

PROCUREMENT CODE

ARTICLE 1—GENERAL PROVISIONS

Part A – Legislative History

§1-101 Purposes.

The purposes of the Code are as follows:

1. To establish and maintain a procurement system for obtaining and disposing of goods, services, construction and public property other than real estate;
2. To maximize the purchasing value of public funds;
3. To provide fair and equitable procurement processes; and
4. To provide safeguards for maintaining quality and integrity in the procurement system.

§1-102 Findings and Policy Statements.

1. *MBEs.* The Council finds that MBEs and minority persons have been historically restricted from full participation in the free enterprise system to a degree disproportionate to other businesses. The Council believes that it is in the County's best interest to assist MBEs and minority persons to develop fully as a part of the County's policies and programs which are designed to promote balanced economic and community growth throughout the County. The Council, therefore, wishes to ensure that MBEs and minority persons are afforded the opportunity to fully participate in the procurement process either as contractors or as subcontractors. The Council, therefore, takes this leadership role in setting procedures that will result in awarding contracts and subcontracts to MBEs and minority persons to enhance minority capital ownership, overall state economic development, and reduce dependency on the part of MBEs and minority persons.
2. *Domestic and Local Vendors.* The Council finds that an economic crisis is plaguing the United States of America, the State of South Carolina, and the County of Orangeburg at the time of passage of this Code. This economic crisis has caused an exceptionally high rate of unemployment domestically and locally, and the employment welfare of the citizens of this County must be protected. The Council finds it is crucial to economic recovery to procure the County's needs as locally as possible and, by so doing, circulate funds locally to the prosperity of local businesses and, in turn, to their creation and retention of employment for local citizens. The Council finds that the economic crisis is a wake-up call to use vigilance during an economic crisis, during recovery from such a crisis, and in good economic times to safeguard the financial viability of our local businesses and employable citizens.

Part B – Other Laws

§1-201 Repeal; Severance.

1. All ordinances, policies, rules and regulations pertaining to procurement that pre-date November 2, 2009 are repealed.
2. If any Code provision or its application is held to be invalid, such invalidity shall not affect other Code provisions or applications that are valid.

§1-202 Construction With Other Laws.

The Code and the Regulations and Operating Policies shall:

1. Be construed to promote the purposes stated in §1-101 and policies stated in §1-102 of the Code;
2. Supersede all conflicting, non-mandatory common law, equitable principles, and statutory law of South Carolina to the extent of the conflict;
3. Be supplemented by non-conflicting common law, equitable principles of law and statutory law of South Carolina, unless such supplementation would negate or undermine a purpose stated in §1-101 or a policy of §1-102 of the Code.

Part C – Application and Exemptions

§1-301 Requirement of Good Faith.

The duty to act in good faith shall apply to every person involved in the procurement process, including involvement in the offer, acceptance, negotiation, performance, or administration of a contract.

§1-302 Application of Code.

1. Subject Matter. The Code applies to the acquisition and disposal of goods, services, construction, and public property; however, the Code does not apply to real estate.
2. Time Period. Application of the Code varies by time period as follows:
 - a. As to any procurement for which a written contract has been entered prior to the Effective Date of the Code, the written contract shall be supplemented by the Code on any issue where there is no express conflict between the written contract terms and the Code.
 - b. As to any procurement that has reached the stage of being placed out for bids or proposals, but for which a written contract has not been entered prior to the Effective Date of the Code, the Code shall apply to all further stages of the procurement.
 - c. As to any procurement that has not reached the stage of being placed out for bids or proposals prior to the Effective Date of the Code, the Code shall govern the procurement.
3. Funding. The Code applies to every expenditure of public funds, except as follows:
 - a. Those procurements in which the funding source requires that the County use a different, but legally valid, procurement process or procedure, even if same is inconsistent or contradictory to any Code provision.
 - b. Those procurements involved with grants, assistance, or contracts with (i) the State, its agencies or entities, (ii) other political subdivisions of the State, or (iii) other governmental entities or agencies, including federal or local. In instances in which the procurement involves the expenditure of federal assistance or contract funds, the County shall comply with any legally valid federal law and regulation the funding entity asserts is mandatory, even if same is inconsistent or contradictory to any Code provision.
 - c. Those procurements specifically exempted by another provision of the Code.

