



Piggyback Contracting
Office of Inspector General
Palm Beach County, Florida



Fundamental Elements of Sound Procurement Practice

1. Economic

- Best value through competition
- Best value for the dollars spent (public funds)

2. Equitable

- Fair and equitable contracting opportunities for vendors
- Qualified vendors have access to the municipal market

3. Transparent

- Public confidence
- More information disclosed – the better
- Improved ethical conduct
- Maximum disclosure benefits the public



Types of Procurement

1. Open Competitive Solicitation
2. Sole Source
3. Emergency Purchase
4. Cooperative
5. Piggyback



What is Piggyback Contracting?

National Institute of Government Purchasing (NIGP):

- “a form of intergovernmental cooperative purchasing in which an entity will be **extend the pricing and terms of a contract** entered into by a larger entity. Generally a larger entity will **competitively award a contract that will include language allowing for other entities to utilize the contract** which may be to their **advantage in terms of pricing**, thereby **gaining economies of scale** that they normally would not receive if they competed on their own.”



What is Piggyback Contracting?

Palm Beach County Purchasing Code:

- “the **purchase of goods or services** under contract with a federal, state, or municipal governmentproviding that the originating entity **utilized a competitive process** similar to the county’s; and providing that the **county accepts the terms and conditions** specified within the originating contract; and providing that the **contractor extends the terms and conditions of the contract** to the county.”



Theory Behind Piggyback Contracting

According to the National Association of State Procurement Officials (NASPO):

1. The primary purpose of public procurement is to obtain quality goods and services to support **effective and efficient government**, ensuring the prudent use of government funds.
2. As contracting workloads increase, purchasing requirements become more complex and as budgets and resources decline, procurement staff continually seek new and innovative tools to deliver goods and services through an **effective and efficient procurement process**.



State Policy Encourages Open and Competitive Procurements

Section 287.001, F.S. – The Legislature recognizes that fair and open competition is a basic tenet of public procurement; that such competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically.



Policy Reasons for Competitive Procurements

1. Tends to provide best value for the public
2. Provides local businesses the opportunity to compete
3. Are open and transparent



State Law and Local Policies

1. Florida courts understand the policy benefits of competitive procurements and will enforce such requirements when they exist.

Marriott Corp. v. Metro. Dade County, 383 So. 2d 662 (Fla. 3rd DCA 1980)

2. Most state laws which require competitive procurements apply only to state agencies. Where state laws don't apply, local governments are free to develop their own policies.



State Law and Local Policies

1. Where local governments have adopted policies requiring competitive procurements, those policies generally impose informal competitive procedures at lower price points and require a more formal competitive procedure for more expensive purchases.
2. In some cases, local policies don't address "cooperative purchases" or "piggyback purchases."



State Law and Local Policies

- “Cooperative purchases” are purchases made through a cooperative of which you are a member. Because you are a member the purchases are made in your name with your consent.
- “Piggyback purchases” are made from contracts negotiated by another entity which has no relationship with you. You probably were not even aware that the original entity was negotiating for or entering into the contract.



Benefits of Piggyback Contracts

1. Saves Time and Resources
2. Leverage Spending / Economies of Scale



Dangers of Piggyback Contracts

1. You may violate your own local policies. For an example of a Florida court voiding a piggyback contract because it violated the county's policies, see *Accela, Inc. v. Sarasota County*, 993 So. 2d 1035:

“the County was **not** permitted to use another entity's contracts merely as a “basis to begin negotiations”

2. You may not achieve the goals of allowing local businesses to compete for government business and being open and transparent.

Even if you have a municipal policy which specifically permits you to use piggyback contracts, you should be careful in how you proceed.



Why is Piggybacking sometimes desirable for local governments?

1. Saves Time

- Developing solicitation document
- Preparing to advertise the solicitation
- Accepting responses
- Performing a responsiveness review
- Evaluation/scoring, etc.

2. Saves Resources

- Advertising costs
- Allows employees to focus on other job assignments



Why is Piggybacking sometimes desirable for local governments?

3. Leverage Spending / Economies of Scale

- Economies of scale are situations where the average cost of a product (service) decreases when a business production (service) increases. This results in businesses having the ability to share operating costs over a larger number of units, or services.



Provisions that may be advisable in Policies when using Piggyback Contracts

City of Lake Wales

- “Piggybacking Policies & Procedures” Memorandum (April 23, 2009)

http://www.cityoflakewales.com/city/agenda_cc/090428/090428_08.pdf



Provisions that may be advisable in Policies when using Piggyback Contracts

1. Obtain Informal Quotes
 - Entity specific but 3 appears to be a good number
 - If any of the informal quotes results in a lower cost than the contract contemplated for piggybacking, then the goods or services should be competitively procured.
2. Piggyback off contracts competitively procured within last 12 months
3. Limit Piggybacks to identical items
 - Do not use someone else's contract as a starting point for negotiations
 - Consider obtaining the following documents:
 - Copy of the solicitation document
 - Scoring sheets / Bid Tabulation
 - Evidence of Contract Award
 - Executed Contract



Provisions that may be advisable in Policies when using Piggyback Contracts

4. Ensure the contract permits piggybacking

Palm Beach County Language:

“Palm Beach County encourages and agrees to the successful bidder extending the pricing, terms and conditions of this solicitation or resultant contract to other governmental entities at the discretion of the successful bidder.”

5. Ensure the contract has not expired
6. Using a Check List



Pitfalls to Piggybacking

1. Local Preference Policies
 - How do you reconcile piggyback policy with local preference ordinance?

2. Economic and industry fluctuations
 - Volatility of Commodities
 - Gas
 - Petroleum Based Products
 - Market Trends
 - Transportation/Delivery Costs



Examples of Piggyback Situations

Positive:

- Local town purchases police and fire vehicles off statewide contract for significant cost savings
- Local entities purchase computers off multi-state contract for significant cost savings
- Local entity purchases commodities off other local entity's contract for cost savings and efficient process to acquire.



Examples of Piggyback Situations

Not so Positive:

- Article from the Sarasota Herald (2011)
 - Only 10 of Sarasota County's 94 (10.6%) piggyback contracts were with firms based in Sarasota, Manatee, Charlotte or DeSoto counties.
 - Local companies feel they are "being squeezed out" of work "they desperately need."
 - A roofing contractor states they lost a chance to compete a roofing job because the county used a piggyback contract that sent work to a Michigan company. The roofing contractor said they would have installed a better system and with rebates it would have cost \$50,000.00 less.



Questions or Comments

Thank you.

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