn for 120 calendar days after the proposal opening, unless otherwise specified in the solicitation, and remain valid during that period.

9-832.7 Receipt & Safeguarding Proposals

a. All proposals received before the time set for opening must be dated, time stamped, and kept unopened and secured in the Central Purchasing Division (or other designated location approved by the Purchasing Manager).

b. Before the proposal opening, information about the identity and number of proposals received is confidential and will only be made available to Commission employees who have a need for such information as determined by the Purchasing Manager.

c. When proposal samples are “submitted as required,” they must be handled with sufficient care to prevent disclosure of characteristics before proposal opening.

d. Unidentified proposals or modifications to proposals may be
opened solely for the purpose of identifying the Offeror. If a sealed proposal is opened because of the Offeror’s failure to clearly label it as a proposal, or proposal is opened by mistake, the person who opened the proposal will immediately write his or her signature, job title, and the date on the envelope, along with an explanation of the opening and the solicitation number.

e. Proposals opened by mistake or for identification purposes must be resealed immediately and placed in a secured area. No information contained in them may be disclosed.

### 9-832.8 Late Proposals

a. Any proposal received after the designated due date and time for receipt of proposals will be deemed late and will be returned to the sender unopened.

### 9-832.9 Proposal Opening

a. Only technical proposals will be opened after the due date and time. There is no public opening of proposals.

b. Pricing proposals will be secured and remain unopened.

c. The Central Purchasing Division or Field Purchasing Specialist will safeguard the original of each proposal. The proposals are confidential and should be treated as such even after the opening of the proposals.

### 9-832.10 Determination of Non-responsibility

a. After the technical proposal opening, proposals will be first reviewed by the Central Purchasing Division or designee.

b. The Central Purchasing Division or designee will determine whether any Offerors have been debarred or suspended by any State of Maryland or federal agency.

c. If an Offeror has been debarred or suspended, the proposal will be rejected as non-responsible.

d. Technical Proposals from Offerors who have not been debarred or suspended will then distributed to the Evaluation Committee chosen to evaluate the proposals.

e. A proposal may also be rejected as non-responsible if the Offeror is not capable of fully performing the Contract requirements because the Offeror does not have demonstrable integrity, reliable equipment or licensing that assures good faith performance.

f. If an Offeror fails to supply information within the specified timeframe that the Commission needs to be able to determine responsiveness and responsibility on a timely basis, the Offeror may be deemed non-responsive and non-responsible.

### 9-832.11 Mistakes in Proposals

a. **Mistakes Identified by the Commission or Offeror**

   (1) After proposal opening, authorized Commission staff shall
examine all proposals for mistakes.

(2) If Commission staff detects an apparent mistake, other than those involving extension of unit prices (Note: Unit prices prevail over totals) or other arithmetic errors, the Purchasing Manager shall request a verification of the proposal from the Offeror. The verification request must include the time and due date; such a verification request must be approved by the Purchasing Manager. If the Offeror fails to respond to the verification request within the time allotted, the proposal may be considered as originally submitted or may be rejected as non-responsive by the Purchasing Manager.

(3) Offerors alleging a mistake must provide the Purchasing Manager with requested supporting documentation, such as the Offeror’s file copy of the proposal, original worksheets, subcontractors’ and suppliers’ quotations, published price lists, and any other evidence of the mistake, the manner in which it occurred, and the proposal actually intended.

(4) If the Offeror alleges a mistake, the Purchasing Manager will make an administrative determination regarding whether the Offeror is allowed to correct or withdraw the proposal.

b. Minor Informality

(1) If a proposal contains a minor informality, as determined by the Purchasing Manager or designee, the Purchasing Manager or designee shall either give the Offeror an opportunity to cure the deficiency or waive the deficiency, whichever is to the advantage of the Commission.
b. **Evaluation Criteria.**

(1) Prior to the issuance of the solicitation, the Originator will develop a list of evaluation criteria, a rating sheet, an evaluation methodology and an acceptable Technical Grade. The evaluation criteria shall be included in the RFP. The evaluation criteria used to evaluate the proposals must match the criteria in the RFP.

(2) Examples of criteria may include the following items:

i. Offeror’s understanding of the task or problem

ii. Offeror’s approach or methodology to be used

iii. Prior history and experience of the Offeror in similar types of tasks

iv. Resources and key personnel, including Vendor’s key contact

v. Work schedule

vi. Price, including all cost components

vii. MFD participation

(a) The evaluation points for MFD participation are only available to a prime contractor who has received a Commission eligibility letter for preference in the appropriate purchasing policy.

(3) The evaluation methodology shall include an assignment of weights to the evaluation criteria. The weighting factor may remain confidential until Contract award and does not need to be numerical.

c. **Evaluation of Responsiveness.**

(1) The Evaluation Committee will first consider the responsiveness of a technical proposal to any terms and conditions of the RFP and to the scope of work. The price proposal shall remain sealed until evaluation/scoring and negotiation of the technical proposals (Step One) are completed. The Purchasing Manager will secure the price proposals until final technical proposal scoring.

(2) Technical proposals that do not meet mandatory terms and conditions may be rejected without discussion. Examples include minimum experience of the Offeror and failure to meet insurance requirements.

(3) The Evaluation Committee may ask for written clarification of the technical proposals, if necessary, with the approval of the
d. **Proposal Scoring.**

(1) Each member of the Evaluation Committee will read and rate each technical proposal.

(2) The Evaluation Committee shall meet and discuss the technical proposals and adjust the individual scoring based on discussion, as appropriate.

(3) The Evaluation Committee will determine which technical proposals are in accordance with the predetermined acceptable grade.

e. **Negotiation.**

(1) The Evaluation Committee may engage in oral discussion(s), demonstrations, and negotiation(s) with some or all of the Offerors regarding the technical proposals.

(2) If the Committee conducts discussions with the Offerors, the Offerors may be given the opportunity to modify their proposals.

(3) Based upon the contents of any presentations, demonstrations, and discussions, the members of the Evaluation Committee adjust their scoring to reflect that content.

f. **Final Proposal Scoring**

(1) The Evaluation Committee will judge the offers based on the previously established evaluation criteria.

(2) Each member of the Evaluation Committee will give a numeric score to each technical proposal for each criterion, including MFD participation. Total scores are calculated and compared with the technically accepted grade.

(3) The Purchasing Manager or designee will open the pricing envelopes for all Offerors whose numeric score exceeds the minimum acceptable technical score previously established.

(4) The Evaluation Committee will recommend the lowest price for award.

(5) The Field Purchasing Specialist or Central Purchasing will prepare the Award and proposal package for routing.

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**9-832.13 Recommendation of Award**

a. A record of all proposals received by the Commission will be maintained in the solicitation file by the Central Purchasing Division.

b. The Evaluation Committee will complete a Procurement Data Sheet and a procurement summary memo recommending an Offeror for Contract award. The Evaluation Committee must
submit the data sheet and summary memo and rating sheets to the Purchasing Manager or designee to record all solicitations and responses for every competitive purchase. This form includes the MFD status of all Vendors contacted and all Vendors submitting proposals.

**9-832.14 Cancellation or Rejection of Proposals**

a. The Commission may cancel the solicitation and reject all proposals after a proposal due date and time, but prior to award, if the Purchasing Manager after consultation with the Department Head or designee, determines it is in the best interest of the Commission.

b. The solicitation must be cancelled if all proposals are to be rejected. The Purchasing Manager shall document cancellation actions in writing. The reasons for cancellation or rejection shall be made as part of the Contract file. Reasons for cancellation or rejection can vary as listed:

1. the terms and conditions were inadequate, ambiguous or otherwise deficient;
2. the supplies or services are no longer required;
3. the Two-Step RFP did not provide for consideration of all factors of cost to the Commission;
4. the proposals received indicate that the needs of the Commission can be satisfied by a less expensive article differing from that on which the proposals were received;
5. there is reason to believe the proposals may not have been independently arrived at in open competition, were collusive, or were submitted in bad faith;
6. all proposals received reflect unreasonable or fiscally unacceptable prices.

c. The Commission shall not cancel or reject a solicitation solely to avoid awarding a Contract to a particular responsive and responsible Offeror.

d. The Purchasing Manager shall notify each Offeror that the solicitation has been cancelled and its proposal rejected and the reason for such action.

**9-832.15 Confidentiality**

a. Proposals shall be opened, reviewed by authorized Central Purchasing Division staff and distributed to the Evaluation Committee members who shall keep the information contained in the proposals confidential until award.

b. Materials submitted with proposals that are designated as confidential by the Offerors, such as drawings, samples, ideas, trade secrets, or pending patents, shall be treated as such consistent with the Maryland Public Information Act. All purchasing-related requests pursuant to the Maryland Public
Information Act shall be referred to the Purchasing Manager.

9-832.16 Debriefing the Offerors

a. Unsuccessful Offerors will be notified by mail after the Contract Award. A sample letter is attached in Appendix J.

b. Any unsuccessful Offeror may request a debriefing within fifteen (15) calendar days after notification of Contract award. Such a request shall be made in writing to the Central Purchasing Division. The Central Purchasing Division will coordinate the debriefing.

c. The debriefing will include a discussion of the evaluation of the Offeror’s technical proposal, citing the deficiencies and weaknesses.

d. The debriefing will not include point-by-point comparisons with the proposals of others or discussions of information contained in other Offerors’ proposals. The information discussed will be in accordance with the Maryland Freedom of Information Act.

e. The Central Purchasing Division shall prepare a summary of the discussion of any debriefing and include it as part of the RFP file. All rating sheets, notes, copies of proposals will be returned to the Central Purchasing Division for disposition.
9-900 Sole Source Purchases

The Executive Director or the Purchasing Manager as delegated (Appendix B) is authorized to waive competition, upon a written determination and verification that the goods or services to be purchased are only available from a single source.

9-910 Purpose

The purpose of Sole Source purchases is to expedite the purchasing process where competition does not make sense because only one source is available to provide the goods or services.

9-920 Roles and Responsibilities

9-920.1 Originator/ Field Purchasing Aide

a. Identifies the need for a Sole Source purchase and prepares justification memo for a Contract or a Requisition for a Purchase Order.

9-920.2 Department Head or designee

a. If approved, submits justification for Sole Source purchase to the Purchasing Manager.

9-920.3 Purchasing Manager or Designee

a. Researches the need for a Sole Source.

b. Approves Sole Source purchases, as delegated in Appendix B.

c. Transmits other Sole Source requests with recommendation to the Executive Director.

d. Reports all Sole Source purchases to the Executive Director.

e. Researches whether the needs can be combined with other Commission needs to increase volume and buying power.

9-930 Procedures

a. The Originator will complete the Sole Source Justification form with a justification memo and forward the completed form, with a requisition or contract request memo, to the Department Head or designee for signature and approval.

b. The Department Head or designee will forward the completed, signed form to the Purchasing Manager.

c. The Purchasing Manager or designee will review the request and may contact other governmental entities, other manufacturers, and/or Vendors to determine sole source status.

d. The Purchasing Manager will review and approve/disapprove the sole Source request as delegated, or transmits to the Executive Director for approval. The Purchasing Manager will use the following criteria to determine that a purchase is sole source:

   1) **One-of-a-kind**: The good or service has no comparative product or where a manufacturer has only one distributor for a
particular area and is available from only one source, e.g. software maintenance, copyrighted materials, or otherwise legally protected goods or services.

(2) **Compatibility:** The good or service must match existing brand of equipment for compatibility and is available from only one source.

(3) **Replacement Part:** The commodity is a replacement part for a specific brand of existing equipment and is available from only the original equipment manufacturer (OEM).

(4) **Standardization:** The good or service must comply with Commission standards as established by a standardization process described below.

(5) **Confidentiality:** The service or item must remain confidential to protect the Commission’s interests, e.g. security systems and private investigator services.

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### 9-940 Standardization Process

**9-940 Standardization**

A standardization of goods is the process by which the Commission determines that the directed purchase of particular goods, equipment or supplies is necessary for uniformity or interchangeability of parts or otherwise in the Commission’s best interest. A standardized procurement should include competition, if reasonably available, e.g., several dealers of the same product. The standardization approval is initially for a period of five (5) years, at which time the standardization decision must be reviewed before it will be extended for an additional period of time. A standardization decision is based on availability, compatible parts, equipment, maintenance services and personnel training.

