

# Mapping the Montgomery County Procurement Process

Kristen Latham

# Mapping the Montgomery County Procurement Process

**OLO Report 2017-3**

**November 8, 2016**

The Office of Procurement’s mission is to “preserve the public trust and ensure the integrity of the County’s procurement process through the efficiency and effectiveness of the procurement of goods, services, and construction for all Executive Branch departments and agencies.” In recent years, Montgomery County has taken action to reform the County’s procurement process more effective, efficient, inclusive, and transparent. These efforts include the creation of two Council Task Forces, the establishment of the Executive’s Procurement Innovation Project, and the reorganization of the Office of Procurement into a standalone County Department.

The purpose of this report is to develop detailed process maps for various types of procurements – requests for proposals (RFPs), invitations for bid (IFBs), open solicitations, and non-competitive awards (community grants), including the general steps for each type of solicitation and the roles and responsibilities of various County departments involved in the process. OLO also analyzed contract execution data and spoke with Using Department staff to identify factors that may contribute to variations in contract execution practices and processing times.

---

## **Procurement Law and Policy**

The County’s contracting process is extensive and includes the drafting of a solicitation package, selection of and negotiations with vendors, and final contract execution. In addition, County law requires numerous mandatory reviews such as insurance certificates, County Attorney approval, cost and price analysis, and adherence to relevant compliance programs (i.e. MFD, LSBRP, and living wage). In recent years, the County Council and County Executive have established additional requirements onto the County’s process through legislation, including compliance with prevailing wage requirements, incorporation of evaluation factor for MFD firms in requests for proposals; and establishment of Local Business Subcontracting Program. In addition, the County has enhanced efforts to include more local and minority-owned businesses in the procurement process.

---

## **Procurement Administration**

The County’s procurement process involves numerous County departments, with the Office of Procurement and Using Departments taking the lead in the creation and execution of contracts. Several other County departments, including the Department of Finance, Office of Management and Budget, Office of the County Attorney, County Executive, and County Council may also be involved in the procurement process.

### **Key Roles and Responsibilities of the Office and Procurement and Using Departments**

<i>Office of Procurement</i>	<i>Using Departments</i>
<ul style="list-style-type: none"> <li>• Support and guidance for Using Departments</li> <li>• Issuance of formal competitive solicitations and receipt &amp; review of vendor bids and proposals</li> <li>• Review and execution of non-competitive contracts</li> <li>• Maintenance of records and data reporting</li> <li>• Final determination &amp; approval of receiving responsive bids and vendors as responsible</li> <li>• Administration of compliance programs</li> <li>• Cost price analysis</li> <li>• Review, final approval and execution of solicitation and contract amendments and extensions</li> <li>• Approval and Execution of contracts</li> <li>• Training for vendors and Using Department staff</li> <li>• Creation of procurement-related technology</li> <li>• Outreach</li> <li>• Support for Contract Review Committee</li> </ul>	<ul style="list-style-type: none"> <li>• Preparation of draft solicitation and contract package</li> <li>• Ensuring of sufficient funds</li> <li>• Outreach</li> <li>• Recommendation of award</li> <li>• Recommendation of a responsive bid</li> <li>• Investigation of a responsible vendor</li> <li>• Contract negotiations</li> <li>• Drafting contract documents</li> <li>• Debriefing</li> <li>• Contract administration, including monitoring and payment</li> </ul>

## Length of Contract Execution Process

---

In FY15, it took an average of 200 days (about 6-7 months) to execute a request for proposal (RFP) contract and an average of 132 days (about 4-5 months) to executive an invitation for bid (IFB) contract for contract solicitations begun and executed within the year.

### Average Number of Days between Key Points in Procurement Process, FY15

Time Between...	Average Days - RFP	Average Days - IFB
Creation of Complete Solicitation Package to Issuance of Solicitation	27	40
Issuance of Solicitation to Closing Date of Solicitation	38	38
Closing Date of Solicitation to Sending Bid Packages from Office of Procurement to Using Department for Review	3	3
Sending Bid Packages from Office of Procurement to Using Department for Review to Department Recommendation	93	34
Department Recommendation to Publicly Posting of Award	10	9
Publicly Posting of Award to Contract Execution	42	42
<b>Average Days from Issuance to Execution*</b>	<b>200</b>	<b>132</b>

During the course of interviews for this report, Using Department staff had different opinions on the time it takes to execute a contract in Montgomery County - some Using Department staff do not believe that the procurement process takes an unreasonable amount of time and the process is as efficient as it can be, given all the reviews and approvals required during the process. On the other hand, some Using Department staff believe that the process takes too long.

## Report Recommendations

---

Government procurement aims to secure quality goods and services in a timely manner and at a reasonable cost, while ensuring that all purchasing actions are conducted fairly, transparently and impartially. In recent years, Montgomery County has made a significant effort to improve the County's procurement system. OLO has the following recommendations aimed at continuing that improvement.

- #1: Request that the County Executive evaluate the staffing level in the Office of Procurement and determine whether the current workload and additional procurement process requirements are met with current staffing levels.
- #2: Request that Office of Procurement consider amending procurement law and/or policy to increase efficiency in the procurement process. Using department recommendations include increasing signature authority thresholds, reviewing CRC modification thresholds, developing hybrid community grant/contract system, allowing use of electronic signatures, permitting automatic renewal of specific contracts, or increasing term length of certain contracts.
- #3: Request that the Office of Procurement enhance its current training opportunities for Using Department staff who develop, administer, or manage contracts to include more training on what the Office of Procurement is looking for in the development of a solicitation package/contract, perhaps as part of the current training available in the Contract Administration Learning Path.

# Mapping the Montgomery County Procurement Process

## OLO Report 2017-3

Executive Summary .....	i
Introduction .....	iv
Chapter 1. Overview of Procurement in Montgomery County.....	1
Chapter 2. Administration of Procurement in Montgomery County .....	13
Chapter 3. Procurement Process Maps and Processing Times .....	24
Chapter 4. Feedback on Procurement Process from Using Department Staff .....	50
Chapter 5. Findings and Recommendations.....	54
Chapter 6. Agency Comments on Final Draft .....	60

# Introduction

Government procurement aims to secure quality goods and services in a timely manner and at a reasonable cost, while ensuring that all purchasing actions are conducted fairly, transparently and impartially. In recent years, Montgomery County has made a significant effort to improve the County's procurement system including the restructuring of the Office of Procurement into a principal office of the Executive Branch.

In 2009, the Office of Legislative Oversight released Report 2009-1, The Department of Health and Human Services' Contract Execution and Monitoring Process, a report that evaluated the procurement functions of DHHS' Children, Youth, and Families Division. This report follows up the work completed in that report with a primary focus of the development of detailed procurement process maps summarizing the sequence of activities to execute a new contract. This report also reviews processing times of contract development and execution, summarizes factors that staff identify as contributing to variations in contract processing times, and reviews legislative and policy changes made in recent years to improve the procurement process.

OLO staff member Kristen Latham conducted this study, with assistance from Carl Scruggs. OLO gathered information through document reviews and interviewing staff from several County Departments. OLO received a high level of cooperation from everyone involved in this study. OLO appreciates the information shared and the insights provided by all who participated:

*Office of the County Executive*

Fariba Kassiri  
Dan Hoffman

*Office of Procurement*

Cherri Branson  
Grace Denno  
Pam Jones  
John Lee

*Department of Corrections and Rehabilitation*

Kaye Beckley  
Rita Ellis

*Department of Housing and Community Affairs*

Timothy Goetzinger  
Stevens Brown

*Department of Recreation*

Alison Cohen

*Department of Environmental Protection*

Patty Bubar  
Carmen Ruby  
Anthony Skinner

*Department of General Services*

Lisa Alderson  
Michael Atkinson  
Isami Ayala-Collazo  
Aubrey Bentham  
Angela Dizelos  
Beryl Feinberg  
Michael Harkness  
Valerie Hubanks  
Kathleen Hynes  
Calvin Jones  
Ernie Lunsford  
Peggy Lynch  
Tammy Mulford  
Sunil Pandya  
Suresh Patel  
Don Scheuerman

## **Chapter 1. Overview of Procurement in Montgomery County**

Montgomery County Government operates a procurement system with a centralized Office of Procurement with substantial responsibilities delegated to the County departments, called “Using Departments.” This chapter provides a brief summary of the laws and regulations governing the County Government’s purchase of goods, services and construction:

- **Part A, Contracting in Montgomery County**, describes the County’s contracting system;
- **Part B, Additional Requirements**, describes several initiatives and requirements implemented through Montgomery County’s procurement law and regulations;
- **Part C, Recent Changes in Procurement Law and Regulations**, summarizes the changes in procurement related law since 2008; and
- **Part D, Summary of Recent Procurement Initiatives**, outlines initiatives by the County Executive and County Council undertaken in recent years aimed at improving the procurement system.

### **A. Contracting In Montgomery County**

Chapter 11B of the Montgomery County Code contains the County’s Procurement law, which establishes a system for purchasing goods/services/construction and authorizing the County Executive to adopt regulations<sup>1</sup> to implement the law. With some exceptions, the procurement law applies to every County Government purchase of goods, services, or construction.<sup>2</sup> These laws and regulations are intended to provide several source selection methods, of which, many maximize competition to generate the receipt of responsive and responsible bids and proposals to lead to the most cost-effective or best value contracts possible.

**Exemptions from Procurement Laws and Regulations.** Law exempts some County Government purchases from the County’s procurement laws and regulations:<sup>3</sup> These include:

- Procurements for the employees’ retirement system;
- Obtaining the services of special legal counsel authorized in the Charter;
- Hiring an independent auditor under the Charter;
- Hiring an impasse neutral, mediator, or fact finder under a County collective bargaining law, under procedures approved by the Chief Administrative Officer;
- Buying copyrighted material and information under procedures approved by the Chief Administrative Officer for use by a public library;
- Buying electricity, natural gas, and compressed natural gas, under Executive Regulation;
- Buying goods or services for County-sponsored recreational activities in situations where the purchase is made on behalf of a group of people who contributed funds to participate in the activity;
- Obtaining entertainment services;
- Obtaining the services of experts, consultants, and investigators by the County Attorney, whether in anticipation of litigation or in preparation for trial;

---

<sup>1</sup> See Code of Montgomery County Regulations §§ 11B.00.01.01 [hereinafter COMCOR].

<sup>2</sup> Montgomery County Code § 11B-3 [hereinafter “MCC”].

<sup>3</sup> See Appendix A for PMMD-148, which includes exemptions to Procurement regulation.

- Obtaining advertising services from media sources; and
- Any other procurement exempted from the procurement laws by another law.<sup>4</sup>

**Methods for Purchasing Goods and Services.** With four exceptions, all purchases in Montgomery County subject to the procurement laws and regulations require a written contract document.<sup>5</sup> The exceptions include:

- Direct purchases (purchases for \$10,000 or less);
- Reimbursable purchases by Using Departments;
- Credit and debit card purchases; and
- Emergency procurements.<sup>6</sup>

The Procurement law and regulations establish numerous methods for County purchases, referred to in the law as “source selection” methods.<sup>7</sup> Some source selection methods involve competition – where the County solicits goods, services, or construction from more than one source – and some do not.<sup>8</sup> Procurement regulations dictate when specific procurement methods must be used, along with what procedures are required for each method and how to evaluate potential bidders/offerors. The following table summarizes the source selection methods available to County Government.

---

<sup>4</sup> MCC § 11B-4(a).

<sup>5</sup> COMCOR § 11B.00.01.03.3.

<sup>6</sup> Note that whenever practical, the Department making the Emergency Procurement should use contract documentation required for a mini-contract or small purchase.

<sup>7</sup> MCC §§ 11B-9 to 11B-16; COMCOR § 11B.00.01.1.04.

<sup>8</sup> See COMCOR § 11B.00.01.02.2.4.15.

**Overview of Montgomery County Source Selection Methods**

Source Selection Method	Dollar Threshold Requirements	Description
Petty Cash	\$100 or less	Petty cash is used for informal purchases of goods or services by employees and authorized by a Using Department Head.
Direct Purchase	\$10,000 or less	An informal procurement of goods, services, or construction under the direct authority of the Using Department Head.
Mini-Contract	Above \$10,000 and Below \$100,000	A mini-contract is used to obtain professional services (and non-professional services under special circumstances) via an informal solicitation process.
Small Purchase	Above \$10,000 and Below \$100,000	A small purchase is an informal solicitation for goods, construction or services initiated by a Using Department. The County must contact at least five randomly selected potential offerors and at least one of the potential offerors should be a minority owned business. Contract award must be based on price, responsiveness and responsibility.
Competitive Sealed Bidding – Invitation for Bid (IFB)	\$100,000 or more	IFBs request bids from vendors for construction, goods and non-professional services to provide the County an item or service identified in the IFB. IFBs must include specifications for items being purchased, criteria to evaluate bids, and all contractual provisions applicable to the purchase. Contract award must be made to the lowest responsible and responsive bidder.
Competitive Sealed Proposals – Request for Proposals (RFP)	\$100,000 or more	RFPs request proposals from vendors to provide the County a specific service identified in the RFP. The RFP process balances quality and price to obtain the best value for the County. RFPs must contain factors for evaluation of the proposal and an explanation of the ranking of vendors. Evaluation factors must include factors related to the technical quality of the proposal or the ability of the vendor, or both, and includes price. At least 10% of the total points for all evaluation criteria must be assigned to price.
Abbreviated Formal Solicitation	\$200,000 or less	A method for obtaining competitive sealed bids or competitive sealed proposals by using an abbreviated formal solicitation process, when determined by the Director of the Office of Procurement, to be in the best interest of the County.
Bridge Contract	No specific limit	A bridge contract is a procurement for goods, services, or construction using an existing competitive contract with another public entity when the Director of the Office of Procurement determines that a bridge contract is in the best interests of the County. The contract must be for the same goods, services, or construction being provided by the other public entity at the same prices being charged to the other public entity. The contract with the other public entity must have been awarded as a result of adequate competition as determined by the Director of the Office of Procurement.
Open Solicitation	No specific limit	Under an open solicitation, the County accepts applications for a contract on a continuing basis and awards a contract to each applicant who meets pre-established objective qualifications.



**Overview of Montgomery County Source Selection Methods, Continued**

Source Selection Method	Dollar Threshold Requirements	Description
Public Entity Procurement	No specific limit	A public entity procurement is an agreement to acquire or use any goods, services, or construction with a public entity upon terms and conditions considered to be in the best interest of the County as determined by the Director. A public entity procurement does not require public solicitation, nor does it require justification as a non-competitive procurement.
Non-Competitive Contract	No specific limits	The County may award a contract without competition if the CAO determines that contract award serves a public purpose and: <ol style="list-style-type: none"> <li>1. Only one source exists that can meet County needs for the required goods, service, or construction (“sole source”);</li> <li>2. The good or service required is in connection with potential or pending litigation, condemnation, or collective bargaining;</li> <li>3. A proposed contractor or subcontractor has been specifically identified in a grant accepted by the County (“named in grant”); or</li> <li>4. A proposed contractor has been identified in a grant or appropriation resolution approved by the Council (“community grant”).</li> </ol>
Emergency Procurement	No specific limits	An emergency procurement is an informal procurement of goods, services, or construction necessitated by a threatened dangerous condition or a threatened imminent or unforeseen curtailment of an essential service or supply that will endanger or damage health, life or property and cannot be remedied through a normal procurement.

**B. Additional Requirements**

Certain County contracts must comply with additional requirements, set out in the procurement laws and regulations, when developing and executing contracts. Several of these requirements represent policy choices that are implemented through the County’s procurement system. This section briefly summarizes these requirements, including:

- Wage Requirements law (WRL) wage requirements for Contractor employees providing direct measurable work under an existing County service contract;
- Prevailing wage requirements for workers on construction projects;
- Conducting cost/price analyses for County contracts;
- County Attorney review of contract documents;
- Goals to encourage Prime Contractors to sub-contract goods, services or construction from minority, female, and disabled contractors; and
- Reserve eligible purchases from local small businesses.

**WRL Requirements.** County procurement law requires contractors and subcontractors to pay employees providing direct measurable work for services to the County at least \$14.40 per hour.<sup>9</sup> The Chief Administrative Officer adjusts the rate annually based on changes in the Consumer Price Index for all urban consumers in the Washington-Baltimore metropolitan area, as published by Bureau of Labor Statistics of the US Department of Labor. The law exempts certain contractors and certain types of

<sup>9</sup> MCC § 11B-33A(e). WRL Wage Rate effective July 1, 2016 through June 30, 2017.

contracts from this requirement, including nonprofit organizations, public entity contracts, emergency contracts, bridge contracts and non-competitive contracts.<sup>10</sup> The law gives the County the ability to withhold contractor payments if a violation of the law is found, and imposes reporting requirements to ensure compliance.

**Prevailing Wage Requirements.** As of 2009, County procurement requires that the prevailing wage be paid to workers on County financed construction contracts; the prevailing wage rate is the rate paid for comparable work in the private section within the County. The rate is determined annually by the State of Maryland and includes the wage and fringe benefits rates for each classification of worker, depending upon type of construction (highway or building) and the local jurisdiction. The law also prohibits the misclassification of workers into lower paying job categories, gives the County the ability to withhold contractor payments if a violation of the law is found, and imposes reporting requirements to ensure compliance.

**Cost and Price Analysis.** The Director of the Office of Procurement must determine that the price paid under a contract is “fair and reasonable.”<sup>11</sup> Before a Using Department recommends an award to a vendor, the Using Department must conduct a price analysis to determine that the price is “fair and reasonable.”<sup>12</sup> Additionally, vendors must submit cost and/or pricing data for analysis prior to contract approval for competitively-negotiated contracts over \$100,000, non-competitively-negotiated contracts over \$50,000; any contract modification for which price adjustment, not allowed under the contract, is expected to exceed \$50,000, and any other contract or modification as required by the Chief Administrative Officer or Director of the Office of Procurement.

**County Attorney Review.** The procurement regulations require Using Departments to submit most contracts to the Office of the County Attorney for review and approval of form and legality prior to executing the contract.<sup>13</sup> The regulation exempts the following purchases from this review:

- Direct purchases;
- Petty cash purchases;
- Emergency purchases;
- Credit and debit card purchases;
- Small purchases; and
- Delivery orders against existing contracts.

**Minority, Female and Disabled Owned Business Program (MFD).** The procurement laws and regulations require the County Government to purchase a percentage of its goods, services, and construction for contracts \$50,000 and over from minority-owned businesses.<sup>14</sup> The Office of Procurement’s website explains that minority-owned businesses are at least 51% owned and managed by minority persons, including African American, Hispanic American, Asian American, Native American, Persons with Disabilities, and Women. The MFD law and regulations establish procedures for implementing the MFD program, including requirements for Using Departments and contract monitors.<sup>15</sup> The current goals set for each

---

<sup>10</sup> MCC § 11B-33A(b).

<sup>11</sup> COMCOR § 11B.00.01.10.10.1.

<sup>12</sup> COMCOR § 11B.00.01.10.10.1.1.

<sup>13</sup> COMCOR § 11B.00.01.03.3.3.1.

<sup>14</sup> MCC §§ 11B-57 to 11B-64; COMCOR §§ 11B.00.01.07.7.1 to 11B.00.01.07.7.10.

<sup>15</sup> See MCC § 11B-60(j); COMCOR § 11B.00.01.07.7.5.2.

purchasing category for the total value and life of the contract award are: construction (21%); professional services (15%); non-professional services (22%) and goods (15%).

**Local Small Business Reserve Program.** Montgomery County’s Local Small Business Reserve Program (LSBRP) requires Using Departments to award at least 20 percent of their procurements to local small businesses.<sup>16</sup> The LSBRP law and regulations establish procedures and requirements for Using Departments to help implement the program. To be eligible for the program, businesses must have its principal place of business in the County<sup>17</sup> and must meet the following criteria:

<b>Business Type</b>	<b>Employee Limit</b>	<b>OR</b>	<b>Prior 3 years' Average Sales</b>
Retail	30	or	\$5,000,000
Wholesale	30	or	\$5,000,000
Services	100	or	\$10,000,000
Construction	50	or	\$14,000,000
Manufacturer	40	or	\$14,000,000

**C. Recent Changes in Procurement Law and Regulations**

In the years since the release of the OLO report on contract execution in the Department of Health and Human Services, the County Executive and County Council have passed numerous laws and regulations in an effort to add additional tools to the County’s procurement system. The following is a summary of those bills and regulations.

