

as provided in Chapter 3 of these Procurement Rules. General planning Contracts or Task Work Orders may be approved by the Executive Director in accordance with the expenditure limits set forth in Chapter 3 of these Procurement Rules. All general planning Contracts or Task Work Orders issued by the MPO pursuant to the library of service providers shall conform to the requirements of Chapter 4 (16) (1) of these Procurement Rules.

CHAPTER 6. SURPLUS PROPERTY

- (1) Applicable law. All Surplus Property shall be disposed of in accordance with Federal requirements; Chapter 274, Florida Statutes; and the provisions of this Section. Depending on the cost and age of the Surplus Property, and whether the Surplus Property was acquired with Federal funds, approval from FTA or FHWA may be needed before being disposed.
- (2) Market value exceeds \$35,000. All sales of personal property (except trade-in personal property) that has become obsolete and unusable, or the sale of which is otherwise determined to be in the best interest of MPO, the market value of which is expected to be greater than thirty-five thousand dollars (\$35,000), shall be made to the highest, most responsive and responsible bidder obtained in accordance with Chapter 4 of these Rules. Property eligible to be sold under this subsection may also be sold through an appropriately advertised public auction (Publication of notice not less than one week or more than two weeks prior to sale in a newspaper having a general circulation in the Broward County area). Surplus property may be disposed of for value to any Person or may be disposed of for the value without bids to any governmental unity or political subdivision or offered by sale or donation to private nonprofit agencies as defined in Section 273.01(3), Florida Statutes. All such sales or donations shall have the prior approval of the MPO Executive Director consistent with FTA or FHWA requirements.
- (3) Market value between \$5,000 and \$35,000. All sales of personal property (except trade-in personal property) that has become obsolete and unusable, or the sale of which is otherwise determined to be in the best interest of MPO, the market value of which is expected to be greater than five thousand dollars (\$5,000) but less than thirty five thousand dollars (\$35,000), shall be made to the highest, most responsive and responsible bidder obtained in accordance with the procedures in Chapter 4 of these Rules. Property eligible to be sold under this subsection may also be sold through and appropriately advertised public auction (publication of notice not less than one week or more than two weeks prior to sale in a newspaper having a general circulation in the Broward County area). Surplus property may be disposed of for value to any Person or may be disposed of for the value without bids to any governmental unity or political subdivision, or offered by sale or donation to private nonprofit agencies as defined in Section 273.01(3), Florida Statutes. All such sales or donations shall have the prior approval of the MPO Executive Director consistent with FTA and FHWA requirements.
- (4) Market value less than \$5,000. All sales of personal property (except trade-in personal property) that has become obsolete or unusable, or the sale of which is otherwise

determined to be in the best interest of the MPO, and the value of which is expected to be less than five thousand dollars (\$5,000), may be disposed of for value to any Person or may be disposed of for value without bids to the State, to any governmental unit or to any political subdivision, BMPO staff, or, if the property is without commercial value, it may be donated, destroyed, or abandoned. Property, the value of which is estimated to be under \$5,000, may be disposed of in the most efficient and cost-effective means as determined by the Executive Director. Sale may be made to the highest and most responsible bidder. Property eligible to be sold under this section may also be sold under the procedures contained in Chapter 4 of these Rules or at an appropriately advertised public auction.

- (5) Awarding agency share. For the sale of original or replacement items of equipment, the fair market value of which exceeds \$5,000, the Accounting Manager shall make available to the awarding agency an amount calculated by multiplying the current market value or proceeds from the sale by the awarding agency's share of the equipment.

