

# Procurement Policies



Version 2024.08

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## Mission

The Charleston County Park and Recreation Commission will improve the quality of life in Charleston County by offering a diverse system of park facilities, programs, and services.

## Vision

To be distinguished as a nationally accredited and financially sustainable park and recreation agency through our commitment to preserving our natural, historical & cultural resources, offering a clean, safe, and exceptional visitor experience that is accessible to all.

## Core Values

**Community Enrichment** - Enriching lives through education and programs

**Fun** - Delivering fun to customers

**Leadership** - Providing professional staff development

**Exceptional Customer Service** - Always focusing on you

**Quality** - Striving for quality throughout the park system

**Safety** - Ensuring safe and secure environments

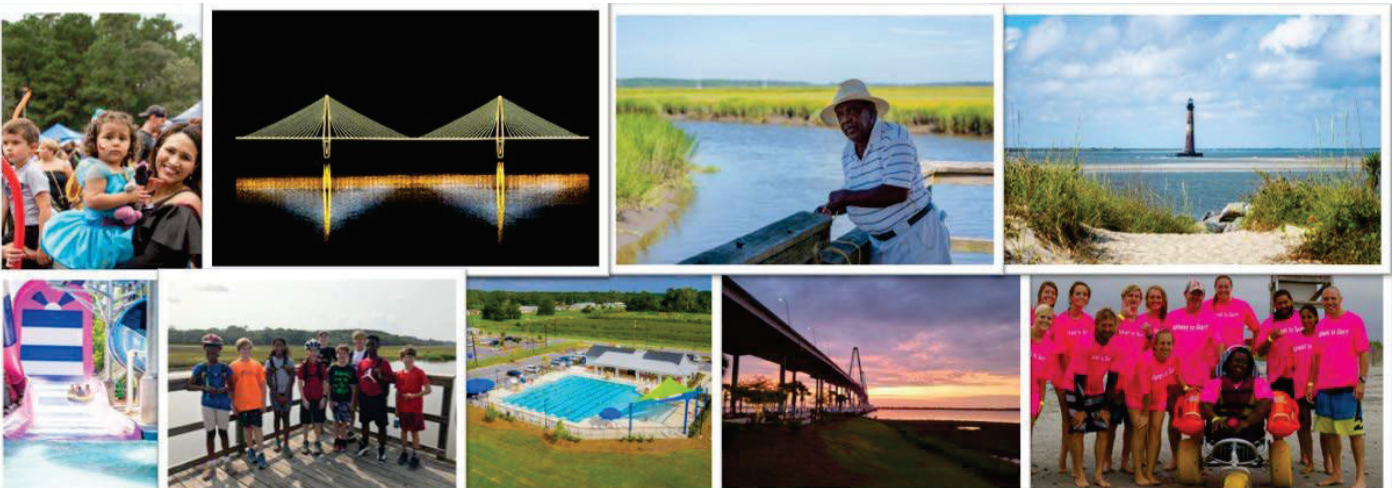
**Health & Wellness** - Providing and promoting healthy lifestyle opportunities

**Accessibility** – Removing barriers to make programs and facilities accessible for all

**Diversity and Inclusion** - Creating a park system that reflects the diversity of our community

**Stewardship** - Preserving and conserving cultural, natural, and historical resources

**Building a Legacy** - Maintaining a vision for the future while sustaining a healthy park system



## **Article 1 – General Provisions**

### **Purpose and Application**

The purpose of these policies is to provide for the fair and equitable treatment of all persons involved in public purchasing by the Charleston County Park and Recreation Commission ("CCPRC"), to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

These policies apply to the procurement of supplies, services, and construction by CCPRC after the effective date of these policies. These shall apply to every expenditure of public funds irrespective of their source. These policies repeal all previously issued policies, rules, or customs pertaining to public procurement for CCPRC. Upon adoption of these policies, CCPRC shall publicly disclose on CCPRC's website.

### **Public Awareness to Procurement Information**

Procurement information shall be a public record to the extent required by Chapter 3 of Title 30 (The Freedom of Information Act), South Carolina Code of Laws, 1976 (as amended), with the exception that commercial or financial information obtained in response to a "Request for Proposals" or "Requests for Quotations" which is privileged and confidential shall not be disclosed without the written consent of the party supplying the information.

### **Compliance with Federal and State Requirements**

Where procurement involves the expenditure of federal or state assistance or contract funds, CCPRC and its staff shall comply with such federal or state laws, which are mandatorily applicable, and shall authorize additional procedures not presently reflected in these policies.

### **Standards of Conduct**

All actions involving the procurement of supplies, services, or construction for CCPRC shall comply with the provisions of Chapter 13, of Title 8, (State Ethics Act), South Carolina Code of Laws, 1976 (as amended).

### **Definitions**

The words defined in this section shall have the meanings set forth below whenever they appear in this Code, unless:

the context in which they are used clearly requires a different meaning;

**OR**

a different definition is prescribed for a particular Article or provision.

**Business** means any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, or any other private legal entity.

**Change Order** means a written order signed by the Executive Director or designee, directing the contractor to make changes which the Changes clause of the contract authorizes.

**Construction means** the process of building, altering, repairing, improving, or demolishing any public structure or building, or other public improvements of any kind to any public real property.

**Contract** means all types of agreements, regardless of what they may be called, for the procurement of supplies, services, or construction.

**Contract Modification** means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

**Contractor** means any person having a contract with a governmental body.

**Data** means recorded information, regardless of form or characteristic.

**Designee** means a duly authorized representative of a person holding a superior position.

**Person** means any business, individual, union, committee, club, other organization, or group of individuals.

**Procurement** means buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contracts.

**Procurement Officer** means any person duly authorized to enter into contracts and make written determinations with respect hereto.

**Services** means the furnishing of labor, time, or effort by a contractor or supplier. This term shall not include employment agreements or collective bargaining agreements.

**Small Purchases** means the acquisition of budgeted low-cost services or supplies on an informal basis, addressing competition at certain dollar limits. Where the estimated base cost of an individual item or service will not exceed \$50,000, the procurement may be made under small purchase procedures provided, however, that procurement requirements shall not be artificially divided so as to constitute a small purchase.