---

<sup>16</sup> MCC § 11B-66.

<sup>17</sup>The business has its physical business location(s) only in the County; or the business has physical business locations both in and outside of the County, and the County-based location(s) account for over 50% of the business's total number of employees, or over 50% of the business's gross sales.

**Summary of Procurement Laws Since 2008**

Number	Name	Summary
Bill 21-08	Prevailing Wages - Construction	Requires contractors and subcontractors to pay prevailing wages to workers on certain construction projects awarded by the County or financed with certain County appropriations, grants, or tax credits.
Bill 37-09	Equal Benefits	Requires County contractors and subcontractors to provide equal benefits for a same sex domestic partner of an employee working on certain County contracts that the contractor or subcontractor provides for an employee's spouse.
Bill 45-09 & Executive Regulation 19-09	Revisions to Procurement Regulations	Provisions include: <ul style="list-style-type: none"> <li>• Exemption of contracts for media advertisement and contracts for experts/consultants/investigators for anticipated litigation from the Procurement Law;</li> <li>• Expansion of coverage of the Wage Requirements Law;</li> <li>• Allow the Director to investigate and verify information provided by businesses under the Local Small Business Reserve Program;</li> <li>• Amend the Prevailing Wage Law to require contractors to pay the prevailing wage in effect when the solicitation is published.</li> </ul>
Bill 9-11	Minority Owned Businesses - Amendments	Extends the deadline for submission of the MFD report by the Executive and the sunset date for the program.
Bill 13-14	Formal Solicitation - Local Preference	Defines "County-based bidder or offeror" and requires that a County-based bidder or offeror be given preference in the event of a tie bid or ranking in contracts awarded by formal solicitation.
Bill 14-14	Wage Requirements Health Insurance Amendments	Requires a contractor awarded a County service contract to provide health insurance for each employee who provides services to the County under the contract.
Bill 29-14	Contracts and Procurement - Wage Requirements Reporting	Require a County contractor subject to the Wage Requirements Law to report summary wage data and prohibit a County contractor from retaliating against an employee who discloses salary information to another person or employee under certain circumstances.
Bill 42-14 & Expedited Bill 48-15	Minority Owned Businesses Sunset Date Amendments	Extends the sunset date for the MFD Program.

**Summary of Procurement Laws Since 2008, Continued**

Number	Name	Summary
Bill 48-14	Purchases from Minority Owned Businesses - Procedures - RFPs	Allows an evaluation factor in a request for proposal to increase the participation of minority owned firms in certain procurement contracts.
Bill 49-14	Formal Solicitation - Reciprocal Local Preference	Establish a reciprocal preference for a County-based bidder in certain contracts awarded by competitive sealed bidding.
Bill 61-14	Local Business Subcontracting Program	Establishes a Local Business Subcontracting Program requiring 10% of the dollars related to an initial procurement contract award that is estimated to be valued at more than \$10 million to be subcontracted to a Local Business.
Executive Regulation 2-15 & Resolution 18-230	Adding Definitions to Procurement Regulations	Updates the Definitions section of the Procurement Regulations.
Bill 5-15	Health Insurance Preference	Establishes a preference in the competitive procurement of services by the County for a business that provides health insurance for its employees.
Expedited Bill 7-15	Reorganization - Executive Branch - Procurement	Establishes the Office of Procurement as a principal Office of the Executive Branch and transfers procurement related functions to the Office of Procurement.
Bill 23-15	Local Small Business Reserve Program - Amendments	Modifies the types of contracts subject to the Local Small Business Reserve Program and amends the definition of a local small business under the Local Small Business Reserve Program.
Bill 43-15	Wage Requirements Amendments	Requires certain contractors or subcontractors to submit certain payroll records to the Chief Administrative Officer and specifies the remedies for a violation of the wage requirements.
Bill 17-16	Equal Benefits for Domestic Partner - Repeal	Repeals the equal benefits law requiring a County contractor to provide same-sex domestic partner benefits to its employees.
Bill 20-16 (pending)	Purchases from Minority Owned businesses - Enforcement of Subcontracting Plan - RFP - Amendments	Clarifies the method of awarding points for an evaluation factor in a request for proposals to increase the participation of minority owned firms in certain procurement contracts and require a liquidated damages clause for failing to comply with a minority owned business subcontracting plan.

**D. Summary of Recent Procurement Initiatives**

The mission of the Office of Procurement is to preserve the public trust and ensure the integrity of the County's procurement process in accordance with best practices, resulting in the highest value for County government and its residents. Over the course of the previous few years, the County Council and Executive have taken action to strengthen and improve the County's procurement process, as well as enhance the utilization and access to contracting opportunities for local, small, and minority-owned businesses.

This section summarizes two County Council created task forces and one County Executive initiative that analyzed the County's procurement system and provided recommendations for increased effectiveness and efficiency. A status update to the Council on the Office of Procurement and these recommendations will be scheduled in early 2017.

### **Council Procurement Task Forces**

In October 2014, the County Council created two task forces to review procurement in the County - the Procurement Policies and Regulations Task Force to look at the procurement system as a whole and the Minority Owned and Local Small Business Task Force to focus on the LSBRP and MFD programs in the County. This section summarizes the recommendations of those task forces.

**Procurement Policies and Regulations Task Force.** Council Resolution 17-1254 established the Procurement Policies and Regulations Task Force, whose members included members of the procurement community, business leaders, consultants, attorneys, and community leaders. The Task Force also distributed a survey to local businesses.

The Task Force concluded that the County's procurement system works well overall but there are opportunities to improve competition, system usability, effectiveness, efficiency, technology, and transparency. Two themes emerged:

- There is no assessment of the County's procurement process as a system and the system is understood by County employees as a series of incremental legislation and regulatory additions rather than a holistic approach. It stated the system was "a series of siloed tasks and steps that may make sense individually, but do not operate optimally as a systemic whole."
- There is a perception among prospective vendors that the County's procurement system is not fair, not transparent, overly complex, and takes too long.

In addition, the Task Force identified the following subthemes about the County's procurement system:

- Procurement needs "re-engineering" regarding staffing (number of staff and skill sets) and help for Using Departments and vendors to engage.
- More technology is needed to improve usability, efficiency, capacity, transparency and analysis.
- Procurement processes and rules need to be simplified.
- The burden of pre-award compliance by vendors desired by the County (MFD and/or local) can result in fewer target businesses competing.
- Some programs designed to attract "target" businesses do not have a consistent benefit.
- Vendor engagement and transparency needs to be improved.

The following table summarizes the short-term, medium-term, and long-term recommendations of the Task Force.

**Recommendations of the Procurement Policies and Regulations Task Force**

<i>Short-Term</i>
<ol style="list-style-type: none"> <li>1. Improve the use of technology and move away from a paper-based system.</li> <li>2. Utilize or enhance existing tools to increase opportunities for vendors.</li> <li>3. Address challenges in balancing compliance and enforcement and its effect on vendors.</li> <li>4. Conduct de-briefings for unsuccessful bidders.</li> <li>5. Expand outreach and technical assistance to prospective vendors.</li> <li>6. Create a more transparent process.</li> <li>7. Clarify County procurement preferences.</li> </ol>
<i>Medium-Term</i>
<ol style="list-style-type: none"> <li>1. Increase outreach and communication.</li> <li>2. Increase transparency.</li> <li>3. Develop a stronger protest process.</li> <li>4. Increase opportunities for small purchases.</li> <li>5. Publicize all solicitations on the Procurement website.</li> <li>6. Train and continue to train the procurement staff to improve vendor interactions.</li> <li>7. Increase use of available data and technology to establish and measure goals and priorities.</li> </ol>
<i>Long-Term</i>
<ol style="list-style-type: none"> <li>1. Review and streamline post-award compliance requirements for small businesses.</li> <li>2. Improve procurement technology, with seven specific requirements included in the report.</li> <li>3. Enhance the Current Vendor Registration System.</li> <li>4. Implement a task-centric system for service needs and a vendor rating/performance system for participants.</li> </ol>

**Minority Owned and Local Small Business Task Force.** Council Resolution 17-12531 established the Minority Owned and Local Small Business Task Force to analyze and recommend improvements for the County’s procurement programs for minority owned businesses and local small businesses. After meeting with procurement stakeholders, reviewing contracting programs in other jurisdictions, and conducting a survey of local businesses, the Task Force identified a number of recommendations for future action, summarized in the following table.

**Recommendations of the Minority Owned and Local Small Business Task Force**

<i>Minority, Female, and Disabled-Owned Businesses Program Improvements</i>
<ol style="list-style-type: none"> <li>1. Establish a 35% mandate for local MFD subcontracting.</li> <li>2. Continue to set annual goals for minority group participation.</li> <li>3. Bring accountability to the MFD subcontractor participation requirement.</li> <li>4. Establish preference points for local-MFD prime contractors.</li> <li>5. Strengthen MFD program compliance and monitoring.</li> <li>6. Institute a prompt payment clause for subcontractors.</li> <li>7. Increase number of firms obtaining certification and streamline the certification process.</li> <li>8. Create a Standard Operating Procedure manual for the MFD program.</li> <li>9. Require minimum number of bids from minority firm.</li> </ol>
<i>Local Small Business Reserve Program Improvements</i>
<ol style="list-style-type: none"> <li>1. Require headquarters to be based in Montgomery County.</li> <li>2. Establish a 50% set-aside for MFD small businesses.</li> <li>3. Exercise greater scrutiny in approving bridge contracts.</li> </ol>
<i>Outreach Improvements</i>
<ol style="list-style-type: none"> <li>1. Expand County outreach programs.</li> <li>2. Invite potential MFD prime and subcontractors to attend pre-bid conferences for high value contracts.</li> <li>3. Increase formal interaction between the County and Chambers of Commerce.</li> </ol>
<i>Accountability Improvements</i>
<ol style="list-style-type: none"> <li>1. Establish and appoint an oversight commission.</li> <li>2. Retroactively apply adopted recommendations.</li> <li>3. Tie diversity goals to performance.</li> <li>4. Create Office of Procurement Accountability.</li> <li>5. Simplify RFP boilerplate forms.</li> <li>6. Prevent unjustified contract bundling.</li> </ol>
<i>Increasing Capacity of Local Small and Minority Owned Firms</i>
<ol style="list-style-type: none"> <li>1. Establish a mentorship program.</li> <li>2. Establish private sector initiatives.</li> <li>3. Improve financing options.</li> </ol>

**County Executive Procurement Innovation Project**

In 2015, the County Executive created the Procurement Innovation Project (PIP), in conjunction with the reorganization of the Office of Procurement, to address two priorities - increasing the speed of the procurement process and the utilization of the MFD and LSBRP programs. The Project included representatives from the Office of Procurement, CountyStat, several Using Departments and a consultant. The PIP was tasked to (1) assess the current state of the procurement process; (2) identify key issues and root causes of delays in the procurement system; (3) and develop recommendations to increase efficiency and effectiveness. Through an analysis of stakeholder interviews, Office of



Procurement data, and external reports, the PIP developed recommendations. Provided to the Council in a January 2016 update, Executive Staff report that these recommendations are currently being implemented, with no further updates scheduled since the January memorandum:

1. Implement the Procurement Tech Surge Initiative, which provides short-term surge support to clear the increasing list of new and existing IT needs.
2. Enhance the Office of Procurement's guidance for departments, including more formal stage gate in the procurement process, converting existing checklists and procedures into more dynamic web-based learning tools, simplifying boilerplate materials, and increasing information on the debriefing process.
3. Enhance direct purchase orders reporting and analysis, which could lead to improved accountability and purchasing power.
4. Create the Government Service Cohort Program (GSCP) – the primary responsibility for this task was given to the County Economic Development Corporation. The Program is designed to connect new/growing LSBRP/MFD businesses to solicitations throughout the County.

## **Chapter 2. Administration of Procurement in Montgomery County**

Under the law, the Director of the Office of Procurement is the County's "central procurement officer," responsible for purchasing or supervising the purchase of all County goods, services, and construction, along with disposing of surplus goods.<sup>18</sup> However, multiple County Government departments and staff share responsibility for implementing the County Government's procurement system. This chapter outlines the roles and responsibilities of each contributing department.

**Reorganization.** In 2015, the County Executive reorganized the Office of Procurement, which was a division within the Department of General Services, into an independent principal office. In the transmittal memorandum detailing the reorganization, the County Executive stated that an independent Office of Procurement would be "less susceptible to pressures to defer to other priorities within DGS and will be able to focus on the best interests of the County from an overall procurement perspective."

Executive Staff reported that obligations placed upon DGS since its creation in 2008 have made it more difficult for DGS to effectively administer the procurement function. An independent office will be able to focus on the various contracting needs generated across County government and ensure compliance of all departments with best practices and laws. The Executive further stated that this reorganization of the office into an independent office is in alignment with best practices recognized by the National Institute of Governmental Purchasing.

### **A. Office of Procurement**

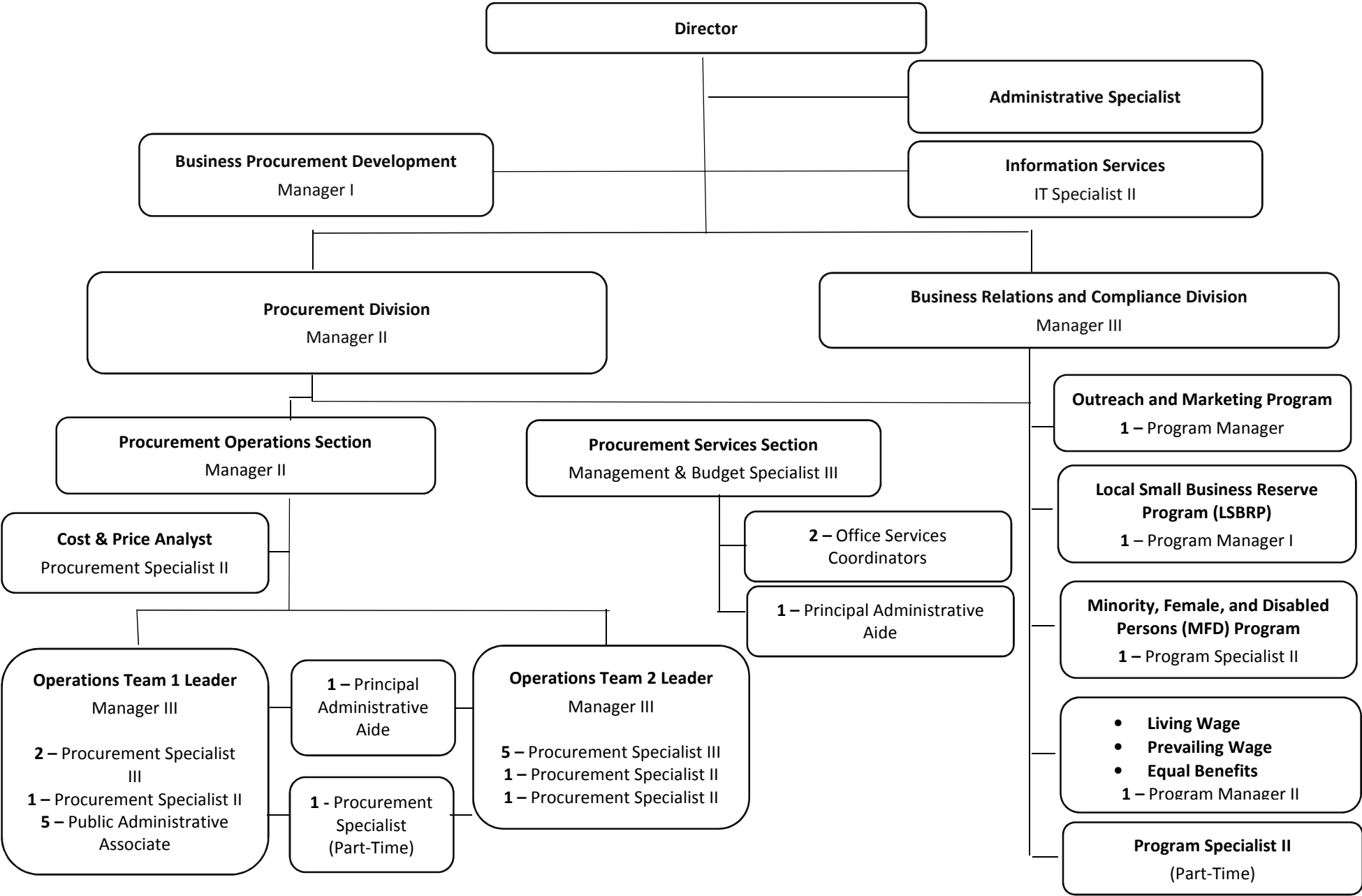
The Office of Procurement's mission is to "preserve the public trust and ensure the integrity of the County's procurement process through the efficiency and effectiveness of the procurement of goods, services, and construction for all Executive Branch departments and agencies." The Office of Procurement aims to increase organizational efficacy, promote transparency, improve accountability and facilitate compliance with all procurement-related laws, regulations, and policies.

Prior to 2015, the Office of Procurement was a division within the Department of General Services. However, at the Executive's request, the Council passed Expedited Bill 7-15, which established the Office of Procurement as a standalone department. Shown in the organizational chart below, the Office currently has 35 positions. The Office has two primary divisions: the Procurement Division and the Business Relations and Compliance Division.

---

<sup>18</sup> MCC § 11B-6(a), (b).

**Office of Procurement (35 Positions)**



**Procurement Division.** The Procurement Division consists of two sections – the Procurement Operations Section and the Procurement Services Section.

*Procurement Operations.* This section is tasked with assisting Using Department staff in the purchase of goods, services and construction in the most timely and cost-effective manner possible. Procurement Operations staff assist in the development of solicitations and contracts, provide training for contract administrators and vendors, and create documentation (including templates) for use by the Using Department during the contract solicitation, execution, and monitoring processes. Procurement specialists in the Office are divided by department for professional services<sup>19</sup> and by commodities (across departments).

*Procurement Services.* The Procurement Services Section is responsible for overall departmental direction and the following tasks:

- Oversight and support for the Contract Review Committee;
- Budget preparation and monitoring;
- Scanning and archiving of procurement related actions and contracts;
- Customer service assistance;
- Support for the Contract Administrator Forums; and
- Coordination of Procurement’s training and certification tracking.

**The Business Relations and Compliance Division (DBRC).** DBRC is tasked with planning and implementing strategies to expand business opportunities for minority, female and disabled-owned business owners and local small businesses through the Minority, Female and Disabled Persons (MFD) Program and Local Small Business Reserve Program (LSBRP). For each program:

- DBRC identifies MFD firms, encourages/coordinates their participation in the procurement process through community outreach and internal seminars, and monitors contracts subject to MFD participation to ensure compliance.
- DBRC certifies local small businesses that meet requirements, assists Using Departments in identification of LSBRP contracting opportunities, and provides training and networking for the local small businesses in the County.

DBRC also ensures government contracting compliance with other policies of the County, including WRL and prevailing wage compliance.

**Changes in Personnel.** In an April 2016 memorandum to the County Council, the Office of Procurement reported that the Office has evaluated the cumulative need for additional staffing related to recent procurement related legislation and concluded that the new Administrative Specialist position and one additional FTE would be able to absorb the duties required of all recently passed bills, instead of the recommended six FTEs by Council Staff.

---

<sup>19</sup> Professional Services are the services of attorneys, physicians, architects, engineers, consultants, and other recognized professional individuals, associations, corporations, and groups whose services are customarily negotiated because of the individuality of those services and level of expertise involved.

**Responsibilities of the Office of Procurement.** The remainder of this section summarizes the responsibilities, both delegated in law and established through policy, of the Office of Procurement within the County’s procurement process (shown in process maps in the next chapter).

