

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Procurement	CODE NUMBER: AC-4-1
TITLE: Direct Material Purchases	ADOPTED: 01/19/2021
	AMENDED:
	ORIGINATING DEPARTMENT: Procurement Management

Purpose/Scope:

Pursuant to Florida Statutes, Section 212.08(6), and Florida Administrative Code, Rule 12A-1.094, Lee County is exempt from Florida Sales Tax for the direct purchase of construction materials, supplies and/or equipment incorporated into a construction project. This administrative code establishes the procedures for the direct purchase of these materials.

The purpose of this direct purchase procedures guidance is to serve as a source of instruction to all County Divisions, Departments and employees regarding the direct purchase procedures and process of Lee County, Florida.

The adoption of this direct purchase procedures guidance and the approval of any subsequent revisions to such by the Board of County Commissioners of Lee County, Florida shall authorize the policies and procedures contained herein for official use in County business. The Board of County Commissioners has authorized the County Manager or designee to approve these procedures.

The scope of this guidance, and the policies and procedures contained herein, governs all Divisions and Departments under the jurisdiction of the Board of County Commissioners, as well as all payment transactions which are paid for directly from County funds under the control of the Board of County Commissioners.

This guidance and the policies and procedures contained herein preempts all previously existing manuals, policies and procedures.

Policy/Procedure:

I. Terms

For the purpose of this Administrative Code, the following terms have the meanings indicated which are applicable to both the singular and plural thereof:

- a) Change Order (CO): A written order authorizing a change in the scope of work, contract amount or contract time.
- b) Certificate of Entitlement: Certificate issued by the County to each Supplier and to the Contractor to affirm that the Materials purchased from that Supplier will go into or become a part of a Public Work.
- c) Contractor: A business entity that supplies and installs tangible personal property that is incorporated into or becomes a part of a public facility pursuant to a Public Works contract with a governmental entity exercising its authority in regard to the public property or facility. Contractors include, but are not limited to, persons engaged in building, electrical, plumbing, heating, painting, decorating, ventilating, paperhanging, sheet metal, roofing, bridge, road, waterworks, landscape, pier, or billboard work. This definition includes subcontractors.
- d) County: Lee County or Owner.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Procurement

CODE NUMBER: AC-4-1

- e) Direct Material Purchase (DMP): A purchase made directly by the County from a Supplier, and not through a Contractor.
- f) Direct Purchase Order (DPO): A Purchase Order issued by the County directly to the Contractor's Supplier for the purchase of Materials exempt from sales tax.
- g) Material: Any Material, supplies, or equipment incorporated into a Public Work.
- h) Project Manager: The County employee that acts as the project manager and is the direct point of contact for the other parties involved with the project.
- i) Public Work: Projects for public use or enjoyment, financed and owned by the government, in which private persons undertake the obligation to do a specific piece of work that involves installing tangible personal property in such a manner that it becomes a part of a public facility. For purposes of this rule, a public facility includes any land, improvement to land, building, structure, pipeline, road, utilities or other fixed site and related infrastructure thereon owned or operated by a governmental entity where governmental or public activities are conducted. The term "Public Work" is not restricted to the repair, alteration, improvement, or construction of real property and fixed works, although such projects are included within the term.
- j) Purchase Order (PO): A written authorization issued by the County for a Supplier to deliver Material or services at a specified price, which becomes a legally binding contract upon acceptance by the Supplier. An E1 contract number has the same meaning. The County will issue appropriate document.
- k) Supplier: A business entity providing Material for the project.
- l) Supplier Requisition Form (SRF): A list of Material and price quotes provided by the Contractor to the County for issuance of a Direct Purchase Order (DPO) by the County. This may also be referred to as a "Vendor Requisition Form (VRF)." This form is available at <https://www.leegov.com/procurement/forms>.
- m) Supplier List: A list provided by the Contractor of the Suppliers the County may direct purchase Material from.