Standardization can be accomplished using one of two processes:

a. A competitive solicitation is issued based on a memorandum stating the need for standardization to the Purchasing Manager and transmitted to the Executive Director for approval. The factors of use must be considered within the evaluation criteria, such as warranty; availability of parts; training of maintenance personnel; need for uniformity; inventory of parts; use of item by other programs, departments, etc. This process is handled with the originator and the Central Purchasing Office.

b. A proposed standardization memorandum is written by the originator and sent to the Purchasing Manager for review and transmittal for final approval by the Executive Director. This memo must include discussion of the following factors:

(1) That the goods or items are currently in Commission use and have been in use for at least three (3) years;

(2) That the need for the goods will continue over an extended period of time;
(3) That standardization will decrease the variety and quantity of parts that must be carried in stock to properly maintain the item;

(4) That standardization will produce savings in training personnel or in acquiring technical expertise of personnel or that savings will be realized in the training of maintenance personnel;

(5) That other units in the Commission utilize the same item, if applicable;

(6) That the standardization is advantageous to the Commission based on the foregoing considerations.
9-1000 Emergency Purchases

The Executive Director or designee or Purchasing Manager as delegated may waive competition requirements for Emergency purchases when an URGENT NEED for the item or service does not permit soliciting competitive bids, as in cases of emergencies, disasters, etc.

The purpose of emergency purchases is to expedite the purchasing process when goods or services needed are necessary to maintain a safe operational environment, the loss of which would create a situation that would adversely and unduly affect the safety, health or comfort of building, occupants or otherwise cause loss to the Commission.

9-1010 Roles & Responsibilities

9-1010.1 Originator/Field Purchasing Aide

a. Identifies the need for an emergency purchase in a memo, including a Requisition for a Purchase Order or a memo for a Contract.

9-1010.2 Department Head or designee

a. If approves memo, submits justification memo for emergency purchase to the Purchasing Manager.

9-1010.3 Purchasing Manager

a. Reviews the emergency purchase and provides recommendations to the Executive Director.

9-1010.4 Executive Director or designee

a. Approves emergency purchases and prepares report.

9-1020 Procedures

The procedures for emergency purchases differ based on whether the need occurs during the Commission's normal business hours.

9-1021 Emergencies During Normal Business Hours:

a. During normal Commission business hours, the Department Head or designee shall notify the Purchasing Manager of the emergency situation and shall provide the Purchasing Manager with the following information:

(1) The nature of the emergency;

(2) The estimated cost of the service/goods required;

(3) The Vendor recommended to receive the order; and

(4) A Requisition entered and approved in the Performance Online Purchasing System or a memo requesting a Contract.

b. Emergency Purchases require oral approval by the Executive Director or designee, followed by written approval by the Executive Director or designee within twenty-four hours. The justification will
be signed by the Originator who identified the emergency, and the Department Head or designee.

c. The Purchasing Manager will then have the emergency purchase approved by the Executive Director or designee and process the Purchase Order.

### 9-1022 Emergencies After Normal Business Hours:

a. If a purchase must be made during other than normal Commission business hours, the Originator shall call the Executive Director or designee and request approval to proceed with the emergency purchase.

b. The above-mentioned paperwork shall follow the oral approval of any such emergency purchase within twenty-four hours for written approval by the Executive Director or designee.

c. The Originator shall take special care in ensuring the emergency service is completed promptly and accurately. Any problems should be reported to the Purchasing Manager promptly.
9-1100 Other Waivers of Competition

a. In addition to waivers of competition for sole source and emergency purchases described above, the Executive Director may also waive competition for purchases if in the best interest of the Commission or public policy.

b. The purpose of waivers of competition is to expedite the purchasing process when public competition is not in the best interest of the Commission. **Waivers should be used sparingly.**

9-1110 Roles & Responsibilities

9-1110.1 Originator/Field Purchasing Aide

a. Identifies the need and justification for a waiver in writing.

b. Completes a Waiver of Competition Request form.

c. Considers MFD Availability and Participation.

9-1110.2 Department Head or designee

a. Reviews the waiver request.

b. If concurs with the waiver request, submits justification for waiver to the Purchasing Manager.

9-1110.3 Purchasing Manager or designee

a. Reviews the waiver request and provides recommendations to the Executive Director.

9-1110.4 Executive Director or designee

a. Approves/denies waiver requests.

9-1120 Procedures

a. The Originator identifies the need for a waiver, completes a Waiver of Competition Request form, and submits the waiver request, together with the justification memo to the Department Head or designee for approval. Waiver memo must include an assessment of whether MFD participation is feasible.

b. The Department Head or designee reviews the waiver request. If the Department Head or designee agrees that the waiver is needed, he/she signs the form. By signing the form, the Department Head or designee certifies that the waiver is essential and the purchase is not appropriate for competitive bidding. The Department Head or designee forwards the waiver of competition request to the Purchasing Manager.

c. The Purchasing Manager or designee reviews the waiver request and provides the Executive Director with a recommendation regarding approval of the waiver.

d. The Executive Director reviews the waiver request. In addition to sole source and emergency purchases, waivers of competition...
may be authorized by the Executive Director in the following cases:

(1) Where a donation predates the source of supply;

(2) Where additional products or services are needed to complete an ongoing job or task and time is of essence and cost-effectiveness;

(3) Where there is evidence of resale price maintenance or other control of prices, lawful or unlawful, or collusion on the part of companies which thwarts normal competitive procedures;

(4) Where a used item(s) is available on short notice and subject to prior sale; and

(5) In other circumstances deemed to be in the public or the Commission’s best interest by the Executive Director.

e. Where a waiver is approved, the Executive Director may direct other steps to be taken to ensure as much competition as possible. The Executive Director may also authorize the Commission’s Purchasing Manager to make award of a Contract to the determined lowest and best Bidder of all non-acceptable bids submitted or to negotiate with a potential Vendor(s) in an effort to acquire the quality of commodity, or expedite the service or product needed at the best possible price, delivery, and terms and conditions.
### 9-1200 Private/Public Partnership

Any proposed private use of Commission tax exempt funds or other assets, or anticipates a partnership with the Commission and a third party must be reviewed and approved by the Secretary-Treasurer.

### 9-1210 Private Use of Commission Assets

The Secretary-Treasurer must ensure that the tax exempt status of the Commission or Montgomery County bonds are not impacted by private use of Commission assets financed by such bonds. Therefore, all public/private partnerships and/or rentals/use agreements of Commission facilities/land must be approved by the Secretary-Treasurer.

### 9-1220 Public/Private Partnerships

The requirements for utilizing a partnership of the Commission together with a private entity can be any of the following:

a. The service or project cannot be provided with the financial resources or expertise of the Commission alone.

b. A private partner would increase the quality or level of service from that which the Commission could provide on its own.

c. A private partner would allow the service or project to be implemented sooner than if only the Commission were involved.

d. There is support from the users of the services for the involvement of a private partner.

e. There is an opportunity for competition among prospective private partners.

f. There are no regulatory or legislative prohibitions to involving a private partner in the provision of services or a project.

g. The output of the service can be measured and priced easily.

The project or service provides an opportunity for innovation.

### 9-1230 Type of Public/Private Partnerships

Examples of potential types of partnerships considered appropriate by the Commission include:

a. **Adopt a Field.** Where a private partner agrees to maintain or upgrade specified ball fields, according to an established standard, for the benefit of use for certain times and/or days of the week.

b. **Operations and Maintenance.** Where the Commission establishes an agreement with a private partner to operate and maintain a facility owned by the Commission.

c. **Design-Build-Donate.** Where the land is provided by the Commission or donated by a partner, with the design and construction of the facility fully or partially funded by the private partner. The Commission, the partner or a third party may operate it. If the land is owned by the Commission, the improvements must revert to the Commission at the end of the agreement.
**Lease-Design-Build-Operate.** Where a private partner fully or partially funds the design and construction of a facility and subsequently operates and maintains it. The Commission leases the land for this purpose. Facility ownership may be retained up to forty (40) years and must be transferred to the Commission at no cost.

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**9-1240 Public / Private Partnership Team**

- a. Defines the Public Private Partnerships project, issues and evaluates proposals, and monitors performance.

- b. Ensures the Commission’s competitive purchasing and MFD requirements are followed. For Montgomery County Park and Planning projects the guidelines adopted by the Montgomery County Planning Board are included in Appendix K and will be followed.

- c. Ensures that the Secretary-Treasurer reviews and approves any proposed private use of Commission.
10 Bonds

10-100 Policy

A Bid Bond, Performance Bond, Maintenance Bond, Fidelity Bond, or a Material and Payment Bond may be required in a transaction. Bonding requirements are required when the using department, the Secretary-Treasurer, and/or Purchasing Manager, deem it to be in the best interest of the Commission.

A Performance Bond and a Material Payment Bond, each in the amount of 100% of the Contract amount, are required by the Annotated Code of Maryland for any construction Contract in excess of $100,000.

Contracts for which the Contract amount is increased as a result of change orders, require corresponding adjustments in the amounts of the Performance and Payment Bonds. Such required adjustments should be included in the change order.

10-200 Purpose

a. Provide financial assurance that the Bidder submitting a bid has been qualified by the surety to perform the work.

b. Guarantee that the Contractor will fulfill its commitment according to specifications in the construction Contract.

c. Guarantee that the Contractor will assume in writing the Contractual obligation on which it bid.

d. Guarantee that the Contractor will pay its subcontractors, laborers, and material suppliers.

10-300 Definitions

Bid Bonds. Bid Bonds provide financial assurance that the Bidder submitting a bid has been qualified by the surety to perform the work, and that the Bidder will enter into a Contract at the bid price and provide the required performance and payment bonds, should the Bidder become the apparent awardee. Bid bonds will be returned to unsuccessful bidders.

Fidelity Bonds. Fidelity Bonds provide coverage for employee dishonesty, including stolen physical property, cash, checks, and securities.

Maintenance Bonds. Maintenance Bonds are bonds that provide for the upkeep of the project for a specified period of time after the project is completed. These bonds guarantee against defective workmanship or materials. These bonds may occasionally include a guarantee of "efficient or successful operation" or other obligations.

Material and Payment Bonds. Material and Payment Bonds guarantee that the Contractor will pay his or her subcontractors, laborers, and material suppliers. If any of these are not paid, the surety will respond to the claims.
**Performance Bonds.** Performance Bonds protect the Commission from potential financial losses resulting from the Contractor's failure to perform its work in accordance with the Contract specifications. Failure to perform may result from any number of reasons, including cash flow limitations, bankruptcy, etc.

### 10-400 Acceptable Security

Acceptable security for bonds include:

a. A bond in a form satisfactory to the Commission underwritten by an acceptable bonding company. Acceptable bonding companies are those having active claims offices in the District of Columbia; Arlington or Fairfax Counties or the City of Alexandria in Virginia; or Montgomery, Prince George’s or Baltimore Counties in Maryland; and which are licensed by the Maryland Commissioner of Insurance and currently have “B+” or better rating from A.M. Best Company, or a minimum Standard & Poor’s rating of BBBq. The bonding must have a resident agent named in Maryland.

b. A bank certified check, bank cashier’s check, bank treasurer’s check, or bank trust account.

c. Irrevocable Letter of Credit acceptable to the Commission.

d. Alternative security approved by the Secretary-Treasurer on the recommendation of Risk Management. The Secretary-Treasurer determines the amount of alternative security required.

### 10-500 Procedures

a. Other than the bid bond, which is submitted with the bid, the apparent awardee must deliver the appropriate bonds, together with all certificates of insurance required by the Contract documents and the executed Contract, to the Commission within ten (10) calendar days after the apparent awardee receives Notice of Intent of Award.

b. If the apparent awardee fails to deliver these items within that period, the Commission can reject the bid, and the Bidder will forfeit the bid guaranty.

c. The Commission may then award the Contract to the next lowest responsive and responsible Bidder.
11 Insurance

11-100 Policy
The assessment and control of risks and safety are primary considerations in the planning and operation of all Commission activities. Risk assessment and Commission insurance is overseen by the Risk Management Office. (Practice 2-21)

11-200 Purpose
For any appropriate Contract, the Commission will require evidence of insurance coverage adequate to protect the Commission from liability.

11-300 Definitions
Insurance A promise of compensation to protect the Commission against claims alleging negligence or inappropriate action from bodily injury, property damage, workers’ compensation issues, disability benefit issues, occupational sickness, disease, or loss of life.

11-400 Roles and Responsibilities

11-400.1 Risk Management Office
a. Identifies risks and takes steps to prevent the loss of life, avoid injury, protect and secure Commission assets, and keep the cost of managing such risks to a prudent minimum through sound safety risk controls and insurance coverage.


c. Manages risks/liabilities through identification of risk exposures and implementation of effective loss control and risk avoidance.

d. Establishes and defines the Commission’s risk management program operations, provides policy for the control of risks, and assigns responsibilities for carrying out program requirements.

e. Reviews non-standard solicitations to ensure appropriateness of insurance requirements.

f. Monitors and manages insurance claims for the Commission.

g. Issues a list of Low Risk Activities approved by the Secretary-Treasurer that need not provide insurance, and a list of activities that are considered Moderate Risk Activities for which the vendor must provide insurance. These lists are located in Appendix G.

h. Provides an Insurance Checklist approved by the Secretary-Treasurer for each type of Contract to be included in each solicitation (Appendix E) (i.e. professional/liability for professionals services and builder’s risk for construction/renovation in excess of $100,000).