**Institutional Support.** The Office of Procurement provides standard documentation paperwork for numerous contract actions on the County’s Intranet System – referred to as PMMDs.<sup>20</sup> PMMD documents can be found on the Procurement website and they provide guidance and templates for many contract actions, including pre-approved forms that do not require OCA review or approval, checklists for various source selection methods, general conditions of a contract between County and contractor, and price and wage information. Some specific information provided includes:

- Contract Checklists;
- Links to Procurement Law and Regulations;
- General Conditions of Contract Between County and Contractor;
- Generic Contract Samples;
- Additional Contract Provisions Language such as Acceptance Testing, Failure to Perform/Deliver, Price Adjustment Clause;
- Purchasing Tips Under Oracle;
- Commitment and Change Order Guidance;
- Qualification and Selection Committee Guide;
- Debriefing Materials (including a sample agenda and ground rules);
- LSBRP Exemption Requests and Administrative Portal;
- Wage Requirement Information; and
- MFD Compliance Information.
- Resource Materials on relevant topics addressed in Contract Administrator Forums

The Office of Procurement reports that it has converted many of its internal routing and compliance paper-based forms to electronic forms and is continuing to identify others.

**Maintenance of Records.** The Procurement law requires the Office of Procurement to maintain records for five years of any: non-competitive contract award; emergency procurement; contract modification exceeding \$25,000; public entity contract; or bridge contract.<sup>21</sup> The records must include the contractor’s name; the amount of each contract or contract modification; and a listing of the goods, services, or construction procured under each contract or each contract modification. A copy of these records must be submitted annually to the County Council. An Annual Record of Procurements is submitted to Council each year that provides a variety of required data on a given fiscal year’s actions.

**Certification of Vendors as Responsive and Responsible for IFBs.** During the contracting process, the Director of Procurement must determine whether the vendor’s bid is responsive and it is responsible. “Responsiveness” is the determination of whether a vendor’s bid adheres to the material parts of a solicitation. “Responsibility” involves a review of different characteristics of a specific offeror, which may include reputation, past performance, and business and financial capability and a determination that the offeror is capable of satisfying the County’s needs and requirements for a specific contract.

---

<sup>20</sup> PMMD stands for “Purchasing and Materials Management Division” and refers to the time when the Office of Procurement was a division of the Office of Management and Budget.

<sup>21</sup> MCC § 11B-32.

**Compliance with the County’s Minority, Female and Disabled Persons Program (MFD) Requirements.**

Procurement Regulations require the Director of Procurement “to actively and aggressively recruit certified MFD owned businesses to provide goods, construction, and services, including professional services.”<sup>22</sup> Council Bill 48-14, intended to increase the participation of minority owned firms in the RFP process, allows the County to add additional evaluation points for minority owned firms. The program also reviews and removes “Artificial Barriers” in solicitations to ensure fair and inclusive competition.<sup>23</sup>

After the Office of Procurement has posted a contract award, the procurement specialist transmits a compliance detail sheet with the proposed awardee to the MFD administrator in the Office of Procurement. The administrator then sends a package of information to the proposed awardee, including an MFD Subcontractor Performance Plan. The MFD administrator works with a vendor and the Using Department to complete the plan during the contract negotiation phase. The Plan gives a primary contractor three options for complying with the County’s MFD requirement:

- Identify the MFD businesses that will be used and specify the services, dollar amounts and percent of the contract cost,
- Request a partial waiver, or
- Request a full waiver.

**Cost Price Analysis.** When entering into a contract, the Procurement Regulations require the Director of Procurement to determine that the price paid for goods and services by the County are fair and reasonable.<sup>24</sup> The Director of Procurement may require a Using Department to follow contract cost and pricing principles for any competitively-negotiated contract that exceeds \$100,000 for the term of the contract; a non-competitively negotiated contract valued at more than \$50,000; and any contract modification for which the price adjustment is expected to exceed \$50,000 except for contract modifications that are fully in accordance with the terms and conditions of the contract. Vendors may be required to submit cost and pricing data to enable further analysis in determining a fair and reasonable price to the County.<sup>25</sup>

A Using Department must conduct a price analysis before recommending a contract award to determine whether the price is fair and reasonable using one or more of the following factors:

- The prior award price for the goods and services being purchased;
- Prices from other offerors who responded to the solicitation;
- Cost estimates received before the solicitation responses;
- Commercial market prices and costs;
- Prices paid by other public entities for similar goods and services; and
- The results of a cost analysis that identifies separate components of the offer and allocates costs among those components.<sup>26</sup>

---

<sup>22</sup> COMCOR § 11B.00.01.07.2.1.

<sup>23</sup> By providing evaluation points which can be considered in determining the awardee, Bill 48-14 provided an incentive for offerors to supply MFD subcontractor performance plans when submitting the bid. The process described in the text is the process used if either 48-14 does not apply or 48-14 applies but the offeror has failed to submit a subcontracting plan. Also, it should be noted that the subcontracting plans are also reviewed to determine whether the offeror has met the MFD goals established annually by the CAO.

<sup>24</sup> COMCOR §§ 11B.00.01.10.1.

<sup>25</sup> COMCOR §§ 11B.00.01.10.1; 11B.00.01.10.3.1.

<sup>26</sup> COMCOR § 11B.00.01.10.1.1.

A procurement cost/price specialist reviews the proposals of the three highest ranked vendors, looks at the proposed services and the proposed costs, and makes a determination to accept or reject the cost/price data provided by the vendor. The Office of Procurement's cost/price specialist has retired. Until the position of cost/price analyst is filled, the initial price analysis is currently being submitted by the using department, cost & price analysis function reviewed by a procurement specialist and approved by the Director of Procurement. Procurement is in the process of recruiting to fill the position of cost/price analyst.

**Local Small Business Reserve Program.** The Local Small Business Reserve Program (LSBRP) was created to ensure that all County departments set aside (with specified exceptions), a minimum of 20 percent of procurements for local small businesses. The 20 percent LSBRP requirement does not apply to:

- Contracts to which the Procurement Regulations do not apply because of a conflict with a State, federal, or local law or a grant requirement;
- Preexisting contracts or extension(s) of a preexisting, multi-year, contract executed by the County;
- Non-competitive contracts;
- Public entity or emergency procurements;
- Any waiver made under law by the Chief Administrative Officer;
- Any procurement where no local small business is deemed qualified or able to perform the contract as determined by the head of the Using Department;
- Any single procurement that is estimated to exceed \$10 million; or<sup>27</sup>
- Bridge Contracts.

The Office of Procurement works with the Using Department to identify contracts which may be suitable for placement in the LSBRP. Additionally, the Office of Procurement ensures vendor compliance with program regulations. Each Department is responsible for meeting the 20 percent LSBRP requirement.

**Support for the Contract Review Committee (CRC).** The CRC, established in County Code, was created to review and evaluate certain procurement actions. Consisting of a CAO designee (the Chair of the CRC), the Director of Procurement (or designee), the Director of OMB (or designee), and the Director of the Staff of the County Council (or designee). The CRC has the following responsibilities:

- Approving sole source procurements valued above the threshold for an IFB or RFP;
- Approving all change orders or amendments to a contract valued above the threshold for an IFB or RFP;
- Approving a contract extension beyond the original term, except an extension authorized by the original contract or a single extension of the original term by 12 months or less;
- Considering procurement matters referred to the CRC by the CAO, the County Attorney, the Director or a Using Department Head; and
- Recommending resolution of solicitation protest appeals.

---

<sup>27</sup> COMCOR § 11B.65.01.04(c).

The Office of Procurement provides staff support for the CRC, including organizing meetings, sending correspondence and public notice of appeals, recording the proceedings and retaining records relevant to the proceedings (e.g. meeting minutes and supporting documentation).

**Review and Execution of Contracts and Notices to Proceed.** After a contract has been reviewed by the Using Department, the County Attorney's office, the Office of Procurement reviews the contract; often the review of OCA and Procurement may be in parallel. Procurement then executes the contract and notifies the Using Department to issue a Notice to Proceed. The authority required to approve a contract and issue a Notice to Proceed varies by type and value of the contract.

**Contract Amendments, Modifications, and Extensions.** The Office of Procurement is responsible for administering changes to current contracts. Contract modifications may be initiated by the contractor, the contracting officer, or the contract administrator. The Director of Procurement then reviews proposed contract modifications. If the value of a proposed contract modification exceeds the threshold for an IFB or RFP, the Director must also refer the contract modification to the Contract Review Committee.

**Training.** Each contract administrator in the County is required to take a six class training course developed by the Office of Procurement and staff from a cross section of departments. The training course includes Overview of Contract Administration; Contract Drafting; Contract Negotiation; Grant Funded Contracting; Contract Compliance Programs; and the Payment Process.

In addition to the mandatory contract administrator training, the Office of Procurement has created Contract Administrators Forums, which are training sessions that provide information as well as guides, samples, and templates of various parts of the contracting process; materials are also available online for reference or for those that cannot attend. Some topics covered in these forums include: Qualification Selection Committee and Debriefing Processes; Navigating the CRC Process, Demystifying the Myth of Oracle and Compliance Issues; Sustainable Purchasing Best Practices and Practical Uses; Sustainable Procurement, and Your Green Toolkit.

**Implementation of Procurement Related Technology.** The Office of Procurement is currently using the Oracle ERP for most procurement and procurement-related functions. The system is accessible to all Using Departments and while staff can attach select contract documents to enable quick delivery, Procurement staff report that complete solicitation packages and full contracts are usually not shared using Oracle.

The Office of Procurement is in the process of further developing the Procurement Centralized Workflow Dashboard Portal, known as Your Online Database Application (YODA). The YODA system provides an automated means to communicate and track contract information through a customizable dashboard. The system aims to reduce duplicative efforts, increase efficiency and streamline the process (with such features as on-line bid tabs, automated contract expiration notices, compliance requests, correspondence tracking, etc.). YODA is currently being used by Procurement operations, compliance and some Using Departments to automate certain features such as LSBRP exemption requests and departmental contract database searches.

The Office of Procurement is also implementing PRISM, which will facilitate contract compliance for contractors. The system is supposed to improve Procurement's ability to track and monitor prime and



subcontractor compliance requirements. The system features will include: the automatic scheduling of reports documenting prime contractors payments to subcontractors and more transparent information to subcontractors (including when prime contractors are paid by the County and the percentage of work they will receive under the contract).

**Procurement Reporting.** In conjunction with CountyStat, the Office of Procurement provides some quick reference data on its website. In addition, the Office completes the following annual reports: Record of Procurement, Wage Requirements Law, Minority, Female and Disabled Program, Local Small Business Reserve Program, and the Recycle Report.

**Outreach.** In FY15, Procurement hired an Outreach Manager to increase the Office's community outreach through the management of events on the website, creation of newsletters, expanding of the Office's social media presence, and organization of networking events. The Outreach Manager has created or coordinated vendor training and contract administrator workshops, along with attending events hosted by community businesses. Some specific outreach events hosted or participated in include: the Annual Montgomery County Procurement Forum, Wheaton Redevelopment Local, Small and Minority Vendor Outreach Event, Montgomery County Fleet Services Small, Local and Minority Vendor Day, and the Montgomery County Chamber of Commerce GovConNet Procurement Conference.

## **B. Using Department**

Using Departments oversee daily management of individual procurements and the resulting contracts, completed and monitored by department contract administrators. There are over two hundred contract administrators Countywide; each Using Department is organized differently for its contract administration, ranging from a team of contract administrators in the Department of Health and Human Services (Contract Management Team) to one contract administrator for some departments including the Department of Corrections and Rehabilitation and the Department of Recreation. Some departments have staff designated to contract development, administration and management, while other departments have staff that develop and/or manage contracts along with their primary job responsibilities, in an 'other duties as assigned' capacity. The remainder of this section summarizes the responsibilities of the Using Departments in the County's procurement system.

**Preparation of Contract Solicitation and Ensuring Sufficient Funds.** When a Using Department determines a need for goods or services, contract administrators in the department draft the contract solicitation package using Procurement's template and submit it to the Office of Procurement. The solicitation package includes the following:

- Project scope;
- Compensation clause;
- Performance period schedule (contract term);
- Method of award;
- Evaluation criteria;
- Proposal submissions and administrative requirements;
- Relevant compliance program information; and
- Procurement memo.

The Using Department will then work with and coordinate with the Office of Procurement, Risk Management and the County Attorney to draft and post a final solicitation package to potential vendors. The Using Department is also responsible for ensuring that there is a sufficient expenditure authority to cover the entire contract amount through the Office of Management and Budget.

**Outreach.** In some cases, the Using Department will maintain relationships with vendors and establish connections to potential vendors through communication and outreach. The Using Department may conduct inquiries regarding the interest for various contracts, particularly for contracts aimed at MFD and/or local small businesses.

**Selection of Award – IFB.** Once the solicitation is opened, the Office of Procurement receives all bids and completes an initial review for “responsiveness.” After this review, eligible bids are sent to the Using Department for award evaluation selection under the solicitation’s stated method of award. The Using Department will review the “responsibility” of the vendor(s) recommended for award. The Using Department will recommend the lowest responsive and responsible vendor(s) to the Office of Procurement.

**Selection of Award – RFP.** Once the solicitation is closed, the Office of Procurement receives all proposals and completes an initial review for compliance (e.g. Wage certification, LSBRP certification, etc.). After this review, eligible proposals are sent to the Using Department’s Qualification and Selection Committee (QSC) for proposal evaluation under the solicitation’s stated method of award and recommends selection to the Using Department Head. The QSC will also review the “responsibility” of the vendor(s) recommended for award.

**RFP Conducting Negotiations/Drafting Contract Documents/Public Posting.** The Using Department Head will review the QSC recommendation and forward to the Office of Procurement the recommendation to enter into contract negotiations. Once the Using Department receives approval of negotiations from the Office of Procurement and completes contract negotiations, it will recommend publicly posting the intended awardee(s). The Office of Procurement will review the Using Departments final recommendation package and will publicly post the intended awardee(s).

**Debriefing.** When a contract is awarded as a result of an RFP, offerors who are not awarded the contract are able to complete a debriefing with Using Department staff (the head of the Qualification and Selection Committee). During this debriefing, Using Department staff can explain to the unsuccessful offeror the evaluation criteria listed in the RFP and detail the offeror's unsuccessful proposal’s strengths and weaknesses. This is intended to not only provide explanation to the unsuccessful offeror, but also to help unsuccessful offerors improve future proposals.

**Contract Monitoring and Payment.** The Using Department is responsible for certifying that the contractor has provided the goods or services in accordance with contract requirements. If the contractor has completed all required services or provided all required goods, the Using Department is responsible for reviewing invoices provided by the contractor and authorize payment.

### **C. Other Departments Involved in Contract Development and Execution**

There are numerous other County Departments that have responsibilities in the County’s procurement system. This section summarizes the roles of the Division of Risk Management within the Department of Finance, Office of Management and Budget, Office of the County Attorney, the County Council and County Executive.

**Division of Risk Management (Department of Finance).** The Department of Finance has two primary responsibilities during the execution of a County contract – to oversee contractor insurance

requirements (Division of Risk Management) and payment of vendor invoices (Accounts Payable Section of the Controller Division).

All County contracts include insurance requirements to transfer risk to the vendor and to provide security to back up the indemnification clause included in the general terms and conditions of the contract. Risk Management staff advise Using Department staff about insurance requirements at two points in a procurement process. First, during the solicitation development phase, Risk Management details requirements to include in the solicitation packages. Second, during the contract negotiation phase, Risk Management reviews certificates of insurance provided by contractors to ensure compliance with the insurance requirements.

The Accounts Payable Section of the Controller Division in the Department of Finance is responsible for the payment of vendor invoices. Under County law, it is County policy to make a payment under a contract within 30 days after payment is due under a contract or after the contract administrator receives a proper invoice.

**Office of Management and Budget.** The Office of Management and Budget is tasked with, at the request of the Using Department, ensuring that there are sufficient funds in the department's budget to cover the cost of the contract prior to submitting a solicitation package to the Office of Procurement. OMB also reviews procurement freeze exemption requests or budget control exemption requests through an online submission process using the department's eBudget system. All procurement exemption requests include a revised exemption request form and other supporting documents uploaded and attached to the submission.

**Office of the County Attorney.** Prior to finalizing contracts, the Office of the County Attorney (OCA) is responsible for reviewing and approving contract documents for form or form and legality. The OCA will officially review contracts drafted by Using Departments during and/or after the negotiation phase of the process.

According to the Procurement Task Force report, two paralegals complete preliminary intake and review of contract documents. There are six attorneys within the Office that typically handle contract review with a goal of zero to three business day turnaround for each internal review. Staff report that they generally do not review solicitations, but will do so upon request.

**The County Executive and County Council.** The County Executive establishes the parameters for soliciting and nominating recipients for Executive community grants. The process generally occurs during the County's annual budget development and the Executive will include community grant awardees in the Recommended Budget.

County law also authorizes the County Council to make non-competitive grant awards.<sup>28</sup> In practice, the County Council administers an annual community grants program. The vehicle for appropriating the funding for these awards is the Non-Competitive Award Designation List ("Designation List"), which is an itemized list of organizations, services, and award amounts grouped by the County Government department that will administer the contract. The Council adopts the Designation List as an attachment to the Operating Budget Resolution at the end of May each year. These grants must all be converted to County contracts, to be executed beginning the following July 1 or renewals processed. This creates a

---

<sup>28</sup> MCC § 11B-14(a).

period of five or six weeks, from the end of May through June 30, for development and execution of contracts. This time period coincides with the end-of-year processing and renewal activities for existing contracts.

### **Chapter 3. Procurement Process Maps and Processing Times**

This section presents four procurement process maps showing the sequence of activities required to produce legally valid contracts. OLO developed four separate maps to show the differences among awards resulting from an open solicitation, a formal RFP, a formal IFB, and a non-competitive community grant award.

The second half of this chapter provides targeted processing times on RFP and IFB contract execution for contracts that began the solicitation process and were executed within FY15. This targeted data was provided by the Office of Procurement.

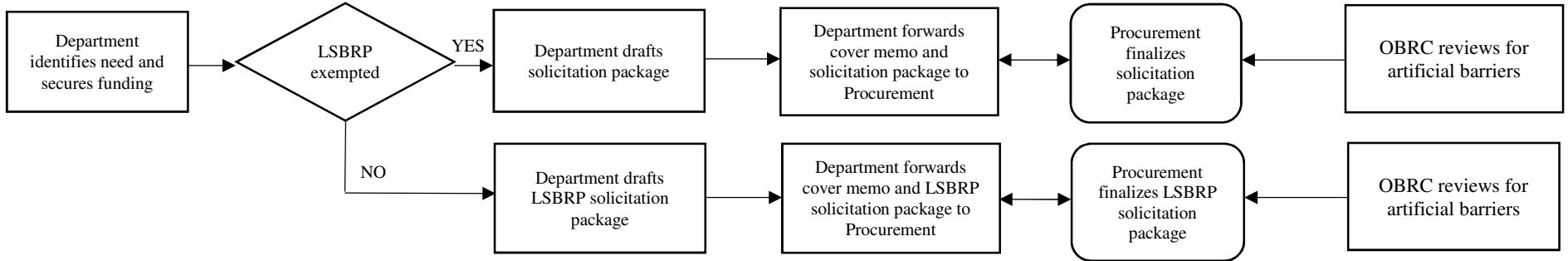
#### **A. Procurement Process Maps**

This section first provides a workflow map created by the Office of Procurement on the general contracting processes in the County. OLO, with assistance from the Office of Procurement, then built more detailed process maps for different types of contracts. These maps include the roles of the various County departments in the procurement process.

