



Board of County Commissioners  
Office of Purchasing  
**Title: Purchase Order Terms & Conditions**

Effective Date: 4/17/02 Supersedes Date: 12/20/96

Procedure No: PP-070

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I. Purpose

To provide basic terms and conditions of purchase of goods and services.

II. Scope

The terms and conditions apply to all purchases.

III. Responsibility

The Purchasing Manager is responsible for this procedure and ensures that it is reviewed annually or when deemed appropriate by legal counsel.

- A. Entire Agreement - The terms, specifications and drawings included in this order when duly executed constitute the entire agreement between the parties unless otherwise stated on the face of the order. No modification or waiver of terms of this agreement shall be binding, unless in writing, signed by a duly authorized representative of the buyer and confirmed by such a representative of the Contractor. This agreement shall be interpreted in accordance with the laws of the State of Florida.
- B. Delivery, Inspection and Acceptance - Delivery, inspections and acceptance will be at destination, unless otherwise provided. Until delivery and acceptance and after any rejections, risk of loss will be on the Contractor unless loss results from negligence of the County. Notwithstanding the requirements for any County inspection and test contained in specifications applicable to this contract, except where specialized inspections or tests are specified for performance solely by the County, the Contractor shall perform or have performed the inspections and tests required to substantiate that the supplies and services provided under the contract conform to the drawings, specifications and contract requirements listed herein, including if applicable, the technical requirements for the manufacturer's part numbers specified herein.
- C. Delivery of Excess Quantities of \$100 or Less - The Contractor is responsible for the delivery of each item quantity within allowable variations, if any. If the Contractor delivers and the County receives quantities of any item in excess of the quantity called for (after considering any allowable variations in quantity) such excess quantities will be treated as being delivered for the convenience of the Contractor. The County may retain such excess quantities up to \$100 in value without compensating the interests herein. Quantities in excess of \$100 will at the option of the County either be returned at the Contractor's expense or retained and paid for by the County at the contract unit price.



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D. Deliveries - In the event of failure to deliver material of the quality or within the time specified, the County may cancel order and buy elsewhere. Failure of the County to exercise this option with respect to any installment shall not be deemed a waiver with respect of future installments; if any.

E. Delivery Tickets - All shipments under this agreement shall be accompanied with delivery tickets, or sales slips, in triplicate, which shall contain the following minimum information.

1. Name of supplier
2. Purchase order
3. Date of call
4. Call number
5. Itemized list of supplies or services furnished.
6. Quantity, unit price and extension of each item less applicable discounts (unit price and extensions need not be shown when compatible with the use of automated systems provided that the invoice is itemized to show this information) and
7. Date of delivery or shipment

Upon delivery, the receiving office will retain one copy of the related delivery ticket and will sign the other two copies and return them to the supplier or his agent. One of these copies may subsequently be required to support the invoice.

F. Inspection, Acceptance and Title - Inspection and acceptance will be at destination unless otherwise provided. Title and risk of loss or damage to all items shall be the responsibility of the contract supplier until accepted by the County, unless loss or damage results from negligence by the County. The contract supplier shall be responsible for filing, processing and collecting all damage claims. However, to assist him in the expeditious handling of damaged claim, the County will:

1. Record any evidence of visible damage on all copies of the delivering carrier's Bill of Lading.
2. Report damage (Visible and Concealed) to the carrier and contract supplier, confirming such reports, in writing, within 15 days of delivery, requesting that the carrier inspect the damaged merchandise.
3. Retain the item and its shipping container, including inner packing material until inspection is performed by the carrier, and disposition given by the contract supplier.