**Supplies** mean all property, including but not limited to equipment, materials, insurance, and leases of real property, excluding land or a permanent interest in land.

## **Article 2 - Procurement Organization**

### **Authority and Duties**

1. Principal Public Procurement Officer. CCPRC's Executive Director may designate a staff person to serve as the principal public procurement officer for CCPRC, and shall be responsible for the procurement of supplies, services, and/or construction in accordance with these policies.
2. Duties. In accordance with these policies, the Principal Public Procurement Officer shall:
  - a) procure or supervise the procurement of all supplies services and construction needed by CCPRC;
  - b) establish and maintain programs for the inspection, testing, and acceptance of supplies services, and construction.

### **Procurement Authority**

The general authority relating to the procurement of supplies, services and construction is hereby vested in the Executive Director and may be further delegated by the Executive Director as he/she deems necessary.

### **Collection of Data Concerning Public Procurement**

The Procurement Officer shall cooperate with CCPRC appointed auditor in the preparation of statistical data concerning the procurement, usage and disposition of all supplies, services, and construction.

## **Article 3 - Source Selection and Contract Formation**

### **Method of Source Selection**

Unless otherwise required by law, all Commission contracts or purchases utilizing public funds shall be awarded by an appropriate procurement process, pursuant to the following sections of these policies:

### **Competitive Sealed Bidding**

- a. **Condition for Use:** Except as authorized in sub-articles [Negotiated Procurement: Competitive Sealed Requests for Proposals](#) through [Utilization of State Purchasing Contracts](#). herein, contracts of \$50,000 or greater shall be awarded by competitive sealed bidding.
- b. **Invitation for Bids:** An Invitation for Bids (IFB) shall be issued, and shall include a purchase description and pertinent contractual items and conditions applicable to the procurement.
- c. **Public Notices:** Public notice on the IFB shall be given not less than ten calendar days prior to the date set forth therein for the opening of bids. Such public notice may include public publication in a newspaper of general circulation, website, trade publications, South Carolina Business Journal. If a product or service is offered by only a limited number of sources, direct notification to these sources is acceptable.
- d. **Bid Opening:** Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the IFB. The amount of each bid, and such other relevant information as may be specified by regulation, together with the name of each bidder, shall

be recorded; the record and each bid shall be open to public inspection after award. The Executive Director or designee may require mandatory attendance at pre-bid conferences as a condition precedent to bidding. If attendance at the conference is mandatory, bids shall not be considered or opened from bidders who fail to attend the conference.

- e. **Bid Submission and Bid Evaluation:** All responsive bids shall be considered for award without alteration or correction, except as authorized in these policies. No bids shall be opened or considered if a bidder fails to attend a mandatory pre-bid conference. Bids shall be evaluated based on CCPRC's requirements, which may include criteria to determine acceptability such as inspection, testing, quality of workmanship, delivery, and suitability for a particular purpose. Other objective criteria than those included in the IFB may be utilized, and CCPRC specifically reserves this right to use criteria, other than cost, in addition to those outlined in the IFB. CCPRC reserves the right to base its awards on criteria other than cost, and may accept bids in such instances when it is deemed most advantageous to CCPRC. If a bid that is not the lowest dollar cost is accepted, the reasons for acceptance must be fully documented and approved by the Executive Director or designee, using the current approval authority.
  
- f. **Correction or Withdrawal of Bids:** Withdrawal of inadvertently erroneous bids before award may be permitted if there is reasonable evidence of a clerical or mathematical error. After bid opening, no changes in bid prices, or other provisions of bids prejudicial to the interest of CCPRC or fair competition, shall be permitted. Correction of bid may be permitted where there is clear and convincing evidence of both:
  - 1) a mathematical or clerical error which is apparent from the four corners of the bid; and
  - 2) clear and convincing evidence of the intended bid in the sole opinion and at the discretion of CCPRC. Except as otherwise provided, all decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by written documentation.

CCPRC has the authority to reject any or all bids or may request a rebid. Bids shall remain valid and in effect for 60 days from the date of bid opening.

- g. **Award:** The contract may be awarded by CCPRC, within 60 days by written notice to the lowest, responsible, and responsive bidder whose bid meets the requirements outlined in the IFB, as determined by CCPRC. In the event the recommended bid award exceeds available funds, as certified by CCPRC Staff, the Executive Director or designee is authorized, in situations where time or economic considerations preclude re-solicitation of work of a reduced scope, to negotiate an adjustment in the bid price, including changes in the bid requirements, with the low responsive and responsible bidder, in order to bring the bid within the amount of available funds. In the event an agreement cannot be reached with the low bidder, the Executive Director or designee is authorized to negotiate with each successive low bidder in order to bring the bid within the amount of available funds. Additional criteria as defined in Bid Acceptance and Bid Evaluation, may be utilized.

## Negotiated Procurement: Competitive Sealed Requests for Proposals

- a. **Conditions for Use:** For contracts of purchases of \$50,000 or more, the Executive Director or designee may determine that the use of competitive sealed bidding is either not practicable or not advantageous (such as procurement of professional services or when price is not deemed the most appropriate basis for award) to CCPRC, a contract or purchase may be awarded by competitive sealed proposals for procurement.
- b. **Request for Proposals:** Proposals shall be solicited through a Request for Proposals (RFP).
- c. **Request for Qualifications:** Prior to receiving requests for proposals, the Procurement Officer may solicit requests for qualifications of firms interested in submitting proposals. The Procurement Officer may limit competition to three prospective contractors who are deemed qualified to perform work of the character required in the request for proposals; however, the Procurement Officer should insure full and open cooperation among those firms who are qualified.
- d. **Public Notice:** Public notice of the RFP and/or requests for qualification shall be given in the same manner as provided in the [Competitive Sealed Bidding, Public Notice](#).
- e. **Proposal Opening:** Proposals shall be evaluated and scored by staff as to whether Commission requirements have been met. Staff may determine that only a limited number of proposals fall within the competitive range and limit further negotiations with such contractors in accordance with subsection (f) below. Proposals shall be available for public inspection after the contract award; however, proprietary or confidential information marked as such in each proposal shall not be disclosed without prior written consent of the offeror.
- f. **Discussion with Responsible Offerors and Revisions to Proposals:** At the discretion of the evaluation staff, discussion may be conducted with qualified offerors who submit proposals and who fall within the competitive range for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions there shall be no disclosure of any confidential information derived from proposals submitted by competing offerors or of any competitor's fee structure. Vendors shall stipulate in writing those parts of their proposals deemed to be confidential. After discussion and interviews staff may solicit best and final offers from offerors, and conduct final evaluation.
- g. **Award:** The contract shall be awarded to the responsible offeror whose proposal is determined in writing to be most advantageous to CCPRC, taking into consideration the requirements outlined in the RFP. The recommendation shall contain the basis on which the award is made. Other objective criteria than those included in the RFP may be utilized, and CCPRC specifically reserves this right to use criteria in addition to those outlined.