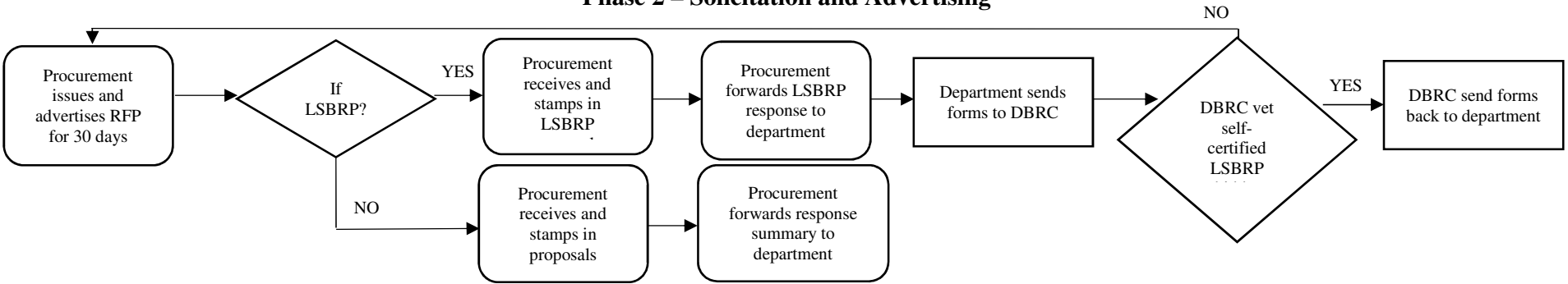
**Workflow Chart Created by Office of Procurement.** The Office of Procurement's workflow chart of the procurement process in Montgomery County (see below) summarizes the general path of a contract from solicitation to execution. It provides an overview of the various phases of contract development including: solicitation, advertising, evaluation, selection, negotiation, and execution.

**Workflow Chart of Procurement Process Created by the Office of Procurement (Recreated by OLO)**

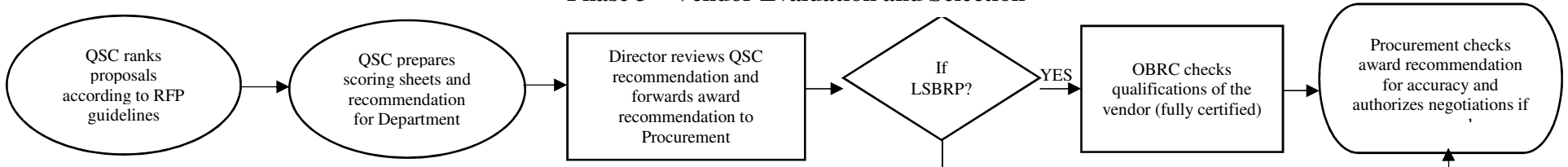
**Phase 1 – Solicitation Development**



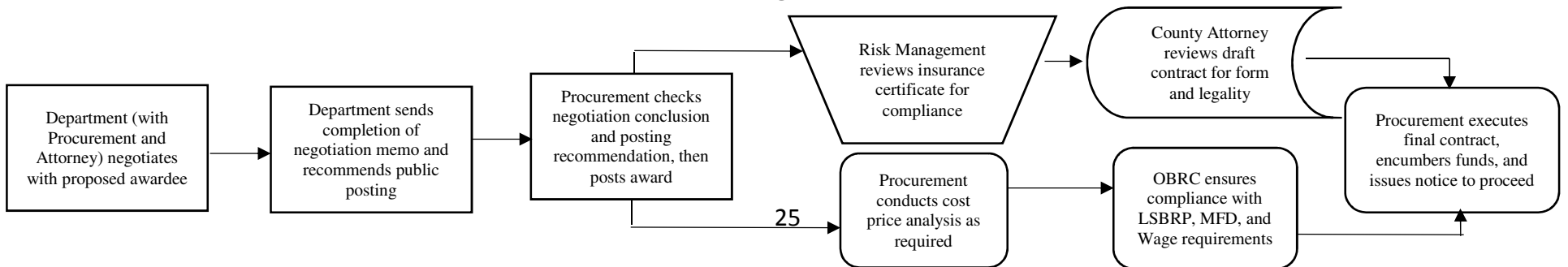
**Phase 2 – Solicitation and Advertising**



**Phase 3 – Vendor Evaluation and Selection**



**Phase 4 – Contract Negotiation and Execution**

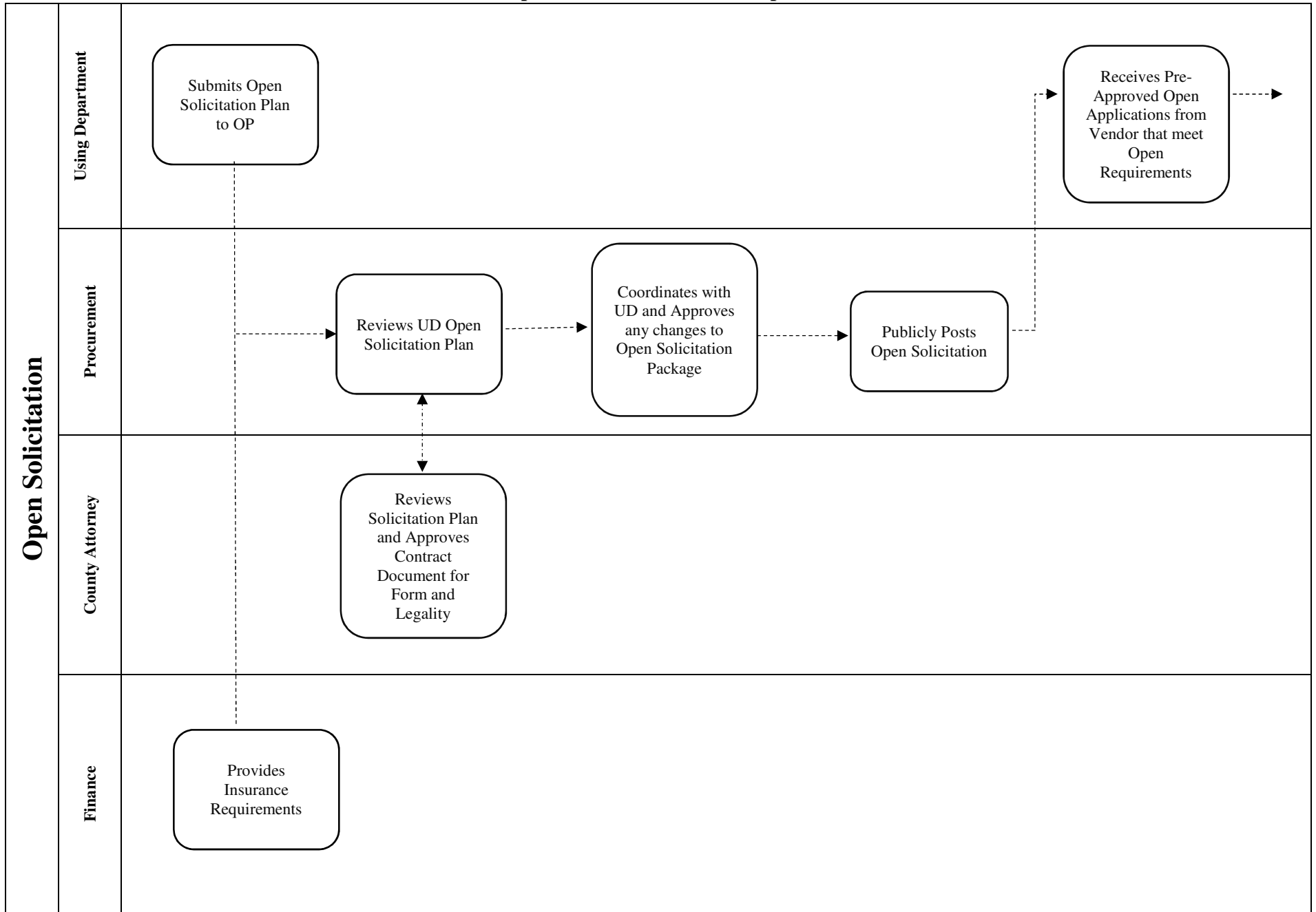


The following are the process maps for open solicitations, requests for proposal, invitations for bid, and non-competitive awards (community grants) created by OLO with the assistance of the Office of Procurement.

**Open Solicitation.** An open solicitation is a procurement method designed to attract pools of vendors willing to sign contracts with a uniform set of rates and terms. The open solicitation process allows Using Departments to execute multiple contracts with multiple contractors on a continuing basis. Each contractor must meet or exceed pre-established minimum qualifications. Open solicitation contracts require vendors to submit all required documentation and paperwork – such as insurance requirements and budgets – with the vendor’s signed contract.

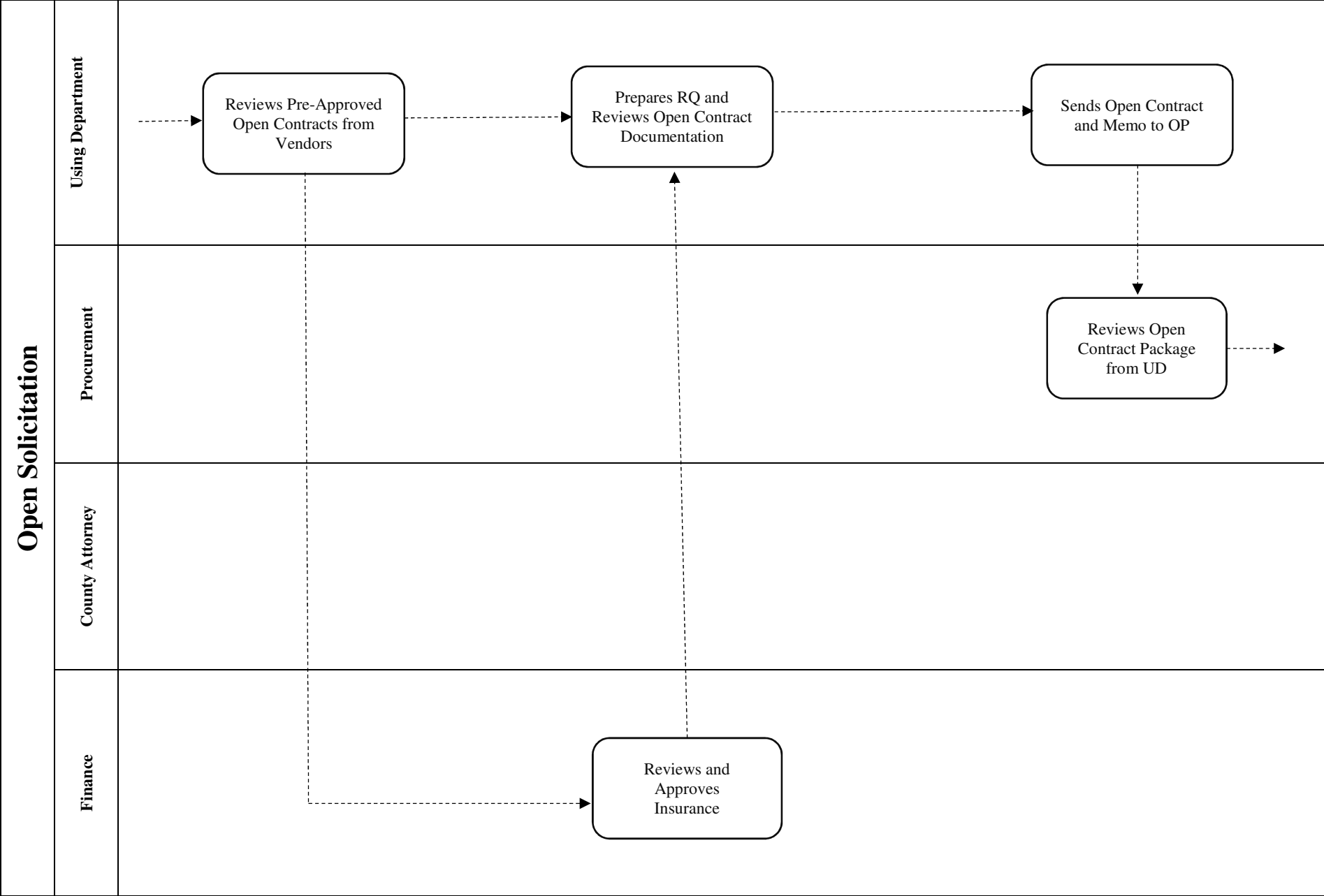
The following workflow process map summarizes the path an open solicitation takes from its inception in the Using Department to final execution and vendor payment.

### Open Solicitation Process Map (1)

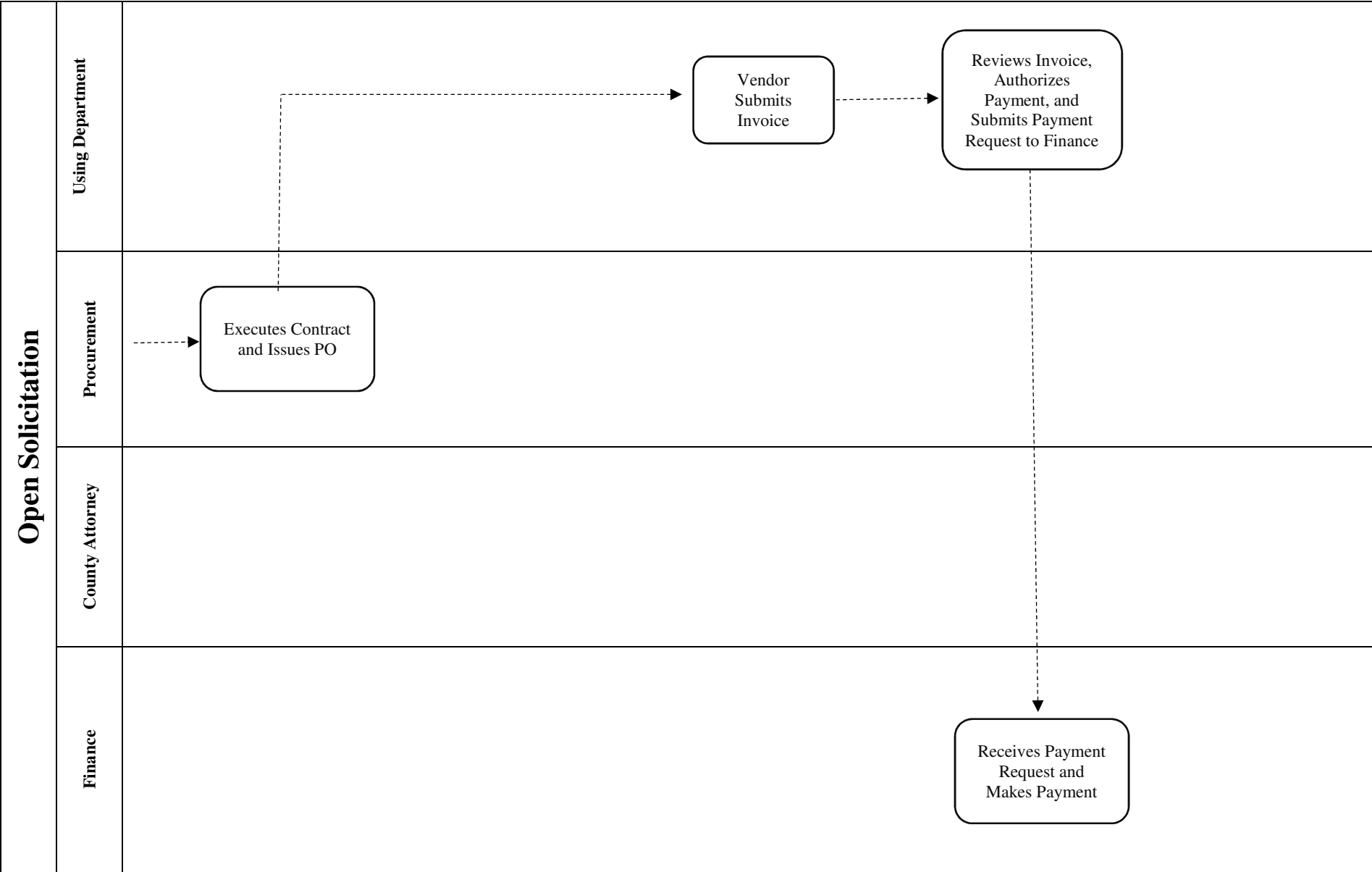




**Open Solicitation Process Map (2)**



**Open Solicitation Process Map (3)**



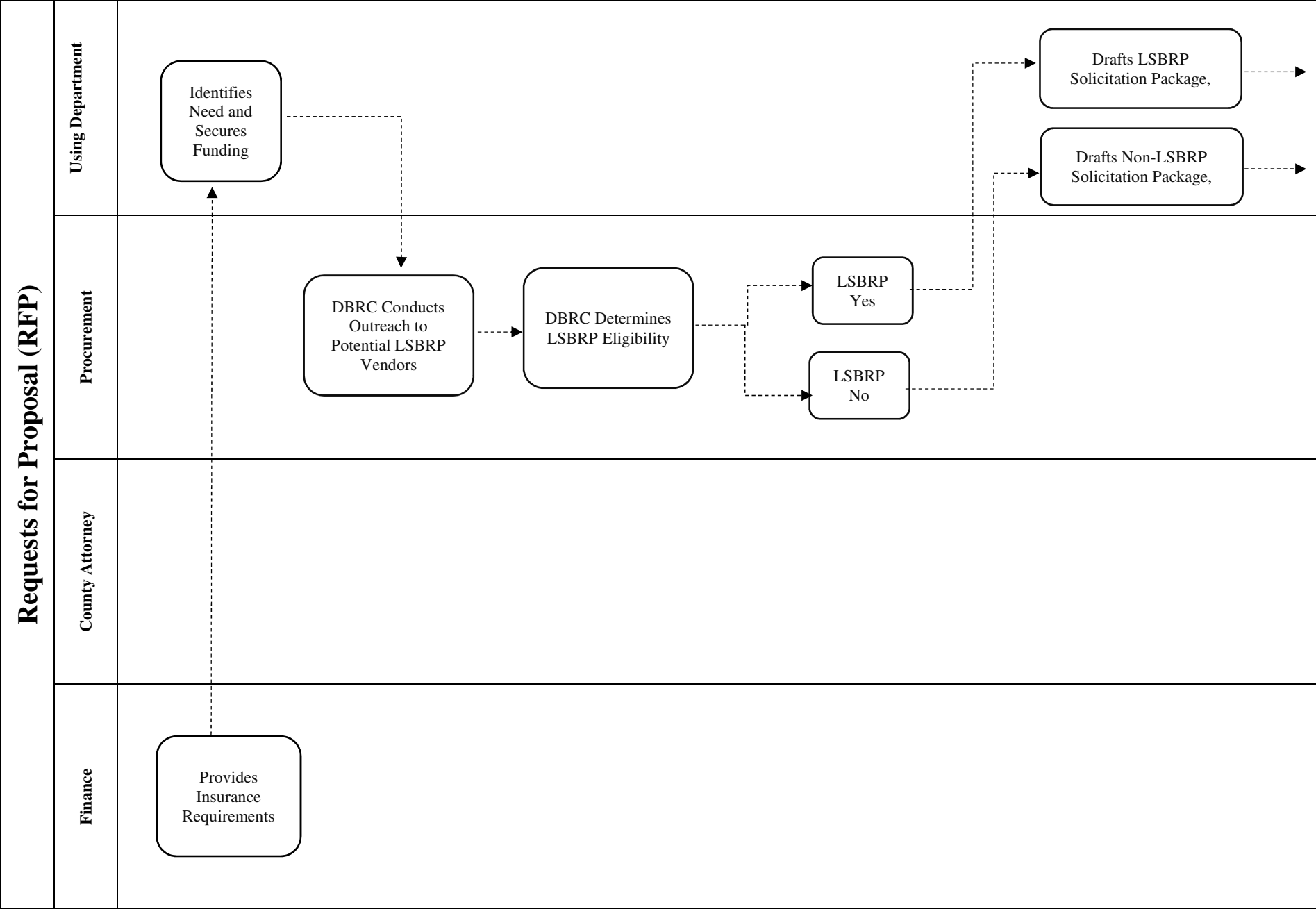
**Request for Proposal (RFP).** The competitive formal Request for Proposal process is the most common process for procuring professional services. An RFP is a formal request for competitive sealed proposals from vendors for professional services, plus construction, goods, or non-professional services. The County uses this process when:

- A procurement is valued at \$100,000 or more;
- A department formulates the scope of services/specifications to be acquired;
- Generally known sources of supply and competition exist; and
- Technical considerations and cost are valid criteria for evaluating offers.