CHAPTER 7. DEBARMENT AND SUSPENSION PROCEDURES

- (1) Authority: After thirty (30) days notice to the Person involved and a hearing before the Executive Director, the Executive Director, after consultation with the General Counsel, shall have authority to debar a Person for cause from consideration for award of future Contracts. The debarment shall be for a period commensurate with the seriousness of the cause(s), but no more than three (3) years. If suspension precedes a debarment, the suspension period shall be considered in determining the debarment period. Where the offense is willful or egregious, a longer term of debarment will be imposed, up to a period of five (5) years. The Executive Director shall also have the authority to suspend a Person from consideration for award of a Contracts if he or she:
 - (a) as adequate evidence that there may be a cause for debarment of the Person; and
 - (b) Concludes that immediate action is necessary to protect BMPO's interests.
 - (c) If no debarment proceeding follows the suspension, the suspension shall not be for a period exceeding twelve (12) months.
- (2) Cause for Debarment. The causes for debarment, when based on a preponderance of the evidence, include the following:
 - (a) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private Contract or subcontract, or in the performance 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 business honesty which currently, seriously, and directly affects responsibility as a contractor.

- (c) Conviction for any public entity crime as defined under Section 287.133, Florida Statutes, or any federal public entity crime law.
 - (d) Conviction under state or Federal antitrust statutes arising out of the submission of Bids or Proposals.
 - (e) Violation of Contract provisions, including deliberate failure without good cause to perform in accordance with the terms and specifications or within the time limit provided in the Contract; or a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more Contracts with BMPO or another governmental entity, provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment.
 - (f) Refutation of an offer by failure to provide bonds, insurance or other required certificates within the time period set forth in Contract documents.
 - (g) Refusal to accept a purchase order, agreement, or Contract, or to perform provided such order was issued timely and in conformance with the offer received or a Change Directive.
 - (h) Presence of principals or corporate officers in the Business, who were principals within another Business at the time when the other Business was suspended within the last three years under the provisions of this subsection.
 - (i) Violation of the ethical standards for public business set forth in Florida Statutes.
 - (j) Unilateral withdrawal of an Offer before one hundred eighty (180) days have elapsed from the date of due date of Offers or a time specified in the ITB, RFP, or RFQ.
 - (k) Violation of this Policy's Cone of Silence requirements.
- (3) Decision: The Executive Director shall issue a written decision to debar or suspend. The decision shall state the reason for the action taken and, if the decision is to debar, the length of the debarment; and, notice to the debarred or suspended Person of his or her right to appear before the MPO Board to appeal the Executive Director's decision.
- (4) Notice of Decision: A copy of the decision for the debarment or suspension shall be mailed or otherwise furnished no later than three (3) business day from the decision to the debarred or suspended Person and any other party intervening.

(5) Hearing Procedure for Debarment, Suspension of Vendors

- (a) Right of Appeal: Any Person dissatisfied or aggrieved with the notification of the Executive Director's determination regarding a determination to debar or suspend must, within ten (10) calendar days of such notification, appeal said determination to BMPO in accordance with the procedures contained in this subsection, or it shall have waived such right.
- (b) Hearing Date: Within ten (10) calendar days from the receipt of the notice of appeal, BMPO shall schedule a hearing to be held at the next regularly scheduled meeting of the MPO Executive Committee, at which time the Person shall be given the opportunity to demonstrate why the decision of the Executive Director should be overturned.
- (c) Hearing Procedure:
 - 1. BMPO shall cause to be served upon the Person a notice of hearing, stating the time and place of the hearing. The notice of hearing shall be sent by certified mail, return receipt requested, to the mailing address of the Person.
 - 2. The Person shall have the right to be represented by counsel, to call and examine witnesses, to introduce exhibits, to examine opposing witnesses on any relevant matter, even though the matter was covered under direct examination, and to impeach any witness regardless of which party first called him to testify.
 - 3. In any hearing before the MPO Executive Committee, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. All other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible whether or not such evidence would be admissible in a trial in the courts of Florida.
 - 4. Within thirty (30) calendar days from the hearing, the General Counsel shall complete and submit to the Executive Director a final order consistent with the MPO Executive Committee's decision regarding the appeal. The Executive Director shall then sign the order and issue the final order to the Person who filed the appeal. The final order shall include the MPO Executive Committee's findings of fact and conclusions as to whether the debarment or suspension should be upheld or overturned.
 - 5. All Persons must comply with this procedure before challenging the decision pursuant to any other procedure. All attorney's fees, costs, and expenses incurred by the Person who files the appeal to the MPO Executive Committee shall be solely borne by that Person regardless of the outcome of the appeal.