## Competitive Best Value Bidding or Negotiating

- a. **Conditions for Use:** When staff determine that the use of competitive sealed bidding or negotiating is either not practicable or not advantageous to CCPRC, a contract may be entered into by competitive best value bidding or negotiating subject to the provisions of [Competitive Sealed Bidding](#) and the ensuing regulations, unless otherwise provided for in this section.
- b. **Best Value Bidding or Negotiating:** The purpose of best value bidding or negotiating is to allow factors other than price to be considered in the determination of award for specific goods and/or services based on pre-determined criteria identified by staff.
- c. **Public Notice:** Adequate public notice of the request for the solicitation shall be given in the same manner as provided in [Public Notices](#).
- d. **Bid Opening or RFP/RFQ Closing:** At bid opening or closing, the only information that will be released is the names of the participating bidders or offerors. Cost information will be provided after the ranking of bidders or offerors and the issuance of award.
- e. **Evaluation Factors:** The best value bid or offer shall state the factors to be used in determination of award. Cost must be a factor in determination of award. Best value bid or offer evaluation factors may be defined to include, but are not limited to, any of the following as determined by the agency in its sole discretion and not subject to protest:
  - 1) operational costs that the CCPRC would incur if the bid or offer is accepted;
  - 2) quality of the product or service, or its technical competency;
  - 3) reliability of delivery and implementation schedules;
  - 4) maximum facilitation of data exchange and systems integration;
  - 5) warranties, guarantees, and return policy;
  - 6) vendor financial stability;
  - 7) consistency of the proposed solution with the CCPRC's planning documents and announced strategic program direction;
  - 8) quality and effectiveness of business solution and approach;
  - 9) industry and program experience;
  - 10) past performance;
  - 11) vendor expertise with engagement of similar scope and complexity;
  - 12) extent and quality of the proposed participation and acceptance by all user groups;
  - 13) proven development methodologies and tools;
  - 14) innovative use of current technologies and quality results; and
  - 15) corporate experience.

## Small Purchases: Requests for Quotations

- a. Purchase of goods or service between \$10,000 - \$50,000 Procurement of goods or services where the estimated base cost of an individual item or service for budgeted items less than \$50,000 but more than \$10,000 may be made through small purchase procurements and be

supported by three written or documented quotations from qualified sources with the approval of the Executive Director or designee. Formal advertising of such procurements shall not be required; however, the Finance Division must receive at least three written or documented prices from three qualified sources. Requests for prices from such suppliers of goods or services shall be made on a random, rotational basis so as to afford maximum competition among prospective contractors. Upon receipt of three documented or written quotations, the award may be made to the lowest offeror using CCPRC's internal purchase order and/or standard short form contract for supplies, services or construction, if applicable.

- b. Purchase of goods or services under \$10,000. Staff may contract with vendors of services or goods on a random, rotational sole source basis judged to be in the best interest of the agency. Purchases shall be documented using CCPRC's standard internal purchase order and/or short form contract.

### **Sole Source Procurement**

A contract or purchase may be made for supplies and services, or construction item without competition when the Executive Director or designee determines in writing that there is only one practical source for the required supply, service, or construction item and provisions of the Authorization of Purchases are met.

### **Emergency Procurement**

Notwithstanding any other provisions of these policies, the Executive Director or designee may make, or authorize others to make, an emergency procurement when there exists a threat to public health, welfare, or safety under emergency conditions, significant waste of resources, or where normal daily operations are affected; provided that such emergency procurements shall be made with such competition, and such public notice, as is practicable under the circumstances. If an emergency procurement is in the amount of \$50,000 or more, the Commission shall be informed of said procurement at the next Commission meeting.

### **Architect-Engineers and Land Surveying Services.**

See [Selection Process for Architect-Engineer and Land Surveying Services](#).

### **Utilization of State & Local Purchasing Contracts**

Items available through state and local purchasing agreements need not be acquired by the competitive bidding process as defined in the Procurement Policies. State and local contracts will be utilized when available and appropriate.

### **Cancellation of Invitation for Bids (IFB), Request for Proposals (RFP), or Request for Quotations (RFQ)**

An IFB, RFP, or RFQ, or other solicitation may be cancelled, or any or all bids or proposals may be rejected in whole or in part, when it is in the best interest of CCPRC. The reason for cancellation shall be made part of CCPRC records.

## Responsibility of Bidders and Offerors

Determination of Responsibility. After receipt of bids or proposals, staff shall conduct a pre-award survey to evaluate the responsibility of a prospective contractor in accordance with this section.