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4. Provide the contract supplier with a copy of the carrier's Bill of Lading and damage inspection report.
- G. Government Regulations - Contractor warrants that all applicable laws and regulations of governmental authority, covering the production, sale and delivery of the materials specified herein, have complied with and shall indemnify and save County harmless from and against any liability or loss resulting from Contractor's failure to do so.
- H. Taxes - Counties are exempt from Federal Taxes on transportation charges and any Federal Excise Tax, if you prepay transportation charges do not pay tax as the County will not reimburse you for the taxes paid. Counties are exempt from State Sales Tax.
- I. Warranties - In addition to all warranties, established by statute or common law, or set forth elsewhere in this order, Contractor expressly warrants that all material or services covered herein shall conform to all specifications, drawings, samples and descriptions furnished or adopted by the County, and shall be of best quality and fit and sufficient for the purpose for which purchased, if specified hereon, merchantable, of good material and workmanship and free from all patent and latent defects. The County's failure to give notice to Contractor of any breach of warranty shall not discharge that Contractor's liability. Without limiting the generality of the foregoing, the Contractor agrees to be responsible for all defects in design, workmanship and materials, which may become apparent within twelve months of receipt by County, unless otherwise specified.
- J. Patents - Contractor shall protect and indemnify County against all claims, judgments and expenses arising from infringement or alleged infringement of any United States patent by any of the goods delivered hereunder. Contractor shall defend or settle at its own expense any proceeding brought against County for such infringement provided Contractor is notified promptly of the commencement of such proceeding and is given authority, information and assistance by the County for the defense or settlement thereof.
- K. Installation - If this order requires the services of the Contractor's experts or employees on the County's premises, such experts or employees shall not thereby be deemed to be the agents or employees of the County. Such parties shall be subject to the County's safety rules and fire regulations. Contractor assumes full responsibility for their acts and omissions and agrees to save the County harmless from any claims arising therefrom and accept exclusive liability for payroll and other taxes imposed upon the employer by law.



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Contractor will undertake to keep the materials and premises involved free from any lien whatever for materials and labor incident to the performance of Contractor's obligations hereunder. If Contractor furnishes material and services for construction and improvement for a lump sum amount, Contractor agrees to furnish an analysis thereof as County may reasonably require for accounting purposes. Contractor shall be solely responsible for materials furnished by County or other than a charge basis in connection with this order.

- L. Non-Disclosure - Without prior written consent of the County in each instance, Contractor shall not reveal to a third party the details, characteristics or any information on materials made to the special order of County or use reproductions thereof in any promotional media or reveal that County is purchasing the materials ordered hereunder.
- M. Condition for Assignment - This (contract or purchase order) shall not be assigned in full or part without the consent of the County. Such consent shall not relieve the Contractor from its obligations and liabilities.
- N. Changes - The Purchasing Manager may at any time, by a written order, and without notice to the sureties, make changes, within the general scope of this contract, in (i) drawing, designs, or specifications, where the supplies to be furnished are to be specially manufactured for the County in accordance therewith; (ii) method of shipment or packing and (iii) place of delivery if any such change causes an increase or decrease in the cost of, or the time required for performance of this contract, whether changed or not changed by any such order, and equitable adjustment shall be made by written modification of this contract. Any claim by the Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor of the notification of change provided that the Purchasing Manager if he decides that the facts justify such action, may receive and act upon any such claim if asserted prior to final payment, under the contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Protest." However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.
- O. Supplies are of domestic origin unless indicated by contract supplier.
- P. Invoicing and Payment - The contractor shall be paid upon submission of properly certified invoices to the purchaser at the prices stipulated on the contract at the time the order is placed, after delivery and acceptance of goods, less deductions if any, as provided. Invoices shall contain the contract number, purchase order number and the contractor's Federal Employer Identification Number. An original and one (1) copy of the invoice shall be submitted. Failure to follow these instructions may result in delay in processing invoices for payment.



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**INTEREST PENALTIES:** Payment shall be made in accordance with Section 218.701, Florida Statutes, which states the contractor's rights and the County's responsibilities concerning interest penalties and time limits for payment of invoices.