(6) Reinstatement

- (a) Grounds: Request for reinstatement shall be made in writing based upon the following: (i) discovery of new and material evidence not previously available; (ii) dismissal of the indictment or reversal of the conviction; and (iii) bona fide change in ownership or management sufficient to justify a finding of present responsibility.
- (b) Procedures: The request for reinstatement shall be forwarded by the Executive Director to the MPO Board for a determination on reinstatement. The determination whether to reinstate shall be based on the written submission of evidence, without further hearing. Upon consideration of the written submission and any response from the Executive Director, the MPO Board shall make a determination whether or not reinstatement is warranted under the standards set forth above.

CHAPTER 8. VENDOR PROTEST PROCEDURES

The following are the procedures for protesting Solicitations and Contract awards:

- (1) Protest Policy: BMPO provides Interested Parties with the opportunity for an administrative review of written Protests and strives to resolve any Protest expeditiously at the Contracting Officer's level to the maximum extent possible.
- (2) Filing a Protest: Only an Interested Party may file a Protest regarding the Solicitation Documents issued by BMPO by filing a written Notice of Protest with BMPO within seventy-two (72) hours from the availability date of the Solicitation Documents set forth in the advertisement posted on BMPO's website, excluding Saturdays, Sundays and legal holidays observed by BMPO or from the date of the issuance of any addenda if specifically relating to the content of the addendum. Failure to file a written Notice of Protest within the provided timeframes, for any reason whatsoever, shall constitute a complete and absolute waiver of Protest rights.

With respect to any Protest of Contract award, the Notice of Protest shall be filed within the Protest Period. BMPO shall require in its Solicitation Documents that an Interested Party post with its formal Protest a protest bond in the amount of 1% of the Contract amount or \$5,000, whichever is greater. Payment in the form of a cashier's check is acceptable. In the event the Interested Party receives an adverse determination on its Protest, the bond shall be forfeited to BMPO.

An Interested Party shall file a formal written Protest within ten (10) business days of filing a Notice of Protest. In order to be considered, the Protest must contain: (i) the Interested Party's name, address, telephone number, email address, and taxpayer identification number; (ii) identification of the Procurement or Contract at issue; (iii) a complete and concise statement of the grounds for the Protest, supported by relevant documents; (iv)

identification of all Persons with information germane to the Protest; (v) a chronology of efforts made to resolve the matter prior to filing the Protest; and (vi) a statement of the relief requested.

Filing of a Written Notice of Protest or Formal Protest: All Written Notices of Protests or Formal Protests must be filed with the Contracting Officer. All Protests must be received at the address shown on the Solicitation Documents during normal office hours of 9:00 am to 5:00 pm, local time. Failure to file a Notice of Protest or a Protest as discussed herein, shall constitute a complete and absolute waiver of any such rights.

- (3) Stay of Contract Award. In the event of a timely protest, the Contracting Officer shall stay the award of the contract, unless, after consulting with the MPO attorney, the Contracting Officer determines that the award of the contract without delay is necessary to protect substantial interests of the MPO.
- (4) Protest Committee. The protest committee shall have the authority to review, settle and resolve the protest. The protest committee shall be comprised of the Contracting Officer, the finance officer, and, if applicable, the director or designee of the department or office for which the contract is to be awarded. The committee's review shall be informal. The Contracting Officer, or the director or designee of the department or office for which the contract is to be awarded, shall serve as the chairperson of the committee. The Contracting Officer shall provide for the disclosure of information regarding the protest to the appropriate awarding agency. The MPO General Counsel, or designee, shall be counsel to the committee.
- (5) Protest Committee Determination. The Contracting Officer shall reduce the protest committee's decision to writing and shall transmit or otherwise furnish a copy of the decision to the Interested Party. If the protest committee determines that the pending award of a contract or any element of the process leading to the award involved a significant violation of law or applicable rule or regulation, all steps necessary and proper to correct the violation shall be taken. If the protest committee determines that the protest is without merit, the process leading to the award shall proceed forthwith.