- a. **Commission Standards of Responsibility:** Factors to be considered in determining whether the standards of responsibility have been met include whether a prospective contractor has:
  1. the appropriate financial, material, equipment, facility, personnel resources, and expertise, or ability to obtain them;
  2. a satisfactory record of performance and integrity;
  3. qualified legally to contract with CCPRC; and
  4. supplied all necessary information in connection with the inquiry concerning responsibility.
- b. **Duty of Contractor to Supply Information:** The prospective contractor shall supply information requested by the Executive Director or designee concerning the responsibility of such contractor. If such contractor fails to supply the requested information, the Executive Director or designee shall base the determination of responsibility upon any available information or may find the prospective contractor non-responsible if such failure is unreasonable.
- c. **Demonstration of Responsibility:** The prospective contractor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:
  1. evidence that such contractor possesses such necessary items;
  2. an acceptable plan to subcontract for such necessary items; or
  3. a documented commitment form, or explicit arrangement with, a satisfactory source to provide the necessary items.
- d. **Justification for Contract Award:** Before awarding a contract, the Executive Director or designee must be satisfied that the prospective contractor is responsible.
- e. **Written Determination of Non-Responsibility:** If a bidder or offeror who otherwise would have been awarded a contract is found non-responsible, a written determination of non-responsibility setting forth the basis of the finding shall be prepared by the Executive Director or designee. The final determination shall be made a part of the procurement file.

A written determination of non-responsibility of a bidder, or offeror, may be made after a diligent pre-award survey. Failure to timely or properly complete other public or private contracts or provisions Commission contracts may consider grounds for a finding of non-responsibility. The failure of a bidder, or offeror, to promptly supply information in connection with an inquiry as to responsibility may be grounds for a determination of non-responsibility.

## Pre-Qualifications of Suppliers, or Contractors

Prospective suppliers or contractors may be pre-qualified for particular types of supplies, services, and construction. If the Executive Director or designee deems it necessary all interested suppliers or contractors shall be afforded a reasonable opportunity to pre-qualify so as to maximize competition.

Pre-qualification may be made on the basis of specific prior experience, prior performance with CCPRC, certification and other appropriate criteria by CCPRC or its staff. If pre-qualification is required for a specific procurement, bids or quotations shall not be received from suppliers or contractors who do not pre-qualify.

#### **Cost or Price Data**

A prospective supplier or contractor may be required to submit cost or pricing data when the contract is expected to exceed \$50,000, or prior to any change order or contract modification, including adjustments to contracts required in connection with the initial pricing of the contract.

A contractor, actual or prospective, required to submit cost or pricing data in accordance with this section, shall certify that, to the best of their knowledge and belief, the cost or pricing data submitted is accurate, complete, and current as of a mutually specified date prior to the award of the contract, or the pricing of the change order or contract modification.

Any contract awarded, change order, or contract modification, under which submission and certification of cost or pricing data are required, shall contain a provision stating that the price to CCPRC, including profit or fees, shall be adjusted to exclude any significant sums by which CCPRC finds that such price was increased because the contractor-furnished cost or pricing data was inaccurate, incomplete, or not current as the date agreed upon between CCPRC and the contractor.

#### **Contract Formation**

Subject to the limitations of this section, any type of contract which will promote the best interest of CCPRC may be used; provided however, that the use of a cost-plus-a-percentage-of-cost contract is prohibited. Written contracts or internal purchase orders authorized by the Executive Director or designee are required. For contracts more than \$10,000 and under \$50,000 CCPRC will normally use a standard short form contract. For contracts in excess of \$50,000 CCPRC may adopt standard forms for construction, architect, engineer and service contracts. With the approval of the Executive Director or designee, Division Directors may enter into routine contracts or service agreements, so long as funds are certified as available for such use. Under the authorization of Division Directors, Assistant Directors, or other appropriate staff, may negotiate for services in anticipation of contractual agreements.

#### **Determination Prior to Use**

Prior to the utilization of a multi-year contract, it shall be determined in writing:

- a. that estimated requirements cover the period of the contract and are reasonably firm and continuing; and
- b. that such a contract will serve the best interest of CCPRC by encouraging effective competition or otherwise promoting economics in Commission procurement.

#### **Cancellation Due to Unavailability of Funds in Succeeding Fiscal Periods**

All multi-year contracts shall contain a clause stating that when funds are not appropriated, or otherwise made available, to support continuation in a subsequent fiscal period, the contract may be cancelled by CCPRC.

### **Right to Inspect Plant**

CCPRC may, at reasonable times, inspect the part of the plant or place of business of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded by CCPRC and the books and records of such contractors and subcontractors.

### **Right to Audit Records**

CCPRC may, at reasonable times, audit the books and records of any person who has submitted cost or pricing data to the extent that such books and records relate to such cost or pricing data. Any person who receives a contract, change order, or contract modification shall maintain such books and records that related to such cost or pricing data for five years from the date of final payment under the contract, unless a shorter period is otherwise authorized in writing.

CCPRC shall be entitled to audit the books and records of a contractor or subcontractor under any contract or subcontract to the extent that such books and records relate to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor or subcontractor for a period of five years from the date of final payment under the prime contract and subcontract unless a shorter period is otherwise authorized in writing.

### **Reporting of Anti-Competitive Practices**

When, for any reason, collusion or other anti-competitive practices are suspected among any bidder or offerors, a notice of the relevant facts shall be transmitted to CCPRC's attorney for possible legal action.

### **Procurement Records**

- a. **Contract File:** All determinations and other written records pertaining to the solicitation, award, or performance of a contract shall be maintained in a contract file by the Procurement Officer.
- b. **Retention of Procurement Records:** All procurement records shall be retained and disposed of in accordance with appropriate records retention guidelines and schedules. If a contract is being funded in whole or in part by assistance from a federal agency, then all procurement records pertaining to that contract shall be maintained for five years from the closeout date of the assistance agreement or the final disposition of any controversy arising out of the assistance agreement.

### **Maximum Practicable Competition**

All specifications developed in the procurement process shall be drafted as to promote overall economy for the purpose intended and encourage maximum free and open competition in satisfying CCPRC's needs, and shall not be unduly restrictive.

## **Article 4 - Financial Authorization and Approval of Purchases**

### **Authorization of Purchases**

Commission staff members are authorized to procure budgeted items of supplies, services, and construction within the provisions of these policies.

For expenditures budgeted by line item in the current fiscal year budget, unit purchases in the amount of \$50,000 or greater shall be given public notice and come before CCPRC for award and approval based upon an appropriate procurement process. Budgeted unit expenditures less than \$50,000 need not come before CCPRC for award or approval so long as the award is made to the lowest responsive and responsible bidder. For purchases of \$10,000 to \$50,000, at least three written or documented quotations from qualified sources shall be solicited and purchase based upon the most economical and responsible quotation received. Budgeted unit expenditures of \$1 to \$10,000 shall be purchased on a random, rotational sole source basis judged to be in the best interest of the agency.