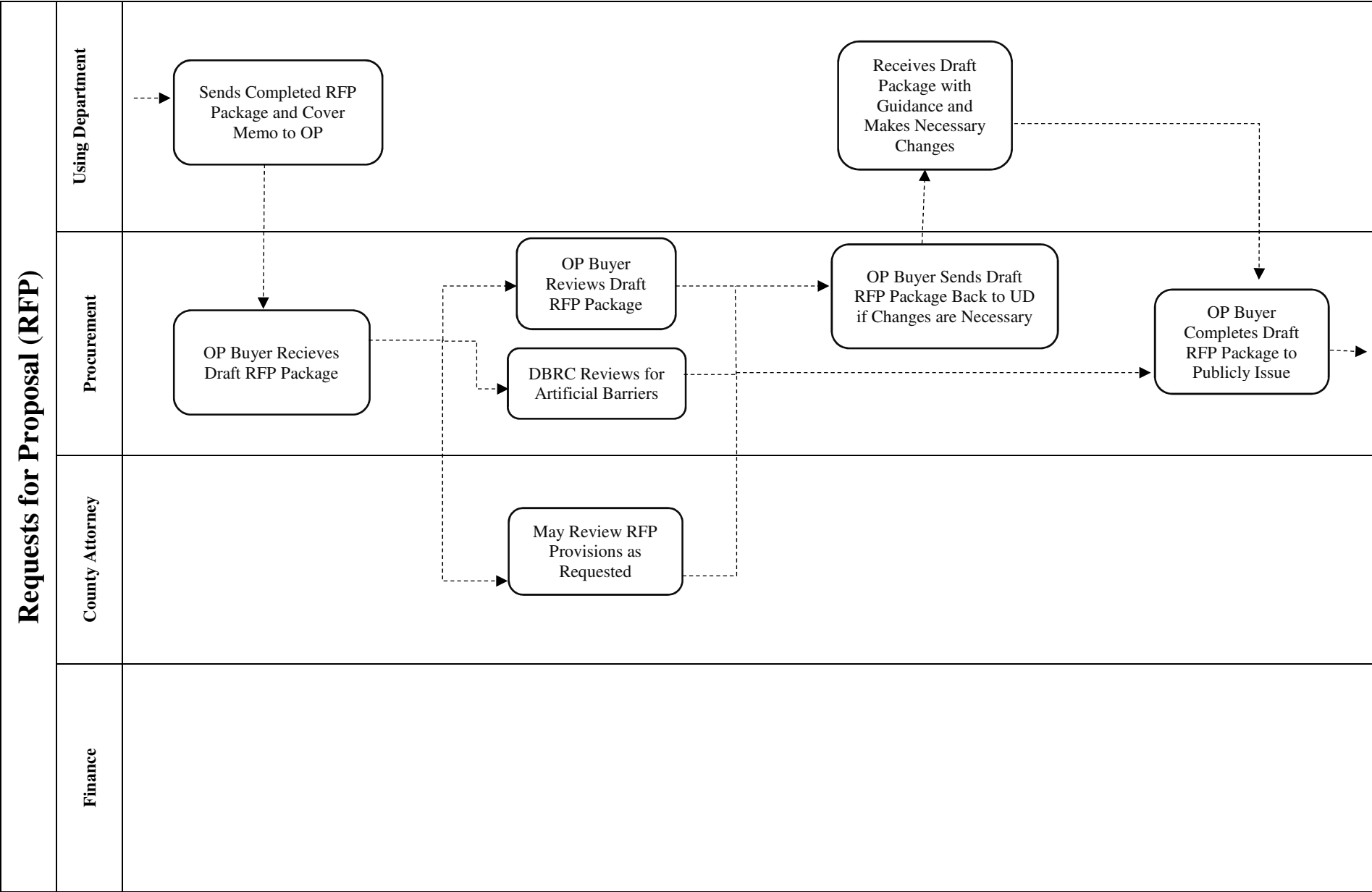
The contract for a Request for Proposal is predominantly based on the solicitation created for the required services. A solicitation for an RFP will often include a scope of services, performance measures, and insurance requirements. This documentation serves as background for the draft contract.

The following workflow process map summarizes the path a request for proposal (RFP) takes from its inception in the Using Department to final execution and vendor payment.