The decision of the protest committee shall be final and conclusive unless, within seven (7) business days from the date of such decision, BMPO receives from the Interested Party a written request for review of the decision addressed to the Executive Director. The decision of the Executive Director shall be final and conclusive.

- (6) Remedies: If BMPO determines that a Protest is valid, the Executive Director, at his or her sole discretion, may: (i) Direct the Contracting Officer to issue a new or amended Solicitation; (ii) award the Contract or recommend that the MPO Executive Committee or MPO Board award the Contract, if the Contract amount exceeds the Executive Director's approval authority; (iii) terminate or suspend performance of an awarded Contract that is the subject of the Protest; or (iv) take any other action permitted by law to promote compliance with BMPO policies and applicable law.

- (7) Informal Resolution: The Contracting Officer may, at his or her sole discretion, agree to meet with the Interested Party within seven (7) calendar days, excluding Saturdays, Sundays and legal holidays observed by BMPO, after the filing of a Notice of Protest to attempt to resolve the matter.

CHAPTER 9. UNSOLICITED PROPOSAL POLICY

- (1) Definition

An unsolicited proposal is a written proposal for a new or innovative idea that is submitted to BMPO on the initiative of the offeror for the purpose of obtaining a contract or other agreement with BMPO, and that is not in response to a request for proposal, invitation to bid or any other BMPO initiated solicitation or program. All unsolicited proposals are subject to approval by the authorization granted in Chapter 3 of the BMPO Procurement Rules. As the term is used herein, it shall also refer to any proposals submitted in response to the advertisement referenced in Section (5)(a)(ii) of this Policy. The term “proposal” is also used herein to reference an unsolicited proposal.

- (2) Policy

It is the policy of the BMPO to accept the submission of new and innovative ideas.

Unsolicited proposals allow unique and innovative ideas or approaches that have been developed to be made available for use in accomplishment of the BMPO mission. Unsolicited proposals are offered with the intent that BMPO may enter into a contract with the offeror for research and development, new services, or other efforts supporting the BMPO mission, and often represent a substantial investment of time and effort by the offeror.

A valid unsolicited proposal must:

- (a) Be innovative and unique;
- (b) Be independently originated and developed by the offeror;
- (c) Be prepared without BMPO supervision, endorsement, direction, or direct BMPO involvement, except for preliminary meetings with BMPO staff for informational purposes and/or requests for information; and
- (d) Include sufficient detail to permit a determination that BMPO support could be worthwhile and the proposed work could benefit the agency’s mission responsibilities.

All unsolicited proposals will be treated as public records, in accordance with Florida Statutes, and will be made available to the public upon request.

(3) Content of Unsolicited Proposals

Upon receipt of an unsolicited proposal, BMPO staff shall ensure that the proposal includes the following information to permit consideration in an objective and timely manner. If the proposal does not contain the information required in (3)(a) and (3)(b) below, BMPO staff shall request the missing information from the proposer. The proposal cannot be accepted until receipt of the requested missing information.

