

## CHAPTER 33: PURCHASING

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### COUNTY PURCHASING SUBCHAPTER

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Section

## COUNTY PURCHASING SUBCHAPTER GENERAL PROVISIONS

### § 33.001 POLICIES AND PROCEDURES.

~~It shall be~~The policy of the county ~~is~~ to enter into contracts for goods, services, construction, and professional services at fair and reasonable compensation for the work performed. The County shall develop procedures ~~shall be developed~~ to (1) manage the procurement process in accordance with the law; (2) spend the taxpayers' money wisely and fairly; (3) protect against fraud and favoritism; (4) encourage participation by county businesses and promote equality of opportunity for minority- and women-owned businesses; and (5) ~~to~~ best meet the needs of Lake County's ~~various county~~ departments through continuous improvement of the County's purchasing systems and procedures.

### § 33.002 APPLICABILITY.

This subchapter applies to contracts ~~to procure for the procurement of~~ goods, services, construction, and professional services entered into by Lake County and its applicable agencies. It shall apply to every expenditure of public funds by a county agency for public purchasing irrespective of ~~its the~~ funding source, except as otherwise provided by state law, state regulation, county ordinance, or administrative policy.

~~It This Ordinance does shall not apply be applied~~ to purchases by elected officials or county agencies not statutorily required to purchase in compliance with county policies or for whom purchases are not made by the county. ~~But if~~ if an elected official or county agency not otherwise required to comply with ~~the county policy~~ this Ordinance chooses to make any purchase with the assistance of the Purchasing Division, this chapter shall apply.

When the procurement involves ~~the expenditure of spending~~ state or federal money then any applicable mandatory ~~state State~~ and/or ~~federal Federal~~ laws shall be followed. Nothing in this subchapter shall prevent any county agency from complying with the terms and conditions of any grant, gift, bequest, or cooperative purchasing agreement that is otherwise consistent with law. This subchapter does not apply to the procurement of legal services.

### § 33.003 PUBLIC ACCESS TO PROCUREMENT INFORMATION.

Procurement information shall be a public record to the extent provided in the Illinois Freedom of Information Act, being 5 ILCS 140/1 et seq., and shall be available to the public as provided by the Freedom of Information Act.

If a bidder or proposer believes a bid, proposal, offer, specifications or protest submitted to the County contains either trade secrets or proprietary information a statement should be included in the submission that describes and supports their claim. The statement must specifically identify which part of the submission must be considered confidential and explain why.

Entire bid submissions or proposals may not be labeled confidential material. Trade secrets or proprietary information are exempt from inspection and copying under the Illinois Freedom of Information Act, and the Act ultimately governs what information can be withheld from the public.

Bidders and proposers assume the risk that an administrative agency or a court may conclude that the information contained in their bids or proposals is not exempt from disclosure under the Act. The County can thus not guarantee that submissions will ultimately be free from disclosure, and the statement a bidder or proposer submits to the County should clearly articulate why nondisclosure should apply.

### § 33.004 AUTHORIZATION FOR BUDGETED VERSUS NON-BUDGETED ITEMS.

(1) Budgeted Items, or items that fall within a budget category: For purchases that are either

explicitly incorporated into an agency or department's budget, or purchases that are encompassed within a defined budget category, a Department or agency heads (, or their that person's designee(s); shall forward requisitions or a request to advertise to the Purchasing Division for the purchase of goods, services, construction, and professional services, in accordance with funds appropriated within their budget. The Purchasing Agent may issue bids or other solicitations for any goods, service, construction, or professional service for which funds have been budgeted.

(2) Non-budgeted purchases: For goods, services, construction, or professional services that are not explicitly incorporated into an agency or department's budget, an agency or department must first receive the written Approval of the County Administrator and the Director of Finance and Administrative Services is required prior to any solicitation, for any goods, service, construction or professional service not specifically authorized in the budget, except for small purchases. The County Administrator may designate this authority to the Chief Financial Officer.

This section does not apply to Departmental Purchases.

## § 33.005 DEFINITIONS.

The ~~words/terms~~ defined in this § 33.005 shall apply throughout this Ordinance, and to County regulations that relate to Ordinance, have the meanings set forth below whenever they appear in this subchapter or regulations promulgated thereunder.

**AGENCY.** Any county agency requiring goods, services, construction, or professional services procured pursuant to this subchapter.

**BID TAB.** A bid tabulations ("bid tab") shows each bidder's bid amount for each pay item in a contract. They are posted as soon as the authorized buyer certifies that a bid tab accurately reflects the bids received and publicly opened.

**BID SECURITY.** A monetary payment guarantee that the bidder must make to ensure that the bidder agrees to will enter into a contract if it is awarded within the specified period of time; and which the bidder agrees to forfeit if, failure to do so will result in forfeiture of bid security the contract is not so consummated.

**CHANGE ORDER.** A written order signed and issued by authorized individuals of the county directing the contractor to make changes to the original contract specifications.

**CONFIDENTIAL INFORMATION.** Any information ~~which that~~ is available to an employee only because of ~~the employee's that person's~~ status as an employee of the ~~county~~ County or its agencies and ~~not otherwise is not~~ a matter of public knowledge or available to the public via through a request pursuant to the Illinois Freedom of Information Act request. (, being 5 ILCS 140/1 et seq.)