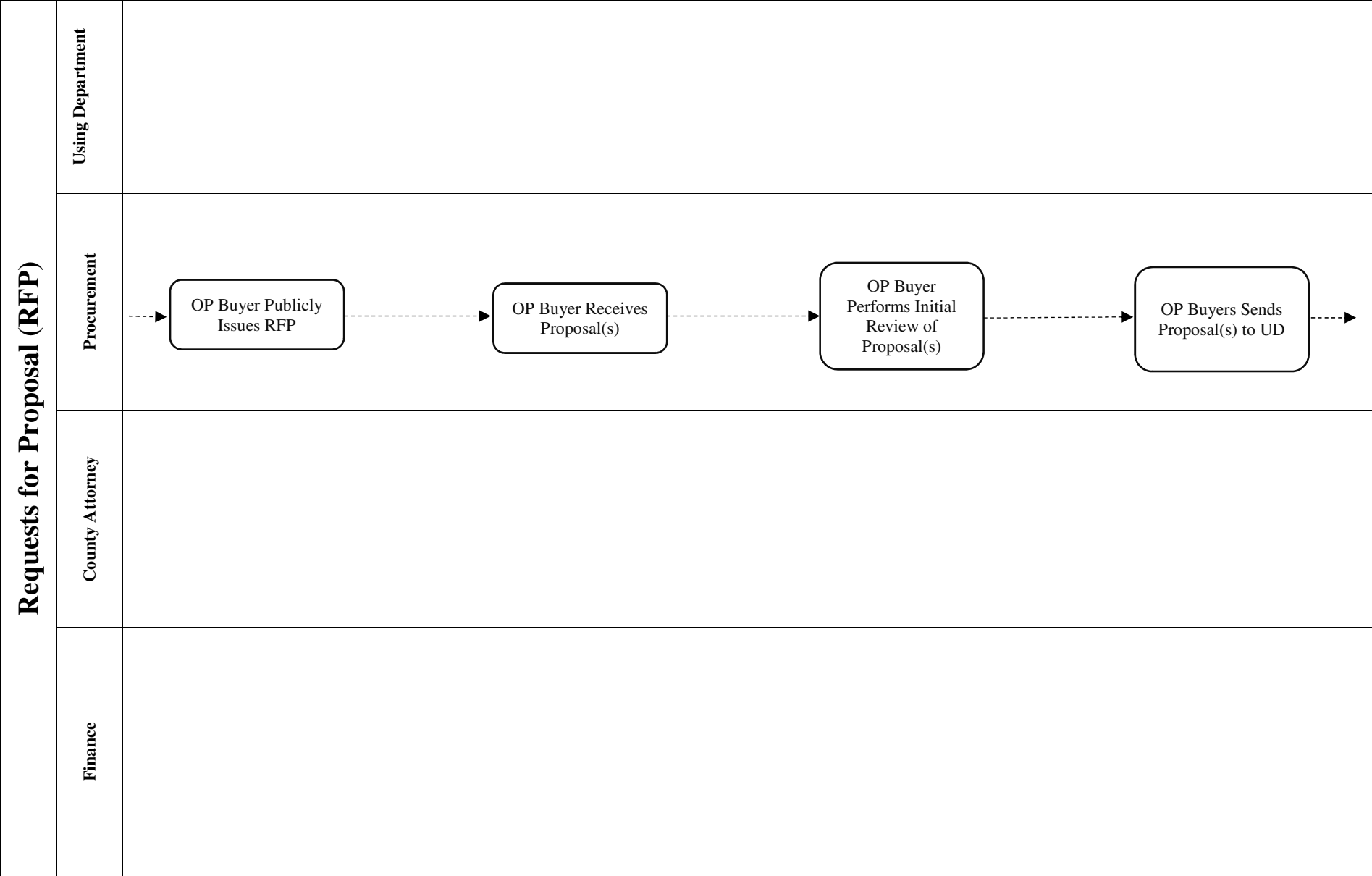
**RFP Process Map (1)**



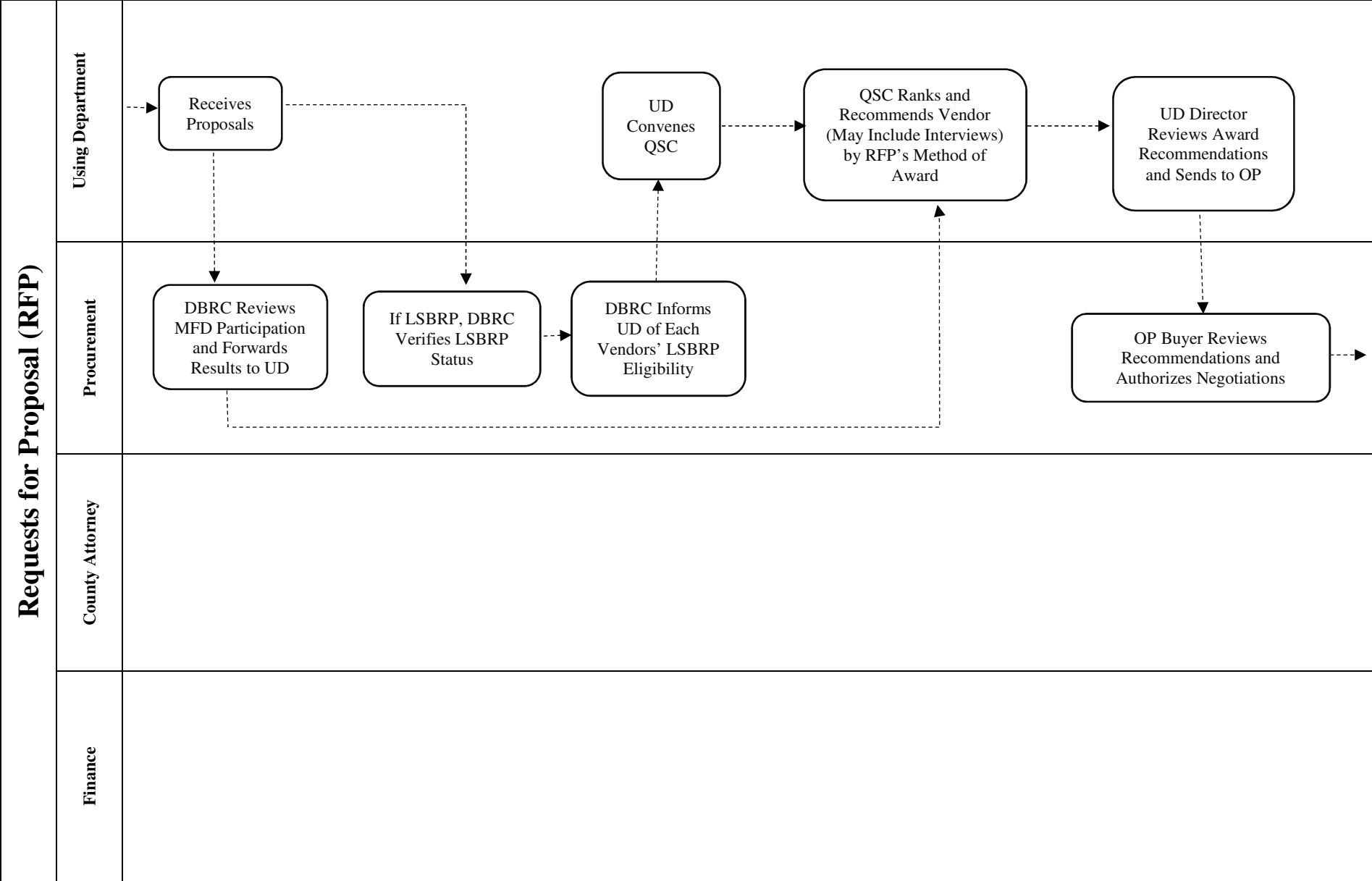
**RFP Process Map (2)**



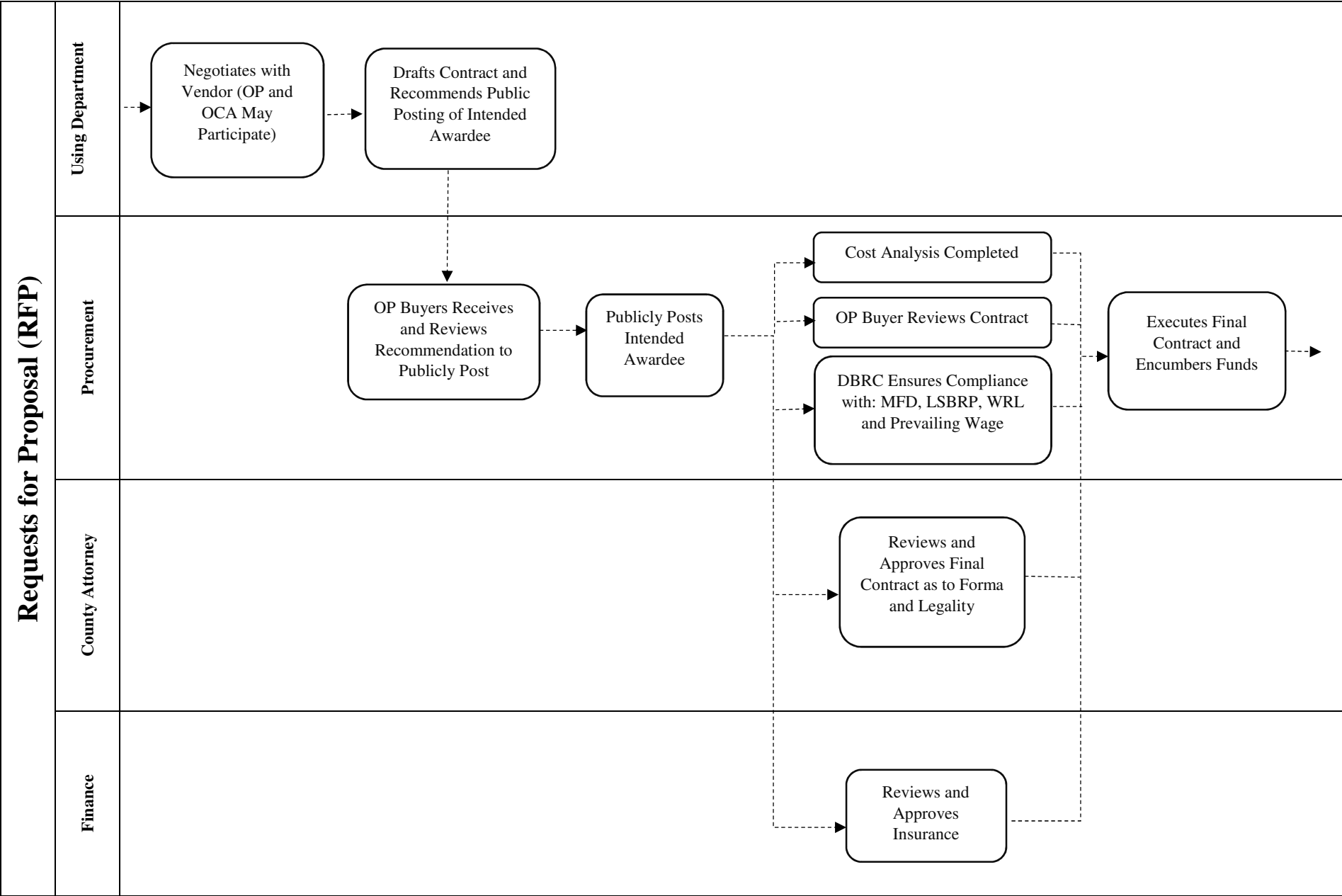
**RFP Process Map (3)**



**RFP Process Map (4)**

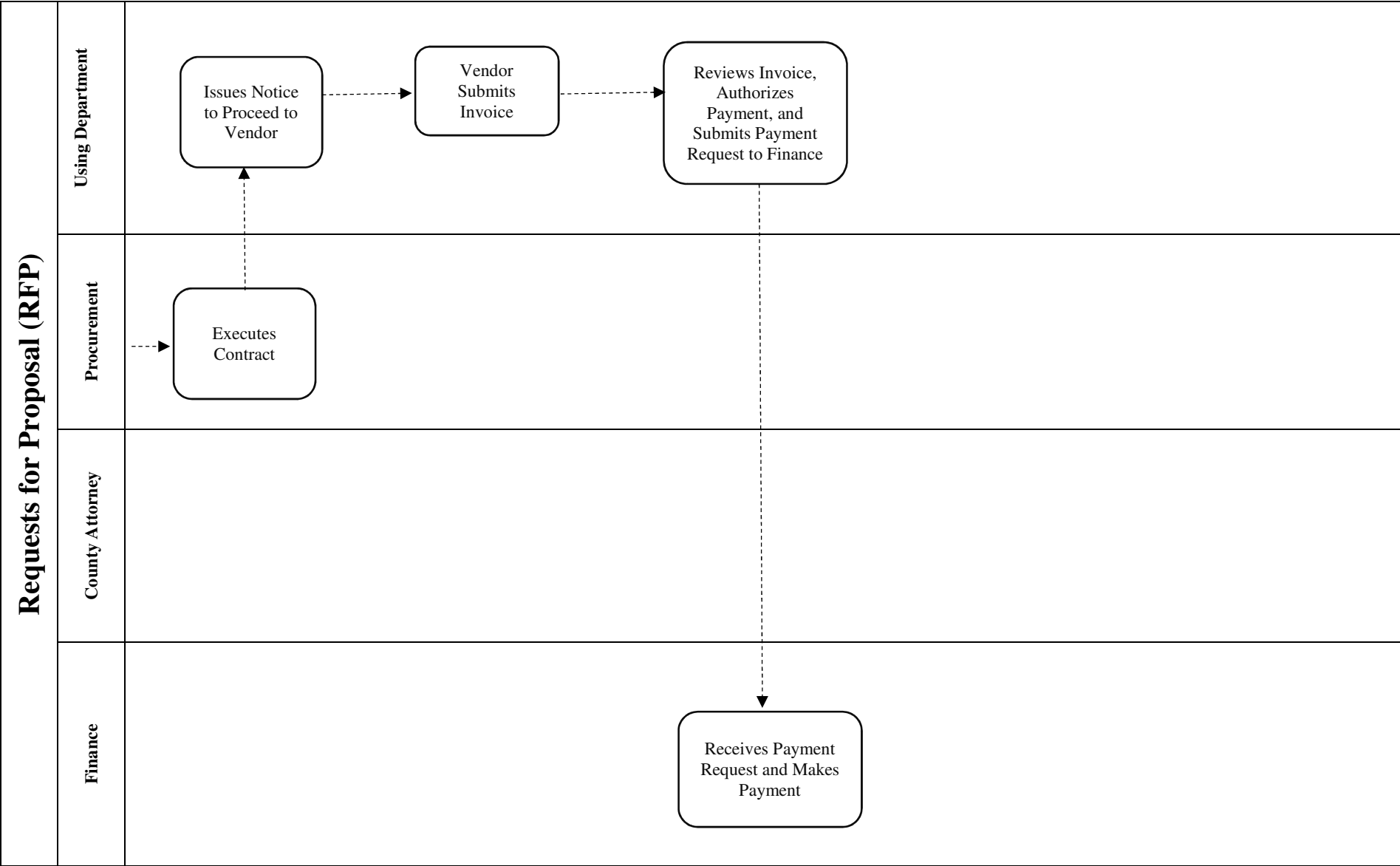


**RFP Process Map (5)**





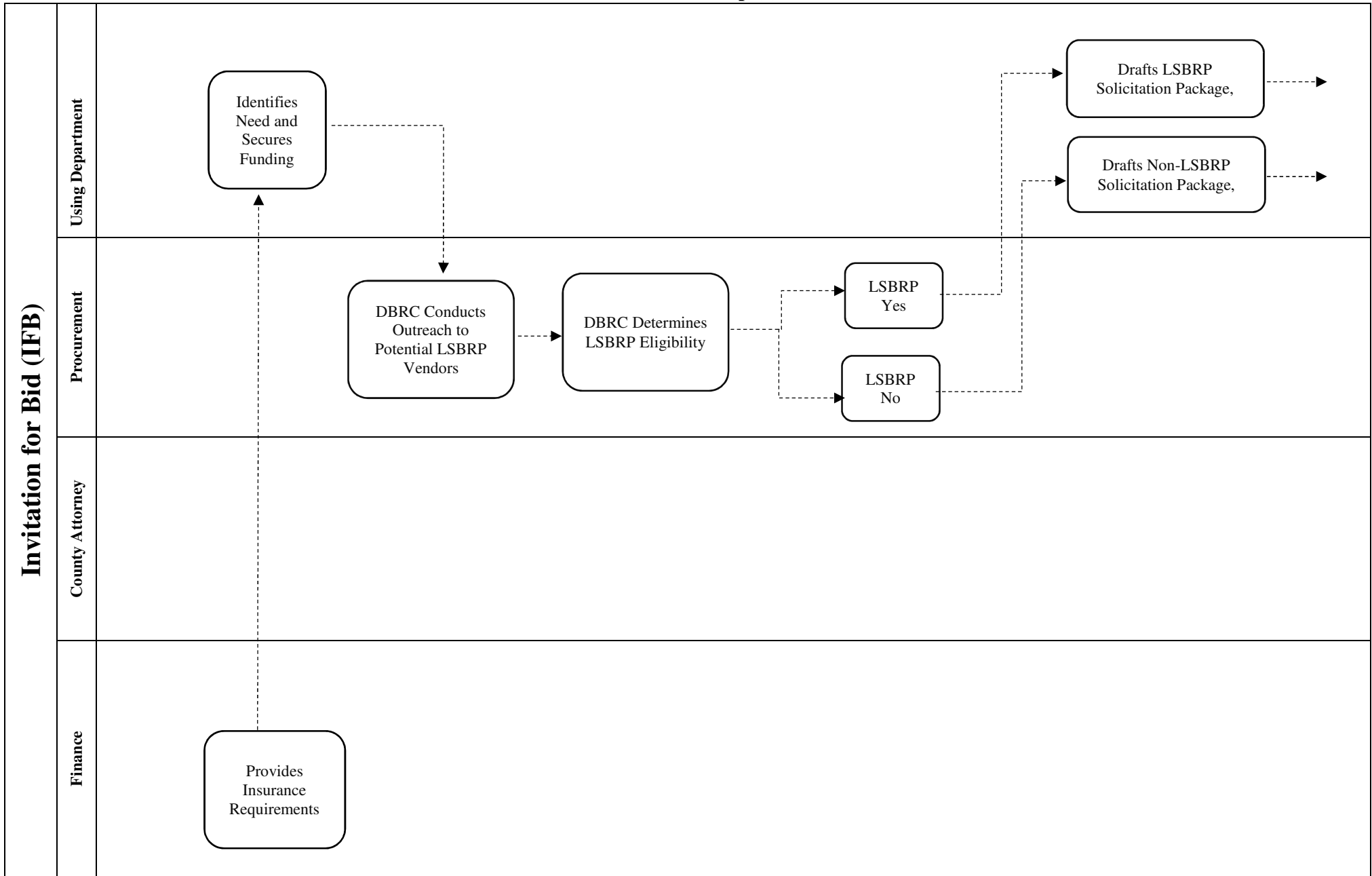
**RFP Process Map (6)**



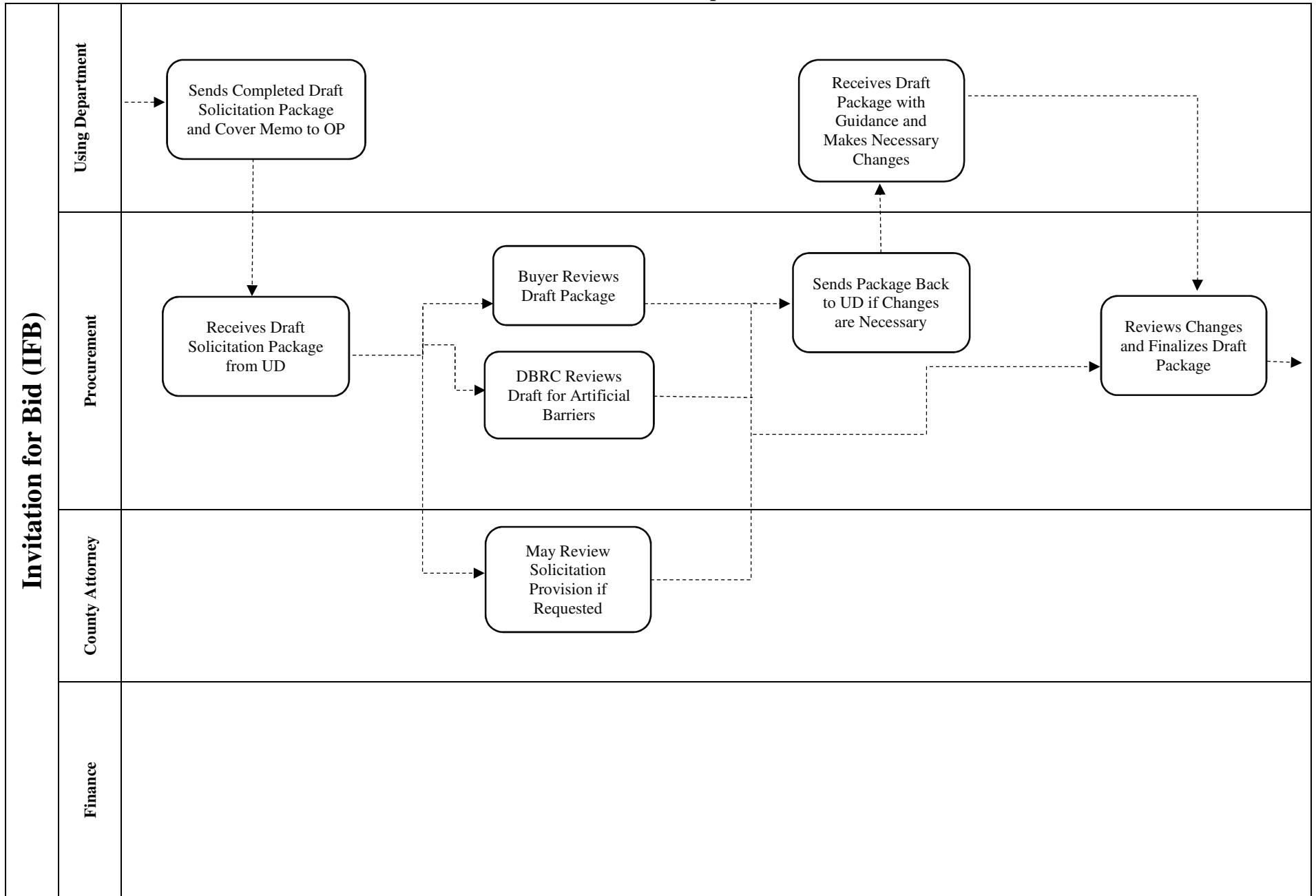
**Invitation for Bid (IFB).** A formal solicitation in which competitive sealed bids are solicited through a public notice procedure that requires that bids be received by a specified date and time and opened publicly. IFBs are evaluated solely in terms of bidder responsibility, bidder responsiveness, and lowest price meeting all of the specifications and requirements of the goods, services or construction.

The following workflow process map summarizes the path an invitation for bid (IFB) takes from its inception in the Using Department to final execution and vendor payment.

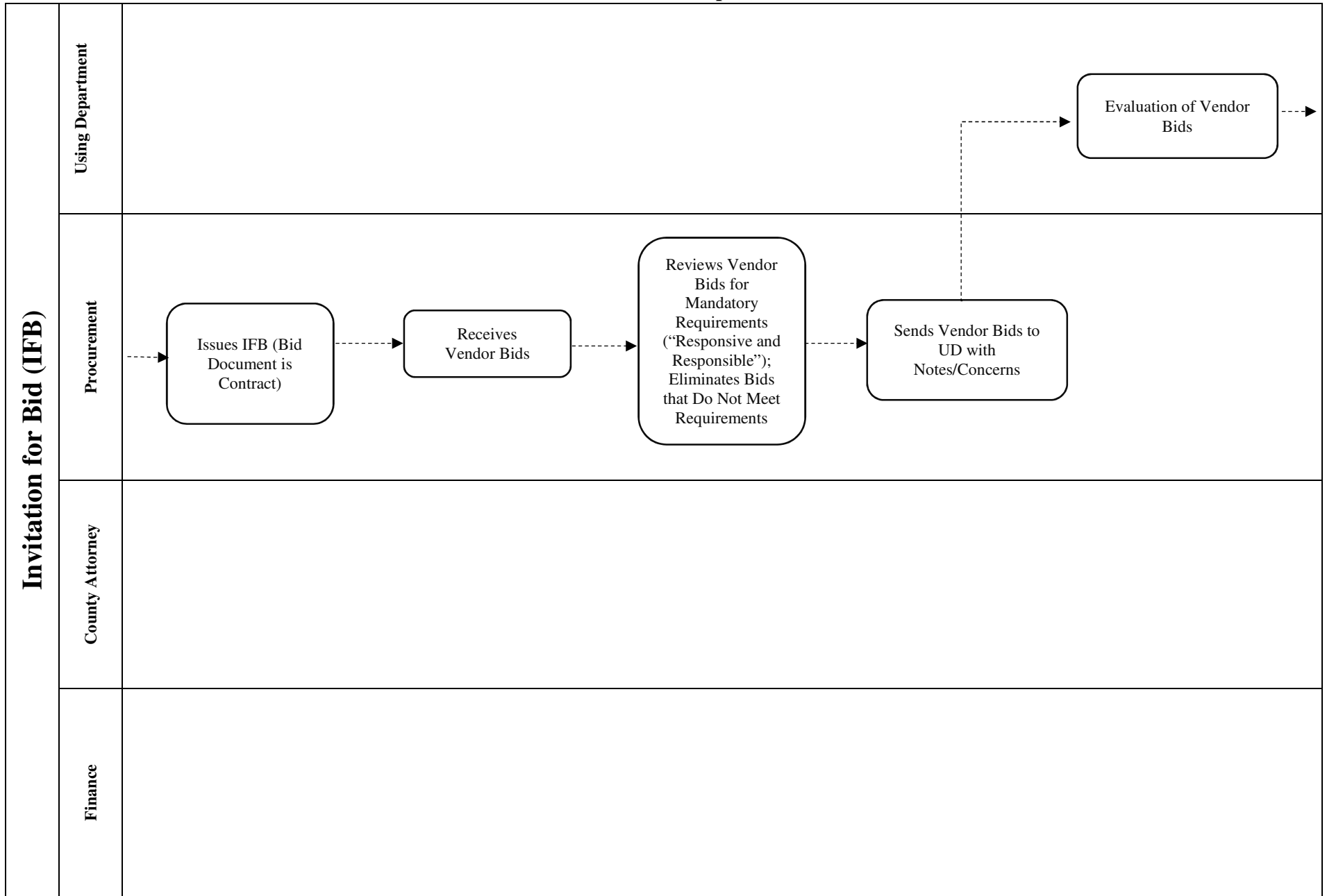
### IFB Process Map (1)



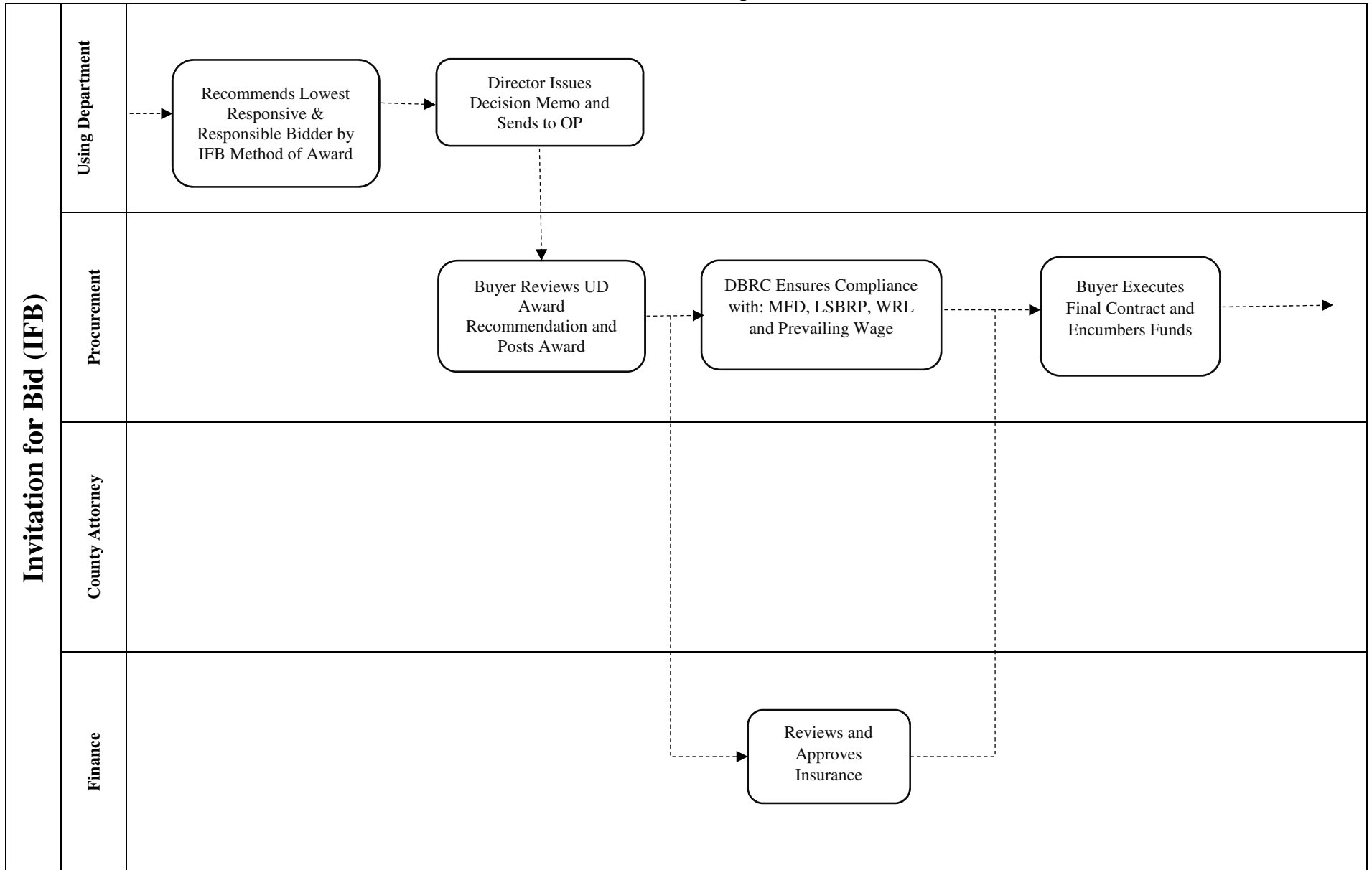
### IFB Process Map (2)



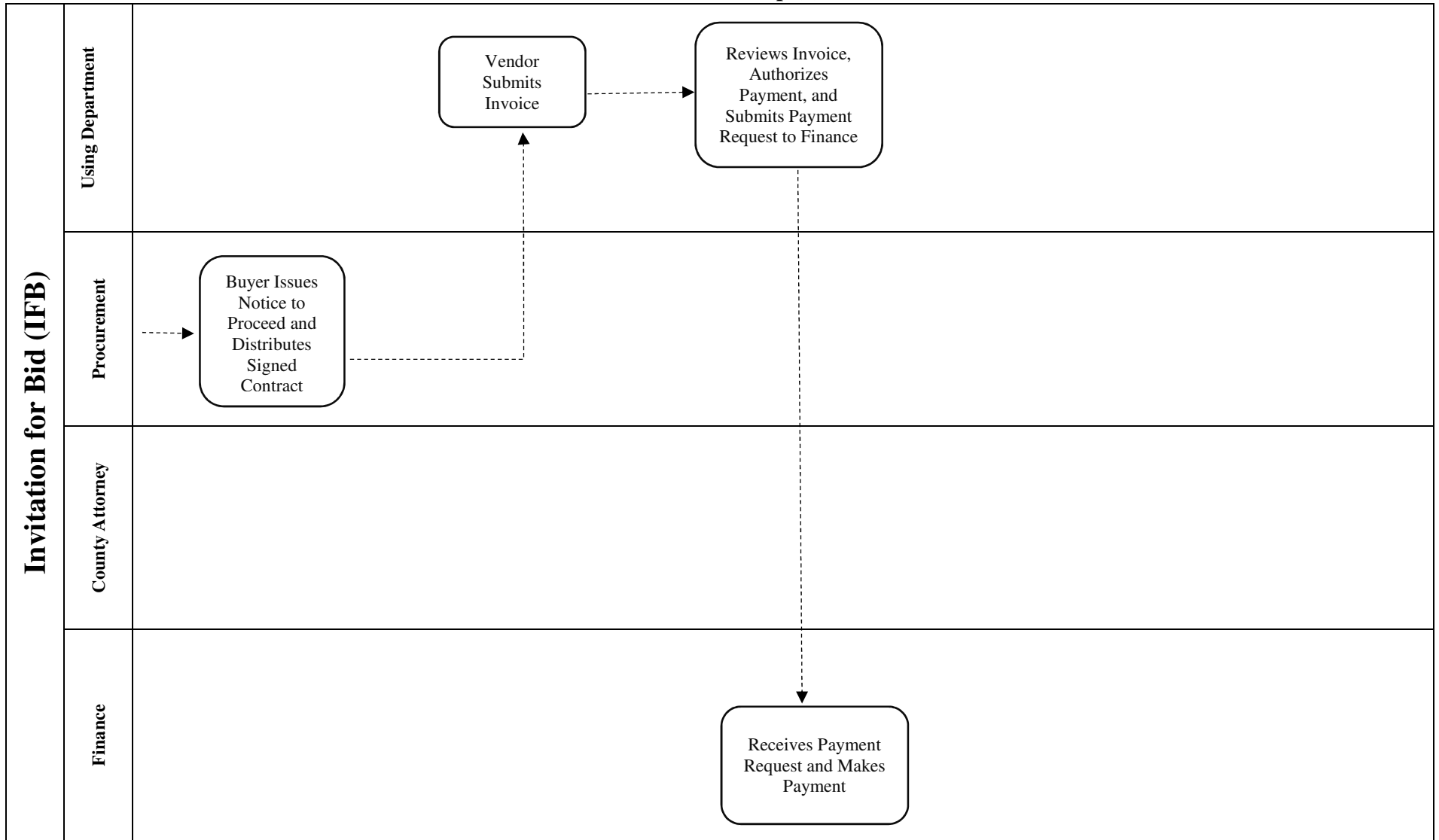
### IFB Process Map (3)



**IFB Process Map (4)**



**IFB Process Map (5)**

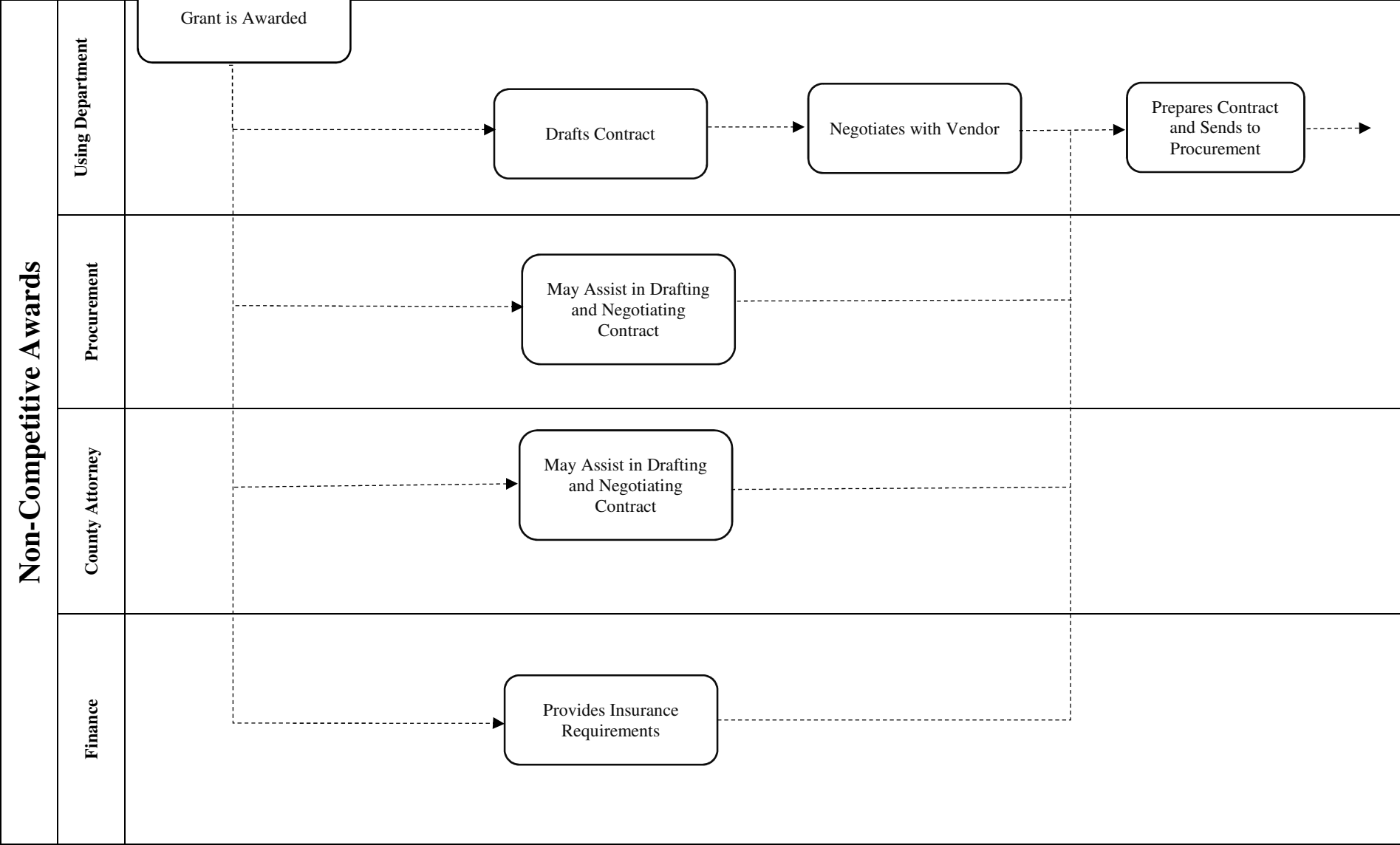


**Non-Competitive Award.** Each year, the County Executive and County Council designate numerous for-profit and non-profit organizations as non-competitive award recipients (“community grants”). The Council appropriates funds for these awards to a Community Grants Non-Departmental Account (NDA) during the budget process. Every non-competitive award listed on the Non-Competitive Contract List is assigned to a department for administrative purposes and grants are one-time awards with a term of one year and may be renewed if there is continued designation on the non-competitive award list.