- (a) Basic information:
 - (i) Offeror's name and address and type of organization; e.g., profit, non-profit, educational, small business;
 - (ii) Names and telephone numbers of technical and business personnel to be contacted for evaluation or negotiation purposes;
 - (iii) Identification of proprietary data to be used only for evaluation purposes;
 - (iv) Names of other Federal, State, or local agencies or parties receiving the proposal or funding the proposed effort;
 - (v) Date of submission; and
 - (vi) Signature of a person authorized to represent and contractually obligate the offeror.
- (b) Information Required
 - (i) Concise title and abstract (approximately 200 words) of the proposed effort;
 - (ii) A reasonably complete discussion stating the objectives of the effort or activity, the method of approach and extent of effort to be employed, the nature and extent of the anticipated results, and the manner in which the work will help to support accomplishment of BMPO's mission;
 - (iii) Names and biographical information on the offeror's key personnel who would be involved, including alternates; and
 - (iv) Type of support needed, if any, from the BMPO; e.g., facilities, equipment, materials, financial or personnel resources.
- (c) Fee
 - (i) A fee of \$5,000 payable to the "Broward Metropolitan Planning Organization" must accompany an unsolicited proposal or proposal submitted in response to the advertisement addressed in Section (5)(a)(ii) of this Policy ("Payment"). Proposals submitted without the Payment shall not

be accepted. Unsolicited proposals submitted by governmental entities shall be exempt from the payment of any fees.

- (ii) Payment shall be made by cash, cashier's check, or any other non-cancelable instrument. Personal checks will not be accepted.
- (iii) If the Payment is not sufficient to pay BMPO's costs of evaluating the unsolicited proposal or negotiating a contract with the successful proposer, BMPO shall request in writing additional amounts required based on good faith efforts to estimate these additional amounts. The proposer submitting the proposal shall pay the requested additional fee within thirty (30) days. Failure to pay any additional fees shall result in the proposal being rejected or the negotiations being suspended or terminated.
- (iv) BMPO shall refund any Payment, or subsequent additional fees, in excess of the costs of evaluating the proposal and negotiating the contract after the evaluation and/or negotiation is complete.
- (v) The fee requirement can be waived if it conflicts with federal requirements or can be waived or reduced by the Executive Director upon presentation of justification by the proposer.
- (vi) Unsolicited proposals valued at \$100,000 or less shall be exempt from the Payment requirement in Section (3)(c)(i) and (3)(c)(iii). However, the BMPO Executive Director or his/her designee shall have the authority to require a payment (in an amount not to exceed the Payment amounts provided herein) and/or a subsequent fee be paid by the proposer in the event that the staff time devoted to the unsolicited proposal, or outside consulting costs, is/are substantial, as determined solely by the BMPO Executive Director or his/her designee.

(4) Supporting Information

The unsolicited proposal shall also include the following information:

- (a) Financial plan that includes in sufficient detail for meaningful evaluation: (a) proposed price or total estimated cost for the effort; and (b) identifies all required funding sources and timing of funding ;
- (b) Period of time for which the proposal is valid (a 6-month minimum is suggested);
- (c) Type of contract preferred;
- (d) Proposed duration of effort;

- (e) Brief description of the organization, previous experience, relevant past performance, and facilities to be used;
- (f) Other statements, if applicable, about organizational conflicts of interest, security clearances, and environmental impacts; and
- (g) The names and telephone numbers of any BMPO points of contact (whether staff or outside consultants) already contacted regarding the unsolicited proposal.

(5) BMPO Procedures

- (a) The following procedures shall be followed by the BMPO as part of the consideration of the acceptance and negotiation of an unsolicited proposal:

- (i) Within sixty (60) days of receipt of an unsolicited proposal and before initiating a comprehensive evaluation, BMPO staff shall determine if the proposal:

- 1. Is a valid unsolicited proposal, meeting the requirements of this Policy Is related to BMPO's mission;
 - 2. Contains sufficient technical and cost information for evaluation; and
 - 3. Has been approved by a responsible official or other representative authorized to obligate the offeror contractually.

- (ii) If the proposal(s) meets these requirements, BMPO shall promptly acknowledge receipt and publicly advertise on its website its receipt of the proposal and solicitation for receipt of any additional proposals. Additional proposals are due within thirty (30) days of the publication date of the advertisement or the date stated in the advertisement, whichever is later. Following the due date for proposals, BMPO shall promptly begin to process any related unsolicited proposals received.