4. Notwithstanding any general provision of the Code, the County shall be empowered to accept and comply with the legally valid terms and conditions of any gift, bequest, grant or cooperative agreement, even if same are inconsistent or contradictory to any Code provision.

§1-303 Exemptions From Code.

1. The following shall be exempt from the Code, except for the authorization process set forth in §4-101 of the Code:
 - a. Exemptions set forth in the State Code, goods and services available under State term contracts, and goods and services available under contracts established by the purchasing division of the State;
 - b. Procurements made in accordance with the County MBE Program and §3-103 of the Code;
 - c. Published books, art, maps, periodicals, and technical pamphlets;
 - d. United States Postal Service fees and fees of other delivery service providers;
 - e. Professional services normally obtained on a fee basis, such as appraisal and medical services;
 - f. Professional legal services normally obtained on a fee basis; however, no such services shall be obtained without the approval of the Chair of Council and the Administrator.
 - g. Food and beverages:
 - i. When subject to the statutory right of first refusal granted by the State Legislature to the Commission for the Blind;
 - ii. Products used in food or beverage preparation; and
 - iii. Prepared foods and beverages to be served at County-hosted meetings.
 - h. Conference and meeting facilities;
 - i. Goods or services purchased through the County's membership or association with any group purchasing discount rates not otherwise available on the open market, including, but not limited to, groups such as the South Carolina Association of Counties and the National Association of Counties;
 - j. Petty expenditures;
 - k. Advertising space in newspapers, professional journals or publications, and advertising time on radio, television, or other medium;
 - l. Original works of art for public display;
 - m. Professional dues, registration fees, membership fees, continuing education or training necessary or appropriate for County officers, officials, employees or agents to carry out their County duties.
 - n. Maintenance that must be provided by the original equipment manufacturer or an authorized dealer;
 - o. After computer software has been purchased in accordance with the provisions of the Code, license agreements for said software;
 - p. Insurance premiums and self-insurance claims;
 - q. Hospital fees;
 - r. Travel and lodging;
 - s. Credit-card purchases for gas; and

- t. Specific procurements the Council may choose to exempt in accordance with the procedure set forth in §1-303.2.
2. Pursuant to a vote at one public meeting, Council may:
 - a. Exempt from Code governance any specific procurement; however, in that event:
 - i. At the public meeting, Council shall disclose the basis for its exemption; and
 - ii. The Director shall cause same to be made a part of a central file documenting specific exemptions; or
 - b. Forego any exemption provided in this Code, and declare the specific procurement to be subject to the Code.

Part D – Definitions

§1-401 Definitions.

In this Code, the following words shall have the meanings set forth below, unless (a) a different definition is stated in a particular Article or provision or (b) the context of use clearly requires a different meaning:

1. *Administrator* means the Orangeburg County Administrator.
2. *Architectural and engineering services and land surveying services* are those professional services associated with the practice of architecture, professional engineering, land surveying, landscape architecture, and interior design pertaining to construction, as defined by the laws of this State, as well as incidental services that members of these professions and those in their employ may logically or justifiably perform, including studies, investigations, surveys, evaluations, consultations, planning, programming, conceptual designs, plans and specifications, cost estimates, inspections, shop drawing reviews, sample recommendations, preparation of operating and maintenance manuals, and other related services.
3. *Award* means the award of a contract. The award process shall be handled as follows:
 - a. The Director may negotiate with the lowest responsive and responsible vendor to lower the bid within the scope of the invitation for bids prior to seeking due authorization pursuant to §4-101.
 - b. Within 48 hours of receipt of due authorization pursuant to §4-101, the Director shall give notice of an award or an intent to award of a contract.
 - a. Upon completion of the award process, including any required waiting period, the Director and the County Attorney shall prepare a contract regarding the award and present the contract to the authorized agents of the County and the vendor for execution
4. *Base contract* means the original contract prior to any post-contract change orders.
5. *Best interest* means advantageous.
6. *Bid sample* means an item furnished by a vendor to show the characteristics of an item offered.
7. *Business* includes any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.
8. *Capability* shall refer to a vendor's capability at the time of a contract award.
9. *Change order* means the Director's signed order to a contractor directing a change in the work which sets forth the change in the work and the change, if any, in the contract price

