



OFFICE OF THE CHIEF PROCUREMENT OFFICER
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MINEOLA, NEW YORK, 11501

MEMORANDUM

To: All Department Heads and DCCOs

From: Robert Cleary,  Chief Procurement Officer

CC: John Chiara, Deputy County Executive for Compliance
Jodi Franzese, Inspector General

Re: Contract Package Material Adverse Information Policy

Date: January 31, 2020

I. INTRODUCTION

Per NYS GML §103 and the Countywide Procurement & Compliance Policy (the "Policy"), the County is required to award contracts only to vendors that are "responsible" (i.e., vendors that have the capacity to perform the services required by the proposed contract and the integrity to warrant the award of public funds). The Policy requires the Department Chief Contracting Officer (DCCO) to conduct due diligence to assess a vendor's responsibility and to affirm in the Responsibility Determination that the vendor is responsible to receive the proposed contract award, and furthermore, that this determination must be reviewed and approved by the Chief Procurement Officer (CPO). Particularly when there is material adverse information (MAI) identified in the Responsibility Determination, it is essential to ensure that oversight reviewers responsible for reviewing the MAI are alerted to its inclusion in the contract package. This policy is issued to ensure that any MAI is indicated in the Staff Summary to assist with oversight review of the proposed contract.

II. PURPOSE

To ensure that the presence of MAI is noted on contract Staff Summaries to aid in oversight review of proposed contracts.

III. SCOPE

This policy establishes the procedure to indicate MAI in the Staff Summary and to include an

assessment of the MAI in the contract package explaining the department's finding of sufficient vendor responsibility.

IV. CONTRACT PACKAGE MATERIAL ADVERSE INFORMATION PROCEDURE

For any contract for which MAI has been identified, the following procedure shall be followed:

- 1) On the Staff Summary, indicate at the appropriate question that MAI has been identified.
- 2) Following the Comptroller's Approval Form in the contract package, insert a memorandum from the DCCO to the CPO explaining:
 - a. the MAI, including what occurred, any corrective actions taken or planned by the vendor, and the current status;
 - b. the source(s) of the MAI (e.g. questionnaire response, data query, etc.);
 - c. analysis of the MAI, including why the MAI is not sufficient to find the vendor non-responsible; and
 - d. mitigating circumstances, such as time sensitive deadlines, limited supply of alternate vendors, substantial difference in price quotes from other vendors, or reasons that the MAI will not materially affect the vendor's ability to perform the contracted services or supply the contracted goods.
- 3) The CPO shall review the memorandum and any related documents as part of the contract review process, and shall approve the contract only if the review of MAI is deemed to be sufficient to justify proceeding with award.

The memorandum described above must include only MAI that has been identified in the related Responsibility Determination on file as approved by the CPO. Departments have an ongoing responsibility to monitor and report any material changes to a vendor's responsibility. In the event that any new MAI is identified in a contract pending oversight approvals or at any point thereafter through the term of the contract, the Responsibility Determination must be revised by the DCCO and reviewed and approved by the CPO.

In determining whether adverse information is "material," please refer to Appendix E of the Policy.