11-400.2 Department Head or designee

a. Helps ensure safe facilities and programs through implementation, and compliance.
11-400.3 Executive Director

a. Provides overall supervision for risk management, assigns staff to carry out departmental duties for the program, and provides technical support and assistance for departments.

b. Evaluates insurance needs and recommends coverage.

11-400.4 Secretary-Treasurer

a. Approves insurance requirements for the four (4) types of Contracts after consultation with Purchasing Manager, Risk Management and Safety Office of the Department of Human Resources and Management.

b. Approves Risk Management recommendations for waivers of insurance requirements on specific Contracts.

c. Prepares a quarterly report of all insurance and bonding waivers for the Executive Director.

11-400.5 General Counsel or designee

a. Provides advice and support on legal matters affecting the Commission’s Risk Management program.

11-400.6 Construction/Contract Manager

a. Monitors and ensures contractor's insurance coverage remains in effect.

b. Contacts contractor and requests new Insurance Certificate prior to expiration date.

11-500 Procedures

a. The apparent awardee shall instruct its insurance agent to include the Commission as a named insured and furnish to the Commission a certificate of insurance attesting to the issuance of insurance policies affording coverage as required.

b. The person preparing the Contract receives the certificate of insurance from the awardee’s insurance agent, and sends a copy to the Risk Management Office.

c. The Risk Management Office reviews all Contracts to ensure that:

   (1) Contractors and others doing business with the Commission have adequate insurance.

   (2) The Commission is held harmless for the other’s actions.

d. The Risk Management Office approves or rejects the certificate of insurance, unless otherwise delegated.
e. Acceptance of the insurance certificate must occur prior to the issuance of a Notice of Award by the Commission.
12 Bid Protests

12-100 Policy Any actual or prospective Bidder who is aggrieved in connection with the solicitation or award of a purchasing action may protest to the Commission’s Purchasing Manager.

12-200 Purpose

a. The bid protest process is designed to benefit the taxpayers, and hence the Commission, by making the Commission procurement system both more fair and more efficient. If the Commission offers a fair and honest system, Vendors will be more willing to deal with the Commission at a lower price. Also, if the Commission acts honestly, fairly, and rationally, the Commission and the taxpayers will get the best deal for their money and needs.

b. The bid protest process provides Bidders with a standard protocol to address grievances. An established protest process helps to ensure equitable treatment of complaints.

c. Bid protests allow for transparency, fairness, and equality in the purchasing process.

12-300 Definitions

Bid Protest. A bid protest is a mechanism by which an actual or potential Bidder/offeror may contest the bid solicitation or process pertaining to a purchasing action. A protester is typically a third party who feels aggrieved by the actions of the Commission or believes the solicitation’s requirements are too restrictive.

12-400 Roles & Responsibilities

12-400.1 Potential Bidders/Offerors

a. Have the right to protest the solicitation or the award of a contract/purchase order, if aggrieved by the solicitation or award.

12-400.2 Purchasing Manager

a. Issues decisions with regards to bid protests in writing as promptly as possible after all requested information is received.

12-500 Procedures

a. Submission of Protest.

(1) Protestors must seek resolution of complaints initially with the Purchasing Manager.

(2) A protest related to the contents or methodology of a solicitation, must be submitted in writing prior to the opening of bids or the closing date for proposals, unless the aggrieved person did not know and could not have known of the facts giving rise to such protest prior to bid opening or the closing date for proposals.

(3) The protest must be submitted in writing and received within ten (10) calendar days after such aggrieved person knew or should have known of the facts giving rise to the protest.
Should the tenth (10) calendar day occur on a weekend or a Commission observed holiday, the due date will be the next Commission workday.

b. **Contents of Protest.** The protest must include the following information:

1. The name and address of the protester;
2. Identification of the solicitation or purchase;
3. Statement of reasons for the protest;
4. Any supporting documentation to substantiate the claim made, unless the documentation is not available within the protest delivery time, in which instance the expected date that the material will be available is to be stated; and
5. The remedy sought.

c. **Protester Information.** Upon receipt of the written protest, and if requested, the Purchasing Manager will make available to the protestor at his/her request, information submitted that bears on the substance of the protest, except where information is proprietary or otherwise confidential. To the extent possible, the protestor must identify the specific nature and type of information he/she has deemed to be substantive.

d. **Additional Information.** The protestor must submit any additional information requested by the Purchasing Manager within five (5) calendar days after receipt of the request for such information. Failure of the protestor to respond to a request for information will result in the resolution of the protest on the basis of available information.

e. **Stay of Purchases During Protests.**

1. If a timely protest is received, the Commission will proceed further with the solicitation or with the award of the Contract unless the Purchasing Manager deems it necessary to stay the procurement action until the protest is resolved. If the Purchasing Manager decides to stay the procurement action, then the Originator and the appropriate Commission staff will be notified.

2. The Purchasing Manager will notify affected Bidders of the fact that a protest has been filed, if necessary, including the nature of the protest and the opportunity for Bidders to submit any information relevant to the protest to the Commission.

3. If a bid protest is received after an award, and it reasonably appears that the Contract award may be invalid and a delay in performance is not prejudicial to the Commission, a suspension notice, involving no additional costs, will be sent to the Contractor. If it appears that the award will not be
disturbed or if a delay is prejudicial, Contract performance should not be interrupted. The Purchasing Manager, in consultation with the General Counsel and the head of the originating Department, shall make this determination in writing.

f. **Decision.** The Purchasing Manager will issue a decision in writing as promptly as possible after all requested information is received. The decision shall:

   (1) Describe the protest;

   (2) State the decision, with reasons for such decision; and

   (3) Inform the protestor of the right to appeal the decision.

   (4) The decision shall be mailed, via certified mail, return receipt requested, with a copy to any other interested parties.

g. **Appeal.** The decision of the Purchasing Manager shall be final and conclusive, unless fraudulent, or:

   (1) Within ten (10) calendar days from receipt of the written decision, the protester mails or otherwise furnishes a written appeal to the Executive Director at the following address:

   The Maryland-National Capital Park and Planning Commission
   C/O Purchasing Manager
   6611 Kenilworth Avenue
   Riverdale, MD 20737

   **The decision of the Executive Director shall be final and binding. Any person adversely affected by the decision can seek redress in court after exhausting all administrative relief opportunities.**
# 13 Purchase Order & Contract Award

## 13-100 Policy

A valid Contract or Purchase Order is required before a Vendor or Contractor may deliver goods or perform services for the Commission. The Purchasing Manager or designee is responsible for reviewing or directing the negotiation of Contracts with Vendors in order to obtain goods or services at the best price while maximizing value to the Commission.

## 13-200 Purpose

A valid Contract or Purchase Order ensures that purchasing processes have not been circumvented, protects the Commission from harm, and avoids delays in payments to Vendors.

## 13-300 Definitions

**Contract/Purchase Order.** A legal agreement between at least two parties for the purchase of goods or services.

**Contractor.** Any Vendor having been awarded a Contract or Purchase Order by the Commission. A copy of the Contract Award will be supplied by the Commission by mail, facsimile, or in person.

## 13-400 Purchase Orders

The Secretary-Treasurer has final authority as to whether a purchase meets the criteria to be obtained by using a Purchase Order. Appendix G contains a list of low and moderate-risk activities permitted to be procured using Purchase Orders, as well as a list of high-risk activities that require a formal written Contract.

## 13-410 Types of Purchase Orders

The Commission utilizes four (4) types of Purchase Orders:

a. **Field Purchase Order (FPO).** Field Purchasing Aides may issue Field Purchase Orders for the one-time purchase of goods, or miscellaneous services (listed in Appendix G) estimated to cost less than the competitive purchasing threshold ($5,000) if all approvals have been received on the Requisition. **Field Purchase Orders may not be used** for construction, professional services, technology services, lease payments, maintenance agreements or any other items for which a Purchase Order cannot be issued as noted in Appendix G referenced above. If no Field Purchasing Aide is assigned, the Requisition is sent to either the Field Purchasing Assistant or Central Purchasing for processing.

b. **Central Purchase Order (CPO).** Central Purchase Orders are issued by the Central Purchasing Division for the one-time purchase of goods, information technology, or non-professional services as noted in Appendix G estimated to cost in excess of $5,000.

c. **Blanket Purchase Order (BPO).** BPOs facilitate the acquisition of multiple, small dollar amount items over time. **BPOs cannot be used** for construction, professional services, technology services, lease payments, maintenance agreements or any other items for which a Purchase Order cannot be issued (Appendix G)

d. **Purchase Order Against Fixed Price Agreement (PO).** POs are issued for repetitive purchases made against a Fixed Price
Agreement that has been competitively bid or for which there has been a waiver of competition. POs are also used to issue task orders against a Master Contract.

13-420 Purchase Order Review & Approval

An Originator uses an electronic or manual requisition to initiate a Purchase Order (See Section 8 Requisitions). Depending on the type of Purchase Order needed, the procedures for processing the requisition vary.

13-421 Field Purchase Orders (FPOs) ($5,000 and Under)

a. The Originator will enter a requisition into the Performance Online Purchasing System or forward a manual requisition to the Field Purchasing Aide.

b. The Field Purchasing Aide will enter the requisition into the Performance Online Purchasing System (POPS) and issue an electronic or manually issued Field Purchase Order (FPO) after all required approvals are obtained. If no Field Purchasing Aide has been assigned to the program, then the Originator will transmit the Requisition to Central Purchasing for processing and issuance of the Central Purchase Order.

c. The Originator and the Field Purchasing Aides are prohibited from splitting or directing any other person to split larger purchases into smaller increments in order to use a Field Purchase Order to make the purchase. The use of two (2) or more OCA's for the purchase of one or more items from the same vendor to avoid competition requirements is considered splitting and is NOT permissible. The Finance Department conducts random audits of Field Purchase Orders to ensure that transactions are not being split in order to circumvent these purchasing policies and procedures. Violations of this provision may result in the removal of purchasing authority from such person(s).

d. The Originator will receive the approved Field Purchase Order from the Field Purchasing Aide or Central Purchasing, either manually or through POPS.

e. The Field Purchasing Aide or Central Purchasing will send a copy of the FPO to the Vendor and instruct the Vendor to reference the Purchase Order number on the invoice.

13-422 Central Purchase Orders (CPOs) (Over $5,000 to $25,000)

a. The Originator will enter a requisition into the Performance Online Purchasing System or create a manual requisition to be forwarded to the Field Purchasing Aide.

b. The Field Purchasing Aide will enter the requisition into the Performance Online Purchasing System or manually create a requisition.

c. The Field Purchasing Aide will send the requisition to the Field Purchasing Assistant, who will issue a written solicitation for informal bidding to at least five (5) Vendors from the Commission Bidders List two (2) of which must be MFD vendors. If no Field Purchasing Aide or Assistant has been assigned to the program,
the Originator will send the Requisition to Central Purchasing for processing.

d. The Field Purchasing Assistant or Central Purchasing will review the bids and complete the Procurement Data Sheet.

e. The Field Purchasing Assistant will send the requisition and backup to the Central Purchasing Division.

f. The Central Purchasing Division will issue a CPO within five (5) days after a requisition and its documentation is submitted. If the Central Purchasing Division is unable to process the CPO within five days, the Originator will be informed regarding the reason for the delay via telephone or email.

g. The Originator will receive a copy of the approved CPO from the Central Purchasing Division either manually or electronically.

13-423 Central Purchase Orders (CPOs) (over $25,000)

a. The Originator will enter a requisition into the Performance Online Purchasing System or create a manual requisition to be forwarded to the Field Purchasing Aide.

b. The Field Purchasing Aide will enter the requisition into the Performance Online Purchasing System or manually create a requisition to the Central Purchasing Division.

c. The Central Purchasing Division will conduct competitive sealed bidding as described in Section 9.

d. After bidding, the Central Purchasing Division will issue a CPO to the lowest responsive and responsible Bidder.

e. The Originator will receive a copy of the approved CPO from the Central Purchasing Division electronically.
### 13-424 Blanket Purchase Orders (BPOs)

See Section 9-600 for procedures for establishing and making purchases using the Blanket Purchase Orders.