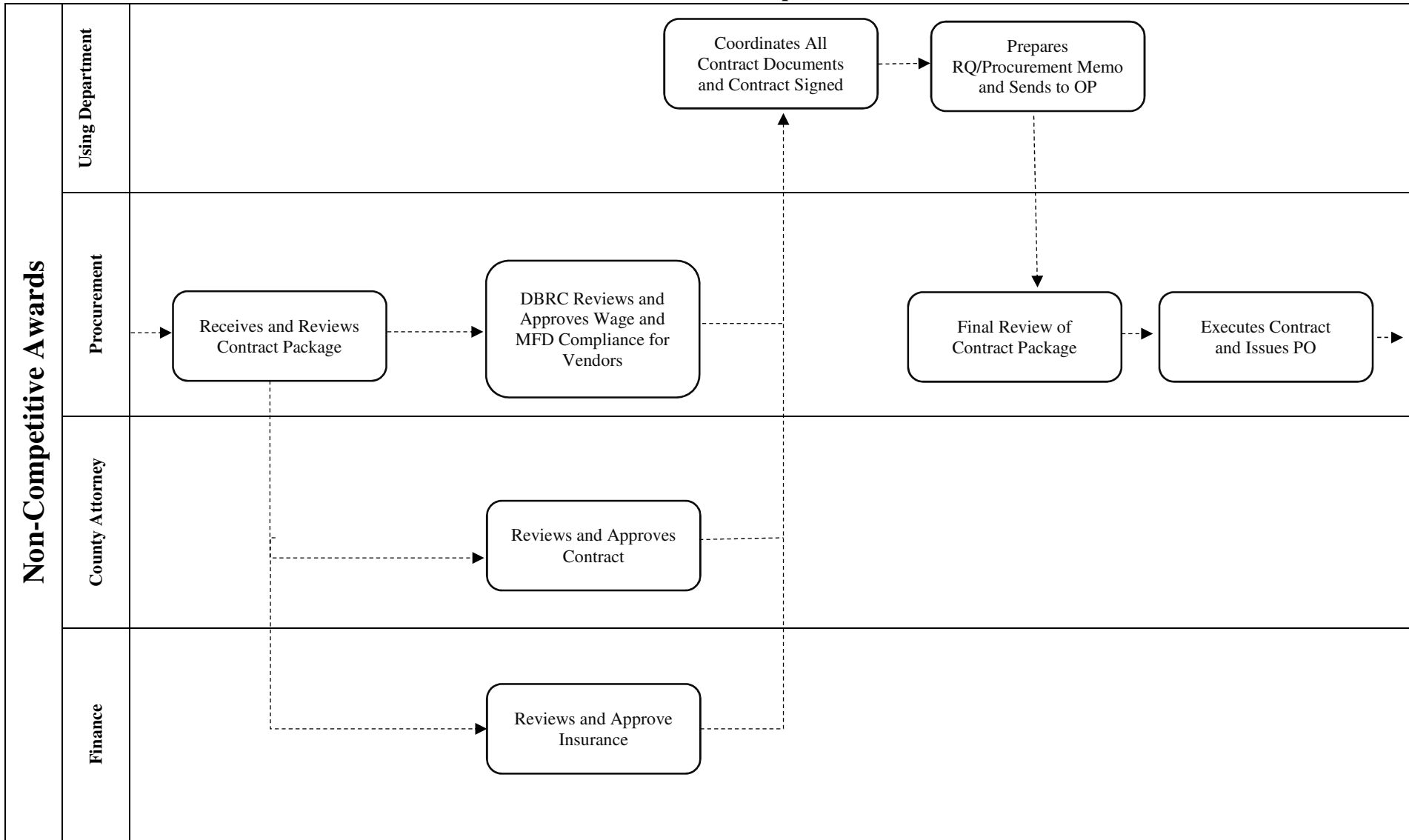
The following workflow process map summarizes the path a non-competitive award takes from its inception in the Using Department to final execution and vendor payment.

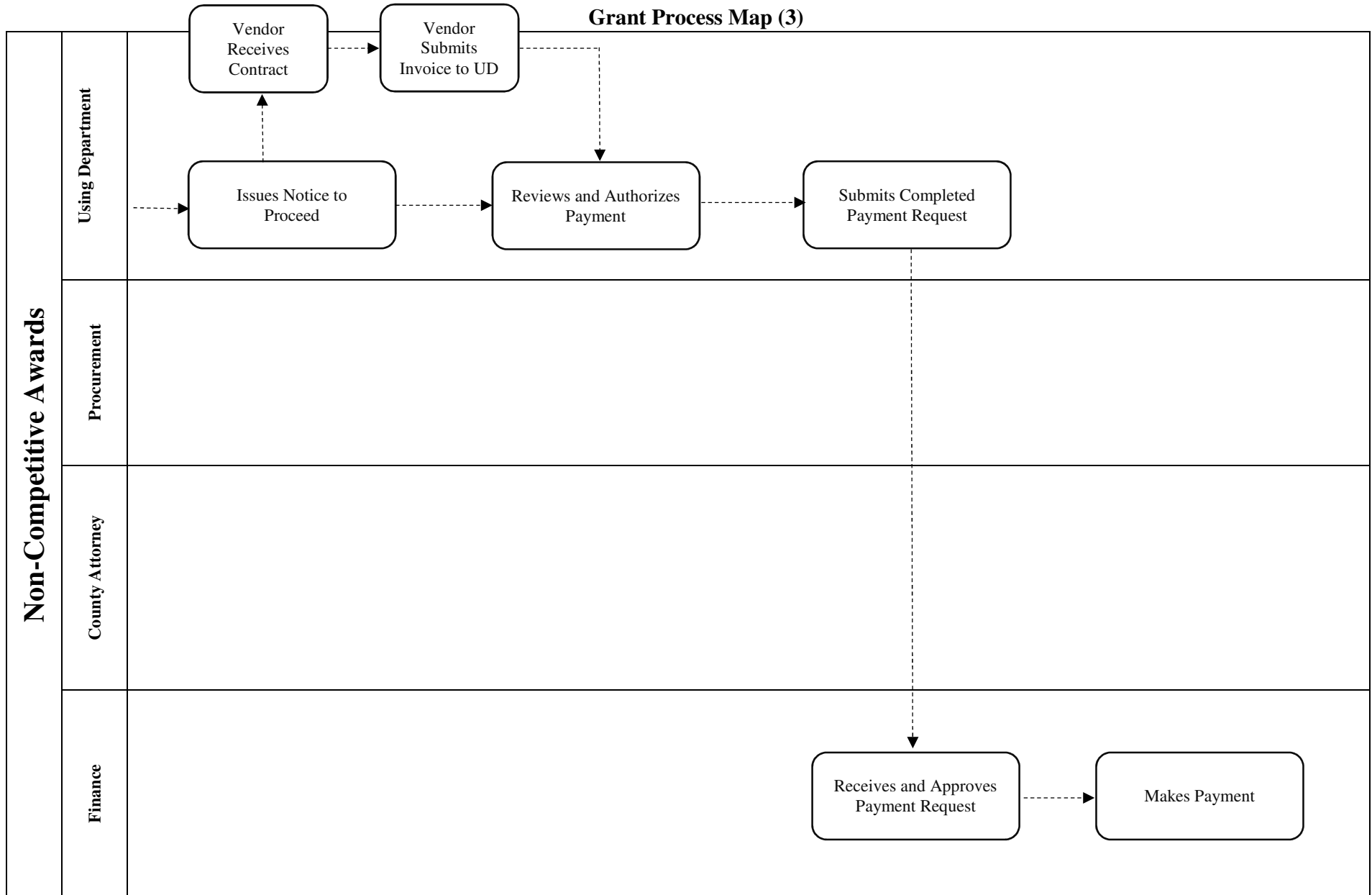


**Grant Process Map (1)**



**Grant Process Map (2)**





**B. Procurement Processing Times**

This section provides data on the time it takes to execute a contract. For the purpose of this analysis, the process begins with the creation of a complete solicitation package and ends with contract execution. The Office of Procurement provided the average times of key procurement process points for all 85 contracts in which the complete solicitations turned into a contract during FY15. Data was provided by the Office of Procurement. The table below summarizes the length of time between key points in the procurement process. The averages for RFP and IFB include construction contracts within those categories, with the exception of the average time of the entire process (from issuance to execution), which has construction contracts pulled out and reported separately.

On average, an RFP took 200 days (about 6-7 months) to become a contract and an IFB took an average of 132 days (about 4-5 months).<sup>29</sup> Many of the milestones had similar lengths of time for both RFPs and IFBs including how long the solicitation is issued, how long it takes Procurement to send bid packages to Using Departments, and how long it takes once a Using Department makes a recommendation to publicly post the award and execute the contract. IFBs took thirteen more days, on average, to issue a solicitation once the package was complete; whereas RFP took almost sixty more days, on average, compared with IFB during the Using Department selection process.

**Average Number of Calendar Days between Key Points in Procurement Process, FY15**

<b>Time Between...</b>	<b>Average Days - RFP</b>	<b>Average Days - IFB</b>
Creation of Complete Solicitation Package to Issuance of Solicitation	27	40
Issuance of Solicitation to Closing Date of Solicitation	38	38
Closing Date of Solicitation to Sending Bid Packages from Office of Procurement to Using Department for Review	3	3
Sending Bid Packages from Office of Procurement to Using Department for Review to Department Recommendation	93	34
Department Recommendation to Publicly Posting of Award	10	9
Publicly Posting of Award to Contract Execution	42	42
<b>Average Days from Issuance to Execution*</b>	<b>200</b>	<b>132</b>

\*Construction contracts take an average of 142 days from issuance to execution.

The Office of Procurement also tracks the date of the Using Department’s initial submission of a solicitation package to the Office of Procurement. Procurement staff report that in FY15, the average number of days from initial submission from a Using Department to creation of a complete solicitation package was 36 days for RFP and 70 days for an IFB. However, procurement staff report that this data collected is not necessarily reliable because the completeness of the original submission can vary - “whether it was a memo received, a shell of a package missing most items, a very rough draft, etc.” Further, the needs of a Using Department may change during after initial submission, which can result in a complete rewrite of a solicitation package. Using Department staff report that this time period prior to the creation of the official solicitation package can be significant.

<sup>29</sup> Calendar days.

The following table shows the overall average number of days from solicitation issuance to contract execution for contracts issued and executed during FY15, by department. As shown, the length of time varied significantly between departments, which may be a function of the types of contracts and the programs, services solicited for (some departments may have more complicated solicitations and types of contracts to execute), number of responses received, or the level of Using Department familiarity with the procurement process.

**Average Number of Days from Solicitation Issuance to Contract Execution FY15, by Department**

<b>Department</b>	<b>Average Days – All Contracts</b>	<b>Average Days - RFP</b>	<b>Average Days - IFB</b>
Community Engagement Cluster	198	198	--
County Executive	240	240	--
Economic Development	124	124	--
Environmental Protection	142	163	128
Finance	79	--	79
Fire and Rescue Services	169	201	154
General Services*	210	239	306
Health and Human Services	161	171	84
Human Resources	213	213	--
Libraries	487	487	--
Liquor Control	109	--	109
Permitting Services	316	316	--
Police	129	181	76
Public Information Office	208	208	--
Recreation	149	175	132
Technology Services	286	327	183
Transportation*	210	350	175

\*DGS Construction Contract Average is 127 Days and DOT Construction Contract Average is 193 Days

The Office of Procurement also provided OLO with performance data on the percent of solicitation measures that met agreed upon timelines for procurement milestones. The table below shows the percentage of milestones met for three types of contracts – IFBs, RFPs, and Construction contracts which were started and executed in FY15. The table also shows the percentage of contracts that met the agreed upon timelines within five days of the agreed upon date. As the data show, construction contracts met the agreed upon timelines almost 100% of the time, in contrast to IFB and RFPs which met the timelines approximately three quarters of the time. There are more records under the IFB and RFP categories.

**Percent of Solicitations That Met Contract Milestones, FY15**

<b>Solicitation Type</b>	<b>Number of Records</b>	<b>Actual Measures Met</b>	<b>5 Day Deviation Met</b>
IFB	31	70.73%	76.42%
RFP	40	76.88%	85.63%
Construction	14	98.21%	100%

**Procurement Policies and Regulations Task Force.** The Procurement Policies and Task Force Procurement Process examined the length of the procurement process and reported that the Qualification and Selection Committee and contract development/negotiation parts of the process were the lengthiest, managed by the using department. The Task Force was provided with the following chart that summarizes the average length of the process for various types of contracts compared with benchmark jurisdictions.

	<b>IFB</b>	<b>RFP</b>	<b>Construction</b>	<b>Compliance Programs</b>
Montgomery County	5 months	9 months	4 months	MFD, Living Wage, LSBRP
MD State Dept. of Transportation	6 months	9 months*	6 months	MFD, Living Wage, LSBRP
Fairfax County	3.5 months	7 months	No construction reported separately	No Compliance Programs
Anne Arundel County	4 months	8-12 months	18 months	No Compliance Programs
Frederick County	3 months	4 months (partial year numbers)	No data	No Compliance Programs
M-NCPPC	Estimated 2 months	Estimated 4 months	No construction reported separately	No Compliance Programs

\*Includes architecture/engineering, the expression of interest and inquiry phase takes 18-24 months

## **Chapter 4. Feedback on the Procurement Process from Using Department Staff**

This chapter provides feedback from Using Departments on procurement policies and procedures in the County. The first section summarizes feedback received by the Procurement Policies and Regulations and the Minority Owned and Local Small Business Task Forces by three County departments – Economic Development, Health and Human Services, Technology Services and Transportation.

OLO conducted additional interviews with several County Using Departments that were not involved in the Task Forces, including Corrections and Rehabilitation, Environmental Protection, General Services, Housing and Community Affairs, and Recreation. Part B of this chapter summarizes themes on procurement policies and procedures that OLO heard.

### **A. Task Force Feedback**

During the course of the meetings of the two procurement task forces, members spoke with County staff from the Department of Economic Development, Health and Human Services, Technology Services and Transportation about what could be improved regarding County procurement policy and procedures. The following summarizes that feedback.

#### Overall Feedback

- The review process takes the most significant amount of time during the procurement process.
- The procurement process needs to be “agile.”
- The County's Procurement Office is very understaffed and it is unable to keep good, well-trained staff. The staff has varying degrees of expertise and experience, and there is a significant learning curve for new employees. Often, delays in the procurement process are due to capacity issues. Further, there are only two team leaders, which creates a delay in getting solicitations reviewed by supervisors.
- Vendor lock can be a problem for some departments and it can be challenging to expand the potential pool of vendors.

#### Procurement Procedures Feedback

- The procurement system is primarily paper-based and the County should develop a good e-procurement system. Some recent automation has helped decrease processing times, but the current system is not user friendly and discourages vendors.
- It is challenging to have contracts in place by the start of the new fiscal year on July 1. However, because departments submit their budgets in November, departments have time to prepare for procurements.
- There is a need for proper information in the procurement templates and the current limited categories cause difficulties.
- Using Departments need to be given more local authority for the requisition of purchase orders.
- Compliance programs and legislation on the procurement process are delaying the process. Additionally, the regulations increase overhead for contractors.

## **B. Feedback from OLO Interviews**

This section summarizes themes OLO heard while interviewing Using Department staff about what is working well, what can be improved, and where the bottlenecks are in the procurement process. For this report, OLO met with representatives from the following departments: Corrections and Rehabilitation, Environmental Protection, General Services, Housing and Community Affairs and Recreation. Overall, OLO found that the feedback was similar to themes heard by the Task Forces.

### Overall Feedback

- All department staff reported that most buyers in the Office of Procurement are knowledgeable and work hard; however the workload is simply too much for each buyer in the Office to be able to complete all work in a timely manner. Using Departments varied on whether the Office of Procurement should add more procurement specialists or supervisors to increase efficiency. Using Department staff also report that historically, staff turnover is also an issue – it takes a significant amount of time to train procurement staff and when specialists are trained, they often move on to higher paying jobs outside of the County. However, Using Department staff report that turnover has been less of an issue in recent years.
- Using Department staff report that there is unnecessary rigidity in procurement processes and policies. Staff understand that the Office of Procurement has a responsibility to the laws, but that has led to a lack of flexibility or innovation for the Using Departments. Using Department staff understand the rationale for a formalized process but feel that the Office of Procurement are more “gatekeepers” rather than strategic partners in executing contracts, focusing on noncritical details instead of bigger picture issues. Further, Using Department staff feel that some Procurement staff are not empowered in their jobs and must strictly follow procedures. In particular, the need for supervisory approval on every action leads to unnecessary delays in contract processing and execution.
- The relationship with other central function departments involved in the procurement process was fairly consistent across Using Departments that OLO spoke with:
  - The Office of the County Attorney does an effective and efficient job of completing contract reviews;
  - Getting OMB approval for funding can be difficult; and
  - There is only one person in Risk Management who completes the insurance requirements. This staff member is effective and works hard; however the workload is too much for one person and things can be held up, especially when the person is out of the office.

### Length of Procurement Process

- There are conflicting thoughts about the length of the procurement process – some Using Department staff think that the process does not take an unreasonable amount of time. This was particular for construction projects. Staff believe that the procurement process is as efficient as it can be, especially given the requirements of the process (compliance programs,



reviews, etc.). However, some department staff believe that the process is too long. Using staff report that once a solicitation package is submitted, the Using Department may not receive updates on the status for weeks or months.

- Using Department staff report that the push towards more inclusion of local small businesses has been a challenge. While department staff recognize and understand the importance of the program, in practicality, the requirements can lead to significant delays in the contract execution or the need to rebid the contract. Department staff would like more discretion/flexibility in determining LSBRP and/or more resources in the Office of Procurement to work on the compliance program requirements.
- Using Departments report that the grants process at the end of the fiscal year is a challenge – all grants, no matter how small, are required to go through the entire contract development process. This requirement, coupled with end of year closing out, is burdensome to Using Departments. Some department staff suggested having pre-approved legal forms and contracts for grants that would only require a signature and the attached grant application (especially for smaller grants). Office of Procurement staff report that this is already occurring for some grants in the Department of Health and Human Services.