### **Progress Payments and Retainage**

Routine progress payments, retainage, and matching funds expended as a result of Commission approved or awarded contract commitments under [Authorization of Purchases](#) shall not come before CCPRC for approval.

### **Authority to Negotiate and Enter into, Approve Expenditures, and Issue Change Orders**

Within the limits outlined in [Authorization of Purchases](#), the Executive Director or designee is authorized to negotiate and enter into contracts for supplies, services, and construction on behalf of CCPRC. Moreover, the Executive Director or designee may sign contracts, letters of agreement, memorandum of understanding, and other instruments on behalf of CCPRC.

Authority to negotiate, enter into, and administer routine contracts, service orders, receipt documents, and other instruments may be further delegated to Division Directors or their subordinates. This includes the authority to approve or issue unilateral change orders or modifications subject to the following limitations:

Approval authority for contract modifications are as follows:

<b><u>Contract Amounts</u></b>	<b><u>CCPRC Staff Approval Authority</u></b>
<b>\$200,000 or greater</b>	12% of contract
<b>\$150,000 to \$199,999</b>	14% of contract
<b>\$100,000 to \$149,999</b>	16% of contract
<b>\$ 50,000 to \$ 99,999</b>	18% of contract
<b>\$ 1 to \$ 49,999*</b>	20% of contract

The sum of all change orders to a given project shall not exceed the above limits without prior Commission approval.

**\* This change order level requires Executive Director or designee approval.**

Every contract modification, change order, or contract price adjustment under a construction contract with CCPRC in accordance with the above schedule shall be subject to prior approval by the Executive Director or designee after receiving a report as to the effect of the contract modification, change order, or contract price adjustment on the total project budget or the total contract budget.

### **Exemptions**

The following list includes samples of supplies and services that are exempt from the procurement procedures outlined in this policy. Additions and deletions shall be made by regulation:

1. advertising time or space in newspapers, radio, television, professional journals or publication;
2. original works of art for public display;
3. published books, maps, periodicals, and technical pamphlets;
4. postage stamps and postal fees and U.S. Post Office Box rentals;
5. professional training, including travel and lodging;
6. conference facilities;
7. maintenance or equipment that must be provided by the original equipment manufacturer or an authorized dealer;
8. chemicals, including pesticides and pool (water park) maintenance supplies;
9. services provided by public utilities (gas, electricity, water, and sewer) subject to rate regulation by the Public Service Commission;
10. credit card purchases for gas, oil charges only;
11. professional dues and registration and membership fees;
12. attorney's and legal services;
13. license agreements for computer software, after such software has been purchased subject to the provisions of the ordinance;
14. procurement of copyrighted educational films, filmstrips, slides and transparencies, CD ROM documents, data bases, computer maintenance and computer assisted instructional materials, interactive video programs and other related material made available by technology that can only be obtained from the company providing the information;
15. purchase of goods, products and services from the South Carolina Department of Corrections, Division of Prison Industries;
16. payment to the State against purchases made from the State;
17. all insurance premiums;
18. all payments to Federal and State agencies (i.e., unemployment taxes, fees, etc.); and
19. purchases for the purpose of resale.

### **Leases of Business Personal Property**

- a. **Definition:** A lease is a contract for use of the equipment or other supplies, under which Title does not pass to CCPRC unless there is a purchase option, where Title may pass to CCPRC at some future time.
- b. **Conditions:** A lease may be entered into provided -
  1. It is in the best interest of CCPRC.
  2. All conditions for renewal and costs of termination are set forth in the lease, and
  3. The lease shall be obtained utilizing normal procurement procedures.

- c. **Lease with Purchase Option:** A purchase option in a lease may be exercised only if the lease containing the options was awarded under competitive sealed bidding, or competitive proposals, or the lease supply or equipment is the only supply or equipment that can meet CCPRC's requirements as determined, in writing, by the requesting Division Director and approved by the Executive Director or designee.
- d. **Option Provisions:** When a contract is to contain an option for renewal, extension, or purchase, notice of such provision shall be included in the solicitation. Exercise of the option is always at the discretion of the Executive Director or designee and not subject to agreement or acceptance by the Lessee and/or Vendor.

## **Article 5 - Procurement of Construction, Architect – Engineer and Land Surveying Services**

### **Management of Construction Contracting**

The Executive Director or designee, upon Commission approval, shall have discretion to select the appropriate method of construction contracting management for a particular project. In determining which method to use, the Executive Director or designee shall consider the CCPRC's requirements, its resources, and the potential contractors' capabilities. The Executive Director or designee shall have the discretion to use construction contracting administration, construction management services, design-build services, or turnkey management services.

### **Construction Performance and Payment Bond**

- a. **Required Amounts:** When a construction contract is awarded in excess of \$50,000, the following bonds or security shall be delivered to CCPRC and shall become binding on the parties upon the execution of the contract.
  - 1. a performance bond satisfactory to CCPRC, executed by a "T listed" surety company authorized to do business in this State or otherwise secured in a manner satisfactory to CCPRC, in an amount equal to one hundred (100%) percent of the price specified in the contract; and
  - 2. a payment bond satisfactory to CCPRC, executed by a "T listed" surety company authorized to do business in this State or otherwise secured in a manner satisfactory to CCPRC, for the protection of all persons supplying labor and materials to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred (100 %) percent of the price specified in the contract.
- b. **Authority to Require Additional Bonds:** Nothing in this section shall be construed to limit the authority of CCPRC to require a performance bond or other security in addition to those bonds, or in circumstances other than specified in this section.

### **Bond Forms and Copies**

- a. **Bond Forms:** The Executive Director or designee, may promulgate by procedure the form of bonds required by this section.
- b. **Certified Copies of Bonds:** Any person may request and obtain from CCPRC a certified copy of a bond upon payment of the cost of reproduction of the bond and postage, if any. A certified copy of a bond shall be prima facie evidence of the contents, execution, and delivery of the original.