### 13-425 Purchase Orders Pursuant to Fixed Price Agreement (Contract)

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<tbody>
<tr>
<td>a.</td>
<td>Purchases made using Purchase Orders against the Fixed Price Agreement are handled by the Central Purchasing Division and require two steps: (1) setting up the underlying Fixed Price Agreement, then (2) issuing orders against the Agreement. Only the Purchasing Manager or designee may establish a Fixed Pricing Agreement.</td>
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<td>b.</td>
<td>An organizational unit wishing to use orders against an agreement needs to first request that the Central Purchasing Division establish a Fixed Price Agreement (see below). Central Purchasing may initiate a Fixed Price Agreement based on Commission usage to increase efficiency and price savings.</td>
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<tr>
<td>c.</td>
<td>Once a Fixed Price Agreement is in place, an organizational unit may issue Field Purchase Orders $5,000 and under against the agreement by following these steps:</td>
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<td>(1) The Originator will complete a requisition, including his/her name and signature.</td>
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<td></td>
<td>(2) The Originator will submit the requisition to the Field Purchasing Aide for processing after all approvals are obtained.</td>
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<td>(3) The Field Purchasing Aide will issue a Field Purchase Order against the Fixed Price Agreement within one (1) day.</td>
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<tr>
<td>d.</td>
<td>Should the order exceed $5,000, the Field Purchasing Aide transmits the requisition to the Central Purchasing Division for Central Purchasing issuance.</td>
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### 13-500 Contracts

| a. | Formal written Contracts must be used for the following types of purchases (See Appendix): |
| | (1) Leases/acquisition of any interest in real property (i.e., land and buildings) |
| | (2) Professional services |
| | (3) Construction services |
| | (4) Software purchase and maintenance, except “over the counter” software |
| | (5) Other miscellaneous services not listed as approved for Purchase Orders |
| | (6) Computer programming |

| b. | A formal written Contract is also required if one of the following |

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conditions exist:

(1) Liquidated damages are required for non-performance by a specified time or for unsatisfactory performance.

(2) Guarantees or warranties are required for materials or workmanship other than standard warranties given by a supplier in the normal and usual course of business or normally covered in the specifications of a Purchase Order.

(3) The relationship between timing, specifications, and performance is so complex as to require detailed description.

13-510 Types of Contracts

This section describes the types of Contracts that the Commission may use for the purchase of goods or services.

13-511 Fixed Price (FP) Contract

A Contract providing for a firm price (lump sum) at the inception of the Contract, for a defined scope of work. This is the Commission’s preferred type of Contract.

13-512 Fixed Price Agreements (Contracts)

1. Fixed Price Agreement (FPA) is a simplified method of filling repetitive needs for small quantities of goods or services based on fixed unit prices or a discount from list price. The FPA establishes pricing for small quantities of goods and services required on a continuing basis and establishes the total amount of the expected expenditures with a maximum purchase amount per transaction. Fixed Price Agreements may be established on a Commission-wide basis by the Purchasing Manager or at the request of an organizational unit. Where more than one organizational unit has a Fixed Price Agreement with the same Vendor for the same goods or services, the Purchasing Manager or designee will consolidate the agreements into a single Fixed Price Agreement, if practicable.

a. Fixed Price Agreements for items of the same type may be placed concurrently with more than one supplier.

b. All sources shall be given an equal opportunity to furnish goods or services less than $5,000, unless formally bid. Should the Fixed Price Agreement not have been formally bid, each transaction thereunder may not exceed $5,000.

c. The Central Purchasing Division will audit Purchase Orders against the Fixed Price Agreement for compliance with these procedures.

d. The Purchasing Manager shall include the use of purchase orders against the Fixed Price Agreement in the monthly MFD Utilization Report.

2. Organizational Units who wish to establish a Fixed Price Agreement may follow these steps:

a. Submit a manual or automated requisition to the Central Purchasing Division. The amount assigned to the requisition should be the amount of anticipated purchases within the next
twelve months and should not exceed the limits prescribed above.

b. After bidding or negotiation, the Purchasing Manager or designee will review and approve the issuance of a Fixed Price Agreement. The Purchasing Manager or designee will either competitively bid or negotiate the best price with Vendors based on unit prices or discount from list prior to establishing a Fixed Price Agreement.

3. Fixed Price Agreements must contain the following information:

a. description of items to be purchased or services to be provided;

b. the period of time the fixed price agreement will remain valid;

c. the basis of cost (e.g. Fixed discount from list or fixed unit price);

d. the total transaction not to exceed amount;

e. persons authorized to purchase; and

f. Contract number and title (if applicable), together with the name of the Contract Manager.

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<tr>
<th>13-513 Term Contracts</th>
<th>Term Contracts establish a source of supply for an indefinite quantity of goods or services at a certain price, for a specified period of time, e.g., golf balls and art supplies.</th>
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<tbody>
<tr>
<td>13-514 Time and Materials Contracts</td>
<td>A requirements Contract is an indefinite quantity Contract for goods, services, or construction to be furnished at specific times, or as needed, using fixed unit prices. The Contractor agrees to provide services or construction at a pre-established price as the Commission’s need arises. The Commission agrees to reimburse the Contractor at cost for all used materials. The Contractor is not guaranteed any requests under this type of agreement, e.g. electrical services.</td>
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<tr>
<td>13-515 Cost Plus Fixed Fee (CPFF)</td>
<td>A cost reimbursement Contract that provides for the Commission to reimburse the Contractor at cost for all needed material, supplies and labor to accomplish a scope of work plus a fixed fee, the amount of which was included in the bid.</td>
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<tr>
<td>13-516 State Contracts and Other Governmental Agencies’ Contracts (Bridge / Piggy-back)</td>
<td>These Contracts are entered into by the State of Maryland or any other state and/or other governmental, public, or a consortium of governmental agencies, either within or outside the State of Maryland. The Commission, upon agreement by the Vendor, may use these agreements. The pricing of such agreement must be examined and determined to be fair and reasonable. The Originator will document that the prices are fair and reasonable. In addition, the Commission’s Anti-Discrimination policy must be addressed. Upon approval by the Purchasing Manager, the terms and conditions for the Commission must be the same or better than the public agencies’ terms and conditions. These Contracts may only be used when the Contract to be ridden was competitively bid or the item or service is a legitimate sole supplier.</td>
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source purchase as determined by the Executive Director or as delegated.

**Note:** The Federal Government’s General Services Administration (GSA) issues a variety of schedules for goods & services. GSA schedules may only be used if the Vendors on the schedule in question participate in a competitive bid wherein the price was a factor.

The Commission may use governmental Contracts even if they are not named in the cooperative purchase. The Central Purchasing Division will sign its own Contract and assign a Contract Number, Unit Price Agreement Number or Blanket Agreement Number to any of these Contracts. These reference numbers are used when placing order to assure that the order is linked to the correct agreement and to keep track of all expenditures against these Contracts.

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### 13-517 Cooperative Purchase Contracts

a. Cooperative Purchase Contracts are Contracts where two or more named public entities combine their requirements in order to realize a volume cost advantage. Examples of Cooperative Entities are Council of Government (COG), the Baltimore Economic Council, Montgomery County IPCC, as well as other consortiums.

b. The Commission shall attempt to use cooperative purchasing as much as possible and shall supply its Bidders List for use to the entity handling the bidding. When using cooperative purchasing, it is not necessary for the Commission to use its own purchase methodology documents to complete the purchase transaction. The Commission shall accept other government agency’s public purchasing methods as competitive purchases.

c. The Commission may use these Contracts even if they are not named in the cooperative purchase. For purposes of reference, the Central Purchasing Division will assign a Contract Number, Unit Price Agreement Number or Blanket Agreement Number to any of these Contracts. These reference numbers are used when placing order to assure that the order is linked to the correct agreement and to keep track of all expenditures against these Contracts.

d. The requirements of the Commission’s Anti-Discrimination policy must be addressed.

### 13-518 Multi-Year Contract

a. A Multi-Year Contract is one, which is in effect for a term exceeding 12 months. Normally a Commission Contract does not exceed three (3) years. If a multi-year contract crosses fiscal years language must be added to state that the contract is subject to appropriation of funds in future years.

### 13-520 Contract Review & Approval

a. The Field Purchasing Specialist, if any, or Central Purchasing will prepare the Contract package for routing and send at least three (3) copies of the Contract to the Originator together with a Contract Routing Sheet.

b. The following Contract reviews and approvals are required by the Originator prior to transmitting the Contract to the apparent
awardee for execution:

(1) The Originator within the Department

(2) The Division Chief

(3) The Departmental or Divisional Budget Reviewer

(4) The Department Head or Designee

c. The Originator or designee will send the Contract package to the Field Purchasing Assistant or Specialist, who will send the Contract package to the Contractor together with an “Intent to Award” letter. The proposed Contractor will review and sign the Contract and send it back to the Field Purchasing Assistant or Specialist within ten (10) calendar days. The response must also include the required bonding, insurance, MFD information, and any other required information.

d. If the Contract is not a standard form Contract or there are exceptions taken to the terms and conditions, the Field Purchasing Assistant will send the Contract to the Originator's assigned Legal Office for legal sufficiency review, unless the County Legal Office has pre-approved the solicitation and no additional changes have been made.

(1) If no changes have been made to the pre-approved standard Contract form/or pre-approved solicitation, the Originator will sign a certification verifying such.

(2) If the contract is a non-standard contract and the solicitation was not pre-approved, or additional changes were made, the Originator’s assigned Legal Office Attorney will review the Contract for legal sufficiency and resolve any issues. The Commission’s General Counsel delegates authority to Commission attorneys to approve Contracts.

(3) Attorneys have varying levels of delegated authority based upon the dollar amount of the Contract. If the attorney does not have the delegated authority to approve the Contract, the assigned Legal Office will forward the Contract package to the Office of the General Counsel for review.

(4) The General Counsel or designee will review the Contract, resolve any legal issues, sign the Contract Routing sheet and the signature page, and return the Contract package to the Field Purchasing Assistant or Specialist.

(5) The Field Purchasing Assistant or Specialist will send the proposed Contract to the Contract Technician in Central Purchasing for recordation in the Routing System.

e. The Purchasing Manager or designee will review the Contract package and sign the Contract Routing sheet indicating that acceptable purchasing procedures were followed and that financial...
responsibility has been checked. In addition, the Purchasing Manager or designee will verify that a copy of appraisal and a Resolution are enclosed, if required.

f. The Contract Technician will forward the Contract package to the Accounting Division, as applicable.

g. The Accounting Division will check the account code, certify if funds are available and encumber the funds if the Contract is less than $100,000. The Accounting Division will also check the collateral agreements, or grants for any matching requirements. The Accounting Division will return the Contract package to the Contract Technician. If funds are not available, the Accounting Division will notify the Contract Technician and will also contact the Originator to resolve the issue. Funds for Contracts in excess of $100,000 will be certified by the Secretary-Treasurer or designee.

h. The Contract Technician will then forward the Contract package to Risk Management which will review insurance requirements and certificates and resolve any issues. In addition, if the insurance policy expires prior to the expiration date of the contract, Risk Management will send an e-mail to the Originator, with a copy to Central Purchasing. Risk Management will sign the Contract Routing sheet and forward the Contract package to the Executive Director, or to Contract Technician if Purchasing Manager to execute, as applicable.

i. If the Executive Director has delegated authority to the Purchasing Manager to sign the Contract on behalf of the Commission, the Purchasing Manager will execute the Contract.

j. The Executive Director will review the Contract if signature authority was not delegated to the Purchasing Manager. If the Contract is approved, the Executive Director signs the Contract and initials the Contract Routing sheet and forwards the Contract package to the Contract Technician. If the Executive Director or designee does not approve the Contract, the Executive Director or designee will immediately notify the Purchasing Manager that the Contract was not approved.

k. The Secretary- Treasurer, or the Purchasing Manager if delegated, reviews the Contract and attests the Executive Director’s signature and sign the Contract Routing sheet. If the Purchasing Manager executes the Contract, then the Secretary-Treasurer or designee will attest the signature.

l. The Central Purchasing Division will retain the original of the fully executed Contract for the Commission’s official file and Contract Routing sheet and forward a copy of the Routing sheet plus two (2) copies of the Contract to the Originator. If the Contract represents a grant, the Contract Technician will also forward a copy to the Grant Coordinator in the Finance Department.

m. The Contract Administrator retains one (1) copy of the Contract for its files and sends the other copy to the Contractor with a Notice of
Award. A copy of the Notice of Award and the copy of the Notice to Proceed will be sent to Central Purchasing.
# 14 Contractor Claims and Disputes after Award

## 14-100 Policy

The Commission Contract Review Committee (CCRC) will review and resolve any delegated claims or disputes against the Commission in a timely and equitable manner. The CCRC derives its authority from the Executive Director.

## 14-200 Purpose

This Section is to provide a procedure for resolving a Contract dispute and a Contract claim.

## 14-300 Definitions

**Contract Dispute.** A disagreement between the Contractor and the Contract Manager regarding the rights of a party under a Contract.

**Contractor.** May file a Contract claim or dispute in writing with the Contract Manager within ten (10) calendar days after the basis of the claim is first known. Such claim or dispute must:

a. Identify the Contract

b. Provide the name, address, telephone number of Contractor

c. Itemize the grounds supporting the request for relief

d. State the requested relief

**Commission Contract Review Committee (CCRC).** A review body that resolves matters concerning delegated claims or disputes based upon breach of Contract, mistake, misrepresentation, or other cause referred to it by the Purchasing Manager, as well as a Contract/Construction Manager's decision to waive liquidated damages on any given contract or any contract which results in a settlement agreement not previously the subject of a Purchasing Manager's decision. The Commission Contract Review Committee will consist of 3 people: Executive Director, Secretary-Treasurer, and a third member, appointed by the Executive Director from time to time.