- Q. Discounts - On any discount, time will be computed from date of satisfactory delivery of the supplies or from date correct invoice is received, whichever is the later date.
- R. Protest - Any protest by a bidder/proposer must be filed with the purchasing department for a review by the Purchasing Manager. If the bidder/proposer is not satisfied with the results of the review by the Purchasing Manager, he may then file a protest through the Office of Purchasing with the Board of County Commissioners for further review. The decision of the board will be final.
- S. Convict Labor - In connection with the performance of work under this contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment except as provided by Public Law 89.176, September 10, 1965 (1BU.S.C.40821ch21) and Executive order 11255, December 29, 1973.
- T. Covenant Against Contingent Fees - The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon any agreement or understanding for a commission percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the County shall have the right to amend this contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.
- U. Contingencies - Neither party shall be liable for delays or defaults due to acts of God, government authority or public enemy, war, fires, floods, epidemics, strikes, labor troubles, freight embargoes or contingencies reasonably beyond its control. The party so affected upon prompt written notice to the other party shall be excused from making or taking deliveries hereunder to the extent of such prevention or restriction. At County's option, deliveries so omitted shall be made on notice thereof to the vendor, upon cessation of such contingency even though such might have been operative at the date of this order.



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- V. Gratuities - (a) The County may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this contract if it is found after notice and hearing by the Board of County Commissioners duly authorized representative, that gratuities (in the form of entertainment, gifts or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor to any officer or employee of the County with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making or any determinations with respect to that performing of such contract provides, that the existence of the facts upon which the Board of County Commissioners or their duly authorized representative make such findings, shall be in issue and may be reviewed in any competent court (b) in the event this contract is terminated as provided in paragraph, (a) hereof the County shall be entitled (i) to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor and (2) as a penalty in addition to any other damages to which it may be entitled by law to exemplary damages in an amount (as determined by the Board of County Commissioners their duly authorized representative) which shall be not less than three nor more than ten times the costs incurred by the Contractor in providing any such gratuities to any such officer or employee; (c) The rights and remedies of the County provided in the clause shall not be conclusive and are in addition to any other rights and remedies provided by law or under the contract.
- W. Termination for Default - The Purchasing Manager by written notice may terminate this contract, in whole or in part, for failure of the Contractor to perform any of the provisions hereof, in such event the Contractor shall be liable for damages including the excess cost of reprocurring similar supplies or services; provided that if (i) it is determined for any reason that the Contractor was not in default or (ii) the Contractor's failure to perform is without his and his subcontractor's control, fault or negligence, the termination shall be deemed to be a termination for convenience under paragraph X. As used in this provision the term Asubcontractor@ and Asubcontractors@ means subcontractors at any tier.
- X. Termination for Convenience - The Purchasing Manager by written notice, may terminate this contract, in whole or in part, when it is in the best interest of the County. If this contract is for supplies and is so terminated, the Contractor shall be compensated for goods delivered up to the date of termination at the discretion of the County. To the extent that this contract is for services and is so terminated, the County shall be liable only for payment in accordance with the payment provisions of this contract for services rendered prior to the effective date of termination.



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- Y. Assignment of Claims - Claims for monies due or to become due under this contract shall be assigned only pursuant to the Assignment of Claims Act of 1940, as amended (3)U.S.C.203,41U.S.C.161. However, payments to an assignee of monies under this contract shall not, to the extent provided in said act, as amended, be subject to reduction of set-off (See Clause M).
- Z. Extent of Obligation - The County is obligated under a call-type Purchase Order only to the extent of authorized calls actually placed against this agreement.
- AA. Pricing - The prices to the County for all purchases made under this agreement shall be as low as or lower than those charged the supplier's most favored customer in addition to any discounts for prompt payment.

**NON-DISCRIMINATION CLAUSE UNDER FEDERAL CONTRACTS**

During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following; employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers representative of the contractor's commitments under section 202 of executive order no. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor will comply with all provisions of executive order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.



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5. The contractor will furnish all information and reports required by executive order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in executive order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in executive order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of executive order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event the contractor becomes involved in or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States. Escambia County, Florida, is an equal opportunity employer and does not discriminate against any employee or applicant for employment because of race, creed, color, sex, age or national origin.