or time for performance

- a. *Bilateral change order* means an agreed-upon written order to a contractor executed by the County and the contractor after execution of the base contract directing a change in the work which may include a change in the contract price, the time for the contractor's performance, or any combination thereof.
 - b. *Unilateral change order* means a written order unilaterally issued by the Director directing the contractor to make changes which the contract authorizes the County to order without the consent of the contractor. If the unilateral change order will result in a variance in the contract price, then the Director shall include a not-to-exceed preliminary price for the change against which the contractor may begin billing.
10. *Code* means the Orangeburg County Procurement Code, Articles 1 through 7.
 11. *Construction* means the process of site preparation, building, altering, repairing, improving or demolishing any structure, building or other improvement of any kind on any real property. *Construction* does not include the routine operations, routine repair, or routine maintenance of existing structures, buildings or improvements to real property.
 12. *Construction contracting administration* means the method of construction contracting administration used for a County construction project. Construction contracting administration shall be determined to be that method which is most advantageous to the County and will result in the most timely, economical, and successful completion of the construction project. The Director, with the approval of the Administrator, shall submit a written report stating the facts and considerations which led to the selection of the particular method of construction contracting administration and the report shall be reviewed by the proper level of authority under Section 4-101. The reviewing authority shall, in its sole discretion, then authorize a method of construction contracting administration for the project which may or may not be that selected by the Director.
 13. *Construction management services* means those professional services associated with a system in which the County directly contracts with a professional construction manager to provide that group of management activities required to plan, schedule, coordinate, and manage the design and construction plan of a construction project in a manner that contributes to the control of time, cost, and quality of construction as specified in the construction management contract.
 14. *Construction management services, design-build services, or turn-key management services* mean approaches to construction contract management that allow for the selection of a single firm to perform and/or manage the complete design and construction of a project.
 15. *Contract* means an agreement, regardless of what the agreement may be called, the subject of which is the procurement or disposal of goods, services, construction or public property that is reduced to writing, duly authorized, and executed by the parties to be bound.
 16. *Contract modification* means any alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provision of any contract accomplished by mutual action of the parties to the contract. To be enforceable, a contract modification must be reduced to writing, duly authorized and executed by the parties to be bound.