**Claims.** A written demand or assertion by one of the Contracting parties seeking the payment of money, the adjustment or interpretation of Contract provisions, or other relief relating to the Contract, but not a regular Change Order unless otherwise referred to the CCRC.
14-400 Roles & Responsibilities

14-400.1 Executive Director or designee

a. The Executive Director or designee is the Chairperson of the Contract Review Committee.

b. The Executive Director or designee appoints the third Committee Member with experience such as administrative judge, for each claim or dispute.

14-400.2 Contract Review Committee Members

a. Handle referred claims or disputes between the Commission and a Contractor that arise in connection with the performance of a Contract with the Commission.

b. Must recluse themselves if involved (supervisor or other) in the transaction under dispute, or is the direct Contract Manager.

c. Meet on a regular monthly basis as needed or meet for a special meeting as determined by the Executive Director. Review and act upon all unresolved claims and disputes referred to the Committee by the Purchasing Manager. Review Contract/Construction Manager’s recommendations to waive liquidated damages.

d. Review any other purchasing/Contractual matters referred by the Executive Director, Secretary-Treasurer or Purchasing Manager.

e. Recommend a final decision to the Executive Director.

f. Provide input to changes or enhancements of potential benefit to the Commission.

14-400.3 General Counsel or designee

a. Serves in an advisory capacity to protect the Commission’s interests.

b. Defends the Committee in case of litigation.

c. Does not have a vote on the Committee.

14-400.4 Purchasing Manager or designee

a. Attempts to resolve the claim or dispute by mutual agreement with the Contractor.

b. Refers unresolved claims and disputes to the CCRC.

c. Serves in an advisory capacity to the CCRC on the purchasing policies, procedures, and industry practices.

d. Does not have a vote on the Committee.
14-400.5 Secretary-Treasurer or designee

a. Serves as a voting member on the CCRC to protect the Commission’s interest.

14-500 Procedures

a. A Contractor wishing to file a complaint, claim or dispute related to a Contract issue with the Committee must do so in writing and address it to the Contract/Construction Manager.

b. The complaint must include the name, address, and telephone number of the complainant.

c. A complaint shall be filed within ten (10) calendar days after the basis of the complaint is known or should reasonably have been known, whichever is later.

d. The Contract/Construction Manager will send a copy of all complaints to the Purchasing Manager.

e. The Purchasing Manager shall review each complaint, resolve same or refer it to the Contract Review Committee with documentation.

f. The Purchasing Manager prepares the agenda of the CCRC meetings and coordinates attendance of the needed Commission staff, subject to the direction of the Chair.

g. The Commission’s Technical Hearing Writer will attend the CCRC meetings and keeps an official record, minutes and other documents as determined by the Chair.

h. The Commission’s Contract Review Committee Chair will sign every determination made on a complaint, and the Committee will send a copy to the complainant, a copy to the Purchasing Manager, and a copy to the Contract/Construction Manager.

i. The CCRC may request additional information from a Department, Division, or Contractor as it deems necessary, to fulfill its duties.

j. The CCRC may hold hearings, call witnesses, obtain and receive documents, and conduct investigations.

k. The Committee may immediately furnish the decision to the Vendor and any other party intervening on his/her behalf or mail a copy of the decision via certified mail. The decision shall state the action taken and the reasons for the action.

l. Any appeal of a decision by the Commission Contract Review Committee must be made to the Maryland State Courts.
15 Receipt & Acceptance for Purchase Orders and Task Orders Against Contracts

15-100 Purpose
Each Department is responsible for its Divisions’ inspecting and accepting goods or services purchased and rejecting goods or services that do not meet purchase order specifications.

15-200 Definitions
Inspection. The close and critical examination of goods or services delivered to determine conformance with or purchase order requirements or specifications.

Substitution. Delivery of an item that does not conform to the specifications of the Purchase Order or Contract.

15-300 Roles and Responsibilities

15-300.1 Originator or Contract Manager.

a. Inspects goods or services to ensure the goods are delivered or the services are performed as specified in the Purchase Order or Contract.

b. Accepts goods delivered or services performed in compliance with the terms and conditions of the purchase.

15-300.2 Department Head or designee

a. Ensures the goods are delivered or services are performed as specified in the Purchase Order or Contract.

b. Receives packing slip or other receiving documentation and approves the invoice for payment.

15-300.3 Accounting Payable Section, Finance Department

a. Receives approved invoice voucher and other supporting documentation acknowledging receipt and acceptance of goods or services.

b. Matches the original invoices to the Purchase Orders or Contracts or uses the matching process with online invoicing module for payment process.

c. Receives notice of the receipt of inferior materials or services and their rejection.

15-300.4 Central Purchasing Division

a. Receives information regarding rejection of goods or services to document Vendor performance and help in resolution, if necessary.

15-400 Procedures
Receipt and Acceptance involve the following four (4) activities in order to ensure that the Commission gets what it pays for:
15-410 Delivery

15-420 Receipt and Inspection

15-430 Acceptance

15-440 Rejection

**15-410 Delivery**

a. Vendors must deliver goods or services by the date or period specified in the Purchase Order or Contract or the Contractor may be considered to be in default.

**Note:** To ensure that the item is delivered to an office, specify “INSIDE DELIVERY” on the order.

b. If a Vendor cannot make delivery as specified under an existing Purchase Order or Contract, the Vendor must immediately notify the Originator. The Vendor may offer a new delivery date; however, if it is not acceptable to the Originator and delivery cannot be made as originally specified, the Vendor may be considered in default.

c. *Delivery by a Vendor to a common carrier does not constitute delivery to the Commission.*

d. Any claim for loss or damage incurred during delivery is between the Vendor and the carrier.

e. The Commission accepts title only when goods are received and accepted regardless of the freight on board (FOB) point. Vendors should ensure they have been given a specific delivery location and must obtain a signed receipt for goods delivered.

f. Any supplies delivered that do not meet specifications may be refused at time of delivery or returned to the Vendor at the Vendor’s expense. When the delivery is refused, the person refusing the shipment should document on the packaging slip whether full or partial refusal. When a shipment or item is returned, the Vendor must make immediate replacement with acceptable merchandise.

g. All supplies and equipment furnished must be new and in first class condition and comply with all requirements unless the Purchase Order or Contract specifies used items. Demonstration, previously rented, or reconditioned items are not considered new. No equipment is acceptable if serial numbers or any other manufacturers’ identifying labels or marks have been removed, obliterated, or changed.

h. Unless otherwise specified in the solicitation, Contractors must use new standard commercial packing and shipping containers. Shipping containers must be legibly marked or labeled on the outside with the commodity description and number, size, quantity, Contract number, and Commission Purchase Order number. A packing slip or invoice must accompany all shipments and must reference the Purchase Order or contract number. Shipments containing materials with environmental storage requirements must have that information on the outside of the package, together with the shelf life. If hazardous
materials are involved this fact must be plainly noted on the outside of the container as well as a Materials Safety Data Sheet enclosed.

15-420 Receipt & Inspection

a. All materials, equipment, supplies, and services are subject to inspection and test. Goods or services that do not meet specifications may be rejected. Failure to reject upon receipt, however, does not relieve the Vendor of liability for latent or hidden defects subsequently revealed when goods are put to use or tested. If latent defects are found, the Vendor is responsible for replacing the defective goods within the delivery time originally stated in the solicitation and is liable for any resulting expenses the Commission incurs.

b. The Originator is responsible for acknowledging receipt of goods or services purchased using a Purchase Order and performing any required inspections or tests within five (5) days from the time the goods or services are received.

c. The Contract Manager designated in a Contract is responsible for receipt and inspection of any deliverables required under the Contract.

15-430 Acceptance

If the goods or services comply with the terms and conditions of the Purchase Order or Contract, the Originator or designee or Contract Manager will follow these steps:

a. Receives the packing slip or other documentation, including the purchase order number.

b. Accepts the goods and services within five (5) days from the time the goods or services are received.

c. On the packaging slip or other proof of delivery document note any difference or discrepancy between what was ordered and what was received.

d. Enter the date the goods or services were received and sign.

e. Transmits packaging slip or other documentation to the designated approver.

f. Submit the completed documentation to the Accounts Payable Section of the Finance Department for manual invoice approval or their designated Field Purchasing Aide for electronic approval. (See Section 16-550)

g. Maintain receipt documentation in the field, together with a copy of the Purchase Order, filed numerically for audit purposes. These records must be kept for three full years. Documents for the current fiscal year and three prior fiscal years must be maintained.

15-440 Rejection

If the goods or services do not comply with the terms and conditions of the Purchase Order or Contract, the Originator or Contract Manager will follow these steps:
a. Reject delivery, if possible.

b. Reject the goods or services within five (5) days from the time
   the goods or services are received.

c. Notify the Vendor.

d. If the Vendor can correct the deficiency, provide the Vendor
   with time to correct the deficiency.

e. Obtain a Return Material Authorization Form and/or number
   from the Vendor, if applicable.

f. If the Vendor cannot correct the deficiency or fails to do so,
   inform the Purchasing Division and Accounts Payable of the
   receipt of inferior materials or services and complete Vendor
   Performance Form.

g. Purchasing will cancel purchase order or execute change
   order, as needed.

h. The Vendor assumes any freight costs for rejected items.
16 Invoice & Payment Procedures

16-100 Policy
Payments to Vendors and Contractors shall be expedited whenever possible in order to realize discounts and enhance the Commission’s reputation as a responsible customer.

16-200 Purpose
After the Vendor has satisfactorily delivered the goods or services specified and submitted a proper invoice, the Commission can issue payment.

16-300 Definitions

Check Request. A form submitted to the Accounts Payable Section, Finance Department requesting the issuance of a check to make a payment. A Check Request is usually used for Contracts. See Practice 3-12 for specific uses.

Invoice. A numbered document submitted by a supplier requesting payment for goods or services provided to the Commission. Invoices must include a valid Purchase Order number and/or Contract number, when applicable, exclude Maryland and District of Columbia taxes, and the details must match the Purchase Order and/or Contract or total of the check request. See Article 28, Section 2-201(c), which contains the definition of a “proper invoice”.

Payment date. Payment date means either (a) the date on which payment is due under the terms of a Contract for provision of goods or services, or (b) if such date has not been established by Contract, thirty (30) days after receipt of a proper invoice by the Commission Accounts Payable Section for the amount of payment due, or thirty (30) days after receipt of the goods or services, whichever is later.

Petty Cash. Petty Cash is an amount of money issued to a department, in the charge of a custodian, to be used on a revolving basis for the payment of emergency and incidental expenses not to exceed $200 per request. See Practice 3-11.

Purchase Card. Plastic payment card with a specific account number issued by a bank in the name of the Cardholder on behalf of the Commission for facilitating small dollar value purchases. Secretary-Treasurer must approve all purchase cardholders.

16-400 Roles and Responsibilities

16-400.1 Vendor or Contractor
a. Submits invoices for payment as directed by the Purchase Order or Contract.

16-400.2 Originator or Construction/Contract Manager
a. Provides Vendors with instructions on where to submit invoices. Invoices on purchase orders go to the Finance Post Office Box noted on the purchase order, and payment requests on Contracts go to the Construction/Contract Manager.

b. Enters the needed appropriate information on the Check Request and attaches related backup documentation and the original
c. Fills out a Received Petty Cash Form. Attaches original receipt and/or mileage form for Petty Cash purchases.

d. Receives goods or services pursuant to Purchase Order or Contract.

16-400.3 Department Head or designee

a. Reviews Petty Cash Forms and either approves or rejects the Petty Cash request.

b. Reviews the Check Request Form and either approves or rejects the request.

c. Recommends individuals to the Secretary-Treasurer to be Purchase Card Holders and approving officials (these individuals may also be Field Purchasing Aides).

d. Approves Purchase Order or Contract payments.

16-400.4 Accounts Payable Section

a. Date stamps incoming invoices.

b. Matches invoices to Purchase Orders or Contracts, identifies any discrepancies, and notifies originator and vendor, as necessary. If incorrect, get vendor to correct. Manually altered invoices will not be accepted.

c. After receiving approval to pay original invoice, makes Vendor payments in weekly check run.

d. Reviews Check Requests for accuracy, sufficient backup documentation and signatures. Processes check requests and makes payments.

e. Notifies Originator of invoices awaiting approval for payment.

16-400.5 Petty Cash Custodian

a. Reconciles petty cash fund and requests replenishment as needed.

b. Disburses the cash to the Commission employees in compliance with Practice 3-11.

16-400.6 Secretary-Treasurer

a. Delegates field purchasing authority to Field Purchasing Aides, Assistants and Specialists based upon recommendations from Department Heads.

b. Authorizes Purchase Cards to be issued to employees based
upon recommendations from Department Heads and authorizes approving officials.