#### Procurement Policy and Procedure

- Using Department staff suggested numerous changes to procurement policy that may lessen the burden on both the Office of Procurement and Using Departments, along with streamlining some contract executions:
  - Automatically renew some contracts;
  - Lengthen the term of some contracts;
  - Give more signature authority to Using Departments or Office of Procurement buyers instead of supervisors; and
  - Complete more processes/reviews simultaneously instead of linearly; or
  - Change the requirement that change orders over \$100,000 have to be brought to the CRC (maybe establish a change order with a specific percentage of the total contract value be required to go to the CRC for approval).
- Using Department staff report that if the department is required to use different buyers within Procurement, there is little consistency for what the solicitation package needs to look like. Seasoned Using Department staff have adapted their submissions based on which buyer is being used; however less experienced contract administrators find it challenging.
- For some Using Department staff, the end of year “shut down” of the Office of Procurement, in which very few solicitations or renewals are accepted between March and June unless the department applies for an exemption, is very challenging. Using Departments report that their programs and services do not stop and it is very difficult to submit a contract solicitation package early in the year while anticipating that it will not be approved until months later because of the back log. Procurement staff report that this process is used to manage timely

year end submissions and that Procurement staff does work on solicitations, renewals and other actions that must be completed by June 30<sup>th</sup> or funds may be lost. Solicitations for the subsequent fiscal year are accepted and worked on but current fiscal year solicitations are a priority. Further, the exception process allows Procurement to consider and accommodate late actions as they come up.

#### Other Office of Procurement Functions

- While the current training provided by the Office of Procurement is effective for learning the procurement process and policies (along with the Procurement Guide contains checklists that outline the specific needs of what should be included in a solicitation or contract package), department staff reported that they would like training to specify what the Office of Procurement would like solicitation packages and contracts to look like. Training should be more “how to” and answer questions like “what am I allowed and not allowed to do?” or “what does a complete solicitation package mean?” This is especially necessary for County contract administrators in Using Departments who are performing this role in an 'other duties as assigned' capacity and do not have previous experience in contracting.
- Using Department staff report that the Office of Procurement does not proactively inform Using Departments of changes in policies or boilerplates used for solicitations and contracts. Using Departments report that they find out about such changes when a solicitation package is returned for revisions. Procurement staff report that contract administrators and Department Directors receive emails whenever there are changes in procurement.

## **Chapter 5. Findings and Recommendations**

The Office of Procurement's mission is to "preserve the public trust and ensure the integrity of the County's procurement process through the efficiency and effectiveness of the procurement of goods, services, and construction for all Executive Branch departments and agencies." The purpose of this OLO report was to develop a set of process maps that show the sequence of steps to develop and execute a new contract in the County and to identify factors that may contribute to variations in contract execution practices and processing times.

With the assistance of the Office of Procurement, OLO developed four process maps (located on pages 26-46) for various types of procurements – requests for proposals (RFPs), invitations for bid (IFBs), open solicitations, and non-competitive awards (community grants). These maps summarized the general steps for each type of solicitation, including the roles and responsibilities of various County departments involved in the process.

The remainder of this chapter provides a summary of OLO's findings and recommendations related to the procurement process in the County.

### Findings

**Finding #1: The County's procurement process is complex. In recent years, through legislation and policy directives, the County has added additional requirements to the procurement process which can lead to lengthened periods of processing time.**

The County's contracting process is extensive and includes the drafting of a solicitation package, selection of and negotiations with vendors, and final contract execution. In addition, County law requires numerous mandatory reviews such as insurance certificates, County Attorney approval, cost and price analysis, and adherence to relevant compliance programs (i.e. MFD, LSBRP, and living wage).

In recent years, the County Council and County Executive have established additional requirements onto the County's procurement process through legislation and policy directives. Some of these legislative actions include:

- Compliance with prevailing wage requirements;
- Incorporation of evaluation factor for MFD firms in requests for proposals; and
- Establishment of Local Business Subcontracting Program.

Further, the County Executive has made it a priority to be more inclusive of local, small and minority, female and disabled-owned businesses in the County's procurement process. The Office of Procurement is tasked with enhancing utilization and improving access to contracting opportunities for these businesses. Completing these additional requirements can result in increases in processing times.

**Finding #2: The County's procurement process involves numerous County departments, with the Office of Procurement and Using Departments taking the lead in the creation and execution of contracts.**

Montgomery County Government operates a procurement system with a centralized Office of Procurement with responsibilities delegated to the County departments, called "Using Departments."

Within the Using Departments, there are over two hundred contract administrators, with each Using Department organized differently for its contract administration functions. Some departments have staff designated full-time to contract development, administration and management, while other departments have staff that develop and/or manage contracts along with their primary job responsibilities, in an 'other duties as assigned' capacity. The following summarizes the duties of the Office of Procurement and Using Departments.

**Key Roles and Responsibilities of the Office of Procurement and Using Departments in the County's Procurement Process**

<i>Office of Procurement</i>	<i>Using Departments</i>
<ul style="list-style-type: none"> <li>• Support and guidance for Using Departments</li> <li>• Issuance of formal competitive solicitations and receipt &amp; review of vendor bids and proposals</li> <li>• Review and execution of non-competitive contracts</li> <li>• Maintenance of records and data reporting</li> <li>• Final determination &amp; approval of receiving responsive bids and vendors as responsible</li> <li>• Administration of compliance programs</li> <li>• Cost price analysis</li> <li>• Review, final approval and execution of solicitation and contract amendments and extensions</li> <li>• Approval and Execution of contracts</li> <li>• Training for vendors and Using Department staff</li> <li>• Creation of procurement-related technology</li> <li>• Outreach</li> <li>• Support for Contract Review Committee</li> </ul>	<ul style="list-style-type: none"> <li>• Preparation of draft solicitation and contract package</li> <li>• Ensuring of sufficient funds</li> <li>• Outreach</li> <li>• Recommendation of award</li> <li>• Recommendation of a responsive bid</li> <li>• Investigation of a responsible vendor</li> <li>• Contract negotiations</li> <li>• Drafting contract documents</li> <li>• Debriefing</li> <li>• Contract administration, including monitoring and payment</li> </ul>

Other County departments are involved in the County's procurement process:

- The Department of Finance is responsible for overseeing contractor insurance requirements (Division of Risk Management) and the payment of vendor invoices (Accounts Payable Section of the Controller Division).
- The Office of Management and Budget ensuring that there are sufficient funds in the Using Department's budget to cover the cost of the contract.
- The Office of the County Attorney must review and approve contract documents that are not pre-approved for form or form and legality.
- The County Executive and County Council award non-competitive awards (community grants) to non-profit organizations who deliver services in alignment with the County's mission – these awards are converted to contracts.

**Finding #3: The County Executive and County Council have taken action to identify procurement reform efforts to make the County's procurement process more effective, efficient, inclusive, and transparent.**

The mission of the Office of Procurement is to preserve the public trust and ensure the integrity of the County's procurement process in accordance with best practices, resulting in the highest value for

County government and its residents. Over the course of the previous few years, the County Council and Executive have taken action to strengthen and improve the County's procurement process, as well as enhance the utilization and access to contracting opportunities for local, small, and minority-owned businesses. These efforts include:

- The County Council's 2014 creation of two task forces to review procurement in the County - the Procurement Policies and Regulations Task Force to look at the procurement system as a whole and the Minority Owned and Local Small Business Task Force to focus on the LSBRP and MFD programs in the County.
- The County Executive's 2015 establishment of the Procurement Innovation Project (PIP) to address two priorities - increasing the speed of the procurement process and the utilization of the MFD and LSBRP programs.
- The 2015 reorganization of the Office of Procurement into an independent principal office from the Department of General Services so that the Office would be "less susceptible to pressures to defer to other priorities within DGS and will be able to focus on the best interests of the County from an overall procurement perspective."

**Finding #4: Using Department staff report that Office of Procurement specialists are knowledgeable and hard-working; however, more staff are needed to accommodate the current procurement workload.**

In general, Using Department staff reported that procurement specialists in the Office of Procurement are effective and competent workers, but overwhelmed with workload. With recent additional legislative requirements and the County's focus on increasing the utilization of the LSBRP and MFD programs, Using Department staff believe that there are not adequate resources in Procurement to meet the demand.

Additionally, most Using Department staff reported that staff in the Department of Finance's Division of Risk Management work effectively and efficiently. However, there is currently only one person in Risk Management working on the insurance requirements and approvals, and the workload is too much for one staff person.

**Finding #5: County legislation requires that community grants complete the entire contract development process during the time between County budget approval and the end of the fiscal year. This creates a significant workload and burden for the Office of Procurement and Using Departments.**

With four exceptions, all purchases in Montgomery County subject to the procurement laws and regulations require a written contract document, including community grants. Community grants are approved as part of the County's budget, in late May and contracts must be executed (or renewals processed) by the end of the fiscal year (July 1), which results in a significant workload for both the Office of Procurement and Using Departments. Contract staff have to complete the same process for community grants as they do with any other contract including negotiating with grantees, drafting a final contract, and obtaining and organizing all documentation and approvals needed.

Further, the development of community grant contracts occurs at the end of the fiscal year, which is the same time that Using Department and Office of Procurement staff are busy with all other end-of-year close out procedures, including all other contract processing. Using Department staff report that very

few new solicitation packages can be submitted for review between May and June, unless an exemption is granted.

Procurement staff report that they have worked with the Department of Health and Human Services (the department with the most contracts and community grants in the County) and OCA to develop a boilerplate contract cover sheet attached to the vendor's grant application for awarded community grants under \$10,000, as a streamlined new contract. Executive staff anticipate that this will decrease significantly the time it takes to execute these contracts.

**Finding #6: Using Department staff have conflicting thoughts on the length of the procurement process in the County.**

During the course of interviews for this report, OLO asked Using Departments from five County departments (DOCR, DEP, REC, DHCA, and DGS) about the time it takes to execute a contract in Montgomery County. There were differing opinions on how long the process takes. Some Using Department staff do not believe that the procurement process takes an unreasonable amount of time. These staff reported that the procurement process is as efficient as it can be, given all the reviews and approvals required during the process (compliance programs, supervisor/signature reviews, etc.). In particular, staff in several departments reported that construction projects are completed in an efficient manner.

On the other hand, some Using Department staff believe that the process takes too long. Using Department staff report that once a solicitation package is submitted to the Office of Procurement, the Using Department may not receive updates on the status for weeks or months. Further, some Using Department staff report that one of the lengthiest parts of the process occurs between when a Using Department submits an initial contract solicitation package and the complete solicitation package is finalized and posted.

**Finding #7: For contract solicitations begun and executed within FY15, it took an average of 200 days (about 6-7 months) to execute a request for proposal (RFP) contract and an average of 132 days (about 4-5 months) to executive an invitation for bid (IFB) contract.**

The Office Procurement provided OLO timeline process data on contracts that were begun and executed during FY15 (85 contracts), highlighting the length of time between key points in the procurement process. Many of the milestones took similar time for both RFPs and IFBs with the exception of:

- IFBs took thirteen more days, on average, to issue a solicitation once the solicitation package was complete; and
- RFP took almost sixty more days, on average, compared with IFB during the Using Department's selection process.

**Average Number of Calendar Days between Key Points in Procurement Process, FY15**

<b>Time Between...</b>	<b>Average Days - RFP</b>	<b>Average Days - IFB</b>
Creation of Complete Solicitation Package to Issuance of Solicitation	27	40
Issuance of Solicitation to Closing Date of Solicitation	38	38
Closing Date of Solicitation to Sending Bid Packages from Office of Procurement to Using Department for Review	3	3
Sending Bid Packages from Office of Procurement to Using Department for Review to Department Recommendation	93	34
Department Recommendation to Publicly Posting of Award	10	9
Publicly Posting of Award to Contract Execution	42	42
<b>Average Days from Issuance to Execution*</b>	<b>200</b>	<b>132</b>

\*Construction contracts take an average of 142 days from issuance to execution.

Procurement also provided information on whether the various types of solicitations met the agreed upon timelines. Data show that construction contracts met the agreed upon timelines almost 100% of the time, in contrast to IFB and RFPs which met the timelines approximately three quarters of the time (71% and 77% respectively). There are more records under the IFB and RFP categories.

The Office of Procurement also tracks the date of the Using Department’s initial submission of a solicitation package to the Office of Procurement. Procurement staff report that in FY15, the average number of days from initial submission from a Using Department to creation of a complete solicitation package was 36 days for and RFP and 70 days for an IFB. However, procurement staff report that this data collected is not necessarily reliable because the completeness of the original submission can vary.

**Recommendations**

**Recommendation #1: Request that the County Executive evaluate the staffing level in the Office of Procurement and determine whether the current workload and additional procurement process requirements are met with current staffing levels.**

The procurement process is complex, requiring a significant number of reviews and approvals for completeness/clarity, form/legality, and adherence to relevant compliance programs. In recent years, the County has increased the requirements of contract development and execution, including a push towards more inclusion of local, small, and minority owned businesses.

Using Department staff reported to OLO that Office of Procurement staff were knowledgeable and hardworking, but that was too much workload to be competed efficiently. Using Department staff were divided about what type of staff would be most beneficial for them – some reported that more frontline procurement specialists would help distribute the caseload while others believed that more supervisors were needed to increase the speed in which supervisors were able to sign off on contract documents.

OLO recommends that the Council discuss with Executive Branch staff whether the current staffing levels are adequate to meets the needs of the Office of Procurement and Using Departments and if not, what additional positions would be most beneficial.

**Recommendation #2: Request that the Office of Procurement consider amending procurement law and/or policy to increase efficiency in the procurement process.**

The County's procurement laws and regulations require that all procurements over \$10,000 to be executed through a contract, regardless of the amount or type of award. In recent years, procurement regulations have changed to increase efficiency and competition; however, OLO recommends that the Council discuss ways the County can responsibly further change the parameters concerning which purchases must go through the comprehensive contract execution process. The Council should discuss with Executive staff about different approaches to both competitive and non-competitive awards, while still maintaining competition and transparency.

Using Department staff offered numerous options for changes to the procurement system that would focus on streamlining certain aspects of the procurement process. The Council could discuss with Executive Branch staff the policy, workload, personnel, and legal implications of these potential changes.

- Increase the threshold required for Office of Procurement signature authority on solicitation packages and final contracts;
- Review the threshold for amendments/modifications that must go to CRC, look into the use of a specific percentage of the contract value as the threshold;
- Develop a hybrid grant/contract system with fewer contract development and execution requirements for community grants under a certain threshold, similar to the DHHS pilot;
- Allow the use of electronic signatures on certain contract documents;
- Permit the automatic renewal of specific contracts; or
- Increase the term length of certain contracts.

**Recommendation #3: Request that the Office of Procurement enhance its current training opportunities for Using Department staff who develop, administer, or manage contracts to include more training on what the Office of Procurement is looking for in the development of a solicitation package/contract, perhaps as part of the current training available in the Contract Administration Learning Path.**

In 2014, the Office of Procurement updated and expanded the contract administration training curriculum, which is required for all Contract Administrators and Management Leadership Service who (1) have not previously completed the County's 5-day Contract Administration Program or (2) the 2-day HHS Customized Contract Administration Program. The modules taught as part of the curriculum are: (1) Overview of Contract Administration; (2) Contract Compliance Programs; (3) Contract Drafting and Risk Management; (4) Contract Negotiation; (5) Grand Funded Contracting; and (6) Payment Processing.

Using Department staff that OLO interviewed during the course of this project reported that the current training is effective for learning the procurement process and policies, department staff reported that they would like more specific training on what solicitation packages and contracts should look like, especially for County employees who are serving as contract administrators with little contracting experience and administer contracts in an "other duties as assigned" capacity.

OLO recommends that the Office of Procurement talk with Using Department staff about what specific information about the development and execution of a contract would be most useful for contract administrators, which can be incorporated into the current training curriculum.



**CHAPTER 6. Agency Comments**

The Office of Legislative Oversight circulated a final draft of this report to the Chief Administrative Officer for Montgomery County review. OLO appreciates the time taken by County Government representatives to review the draft report and provide comments. OLO's final report incorporates technical corrections provided by County staff. The written comments received from the Chief Administrative Officer are attached in their entirety beginning on the next page.



OFFICE OF THE COUNTY EXECUTIVE

Isiah Leggett  
County Executive

MEMORANDUM

Timothy L. Firestine  
Chief Administrative Officer

November 2, 2016

**To:** Chris Cihlar, Director, Office of Legislative Oversight

**From:** Timothy L. Firestine, Chief Administrative Officer *Timothy L. Firestine*

**Subject:** Draft OLO Report 2017-3: Mapping the Montgomery County Procurement Process

Thank you for the opportunity to comment on Draft OLO Report 2017-3: Mapping the Montgomery County Procurement Process.

We concur with the observation noted in the draft that the County Council and we have worked together to strengthen and improve the efficiency and transparency of the County's procurement process, while enhancing contracting opportunities for local, small businesses, and for businesses owned by minorities, women, or disabled individuals. The draft's detailed review of the County's procurement process is another component in the on-going effort to create a more streamlined and transparent process.

Following are the answers to the three recommendations noted in the draft:

**Recommendation #1:** Request that the County Executive evaluate the staffing level in the Office of Procurement and determine whether the current workload and additional procurement process requirements are met with current staffing levels.

**CAO Response:** During FY15 and FY16 we reviewed staffing levels in the Office of Procurement (PRO). As a result of the review, PRO has been granted the authority to hire several new positions, including one full-time administrative specialist and two half-time positions to assist with operations and compliance. PRO is also in the process of filling a vacancy created by a retirement. Further, PRO received a transfer of a senior employee to assist with initiatives such as outreach and business development. PRO, when fully staffed, will reassess and reassign its workload in an effort to continue to improve operational efficiency throughout the department.

**Recommendation #2:** Request that Office of Procurement consider amending procurement law and/or policy to increase efficiency in the procurement process.

**CAO Response:** Many of the draft's suggested amendments to the County's procurement process are underway. In FY16, PRO implemented several policy and procedure changes to improve

Chris Cihlar, Director, Office of Legislative Oversight

November 2, 2016

Page 2

operational efficiency and to increase process transparency, including implementing a streamlined community grant contract template; simplifying and shortening the Request for Proposal (RFP) template; updating the informal solicitation request form; and, increasing signature delegation authority for procurement specialist levels to streamline review and approvals for various actions. However, it should be noted that changes such as permitting automatic renewals of some contracts and/or increasing the term length of certain contracts may undermine competition and present challenges in the County's effort to secure the best value for goods or services.

**Recommendation #3: Request that the Office of Procurement enhance its current training opportunities for Using Department staff who develop, administer, or manage contracts to include more training on what the Office of Procurement is looking for in the development of a solicitation package/contract, perhaps as part of the current training available in the Contract Administration Learning Path.**

**CAO Response:** As noted in the draft, in 2014 PRO updated and expanded the contract administration training curriculum, Using Department staff indicated that the current training is effective for learning the procurement process and policies, and department staff reported a desire for more specific training. PRO recognizes that many contract administrators serve in the "other duties as assigned" capacity, and to assist these employees in such a role, PRO provides an overview of the process and a checklist for multiple procurement methods, each of which includes the necessary steps needed for that method. Additionally, with RFPs & Invitation for Bids (IFBs), examples of contracts are scanned and available on the Intranet through Zyimage for any department employee to view, obtain sample language, and use as a resource tool. PRO will continue to work with the Using Departments to determine and provide the most useful types of additional tools and training.

Thank you again for your work on this report. If you have questions, please contact Fariba Kassiri, Assistant Chief Administrative Officer, at (240) 777-2512 or [Fariba.Kassiri@montgomerycountymd.gov](mailto:Fariba.Kassiri@montgomerycountymd.gov).

TLF:cb

cc: Fariba Kassiri, Assistant Chief Administrative Officer  
Bonnie Kirkland, Assistant Chief Administrative Officer  
Cherri Branson, Director, Office of Procurement  
Alexandre A. Espinosa, Director, Department of Finance