## **Contract Clauses and their Administration**

All contracts for supplies, services, and construction may include provisions necessary to define the responsibilities and rights of the parties to the contract. The Executive Director or designee, may issue clauses appropriate for supply, service, or construction contracts, including but not limited to one or more of the following subjects:

1. the unilateral right of CCPRC to order in writing or orally, changes in the work within the scope of the contract;
2. the unilateral right of CCPRC to order in writing or orally, temporary stoppage of the work or delaying performance that does not alter the scope of the contract;
3. variations occurring between estimated quantities of work in a contract and actual quantities;
4. defective pricing;
5. liquidated damages;
6. specified excuses for delay or non-performance;
7. termination of the contract for default;
8. termination of the contract in whole or in part for the convenience of CCPRC;
9. suspension of work on a construction project ordered by CCPRC;
10. site conditions differing from those indicated in the contract, or ordinarily encountered, except that differing site conditions clauses need not be included in a contract;
11. listing of the names, location, and amounts of work to be performed by subcontractors;
12. adjustments in price resulting from the use of contract clauses required in this section shall be computed in one or more of the following ways:
  - a. by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
  - b. by unit price specified in the contract or subsequently agreed upon;
  - c. by the cost attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;
  - d. in such other manner as the contracting parties may mutually agree; or
  - e. in the absence of agreement by the parties, by unilateral determination by CCPRC of the reasonable costs allocable, either directly or indirectly to the events or situations under such clauses as accounted for in accordance with generally accepted accounting principles, and with adjustments of profit or fee, as appropriate.
13. A contractor shall be required to submit cost or pricing data if any adjustment in contract price is subject to the provisions of Cost or Price Data. The entire contract amount shall be approved by CCPRC.
14. The Executive Director or designee may establish standard contract clauses for use in Commission contracts.

## **Selection Process for Architect-Engineer and Land Surveying Services**

It is the policy of CCPRC to publicly announce all anticipated architectural, engineering, and land surveying contracts greater than \$50,000, excluding reimbursable expenses, and to negotiate such contracts on the basis of demonstrated competence and qualifications at fair and reasonable prices.

If a construction project that is a continuation or an additional phase of a development and in which the architect, engineer or land surveying of previous construction of that development was selected by one of the above processes, CCPRC has the right to continue using the services of the same architecture, engineering or land surveying firm without going through one of the above selection processes.

A selection committee comprised of appropriate staff members, augmented by Commissioners as necessary, to be determined by CCPRC, will review statements of qualifications and performance data in the selection process. This selection committee will make recommendation of the architect-engineer and land surveying services contracts to the full Commission for selection.

**Selection Process:** The Executive Director or designee shall get proposals from no less than three firms regarding the contract and shall select from among them the firms deemed most qualified to provide the required services. The selection shall be made in order of preference, based on criteria established by the Executive Director or designee.

If a construction project that is a continuation or an additional phase of a development and in which the architect, engineer or land surveying of previous construction of that development was selected by one of the above processes, CCPRC has the right to continue using the services of the same architecture, engineering or land surveying firm without going through one of the above selection processes.

**Negotiation:** The Executive Director or designee shall negotiate a contract with the highest qualified firm for architect-engineer or land surveying services at a compensation which is considered to be fair and reasonable to CCPRC. In making this decision the Executive Director or designee shall consider the established value, the scope, the complexity, and the professional nature of the services to be rendered. Should the Executive Director or designee be unable to negotiate a satisfactory contract with the firm considered to be most qualified, negotiations with that firm shall be formally terminated. The Executive Director or designee shall then undertake negotiations with the second most qualified firm. Should the Executive Director or designee be unable to negotiate a contract with any of the selected firms, the Executive Director or designee shall select additional firms in order of their competence and qualifications, and the Executive Director or designee shall continue negotiations in accordance with this section until an agreement is reached. The duties of the Executive Director or designee in regards to this section may be further delegated.

## **Exception for Small Architect-Engineer and Land Surveying Services Contracts**

a. **Procurement Procedures for Small Contracts:** The Executive Director may approve the selection of small architect-engineer or land surveying services which are estimated not to exceed \$50,000, excluding reimbursable expenses, by direct negotiation and selection, taking into account:

1. the nature of the project,
2. their capability to produce the required services within a reasonable time,

3. past performance, and
4. eligibility to meet project budget requirements.

Maximum fees allowed are \$50,000, excluding reimbursable expenses, during a twelve-month period to any one firm for any one project. Large projects may not be broken down into smaller ones to circumvent the maximum fee limit.

## **Article 6 - Legal and Contractual Remedies**

### **Authority to Resolve Pre-Award Controversies and Bid Protests**

Within ten days of the notice of intent to award, an aggrieved prospective bidder or offeror may protest the prospective award of a contract in writing to the Executive Director or designee. Except in cases of an emergency, CCPRC shall not award any contract until the Executive Director or designee resolves the protest. The protestor shall provide notice to the Executive Director or designee of the factual and legal grounds of the protest and simultaneously provide notice of the protest to all other bidders or offerors. Protests not received within ten days of intent to award, shall be rejected as untimely. The Executive Director or designee is authorized to hear from all parties in the protest and shall schedule an informal administrative hearing if requested in the notice of protest. The hearing will be scheduled within ten days of the notice. A protest to the Executive Director or designee constitutes an administrative remedy and is a condition precedent to any judicial action or litigation. Subject to Commission approval the Executive Director or designee shall issue a written decision within ten days of the hearing; or if no hearing is requested, within ten days of the protest. Receipt of a written decision is a condition precedent to any other judicial or administrative remedy. Within ten days of receipt of the decision of the Executive Director or designee, any aggrieved party may pursue further legal or administrative remedies.