16-400.7 Central Purchasing Division

a. Resolves difficulties encountered by Purchase Cardholders in Purchase Card transactions.

b. Reviews and monitors purchase card transactions.
The Commission uses four methods to authorize payments for Vendors:

- **16-510 Petty Cash**
- **16-520 Purchase Card**
- **16-530 Check Request with original invoices associated with contract**
- **16-540 Invoices**

**16-510 Petty Cash Slip Procedures**

Petty Cash may be used for purchases under the petty cash threshold and for local travel expenses for parking, tolls, mileage, and business-related advances and reimbursements. Petty cash funds must not be used for any of the following items (these items are common examples and not intended to be all inclusive):

a. Payroll expenses including wages or performance recognition awards
b. Payment of major travel expenses

A Commission employee can use petty cash to make a purchase by obtaining a **cash advance** or **cash reimbursement**. See Practice 3-11 for detailed petty cash procedures.

**16-511 Cash Advance**

Employees should follow these steps to obtain a petty cash advance:

a. Fill out a Petty Cash Request Form and write advance on form.
b. Obtain approval from the Department Head or designee with signature authority.
c. Submit the Petty Cash Request Form to the Petty Cash Custodian.
d. Receive a cash disbursement from the Petty Cash Custodian.
e. Make purchase and obtain a receipt. Receipt should be only for Commission items. Do not commingle personal purchases on receipt.
f. Return the original receipt and any change to the Petty Cash Custodian within five (5) days.
g. If the purchase price differs from the exact amount of petty cash disbursed, complete a second Petty Cash Request Form, attach the first Received of Petty Cash Request Form and the receipt, and return the documents to the Petty Cash Custodian.

**16-512 Cash Reimbursement**

Employees who make a purchase using their own personal funds should follow these steps to be reimbursed by the Commission:
16-520 Purchase Card Procedures

a. **Completing a Purchase Card Transaction.** A description of the card program is contained in the Purchase Card Manual in Appendix L. Cardholders designated by the Secretary-Treasurer should follow these steps when using the Purchase Card to pay for a purchase:

(1) Determine if the intended supply purchase is within the spending and Vendor guidelines for use of purchase card.

(2) For face-to-face transactions, provide the Vendor with the Purchase Card.

(3) For telephone orders, give the Vendor the account number and expiration date.

(4) Obtain a copy of the charge slip, sales receipt with itemized description and/or packing slips (with amount of purchase) for reconciliation to the Bank Cardholder statement.

(5) Enter the transaction on the Purchase Card Transaction Log (see Appendix I) and include work order number, if applicable.

(6) If the accounting code for the purchase is different from the default code, enter the alternate accounting code on the Purchase Card Transaction Log.

(7) Ensure that the merchandise ordered by telephone or Internet is actually received.

(8) Provide the Cardholder statement, transaction documentation, and the Transaction Log to the Approving Official. The cardholder statement, transaction documentation, and transaction log should only include items received. The approving official will verify that the price is included.

b. **Record Keeping.** The Department/Division shall maintain a permanent file containing the original Transaction Log and documentation for every charge/credit. This file shall be subject to periodic review by Internal Audit and any other employee authorized by the Finance Department to review the purchase.
card transactions. These records must be maintained for the current fiscal year plus 3 prior fiscal years.

c. **Disputes.** In the event of a dispute the cardholder will notify the Field Purchasing Aide who will review the evidence of the dispute provided by the cardholder. Subsequent to this review the Field Purchasing Aide will transmit the information relating to the dispute to the approving official and Credit Card Administrator with his/her comments.

### 16-530 Check Request Procedures (Practice 3-12)

**a.** Check Requests may be used for one of the following six reasons:

1. Replenishment of a Commission unit’s petty cash fund (for more information about replenishing petty cash funds, see Practice 3-11, Administration of Cash Funds).

2. Travel advances and expense reports.

3. Payments to instructors and other individuals who have rendered services pursuant to a Contract or where Accounting had determined purchase orders would not be reasonable or appropriate. This includes rent payments to individuals and firms.

4. Emergency situations (see Section 9-1000 Emergency Purchases), when a Purchase Order cannot be obtained, which requires Department Head approval/signature.

5. Honoraria.

6. Miscellaneous disbursements to parties who will not extend credit to the Commission or in business situations where direct billing is customary.

**b.** To use a Check Request, employees should follow these steps:

1. Complete a Request for Check Form.

2. Make sure the attached original invoice amount and letterhead name and address match the Check Request amount and payee name and address respectively.

3. For payments to instructors and other Contractors, include the original invoice and include the Contract number on the Check Request.

4. Obtain approval from the Department Head or designee.

5. Submit the Check Request to the Finance Department, Accounts Payable Section. A check generally takes ten business days to be issued from the time it is submitted.

**Note:** For any Purchase over $5,000, the Check Request must be Contract related or approved by the Department Head.

If a check request is to be used to pay for any other reason not
enumerated above, such check request must delineate the reason and be approved by the Department Head. The Secretary-Treasurer or designee retains final approval on such exceptions. Payments to Vendors where Purchase Orders were not issued due to “maverick purchases” by employees, require Department Head approval/signature.

16-540 Invoices Billing. Vendors or Contractors must follow these steps in order to ensure that they are paid promptly:

a. For goods and services purchased by Purchase Order, send original invoices directly to the Commission at the “Bill to” address (Finance Department, Accounts Payable Section) specified on the Purchase Order. Include the Purchase Order number on all invoices, shipping documents, and correspondence.

*Failure to send the invoice to the specified "Bill to" address could delay payment at no fault of the Commission.*

b. For purchases made using a purchase card, send invoices to the Originator.

c. For formal written Contracts, submit an original invoice to the Contract Manager designated in the Contract. Include the Contract number on all invoices and correspondence. (See Section 16-530)

d. Invoices must reference the corresponding Purchase Order number or Contract number, and details of goods or services delivered. Failure to supply this information could result in the Commission returning the invoice to the Vendor unpaid.

e. Prompt payment with cash discounts will be taken if offered and payment is made within the prescribed time frame. Time will be computed from the date of delivery or performance or from the date a correct invoice is received by the Commission, whichever is later.

f. The Commission has 30 days to pay correct invoices once the document has been received in Accounts Payable. The Commission is obligated to pay “net 30” upon receipt of approved original invoice in Accounts Payable.

g. Invoice issued from a Purchase Order must match the Purchase Order for all lines, including unit price and quantity. Differences must be resolved via change order or corrected invoice.


a. For invoices sent directly to the Construction/Contract manager, the Contract manager will follow these steps to process an invoice:
(1) Date stamp invoice when received from the Contractor.

(2) Review the invoice to ensure it includes the Contract number and any other required information (e.g. subcontractor listing, MFD status etc.).

(3) Ensure that the billing amount on the invoice is correct. The Contract/Construction Manager is responsible for the invoice and the correction thereof. If incorrect, get Vendor to correct. Manually altered invoices will not be accepted.

(4) If information is missing that might delay payment, contact the Contractor to obtain the missing information.

(5) Complete a Check Request and attach the original invoice, keeping a copy for your files.

(6) Obtain approval from the Department Head or Designee.

(7) Forward the approved Check Request and invoice to the Accounts Payable Section within 5 five (5) days from the time the goods or services are received. Note: Construction Check Requests might not be forwarded within 5 five (5) days from the date the goods and services were received, but in all cases from the date the invoice is received.

16-560 Purchase Order, Contract or Task Order Payments

Once the Accounts Payable Section receives a Check Request or Invoice, the Section will follow these steps to pay the Vendor or Contractor:

(1) Compare the invoice amount with each line item or unit price on Purchase Order, Contract or Task Purchase Order.

(2) If there are discrepancies between the invoice and Purchase Order, Contract or Task Order, notify the Originator of the discrepancies for their remediation.

(3) If required information or documentation is missing, contact the Originator to obtain missing information. Payments may be delayed if information on the invoice or Check Request is missing.

(4) If the Contract includes a capital outlay code, the Performance Accounting System will automatically transfer capital outlay subject code information to the fixed assets system at the time of payment.

(5) Process in the weekly check run; and mail to the Vendor via the Cash Management Division.
17 Contract Management

17-100 Policy
Every Commission Contract must identify a Contract Manager.

17-200 Purpose
With increased complexity of the Commission’s purchases, it is important to develop a methodology for active Contract Management.

Contract Management is a field of responsibility that is overseen by the Division Chief and/or Department Head. Effective Contract Management ensures that the Contractor’s total performance conforms to the terms and conditions of its Contractual agreement with the Commission. The integrity of the public purchasing system demands that goods and services be furnished as specified in the Contract. Only through continual active involvement of a Contract Manager, and working partnerships with Central Purchasing, will Department performance goals be achieved.

Contract Management begins with the signing or execution of a Contract and continues throughout the life of the Contract, until receipt of all goods and services or completion of all work including punch-out, and release of retention. The complexity of the Contract dictates the level of management required. For example, a one-time delivery of supplies requires less management than a multi-year requirements Contract for complex services.

17-300 Definitions

**Contract Administrator**. Coordinator of all actions, which must be taken to assure compliance with the terms of the Contract after award.

**Contract Close-out**. The final phase of the Contract life cycle and involves ensuring that the Vendor has received final payment, all goods or services under the Contract have been received, and any excess funds are liquidated.

**Contract Management**. Contract Management is oversight responsibility to ensure that the Contractor's total performance conforms to the Contractual commitments and obligations to the Commission are fulfilled.

**Contractor’s Representative**. Point of contact for the Commission’s Contract Manager.

17-400 Roles and Responsibilities

17-400.1 Department Head or Designee

a. Assigns a Contract/Construction Manager to each project for which a Contract will be executed by the Commission.

b. Ensures that Contract/Construction Managers receive appropriate training in their Contract management responsibilities.

c. Ensures that necessary procedures and milestone schedules are established to meet project completion dates.
d. Ensures the timely close- of Contract.

17-400.2 Divisional or Departmental Budget Reviewer


b. When notified by Contract/Construction Manager of a potential funding shortfall, recommends approaches to resolve funding issue.

c. Notifies Accounting Division in writing, each quarter of contracts to be closed out.

17-400.3 Contract/Construction Manager

a. Oversees assigned Contract executed by the Commission. The Contract/Construction Manager can be the Originator or other person knowledgeable of the Contract/Construction and assigned by the Department Head or designee to be the Contract/Construction Manager and leads the Management Team. Can also serve as Contract Administrator.

b. Participates in bid/proposal evaluation.

c. Attends and participates in Advance Procurement Planning Team meetings to identify needs, priorities and purchasing processes, including evaluation.

d. Implements a cost effective Contract management and scheduling plan and follows the plan to monitor performance.

e. Initiates, schedules and chairs periodic performance conferences including a pre-performance conference, if needed.

f. Initiates the Notice to Proceed to the awardee with copies to Central Purchasing.

g. Monitors the Contract budget by component to ensure funding adequacy. Notifies department/divisional budget reviewer and Accounting Manager upon noting any funding concerns. Monitors ancillary agreements and grants, as required.

h. Makes recommendations for retainage deduction.

i. Provides a progress report each month to Division Chief.

j. Maintains a log of contract meeting minutes, cosigned by the Contractor to ensure that the Commission's responsibilities are handled appropriately.

k. Coordinates site entry for Contractor personnel, if applicable.

l. Reviews Contractor’s invoices promptly and ensures subcontractor utilization and MFD compliance, including a review
of MFD compliance reports and payment requests.

m. Ensures that the subcontractors named in the bid/proposal actually participate on the job and notifies Purchasing of any changes in subcontracting.

n. Sends copies of all letters dealing with contract issues including Letter of Completion and Acceptance to the Contractor, Risk management, Accounts Payable and Purchasing Manager.

o. Ensures that the Contractor’s insurance policies remain in effect, by contacting the Contractor at least thirty (30) days before expiration of the insurance policy.

p. Initiates Unilateral Change Orders after consultation with Department Head/Designee, Purchasing Manager and Legal.

q. Initiates Bi-Lateral Change Orders.

r. Informs the Contractor in writing of failure to comply with technical requirements of the Contract, with a copy to Central Purchasing.

s. Notifies Purchasing Manager and other appropriate staff wherever it is suspected that a Contractor may not be fulfilling its contractual obligations.

t. Notifies bonding company if there is failure to perform the terms of the contract, if appropriate, after consultation with Purchasing Manager and Legal.

u. Initiates and coordinates with Legal and the Purchasing Manager the issuance of contract performance correspondence, including cure notices and scheduling delays.

v. After consultation with the Purchasing Manager and Legal, initiates the imposition of liquidated damages by notifying the Contractor in writing.

w. Performs final inspection/acceptance of work required under the Contract and completes close-out procedures.

x. Verifies that equipment or unused supplies purchased with Commission funds remain within the Commission.

y. Completes Vendor Performance and transmits to Central Purchasing.

z. Maintains records and copies of warranties.