17. *Contractor* means any person having a contract with the County.
18. *Cost analysis* means the evaluation of cost data for the purpose of arriving at costs actually incurred or estimates of costs to be incurred, prices to be paid, and costs to be reimbursed.
19. *Cost data* means information concerning the actual or estimated cost of labor, materials, overhead, and other cost elements that have been actually incurred, or that are expected to be incurred, by a contractor in performing the contract.
20. *Cost effectiveness* means the ability of a particular product or service to efficiently provide the relevant County need. In determining the cost effectiveness of a particular product or service, the Director shall list the relevant factors in the bid notice or solicitation and use only those listed relevant factors in recommending the award.
21. *Cost-plus-a-percentage of cost contract* means a cost-reimbursement contract that, prior to completion of the work, the parties agree that the profit fee will be a predetermined percentage of the total cost of the work.
22. *Cost-plus-fixed-fee contract* means a cost-reimbursement contract that provides the contractor with payment of a fixed fee. The fixed fee, once negotiated, does not vary with the actual cost, but may be adjusted as a result of any subsequent changes in the scope of work or services to be performed.
23. *Cost-reimbursement contract* means a contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms and the provisions of this Code, and a fee, if any.
24. *Council* means the Orangeburg County Council, the governing body of the County.
25. *County* means Orangeburg County, South Carolina, a political subdivision of the State, including the various *departments*; however, this cumulative use is for the convenience of setting forth the Code, and does not alter the separate legal entity status bestowed by law upon the County and various of the departments.
26. *Data* means recorded information, regardless of form or characteristic.
27. *Days* mean calendar days. In computing any period of time prescribed by this Code, the day of the event from which the designated period of time begins to run is not included. If the final day of the designated period falls on a Saturday, Sunday, or legal holiday of the State or federal government, then the period shall run to the close of the next business day.
28. *Debarment* means the disqualification of a person to be a vendor in the County's acquisition or disposal of goods, services, construction or public property for a specified time period.
29. *Department*, solely for purposes of this Code, means any county governmental department, board, commission, other agency, or office of a county-wide elected official that is funded by the County; however, the word department does not include the following: those entities Council has established by ordinance (i) in which Council has explicitly delegated to the entity the power to enter into contracts, (ii) where the entity has formally established written procurement procedures sufficient to effect the purposes set forth in Section 1-101 of this Code, and (iii) the entity, in fact, acts strictly in accordance with those procedures. The cumulative use of *department* is for the convenience of setting forth the Code, and does not alter the separate legal entity status bestowed by law upon the County and various of the departments.
30. *Department head* means the person in charge of any department.
31. *Descriptive literature* means information available in the ordinary course of business from a

- vendor that shows the characteristics, construction, or operation of an item.
32. *Design-bid-build* means a construction project in which the County sequentially awards separate contracts, the first for architectural and engineering services to design the project and the second for construction of the project according to the design.
 33. *Design-build* means a construction project in which the County enters into a single contract for design and construction of the project.
 34. *Designee* means a duly authorized representative of a person holding a superior position who has formal responsibilities under the Code.
 35. *Design specification* means a specification that sets forth physical characteristics in definitive terms.
 36. *Discussions*, as used in the source selection process, means an exchange of information or other manner of negotiation during which the vendor and the County may alter or otherwise change the conditions, terms, and price of the proposed contract.
 37. *Director* means the person holding the position of Procurement Director.
 38. *Disposal* means to transfer the ownership of public property from the County to another person; however, the term is not applicable to real estate.
 39. *Due authorization* means properly authorized in accordance with Section 4-101.
 40. *Economically disadvantaged individuals* mean those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and/or credit opportunities as compared to others in the same field of operation who are not socially disadvantaged.
 41. *Effective date shall mean November 16, 2009.*
 42. *Electronic* means electrical, digital, magnetic, optical, electromagnetic, or any other similar technology.
 43. *Employee* means an individual drawing a salary from the County, whether elected or not, and any compensated individual performing personal services for the County; however, this definition is for the convenience of setting forth the Code and does not alter the legal status or categorization of these persons applicable in other legal situations.
 44. *Established catalogue price* means the price included in a catalogue, price list, schedule, or other form that: is regularly maintained by a vendor; is either published or otherwise available for inspection by customers; and states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public.
 45. *Field of operation* means a kind of business activity in which a number of business concerns are primarily engaged.
 46. *Fixed-price contract* means a price not subject to any adjustments by reason of the contractor's actual costs.
 47. *Functional specification* means a specification that sets forth the specific operations, actions, or results for which it is to be used.
 48. *Good faith* means honesty in fact and the observance of reasonable commercial standards of fair dealing.
 49. *Goods* mean all property other than real property, including but not limited to equipment, materials, printing, insurance, information-technology equipment or software packages. Goods mean the same as and is interchangeable with supplies.
 50. *Grant* means the furnishing of assistance, whether financial or otherwise, to any person to

support a program authorized by law. It does not include an award whose primary purpose is to procure an end product, whether in the form of goods, services, or construction. A contract resulting from such an award is not a grant but a procurement contract.