### **Authority to Resolve Post Award Contract Controversies and Claims**

- a. **Claims less than \$10,000:** Any contractor who claims CCPRC has breached any obligation under its contracts or this code (except in the case of bid protests) must first request a hearing before the Executive Director or designee. The Executive Director or designee may schedule a hearing and attempt to resolve such controversies. If the controversy is not satisfactorily resolved, any party may seek arbitration of any such claims in accordance with the applicable rules of the American Arbitration Association, provided however, that the aggregate amount of such claims presented to arbitration may not exceed \$10,000, and CCPRC does not consent to arbitration of any controversy or claims which exceed \$10,000 in the aggregate.
- b. **Claims exceeding \$10,000:** Contractors must first seek a decision of the Executive Director or designee. Thereafter, such claims shall be presented to non-binding mediation in accordance with the prevailing mediation rules and of the American Arbitration Association. Thereafter, either party may pursue any legal or equitable remedies through litigation.

### **Authority to Debar and Suspend**

After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Executive Director or designee, after consultation with CCPRC's attorney, shall have authority to debar a person for cause from consideration for award of contracts. The same officer, after consultation with CCPRC's attorney, shall have authority to suspend a person from consideration for award of

contracts if there is probable cause for debarment.

### **Causes for Debarment or Suspension**

The causes for debarment or suspension include the following:

1. 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;
2. conviction under State or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense involving moral turpitude or indicating a lack of business integrity or business honesty which currently, seriously, and/or directly affects responsibility as a Commission contractor;
3. conviction under State or Federal antitrust statutes arising out of the submission of bids or proposals;
4. violation of contract provisions, as set forth below, of a character which is regarded by the Executive Director or designee to justify debarment action;
  - a. failure to perform a significant Commission contract in accordance with the specifications or within the time limit provided in the contract;

OR

- b. a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, 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.
5. any other cause CCPRC determines to be so serious and compelling as to affect responsibility as a contractor, including debarment by another government entity for cause; or
6. violation of the ethical standards set forth in the South Carolina State Ethics Act.

The Executive Director upon consultation with CCPRC's attorney, shall issue a written decision within thirty days to debar or suspend. The decision shall:

1. state the reasons for the action taken; and
2. inform the debarred or suspended person involved of their rights to administrative review as provided in [Authority to Debar and Suspend](#).

A copy of the decision shall be mailed, or otherwise furnished, immediately to the debarred or suspended person and any other party intervening. A decision under this section shall be final and conclusive.

## **Article 7 - Intergovernmental Relations**

### **Cooperative Purchasing Authorization**

The following words, terms and phrases shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

Cooperative Purchasing shall mean procurement conducted by, or on behalf of more than one Public Procurement Unit (local, state, or national).

The Executive Director or designee may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of supplies, services, or construction with one or more Public Procurement Units in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to, joint or multi-party contracts between Public Procurement Units.

CCPRC may sell to, acquire from, or cooperatively use any supplies belonging to another Public Procurement Unit.

Agreements may be made for the common use or lease of warehousing facilities, capital equipment, and other facilities with another Public Procurement Unit under the terms agreed upon between the parties and for the procurement of supplies, services, or construction items through contracts established by the Purchasing Division of the State of South Carolina as provided in Chapter 35 of Title 11 (State Consolidated Procurement Code), South Carolina Code of Laws, 1976.

## **Article 8 - Working with Small Business Enterprises**

CCPRC encourages the inclusion of Small Business Enterprises in the procurement process for construction related RFP and Bid opportunities.

To be considered a Small Business Enterprise, a business must complete Charleston County's Small Business Enterprise Program application. Once certified, the business will be included in Charleston County's official list of certified Small Business Enterprises. The program and list are maintained by the Charleston County Contracts and Procurement Department.

When a contract is awarded by CCPRC, the Procurement Coordinator will evaluate whether the contractor or listed subcontractors qualify as a certified Small Business Enterprise. The use of Small Business Enterprises will be tracked and reported to the commission on an annual basis.

(Policy Approved August 19, 2024, Regular Commission Meeting Motion #012-2425)

## Appendix A – Last Updates and Review to Procurement Policies (2024)

CAPRA Standard: 5.1

CFO/Finance Director Review: May 7, 2024

Directors Review: May 2024

Commission Approval: August 2024

Next Review: 2025

CHANGES	SECTION
Updated all grammatical and formatting issues to improve readability.	Entire Document
<p>Changed notification threshold from 10,000 to 50,000 in the Emergency Procurement Section.</p> <p>Added “&amp; Local” or “and local” to the Utilization of State &amp; Local Purchasing Contracts section.</p> <p>Removed “following such action and the Executive Director or designee shall provide a written justification of the emergency.” from the Emergency Procurement Section.</p> <p>Removed:  “Blanket Purchase Agreement  A contract for supplies or services may be entered into for a period of time not to exceed five years unless approved by CCPRC, using a blanket purchase agreement provided the term of the contract and the conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor.</p> <ol style="list-style-type: none"> <li>a. General: A Blanket purchase Agreement is a simplified method of filling anticipated repetitive needs for small quantities of supplies or services by establishing "charge account" with qualified sources of supply. Blanket Purchase Agreements are designed to reduce administrative costs in accomplishing small purchases by eliminating the need for issuing individual purchase documents.</li> <li>b. Alternate Sources: To the extent practicable, Blanket Purchase Agreements for items of the same type should be placed concurrently with one or more suppliers. All competitive sources shall be given an equal opportunity to furnish supplies or services under such agreements.</li> <li>c. Terms and Conditions: Blanket Purchase Agreements shall contain the following provisions: <ol style="list-style-type: none"> <li>1. Description of Agreement: A statement that the supplier shall furnish supplies or services, described therein in general terms, if and when requested by the Procurement Officer during a specified period and within a stipulated aggregate amount, if any. Blanket Purchase Agreements may encompass all items that the supplier is in a position to furnish.</li> <li>2. Extent of Obligation: A statement that CCPRC is obligated only to the extent of authorized calls actually placed against the Blanket Purchase Agreement.</li> <li>3. Notice of Individuals Authorized to Place Calls and Dollar Limitations: A provision that a list of names of individuals authorized to place calls under the Blanket Purchase Agreement, and the dollar limitation per call for each individual shall be furnished the supplier.</li> </ol> </li> </ol>	Article 3