II. Direct Material Purchase Election

All bids are to be submitted with all applicable taxes included. Upon contract award of a construction project, the County will review the schedule of values with Contractor and determine which items will be obtained by the County using Direct Material Purchase. Contractor will submit a Supplier List to County of the Suppliers that can provide the needed Materials for direct purchase. All Direct Material purchases must come from a third party supplier.

III. Purchase Order Request - Supplier Requisition Form

When the Materials for the Direct Material Purchase are determined, the Contractor shall issue a Vendor Requisition Form (VRF) addressed to the County. The VRF shall contain all of the following minimum information and be submitted at least twenty (20) business days prior to the Purchase Order being issued:

- a) Date of VRF
- b) Project name, number and location
- c) Contractor contact information including email address
- d) Subcontractor contact information

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Procurement

CODE NUMBER: AC-4-1

- e) Supplier's full business name, address, complete contact numbers - telephone, fax, e-mail, etc.
- f) Any special instruction; for delivery and contact person
- g) Quantity of each Material
- h) Description of all Material including item and/or serial number
- i) Unit cost of each Material
- j) Extended price of each Material (quantity times unit cost)
- k) Sales tax on Material to be purchased. The Florida Sales Tax rate will be assessed based on the rate established by the Florida Department of Revenue on the date the Material is purchased.
- l) Shipping - The VRF and the quote must indicate FOB Destination or Job Site.
- m) Total price for all Material ordered shall be provided in the form of a detailed quote from the Supplier indicating the unit price, quantity, extended prices and sales tax
- n) Signature and printed name of Contractor
- o) Signature of the Project Manager

County will issue a Certificate of Entitlement to each Supplier and to the Contractor to affirm that the tangible personal property purchased from that Supplier will go into or become a part of a Public Work. All VRFs shall be sent by E-mail to the Project Manager

IV. Change Order Request

At the same time the VRF is requested, a Change Order must be submitted/executed for reduction of the Contractor's PO and/or contract amount for issuance of the DPO. For this CO, the following documents are required:

- a) Completed and approved original COs
- b) Complete description of proposed change
- c) The CO must indicate the amount of tax savings
- d) Certificate of Entitlement (per Supplier & per DPO)
- e) Completed VRF indicating the description quantity, price, email address and shipping address.

V. Issuance of Purchase Order

The County will issue a DPO in the amount of the VRF less sales tax. The DPO will contain the following minimum information:

- a) Date of DPO;
- b) Project name, number and location;
- c) Supplier's full business name and address;
- d) Special instruction for delivery and contact person;
- e) The authorized quantity, Material description, unit cost, and extended price for each Material;

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Procurement

CODE NUMBER: AC-4-1

- f) Total price for Material ordered; and
- g) Certificate of Entitlement.

The County will provide the DPO to the Supplier, the Contractor, and any applicable subcontractor(s). Upon receipt of the DPO by the Supplier, the Supplier, Project Manager and Contractor shall coordinate and schedule delivery of the Material to the job site or storage facility.

After delivery, the Supplier must issue and deliver the invoice directly to the County at Lee County Finance – P O Drawer 2238, Fort Myers, FL 33902-2238 as specified on DPO or e-mailed to LeeCountyAP@LeeClerk.org. The invoice must clearly reference the County's DPO number. All Material is to be delivered to a location designated by the County, where the County assumes all responsibility and risk upon completion of the delivery.

VI. Invoice Approval and Payment

Upon receipt of the Supplier's invoice the Project Manager will authorize payment of the Supplier's invoice. The County will issue payment to Supplier in the amount approved by the Project Manager. The amount paid to the Supplier will not exceed the amount of the DPO.

VII. Contractor's Pay Request

The Contractor shall be responsible for maintaining details of the direct Material purchased and tax savings. The Material sourced by Direct Material Purchase by the County and the resulting sales tax savings must appear on each pay request along with all other COs. The Contractor's pay request:

- a) Must have Direct Material Purchases (DMP) deducted from pay request, and
- b) Must show complete details of all COs and DPOs for the project.