- (b) Comprehensive Evaluation:

- (i) When performing a comprehensive evaluation of an unsolicited proposal, evaluators (comprised of BMPO staff) shall consider the following factors, in addition to any others appropriate for the particular proposal:

- 1. Unique, innovative and meritorious methods, approaches, or concepts demonstrated by the proposal;
 - 2. Overall scientific, technical, or socioeconomic merits of the proposal;

3. Potential contribution of the effort to BMPO's specific mission;
 4. The offeror's capabilities, related experience, facilities, techniques, or unique combinations of these that are integral factors for achieving the proposal objectives;
 5. The qualifications, capabilities, and experience of the proposed principal investigator, team leader, or key personnel critical to achieving the proposal objectives; and
 6. The realism of the proposed cost.
- (ii) The evaluators shall notify the BMPO Executive Director of their recommendation(s) when the evaluation is completed.
- (iii) A favorable comprehensive evaluation of an unsolicited proposal does not, in itself, justify awarding a contract without providing for full and open competition.
- (iv) BMPO staff shall have at least ninety (90) days from the due date for proposals stated in the advertisement provided for in Section (5)(a)(ii) to complete its comprehensive evaluation and provide its recommendation to the BMPO Executive Committee. When deemed necessary due to the complexity of the issues or other special circumstances, this timeframe may be extended by the BMPO Executive Director.
- (c) Contract Negotiations:
- (i) BMPO may commence negotiations on a sole source basis when an unsolicited proposal has received a favorable comprehensive evaluation by BMPO staff and has been endorsed and approved by the BMPO Executive Committee and the requirements for a sole-source procurement in accordance with BMPO's Procurement Rules and procedures have been met.
- (d) Proposal Selection and Contract Award:
- (i) The selection of a successful proposal and/or award and execution of any contract or agreement relating to an unsolicited proposal is subject to approval by the BMPO Executive Committee or BMPO Board. The BMPO Procurement Rules shall govern the drafting of any contract between the BMPO and the proposer.
 - (ii) If an unsolicited proposal involves the use of any federal funds, in whole or in part, the award and execution of any contract or agreement relating to the unsolicited proposal is contingent upon it satisfying any applicable federal requirements, which in the case of a conflict with the provisions of this policy shall prevail.

(e) Rejection of Unsolicited Proposal

BMPO shall return an unsolicited proposal to the offeror at any time, citing reasons, when it is determined that the proposal or the proposal's subject matter:

- (i) Is substantially available to BMPO without restriction from another source;
- (ii) Closely resembles a proposed or pending competitive acquisition requirement;
- (iii) Does not relate to BMPO's mission;
- (iv) Does not demonstrate an innovative and unique method, approach, or concept, or is otherwise not deemed a meritorious proposal; or
- (v) Fails to meet the requirements listed herein, including but not limited to, the Payment requirement and the requirements of Section (5)(d)(ii).

(f) Cone of Silence.

- (i) Any communications between a proposer and any board member, staff member, or consultant of BMPO regarding its proposal are strictly prohibited from the date on which the proposer's proposal is received by BMPO or the date of advertisement (whichever is earlier) through the date of contract award. If multiple unsolicited proposals are received prior to advertisement, the cone of silence shall apply to each proposer as of the date of proposal submittal.
- (ii) The only exceptions to this are: (i) any communications with the Procurement Officer or BMPO's designated point of contact; (ii) site visits to the proposer's facilities (iii) any communications made on the record at a publicly noticed meeting of BMPO, or (iv) negotiation meetings held by the Procurement Officer.
- (iii) Any violation of the Cone of Silence requirements shall constitute grounds for immediate and permanent rejection of the proposer's proposal. At the Procurement Officer's sole discretion, it may also serve as grounds for the voiding of the resulting contract with the proposer.