<p>4. Delivery Tickets: A requirement that all shipments under the Blanket Purchase Agreement shall be accompanied by delivery tickets or sales slips which shall contain the following minimum information:</p> <ul style="list-style-type: none"> <li>a) name of supplier;</li> <li>b) blanket purchase agreement number;</li> <li>c) date of call;</li> <li>d) itemized list of supplies or services furnished;</li> <li>e) quantity, unit price, and extension of each item less applicable discounts; and</li> <li>f) date of delivery.</li> </ul> <p>5. Invoices: An individual invoice for each delivery shall be provided.”</p> <p>d. Calls Against Blanket Purchase Agreement: Calls against Blanket Purchase Agreements generally will be made orally, except that informal correspondence may be used when ordering outside the local trade area.</p> <p>e. Receipt and Acceptance of Supplies or Services: Acceptance of supplies or services shall be indicated by signature and date on the delivery ticket or sales slip after verification and notation of any exceptions.</p> <p>f. Time Limit: Blanket Purchase Agreements shall not be for any period in excess of five years. All Blanket Purchase Agreements will expire on June 30 of the fiscal year in which that agreement is initiated.</p> <p>Removed “The Procurement Officer shall establish a list of qualified sources and afford all interested suppliers or providers of services an opportunity to compete for such work.” from the Small Purchases: Requests for Quotations section.</p>	
<p>Removed “.00” after dollar amounts. Added “* This change order level requires Executive Director or designee approval.”</p>	<p>Article 4</p>
<p>Added “(local, state, or national)” and “or designee”. Removed “Public Procurement Unit shall mean any county, city, town, and any other subdivision of the State or public agency of any such subdivision, public authority, educational, health or other institution, and any other entity which expends public funds for procurement of supplies, services, or construction.”</p>	<p>Article 7</p>
<p>Changed “Small Business Enterprise Program (SBE) Definitions and Clarifications A business enterprise shall be eligible for certification under the Small Business Enterprise Program, hereafter known as SBE, if it meets the following requirements:</p> <ul style="list-style-type: none"> <li>1. Gross sales receipts do not exceed \$7.5 million annually as averaged over the preceding three years.</li> <li>2. The owner(s) is actively involved in day-to-day management and control of the business.</li> <li>3. The business has been actively in service for at least the preceding twelve months.</li> <li>4. Business license(s), and any applicable county taxes and fees are current.</li> </ul> <p>Once the gross annual receipts of a business exceed \$7.5 million, as averaged over the previous three years, it will no longer be eligible and will be graduated from the program.</p> <p>Statement of Policy The main focus of the SBE Program is to provide opportunities for the inclusion of certified small businesses in the procurement process and to provide management and technical assistance to these businesses to increase their readiness to compete in the procurement process. While the SBE program</p> <p>is a race and gender-neutral program, it is, nevertheless, expected that CCPRC will endeavor to follow the general spirit of CCPRC’s policies regarding full participation of</p>	<p>Article 8</p>

minority and women owned business enterprise participation in CCPRC's contracts and procurement.

The Good Faith Effort (GFE) of the Policy is intended to encourage prime contractors, who are not SBE certified companies, to contact certified SBE companies concerning opportunities for subcontracts for CCPRC construction projects at or above \$50,000. The GFE component requires a prime contractor to provide documentation of SBE certification and/or to make documented contracts with certified SBE contractors for sub-contracts for construction projects. Non-compliance with the GFE component or failure to document compliance may result in a bid or proposal being deemed non-responsive.

#### Program Eligibility and Certification

CCPRC will accept into its SBE program by reciprocity any business certified or qualified for eligibility with Charleston County's SBE program. To apply, a business will complete Charleston County's SBE Certification Application and return it to the Procurement Department of Charleston County. The application form can be downloaded from the Internet at [www.charlestoncounty.org](http://www.charlestoncounty.org), [www.charlestoncountyparks.com](http://www.charlestoncountyparks.com), or the Charleston County office will fax or mail the form upon request.

At any time during the certification process, businesses are encouraged to contact the Charleston County SBE Program Manager for assistance in completing or tracking the application. The Charleston County Park and Recreation Commission's Procurement Coordinator can also provide technical assistance in completing the application.

The certification process is complete when the business receives written notification from the Charleston County's Procurement Department and provides a copy of this notification to CCPRC. In the event Charleston County de-certifies a business, or the business graduates from the County's program, the CCPRC reciprocity will likewise be revoked.

#### Implementation

The SBE Program applies to CCPRC's contracting and procurement programs for construction projects at or above \$50,000 through the prime contractor and/or prime and sub-contractor relationship. The provisions of the SBE program take precedence over any conflicting procedures or previously employed methods of procurement. CCPRC's Contract Coordinator and/or designee will review all proposals or bids for construction projects for compliance with SBE program requirements.

Each solicitation shall include information to all potential prime contractors of the GFE requirement and contain SBE Compliance Guideline and Forms in the bid documents.

A certified SBE must perform a Commercially Useful Function (CUF). CCPRC will verify over the course of the contract term that CUFs are being performed by certified SBE sub-contractors.

The Executive Director or designee shall recommend Annual SBE Aspirational Goals to the Contract Coordinator for construction contracts valued at or above \$50,000. The following SBE outreach efforts are mandatory:

1. Contractors may be a certified SBE and/or shall be required to subcontract a specified

percentage of the total contract to one or more certified SBE companies. The Executive Director or designee may consult with CCPRC's Contract Coordinator to determine the percentage goal on each contract, taking into consideration local market conditions and the input from user departments.

2. If there are no SBEs certified to perform the scopes of work required by a contract, no SBE Aspirational Goal or mandatory subcontract requirement will be established.

The provisions of the CCPRC Procurement Policy, Legal and Contractual Remedies, shall apply in connection with the grievance of any item contained in this segment of the SBE

Program by any Bidder, Offeror or Contractor.” to “Working with Small Business Enterprises

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When a contract is awarded by CCPRC, the Procurement Coordinator will evaluate whether the contractor or listed subcontractors qualify as a certified Small Business Enterprise. The use of Small Business Enterprises will be tracked and reported to the commission on an annual basis.”