51. *Information technology or IT* means data processing, telecommunications, and office systems technologies and services.
- a. *Data processing* means the automated collection, storage, manipulation, and retrieval of data including: central processing units for all types of computers; related peripheral equipment such as terminals, document scanners, word processors, intelligent copiers, off-line memory storage, printing systems, data transmission equipment and related software such as operating and network software.
 - b. *Office systems technology* means office equipment such as typewriters, duplicating and photocopy machines, paper forms, and records; microfilm and microfiche equipment and printing equipment and services.
 - c. *Service* means the providing of consultant assistance for any aspect of information technology, systems, and networks.
 - d. *Telecommunication* means voice, data, message, and video transmissions, and includes the transmission and switching facilities of public telecommunications systems, as well as operating and network software.
52. *Invitation for bids* means a written solicitation issued and published by the Director for bids to contract for the procurement or disposal of stated goods, services, or construction, which will ordinarily result in the award of a contract to the responsible vendor making the lowest responsive bid. *Invitation for bids* shall set forth the bid requirements, the evaluation criteria to be used, and a statement of a vendor's right to protest. *Invitation for bids* includes all solicitation documents, whether attached or incorporated by reference.
53. *Notice of an award or intent to award* means posting the required information at a location specified in the invitation for bids. The notice shall include the date of posting the notice, identify the invitation to bid, identify the vendor, state whether it is a notice of award or notice of an intent to award, and a statement of a vendor's right to protest. In addition, notice shall include the following when applicable:
- a. For contracts with a total or potential value in excess of fifty thousand dollars (\$50,000) but less than one hundred thousand dollars (\$100,000), the Director shall send the notice to all vendors responding to the solicitation contemporaneous with the date of posting and there shall be no waiting period between the posting and entering into a contract.
 - b. For contracts with a total or potential value of one hundred thousand dollars (\$100,000) or greater, the Director shall send the notice to all vendors responding to the solicitation contemporaneous with the date of posting. For contracts in this category, the following applies:
 - i. When only one vendor has responded to the solicitation, there shall be no waiting period between the posting and entering into a contract; but
 - ii. When more than one vendor has responded to the solicitation, there shall be a ten (10) day waiting period between the posting and entering into a contract.

54. *May* denotes permissive, not mandatory.
55. *Minor informality* means mistakes, excluding judgment errors, that have negligible effect on price, quantity, quality, delivery, or other contractual terms, and the waiver or correction of such mistakes does not prejudice other vendors or the County.
56. *Minority business enterprise or MBE* means a business which either (a) the County finds is an MBE through a certification process established under the Regulations and Operating Policies or (b) has been certified by an appropriate organization as a socially and economically disadvantaged small business.
57. *Minority person* means a United States citizen who is economically and socially disadvantaged.
58. *Multi-year contract* means a contract that is for a term that is longer than one fiscal year or contains a renewal or extension provision that, with the renewal or extension, would cause the contract to be in force for more than one fiscal year
59. *OSMBA* means the Office of Small and Minority Business Assistance as defined by Section 11-35-5270 of the State Code.
60. *Operations and maintenance* means a project whereby the County enters into a single contract for the routine operation, routine repair, and routine maintenance of an infrastructure facility.
61. *Performance specification* means a specification that sets forth a capacity or objective that is determined to be necessary for the item involved.
62. *Person* means any legal entity including, but not limited, a natural person or individual, an association of same, or a business entity such as a partnership, company, or corporation.
63. *Petty expenditure* means a purchase reasonably expected to cost \$100.00 or less.
64. *Prime contractor* means a person who has a contract with the County to build, alter, repair, improve, or demolish any County infrastructure.
65. *Procurement* means buying, purchasing, renting, leasing, or otherwise acquiring any goods, services, or construction. It also includes all functions that pertain to same, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.
66. *Public bid opening* means the opening of bids at the appointed time in the presence of the Director and at least one (1) witness.
67. *Public notice* or *published* means the distribution or dissemination of information to interested persons using a method reasonably available. Such method may include any one or more of the following: posting on a County-designated website such as the official County website; posting on a bulletin board located in the primary public reception area of the using agency; publication in a newspaper of general circulation; electronic or paper mailing lists.
68. *Purchase description* means the words used or incorporated by reference in a solicitation to describe the goods, services, or construction to be purchased, including specifications.
69. *Real estate* means any land, all things growing on or attached thereto, and all improvements made thereto including buildings and structures.
70. *Regulations and Operating Policies* means those duly authorized and established in accordance with the administrative procedure set forth in this Code. The Regulations and Operating Policies will describe organizational procedures or practices, clarify or