Project Manager will reconcile pay request with their records. Contractor will be contacted to resolve any discrepancies, and the County will provide a summary as transactions occur.

VIII. End of Process

Project Manager will close all DPOs once all Materials have been delivered and all invoices have been approved and paid. No CO is required for this action. Any discounts offered by Suppliers for prompt payment will be applied to the account of the County.

IX. General

- a) Direct Material Purchases shall be made without any additional cost to the County.
- b) The County will purchase the Material from Suppliers selected by the Contractor for the price originally negotiated by the Contractor.
- c) Issuance of DPOs by the County shall not relieve the Contractor of any contract responsibilities for any Material purchased by the Contractor.
- d) Except as otherwise outlined herein, the Contractor shall remain fully responsible for: insurance, theft, storage, damage during installation, coordination, quantities ordered, submittals, protection, scheduling, shipping, security, expediting, receiving, installation, cleaning and all applicable warranties, etc. The Contractor must maintain the Builder's Risk policy to include all Material and equipment stored and installed on-site.
- e) Upon completion of delivery, the County shall assume all risk and remain fully responsible for all Material directly purchased by the County. This will include, but not be limited to, insurance, theft,

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Procurement

CODE NUMBER: AC-4-1

storage, coordination, quantities ordered, submittals, protection, scheduling, shipping, security, expediting, receiving, cleaning and all applicable warranties, etc.

- f) All invoices must contain the County's DPO number in order to be accepted and processed for payment.

Specific direct purchase policies and procedures are available at <https://www.leegov.com/procurement/>.

CERTIFICATE OF ENTITLEMENT

The undersigned authorized representative of Lee County, (hereinafter “Governmental Entity”), Florida Consumer’s Certificate of Exemption Number 85-80126622170C-4, affirms that the tangible personal property purchased pursuant to Purchase Order Number _____ from _____ (Vendor) on or after _____ (date) will be incorporated into or become a part of a public facility as part of a public works contract pursuant to contract # _____ with _____ (Name of Contractor) for the construction of _____.

Governmental Entity affirms that the purchase of the tangible personal property contained in the attached Purchase Order meets the following exemption requirements contained in section 212.08(6), F.S., and rule 12A-1.094, F.A.C.:

You must initial each of the following requirements.

- ____ 1. The attached Purchase Order is issued directly to the vendor supplying the tangible personal property the Contractor will use in the identified public works.
- ____ 2. The vendor’s invoice will be issued directly to Governmental Entity.
- ____ 3. Payment of the vendor’s invoice will be made directly by Governmental Entity to the vendor from public funds.
- ____ 4. Governmental Entity will take title to the tangible personal property from the vendor at the time of purchase or of delivery by the vendor.
- ____ 5. Governmental Entity assumes the risk of damage or loss at the time of purchase or delivery by the vendor.

Governmental Entity affirms that if the tangible personal property identified in the attached Purchase Order does not qualify for the exemption provided in section 212.08(6), F.S. and rule 12A-1.094, F.A.C., Governmental Entity will be subject to the tax, interest, and penalties due on the tangible personal property purchased. If the Florida Department of Revenue determines that the tangible personal property purchased tax-exempt by issuing this Certificate does not qualify for the exemption, Governmental Entity will be liable for any tax, penalty, and interest determined

to be due.

I understand that if I fraudulently issue this certificate to evade the payment of sales tax I will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

Under the penalties of perjury, I declare that I have read the foregoing Certificate of Entitlement and the facts stated in it are true.

Signature of Authorized Representative

Title

Purchaser's Name (Print or Type)

Date

Federal Employer Identification Number: 59-6000702

Telephone Number: 239-533-8881

You must attach a copy of the Purchase Order to this Certificate of Entitlement.

Procurement Management Approval:

Signature

Date