17-400.4 Finance Department

a. Certifies availability and encumbers funds on contracts as delegated by the Secretary-Treasurer.

b. Provides encumbrance reports, if the Departmental or Divisional
Budget Reviewer is not available, if requested by Department.

c. Receives quarterly ‘notice of full payment’ from Departmental or Divisional Budget Reviewer.

d. Closes out transactions each quarter on the Performance Accounting System as notified by the Departmental or Divisional Budget Reviewer.

e. Pays Vendors within thirty (30) days of proper invoice.


g. On Purchase Orders, coordinates liquidations with the Division.

17-400.5 Contractor’s Representative

a. Appointed by the Contractor to serve as its primary representative on a specific Commission Contract.

b. Works with the assigned Contract/Construction Manager to ensure fulfillment of all Contractual commitments and obligations.
17-500 Procedures

There are at least eight steps in Contract management:

17-510 Participates in the development of the solicitation, evaluation of proposals and award. See Section 9.

17-520 After award, holds a pre-performance conference, if necessary.

17-530 Monitors Contractor performance.

17-540 Recommends modification of Contracts through change orders.

17-550 Holds meetings with Contractors as required, based on size and complexity. See Section 17-400.3, d, i.

17-560 Documents Vendor performance.

17-570 Seeks corrective action with the help of the Central Purchasing Division and the General Counsel’s Office.

17-580 Closes out Contracts

17-520 Pre-performance Conference

a. After award, Contract management begins with a “pre performance” conference. The conference can range from an informal meeting of the representative of the Contractor with the Contract Manager to a more formal meeting with staff from purchasing and the using departments within the Commission.

b. The complexity of the service and the governing Contract dictate the Conference attendees. The Contract/Construction Manager determines the attendees at the Conference.

c. The Conference is a review session for the Commission staff and Contractor Representatives who will participate in the performance or management of the Contract.

d. The Contract/Construction Manager determines if a conference is necessary and will call and chair the conference. The Contract/Construction Manager may request the presence of the Purchasing Manager or purchasing personnel at the conference. Minutes of the meeting are kept.

e. The conference will begin with an introduction of all attendees and the roles of each attendee in the successful completion of the Contract and a review of the following:

   (1) The Contract specifications and the terms and conditions.

   (2) Work schedule and delivery requirements.

   (3) MFD requirements of the contract.
(4) Payment procedures.

(5) Process for changes.

f. Contract/Construction Manager will maintain minutes of the Conference.

The following statement shall be typed on the face of the Commission’s Purchase Order/Contract: “The Contract /Construction Manager is ________________. His/Her telephone number is ______________.” The Contractor’s representative is _________.

**17-530 Monitoring**

a. The Contract/Construction Manager shall monitor each Contract for conformance with the terms and conditions of the Contract.

b. Depending on the service, the manner in which Contractor performance is monitored may involve any number of procedures, including regular and unscheduled inspections, complaints brought to management’s attention, reports, or surveys of consumers of the service.

c. Several factors, including the importance of the service to the public welfare and the continued operation of the Commission, will determine the type and frequency of monitoring.

d. Inspections, when called for, should be both reasonably often and random. Randomness helps assure the inspector that the observed performance is typical and not something prepared specifically for the inspection. All services shall be performed to a standard of reasonableness in the Industry.

e. At a minimum, the following steps must be taken to monitor Contractor performance:

1. Assure that the project is completed successfully on time within budget and in accordance with the terms and conditions of the Contract.

2. Communicate with suppliers/Contractors to assure understanding of the requirements within the boundaries of the Contract documents.

3. Evaluate Contractor performance against Contract requirements.

4. Review reports of completed work and test for actual completion of the work.

5. Process payment requests. Notifies departmental/division budget reviewer and Accounting Manager of any possible over expenditure as soon as identified and initiate steps to resolve.

6. Maintain a complete documented contract file of all the
related Contract actions.

(7) Monitor progress, watching for the need for any extension of time based on delays and ensure timely notification of anticipated overrun.

(8) Ensure Contractor compliance with quality assurance requirements.

(9) Evaluate and make recommendations on additional scope changes.

(10) Maintain and review MFD compliance including a review of MFD reports. Monitor Contractor's subcontracting.

(11) Ensure timely submission of required reports.

(12) Receive, inspect and accept or reject partial deliveries and final deliveries of all Contract deliverables as documented in the Contract.

17-540 Contract Change Orders

a. The Contract/Construction Manager must obtain a change order if there is a change required to the original scope of work of a Contract. Change Orders may be initiated by either the Contract/Construction Manager or the Contractor.

b. If the change order includes work outside the scope of the original Contract, it should be competitively bid. If the work cannot be competitively bid, the Contract/Construction Manager must obtain a waiver of competition to change the original scope of work. The Contract/Construction Manager must also review the possibility of impacting the Contract’s MFD compliance requirements with the change order.

c. The Commission uses three types of Change Orders:

   17-541 Minor Change Orders
   17-542 Major Change Orders
   17-543 Emergency Change Orders

17-541 Minor Change Orders

a. A Minor Change Order is appropriate if any of the following conditions apply:

(1) The addition of work tasks resulting in a change of no more than ten (10) percent to the original Contract price, not to exceed $25,000.

(2) The cumulative amount of the proposed change order and all previous change orders is less than ten (10) percent to the original Contract price, and does not exceed $25,000.

(3) The change order represents a subtraction of work tasks, resulting in a change of no more than 10% to the original
Contract price, not to exceed $25,000.

(4) An extension of performance does not result in more than 30 calendar days from the original Contract completion date.

b. The Contract/Construction Manager or Contractor will initiate a Minor Change Order.

c. If the Contract/Construction Manager and the Contractor agree that a Minor Change Order is necessary, the Contract/Construction Manager will forward the proposed change order to the Division Chief.

d. If the Contract/Construction Manager and the Contractor do not agree that the change order is needed, the Contract Manager and the Contractor will submit a statement to the Division Chief.

e. The Division Chief will determine whether the Minor Change Order is necessary.

f. If the parties cannot agree on the need for a Minor Change Order the information will be transmitted to the Department Head for resolution, with a copy to the appropriate Legal office.

g. If the Minor Change Order is determined to be necessary, the Contract/Construction Manager will follow these steps to process a Minor Change Order:

(1) Enter the required information on a Change Order Routing Sheet, including a brief explanation of the reasons for the Minor Change Order. Include statements from the Contractor supporting or opposing the Change Order. If the original Contract is involved in the Anti-Discrimination Program, the Contract Manager must include a statement tracking the MFD subcontract participation and an explanation if there is no additional MFD participation.

(2) Attach any supporting documentation and three copies of the Minor Change Order to the Routing Sheet.

(3) If additional funds are needed, determine that funds are available by checking with the Departmental or Divisional Budget Reviewer for the Minor Change Order. If funds are not available, contact Budget Reviewer to resolve funding issue with a budget adjustment or supplemental budget appropriation.

(4) Send the original and two (2) copies of the Minor Change Order to the Central Purchasing Division who will supply a copy to Accounting and one in the official contract files, both in Finance.

(5) The Central Purchasing Division will distribute two (2) copies of the Minor Change Order to the Contract/Construction Manager, while retaining the original for the official file. If a
grant is involved, a copy will be forwarded to the Grant Coordinator in the field and in Finance Department.

17-542 Major Change Orders

a. A Major Change Order is appropriate if the following conditions apply:

(1) The addition or subtraction of work tasks results in a change of more than ten (10) percent to the original Contract price or more than $25,000.

(2) The cumulative amount of all previous Minor Change Orders together with the proposed change order is more than ten (10) percent of the original Contract price or more than $25,000.

(3) A cumulative extension of the performance period is more than thirty (30) calendar days from the original Contract completion date.

(4) More than ten previous Minor Change Orders exist on the Contract, regardless of dollar amount or time.

(5) The change order represents a subtraction of work tasks, resulting in a change of more than ten percent to the original price.

b. Either the Contract/Construction Manager or Contractor may initiate a Major Change Order.

c. If a Major Change Order is needed, the Contract/Construction Manager will follow these steps to process a Major Change Order:

(1) Enter the required information on a Change Order Routing Sheet, including a brief explanation of the reasons for the Major Change Order.

(2) Include statements from the Contract/Construction Manager and the Contractor explaining the Major Change Order. Any statement supporting the Major Change Order must include the reason for the change in Contract amount, or why the period of performance is extended, and the effect of the change on the Contract.

(3) If the original Contract is involved in the Commission’s Anti-Discrimination Program, the Contract/Construction Manager must include a statement tracking the Change Order’s impact on MFD participation requirements and include additional MFD participation or include a statement justifying the lack of additional MFD participation.

(4) Determine that the funds are available from the Divisional/Departmental or Divisional Budget Reviewer. If not, prepare a request for a budget adjustment or initiate supplemental budget appropriation.

(5) Attach any supporting documentation and three copies of the
Major Change Order to the Routing Sheet.

(6) Send the Major Change Order to the Department Head or designee for review and approval after it has been reviewed for funding. If it has been determined that funds are available for the Major Change Order, the Department Head or designee approves or rejects the Major Change Order.

(7) Send the Major Change Order to the assigned County-level Legal office for review and approval.

(8) The Legal office will send the Major Change Order to the Contract Technician at the Purchasing Division who will route the Major Change Order as necessary.

(9) The Contract Technician will send the Contract package to the Purchasing Manager or designee, who will review the package and sign the Contract Routing sheet indicating that acceptable purchasing procedures were followed.

(10) The Contract Technician forwards contract package to the Accounting Division to certify if funds are available up to $100K and encumber. The Secretary-Treasurer will certify funds in excess of $100K. The Accounting Division will send the Contract package to the Contract Technician. If funds are not available, the Accounting Division will notify the Contract Technician and contact the Originator to resolve the issue.

(11) The Contract Technician will then forward the Contract package to Risk Management, if Risk Management has not already approved or if the Contractor's Insurance Certificate is not already on file. Risk Management will review insurance requirements and certificates and resolve any issues. Risk Management will sign the Contract Routing sheet and forward the Contract package to the Contract Technician, Executive Director, or Purchasing Manager, as applicable.

(12) The Executive Director will review the Major Change Order. If the original Contract was subject to the Anti-discrimination in Subcontracting program, the Executive Director will determine if the change in MFD participation is acceptable, based on Purchasing Manager recommendation, and sign the change order.

(13) The Executive Director or designee will return the Contract to the Contract Technician for attestation by Secretary-Treasurer or designee.

(14) The Secretary-Treasurer will attest the Major Change Order after it has been signed by the Executive Director, unless delegated to the Purchasing Manager.

(15) The Contract Technician will distribute two copies of the Major Change Order to the Contract Manager, retaining an original for the official Contract file. If a grant is involved, a copy will
17-543
Emergency Change Orders

a. An emergency change order is appropriate if there is an urgent need for the work and lack of the work would create an adverse effect on the public health and safety.

b. An emergency change order is appropriate if the need for the work is constant, and if, not done immediately, would incur additional charges for mobilization and demobilization of the contractor and his equipment.

c. The Contract/ Construction Manager will contact the Purchasing Manager and send the Purchasing Manager an emergency justification memo approved by Department Head or designee which must include, at a minimum:

(1) the nature of the emergency;

(2) the estimate cost of the goods/service required, together with the account OCA code.

(3) Purchasing Manager will e-mail Accounting to certify funds.

d. The Purchasing Manager will review the justification memo and send the memo, together with a recommendation, to the Executive Director.

e. The Executive Director will approve verbally.

f. The documentation and paperwork for the Emergency Change Order must be submitted within ten (10) days.
17-560 Documenting Vendor Performance

a. It is important to record and retain in writing any deviations from specifications encountered during the monitoring process and to do the same with any justifications for such deviations. Only by such meticulous record keeping can the performance "track record" of a Contractor be established as a factual matter, not as opinion, and used for corrective action.

b. Complaints or discrepancies on Contractor performance should be reported in writing as they occur. These reports are necessary in order for the Commission and the Central Purchasing Division to develop a Contractor history, evaluate Contractor performance, and, if required, to take appropriate action. At the completion of a Contract, complete a Vendor Performance Report and send to Central Purchasing Division.

c. The Contract/Construction Manager shall copy the Purchasing Manager on all written correspondence addressing performance failures.

17-570 Seeking Corrective Action

a. Contract/Construction managers should first try to resolve Vendor performance issues through direct contact (via phone or in person) with the person responsible for managing the delivery of the goods or service in question.

b. If the Contract Manager is unable to resolve the matter, the Central Purchasing Division should be contacted to discuss filing corrective actions.

17-580 Contract Close-out

Contract close-out is a part of Contract Management and therefore has the same purpose – to ensure that Contractors perform in accordance with the terms, conditions, and specifications of their Contracts or Purchase Orders.

The Contract close-out process can vary from very simple in the case of a fixed price supply order using a Purchase Order to very complex in the case of a multi-year construction Contract.

Timely Contract close-out may result in recovery of excess funds for possible use elsewhere, identifies the need for additional funds in a timely manner, and minimizes administrative costs for both the Contractor and the Commission.