interpret provisions of the Code.

71. *Request for proposals or RFP* means a written solicitation issued and published by the Director for proposals based on a generalized scope of work to provide goods, services, or construction which will ordinarily result in the award of a contract to the responsive and responsible vendor making the proposal determined to be most advantageous to the County. The award of the contract must be made on the basis of evaluation factors that are stated in the RFP. *Request for proposals* includes all documents, whether attached or incorporated by reference, utilized for soliciting proposals.
72. *Request for qualifications* means formal solicitation for professional and/or technical capabilities. Before soliciting bids, the Director may issue a request for qualifications from prospective vendors. A request for qualifications must contain, at a minimum, a description of the scope of work to be solicited by the invitation for bids, the deadline for submission of information, and how vendors may apply for consideration. The request must require information concerning the vendor's product specifications, qualifications, experience, and ability to perform what is required. The Director shall rank responding vendors from the most qualified to the least qualified based on the vendors' responses. Bids shall be solicited from at least the top two (2) ranked vendors by means of an invitation for bids.
73. *Request for quotations* means informal solicitations to obtain written quotations without formal publication, advertising or receipt of sealed bids.
74. *Resident* means a vendor who:
 - a. Has registered and paid all applicable registration fees, license fees, and assessed taxes;
 - b. Is authorized to transact business within the stated geographical area;
 - c. Maintains an office in the stated geographical area, and either
 - i. At the time of the bid, maintains an inventory in the stated geographical area of expendable items which are representative of the general type of commodities on which the bid is submitted, or
 - ii. At the time of the bid, is headquartered and has a payroll in the stated geographical area.
75. *Responsible vendor* means a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.
76. *Responsive vendor* means a person who has submitted a response which conforms in all material respects to the County's invitation or solicitation.
77. *Service(s)* means the furnishing of labor, time, or effort by a contractor, whose services are not otherwise exempted by the Code, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term shall not include employment agreements.
78. *Shall* denotes mandatory, not permissive.
79. *Signature* means any identifier or authentication technique attached to or logically associated with an electronic record that is intended by the party using it to have the same force and effect as a manual signature as provided in the South Carolina Electronic Commerce Act.
80. *Small business* means a for-profit concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding, and

qualified as a small business under the criteria and size standards in 13 C.F.R. Section 121 (1996), as amended. Such is “not dominant in the field of operation” when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