17-581 Procedures

To ensure the timely close-out of Contracts, Departments should follow these close-out lead time standards:

17-581.1 Purchase Orders - Immediately upon completion of delivery and payment.

17-581.2 Contracts - Within six (6) months of confirmation of construction or service Contract completion.

These standards apply unless there are circumstances involving litigation or appeal; outstanding audit or financial issues; or in the case of termination. In such cases, the issue(s) must be resolved prior to
17-581.1 Purchase Orders

a. With respect to goods and services purchased using a Purchase Order, the transaction should be closed as soon as the Department Head or designee receives evidence that the goods or services have been received, inspected, and accepted and that full payment has been made.

b. The Originator should check the Performance Accounting System for active Purchase Order encumbrances.

c. If the system shows active Purchase Orders for which a Material Received Report has been completed and sent to the Disbursements Section yet not paid, the Originator should contact the Disbursements Section to find out why payment has been delayed.

d. The Originator will review its Encumbrance Report at least quarterly.

e. If Purchase Order encumbrances need to be liquidated, the Originator will provide the Central Purchasing Division in writing with the Vendor name, Purchase Order number, Buyer name, dollar amount to be liquidated, and why.

f. The Central Purchasing Division will process a change order, as required.

17-581.2 Contracts

a. The close-out process is more complex for Contracts, especially when progress payments, partial deliveries and many change orders are involved. However, the end objective is the same to determine if the Contractor fulfilled all requirements of the Contract and if the Commission fulfilled its obligations.

b. Contract/Construction Managers are responsible for initiating close-out of the Contract after receiving notice of its completion.

c. If final payment has not yet been made, a request for approval for final payment should be forwarded to the Disbursements Section. Construction, time and material, and labor hour Contracts typically retain a portion of the payments until final release and close-out. The Contract/Construction Manager also needs to notify the Central Purchasing Division of the status of any collateral agreements, such as maintenance agreements, fidelity bonds, grants, etc. The Contract Manager should also retain a copy of the final payment verification for the files.

d. Verify on-line with the Accounts Payable Section that final payment has been made either through reviewing on-line accounting system or by contacting Disbursements Section.

e. A Contract completion statement, which acknowledges that the Contractor fulfilled all requirements under the Contract and that the Commission has fulfilled its obligations, must be signed by the Contract/Construction Manager and placed in the Contract file,
together with a verification of the cost of the infrastructure. Contractor/Construction Managers are responsible for updating the Construction Pricing Form to be included with the contract completion statement. In executing the Contract completion statement, the Contract/Construction Manager must note acceptance together with a listing of items/services under warranty with a notation of each warranty expiration date. Send a copy of the statement together with a completed Vendor Performance Form, to the Central Purchasing Division.

f. If Contract encumbrances need to be liquidated, the Contract/Construction Manager will provide the Accounting Division or Disbursements Section with the Vendor name, Contract number, dollar amount to be liquidated, and why.
17-600 Activities to Avoid

Contract/Construction managers should not undertake the following activities:

a. awarding, agreeing to, modifying, increasing the scope and dollar value of, or signing any major change order or Contract;

b. making commitments or promises (oral or written) to any Contractor;

c. issuing instructions (oral or written) to a Contractor to start or stop work, unless emergency circumstances exist;

d. directing changes (oral or written);

e. authorizing delivery or disposition of government-furnished property;

f. granting deviations from or waiving any of the terms and conditions of the Contract;

g. changing the period of performance;

h. authorizing a change in subcontract or consultants without appropriate approvals of the change in MFD participation;

i. authorizing the use of overtime;

j. executing a Contract on behalf of the Commission without proper-delegated authority to do so; and

k. authorizing inappropriate uses of public resources.
18 Terminations

18-100 Policy

The Executive Director or designee is the only person authorized to terminate a Contract. Prior to terminating a Contract, the Executive Director will consult with the Division Chief, the Contract/Construction Manager, the Purchasing Manager and the General Counsel's Office, if appropriate.

18-200 Purpose

In certain instances, the Commission may terminate a Contract due to breach of Contract, but termination can also be used if the Commission no longer needs the item or service or lacks appropriation to compensate the Contractor. The four types of terminations include: termination for convenience, termination for lack of appropriations, termination for default, and termination by mutual consent.

18-300 Termination for Convenience or Lack of Appropriation

a. Termination for Convenience is used when the Commission determines that the Contract for goods, services, or construction, in whole or in part, are no longer required. Termination for Lack of Appropriation is used when the Commission determines that it does not have sufficient funds appropriated to cover the cost of the goods, services, or construction, in whole or in part, required by the Contract or Purchase Order.

b. Procedure:

(1) A Purchase Order or Contract may be canceled for the Commission’s convenience or for lack of appropriation by notifying the Contractor in writing. This notice specifies the extent to which performance under the Purchase Order or Contract is terminated and the date of termination. The written notification to the Contractor may be sent via certified mail or delivered in person, notice of receipt requested.

(2) If the date of termination is not practical, the Contractor immediately notifies the Commission. The Contractor and Contract/Construction Manager seek to establish a mutually acceptable date. If an agreement cannot be reached, the Commission, in its sole discretion, establishes the effective date of the termination.

(3) If the Purchase Order or Contract is for items being produced exclusively for the use of the Commission, and the Contractor must secure raw materials from other sources, the Contractor must not order additional materials or services except as may be necessary for completion of any portion of the work that was not terminated.

(4) The Commission may direct the delivery of the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of the work, or direct the Contractor to sell them, subject to the Contractor’s approval as to price. The Contractor may, with the
Commission’s approval, retain them, and apply a credit to the claim. The Contractor must complete performance on any part of the Purchase Order or Contract that was not terminated. Note: The Commission will only pay for work completed prior to the effective date of termination.

(5) The Contractor does have the right to protest a termination for convenience within ten (10) calendar days. The Contractor must submit any termination claim to the Purchasing Manager within sixty (60) calendar days after receipt of the Notice of Termination, unless the Commission allows an extension of this period. The Central Purchasing Division will determine what information is required in the claim.

18-400 Termination for Default

a. Termination for default is used:

(1) when a Contractor has failed to perform/deliver the required goods, services, or construction in the specified time;

(2) when a Contractor has failed to comply with the terms and conditions of the Contract; or

(3) when a Contractor has failed to make timely progress/delivery in the completion of the required goods, services, or construction.

b. Procedure:

(1) A Contractor may be considered in default if it fails to perform in accordance with the terms of the Purchase Order or Contract. Factors to be considered prior to taking any default action include:

i. the specific reasons for the failure; and

ii. The period of time needed to obtain the goods or services from other sources compared to the time that the delinquent Contractor could accomplish delivery or performance.

c. If a Contractor fails to perform, the Contract/Construction Manager should notify the Contractor of the failure via certified mail or in person with return receipt requested. This notice to the Contractor must be approved by the Purchasing Manager and the General Counsel’s office prior to it being sent. If the Contract Manager and the Contractor cannot reach a satisfactorily solution, the Commission may issue a letter to the Contractor itemizing the conditions of default.

d. If the matter is still not resolved, a "Show Cause Letter" approved by the Purchasing Manager and the General Counsel’s Office follows. The notice must be given in writing advising the Contractor that non-delivery or nonperformance is a breach of Contract and, if the deficiency is not corrected within a specified number of days,
the Commission will terminate the Contract for default and hold the Contractor liable for any excess costs. The Bonding Company may be notified at this juncture by the Contract/Construction Manager.

e. If a cure notice is given orally, it must be confirmed in writing as soon as possible. Upon the expiration of the cure period, if a satisfactory resolution has not been reached, the Purchasing Manager sends the Contractor a Termination for Default Letter and takes repurchase action by awarding to the next low Bidder or re-soliciting bids, as recommended by Central Purchasing Division.

f. If the repurchase results in increased costs to the Commission, the Commission invoices the original Contractor for the excess costs. Until the excess costs repayment has been received, the Contractor may be suspended from the Commission’s Bidders List. If repayment has not been made by the end of the specified period of time, collection action may be taken by the Commission. In addition, concurrent action to debar the defaulted Contractor can be initiated. The Contractor does have the right to protest the termination to the Purchasing Manager within ten (10) calendar days, but must submit any claim based upon the termination within sixty (60) calendar days after receipt of the notice of default.

g. Contractors shall not be liable for any excess costs if the failure to perform arises out of any act of war, order of legal authority, strikes, act of God, or other unavoidable causes not attributed to their fault or negligence. Failure of a Contractor's source to deliver is generally not considered to be an unavoidable cause.

18-500 Termination by Mutual Consent

Termination by mutual consent is used when, under special circumstances, both parties agree to Contract termination without fault or further costs to any party. If the termination is by mutual consent, the Contractor may not protest or appeal the termination.
19 Debarment

19-100 Policy
The Commission may debar or suspend a Contractor who has had prior or existing Contract relationship with the Commission and/or a Contractor who has submitted a bid or proposal for a new Contract with the Commission.

The Commission may also institute debarment proceedings against a Contractor who has been suspended or debarred from doing business with another governmental agency, whether Federal or State.

19-200 Purpose
To protect against fraud, waste, and abuse in the Commission. Increase accountability, and ensure consistency.

19-300 Definitions
Debarment. A shutting out or exclusion of an awardee for an extended period of time, because of previous illegal or irresponsible acts.

Suspension. A shutting out or exclusion of an awardee for a short period of time while investigating the probable cause for debarment.

19-400 Roles and Responsibilities
19-400.1 Commission Employees
a. Forwards information regarding possible grounds for suspension or debarment to the Purchasing Manager.

19-400.2 Purchasing Manager
a. Receives information regarding possible grounds for suspension or debarment and shares with the Secretary-Treasurer.

b. Provides reasonable notice to the firm or individual involved and reasonable opportunity for that firm or individual to be heard. If a hearing is conducted, the General Counsel will represent the Purchasing Manager and the Commission.

c. The Purchasing Manager determines whether to debar or suspend a firm or individual for cause. The debarment shall be for a period of not more than three years.

d. If the Purchasing Manager, after consultation with the General Counsel’s Office and Secretary-Treasurer, determines to suspend a firm from consideration for award, that suspension shall be for a period not to exceed three months.

19-400.3 Executive Director
a. Makes final and binding decisions upon appeal of the Purchasing Manager’s decision to debar or suspend a Vendor. Any further appeal must be made through the State of Maryland’s judicial system.
19-500 Causes for Debarment

a. Conviction for a criminal offense incident to obtaining or attempting to obtain a public or private contract or subcontract, or to performing of such Contract or subcontract.

b. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or honesty which currently, seriously, or directly affects responsibility as a Commission Contractor.

c. Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals.

d. Violation of Contract provisions of a character that is regarded by the Purchasing Manager to be so serious to justify debarment action.

e. Violation of the ethical standards set forth in Section 2 of this Manual, (i.e. collusion, bribery, kickbacks and conflicts of interest.)
This section outlines the procedures for debarring or suspending a Vendor.

### 19-610 Decision to Debar

a. The Purchasing Manager shall issue a written letter stating that debarment or suspension is under advisement with a copy to the Secretary-Treasurer and the General Counsel. The letter to the Vendor will provide an opportunity for a hearing, if requested.

b. After the hearing, if any, the Purchasing Manager will notify the Vendor of the decision to debar or suspend and will specify the Vendor’s rights concerning an appeal to the Executive Director.

c. A copy of the decision to debar or suspend shall be sent to the Vendor via certified mail with return receipt requested or delivered in person. The notice shall also notify the firm or individual of the appeal procedure.

### 19-620 Appeal

a. The decision of the Purchasing Manager shall be final and conclusive, except if,

b. Within ten (10) calendar days from receipt of the written decision, the debarred or suspended firm or individual mails or otherwise furnishes a written appeal to the Executive Director, or the suspended or the debarred firm or individual commences an action in court.

### 19-630 Sanctions

a. The Commission may, in suspending or debarring a person or business, disqualify it from participating in any one or any combination of the following Commission purchase-related activities:

1. submitting bids or proposals for Commission purchases;

2. receiving awards for Commission purchases;

3. performing as a subcontractor on Commission projects;

4. providing supplies for Commission Contracts, or

5. exercising a renewal option in a Commission Contract.

b. The Purchasing Manager also may commence action to terminate an existing Contract with the debarred Vendor.

### 19-640 Termination or Modification of Suspension or Debarment

a. Any firm may petition the Purchasing Manager to shorten, terminate or otherwise mitigate the suspension or debarment. This petition must demonstrate good cause for the relief requested unless the suspension or debarment decision was issued by the Executive Director in which case the only the Executive Director can modify the previous decision.

b. The debarred firm or individual may appeal the Purchasing Manager’s decision to shorten or mitigate the suspension or
debarment to the Executive Director within ten (10) calendar days of the receipt of the Purchasing Manager’s decision.

c. The decision of the Executive Director shall be final and binding.