81. *Socially and economically disadvantaged small business* means any small business which:
 - a. Is at least fifty-one (51%) percent owned by one or more minority persons and who also exercise control over the business per 49 CFR Part 26, Subpart D (2006), as amended;
 - b. In the case of a corporation, fifty-one percent (51%) of all classes of voting stock of such corporation must be owned by one or more minority persons; or
 - c. In the case of a partnership, (i) fifty-one percent (51%) of the partnership interest must be owned by one or more minority persons and (ii) management and daily business operations must be controlled by one or more minority persons.
82. *Socially disadvantaged individuals* means those natural persons or individuals who have been subject to racial or ethnic prejudice or cultural bias because of their identification as members of a certain group, without regard to their individual qualities. Such groups include Black Americans, Hispanic Americans, Native Americans (including American Indians, Eskimos, Aleuts and Native Hawaiians), Asian Pacific Americans, and other groups recognized as minorities by the OSMBA.
83. *Specification* means any technical or purchase or other description of the physical or functional characteristics, or of the nature of a supply, service, or construction item. It may also include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery. All specifications shall be drafted to promote overall economy for the purpose intended, to encourage maximum free and open competition, and shall not be unduly restrictive.
84. *State* means the State of South Carolina.
85. *State Code* means the then-current South Carolina Consolidated Procurement Code.
86. *Supplies* means all property other than real property, including but not limited to equipment, materials, printing, insurance, information-technology equipment or software packages. *Supplies* shall be interchangeable with *goods*.
87. *Subcontractor* means any person having a contract to perform work or render a particular service to a contractor as part of the contract with the County.
88. *Suspension* means the disqualification of a person to be a vendor in the County’s acquisition or disposal of goods, services, construction or public property for a temporary period pending the completion of an investigation and any legal proceedings that may ensue because a person is suspected upon probable cause of conduct or failure or inadequacy of performance which, if true, may lead to debarment.
89. *Tabulation of bids* means the writing of a list at the public bid opening of vendors and their respective bids. The tabulation shall be open for public inspection.
90. *Term contract* means a contract established by the Director for a specific supply, service or IT for a specified time and for which it is mandatory that the County procure its

requirements of such during its term.

91. *Using agency* means the County or any Department that uses any goods, services, or construction procured under this Code.
92. *Vendor* means a bidder, offeror, or proposer who responds to a County-provided opportunity for (a) the County to acquire goods, services, or construction or (b) the County to dispose of public property other than real estate. *Vendor* also includes the contractor with whom the County ultimately contracts for the relevant acquisition or disposal.
93. *Written or in writing* means the product of any method of forming characters on paper, other materials, or viewable screens, which can be read, retrieved, and reproduced, including information that is electronically transmitted and stored.

Part E – Public Access

§1-501 Public Access to Procurement Information.

1. The County is subject to the South Carolina Freedom of Information Act. As a result, every person submitting information or documents to the County in connection with matters governed by this Code is on notice that the County may disclose such submitted information or documents. By submitting information or documents to the County, the submitting person assumes the risk and bears sole responsibility for any damage that may arise from disclosure.
2. The County may, in its sole discretion, assert any relevant and applicable exemption to disclosure allowed by the South Carolina Freedom of Information Act.
3. Unless contrary to the South Carolina Freedom of Information Act, the County shall not be required to disclose the following:
 - a. Evaluative documents pre-decisional in nature containing technical evaluations and recommendations; or
 - b. Documents submitted in response or with regard to an invitation for bids or solicitation of proposals or other request in instances in which a contract is not made.
4. To the extent a person provides the County with documents that contain what the person deems to be confidential proprietary information, the person has a duty to mark such documents “CONFIDENTIAL.” In that instance, the person must mark “CONFIDENTIAL” each part, by page, paragraph, section or line, as appropriate, in such manner that it is clear to a reasonable person making a cursory review of the document as a whole that the relevant part has been marked confidential. Under those circumstances, the County will endeavor to take reasonable steps to keep those portions confidential, unless a Freedom of Information Act request is received. Under the latter circumstances, the County will endeavor to take reasonable steps to notify the person of the Freedom of Information Act request so that the person may take, at its sole expense, whatever steps, if any, it deems necessary to protect its assertion that the information is confidential and exempt from disclosure.

Part F – Electronic Transmissions

§1-601 Authorization of Electronic Signatures.

The use of electronic media, including acceptance of electronic signatures, is authorized consistent with applicable State statutory, regulatory or other guidance for use of such media, so long as such guidance provides for:

1. Appropriate security to prevent unauthorized access to the bidding, approval, and award processes; and
2. Accurate retrieval or conversion of electronic forms of such information into a medium which permits inspection and copying.