**CONSTRUCT/ON.** The process of building, altering, demolishing, ~~making~~ structurally repairings or other wise making capital improvements to public real property.

**CONTRACT.** All types of county agreements, regardless of what they may be called, for the procurement of goods, services, construction, or professional services.

**CONTRACT EXTENSION.** A contract provision ~~in a contract~~ that allows provides the ~~county~~ County the option of continuing ~~the a~~ contract after its stated expiration date.

**CONTRACT FILE.** ~~A The~~ record maintained in the Purchasing Division for a particular contract, which may include ~~a~~ payment vouchers, requisitions, purchase orders, contract documents, maintenance contracts, service contracts, systems contracts and ~~/or related~~ correspondence.

**CONTRACT RENEWAL.** Continuation of ~~the a~~ contract for an additional set period of time, under the original terms and conditions, when allowed by a contract's terms providing provisions for renewal, which were included in any original bid document. If the bid document does not include

provisions for renewal, any continuation of the contract would be considered a new contract and therefore must be rebid.

**CONTRACTOR.** Any person having a contract with the county ~~County or one of the County's affiliated entities, such as its departments, agencies, or elected officials, or a using agency thereof.~~

**COOPERATIVE JOINT PURCHASING.** Procurement Purchasing conducted by or on behalf of more than one public procurement unit (as defined below).

**DEPARTMENT PURCHASE ORDER.** A written order signed and issued by a county department head, agency head, and/or elected official directing a business to provide goods, services, construction, or professional services on behalf of the county.

**DIRECT OR INDIRECT PARTICIPATION.** Involvement, through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.

**ELECTED OFFICIAL.** For the purpose of this Ordinance, Elected Officials includes, but is not limited to: Clerk of the Circuit Court, County Clerk, County Coroner, County Treasurer, County Recorder of Deeds, Regional Superintendent of Schools, County Sheriff and State's Attorney.

**EMERGENCY PURCHASE-** Procurements obtained in circumstances which include, without limitation, but are not limited to; situations where: (1) threatening public health or safety is threatened, and where immediate repairs to county property are necessary to protect or prevent or stop continuing against further loss or damage; ;(2); -where immediate action is needed to prevent or minimize disruption to County Services; ;(3); -where immediate action is required to ensure the integrity of county ~~County~~ records; ;(4) or where immediate action is necessary to avoid a lapse or loss of federal, state or donated funds.

**FAMILIAL RELATIONSHIP.** Relationship to a county employee which includes spouse (including civil partner), child, stepchild, parent, stepparent, grandparent, in-laws (including parent, grandparent, sibling, or child), relatives and non-relatives living in the same residence, and offspring born to any aforementioned persons.

**FINANCIAL AND ADMINISTRATIVE COMMITTEE-** The Committee established by the County Board to review and recommend appropriation-annual budgets and expenditures ~~of funds~~ for all County affiliated entities using agencies.

**FINANCIAL INTEREST.** To hold a "Financial Interest" in an entity means any of the following:

- (1) Ownership of any interest in an entity or involvement in any relationship from which, ~~or as a result of which~~, an individual within the past year has received, or is currently or in the future entitled to receive, more than \$1,200 per year, or its equivalent;
- (2) Ownership of 5% of any property or business; or
- (3) Holding a position in a business involved in contracting with the County, such as officer, director, trustee, partner, employee, or holding any other management position in the business-of management.

**GOODS\_** All maintenance, repair and operating supplies, and equipment necessary to sustain day-to-day county operations.

**GRATUITY.** A payment, loan, subscription, advance, monetary ~~deposit of money~~, service, or anything of more than nominal value, presently given or promised, unless consideration of substantially equal or greater value is received.

**IMMEDIATE FAMILY.** ~~Spouse, partner, children, step-children, in-laws, aunts or uncles.~~

**INVITATION FOR BIDS\_** An advertised, open, competitive solicitation for prices, which culminates

in all received bids being that are opened publicly.

*INVOICE*- A bill for goods or services furnished by a seller to a buyer specifying one price and terms of sale.

*NOMINAL GIFT*. Any item given to an individual with a value of less than \$75.

*PERSON*. Any individual or group of individuals, business, union, firm, corporation, trustee, partnership, association, joint venture, committee, club, or other entity.

*PROCUREMENT*. The buying, purchasing, renting, leasing, or otherwise acquiring of any goods, services, construction, or professional services. It also includes all functions that pertain to the obtaining of any goods, service, construction, or professional services, including description of requirements, selection, and solicitation of sources, preparation and award of contract, and all phases of contract administration.

*PROCUREMENT CARD (P-CARD)*. A payment method designed to make small dollar purchase of operational supplies and services easy and flexible, reduce the length of time required to make a purchase or pay a vendor, pay travel expenses without relying on personal credit cards or travel advances, and reduce costs of payment per transaction through operational efficiencies.

*PROFESSIONAL SERVICE*. Services which that require a high degree of intellectual skill, and through which whereby the county's best interests are served by a unique combination of specialized knowledge, experience, and expertise.

*PUBLIC PROCUREMENT UNIT*. The State of Illinois, any county, city, town municipality, and any other subdivision of the state, or public agency of any such subdivision, public authority, educational, health, or other institution, any agency of the United States, and to the extent provided by law, any other entity which that expends public funds for the procurement of goods, services, construction, and professional services.

*PURCHASE ORDER*- A written order signed and issued by the Purchasing Division that directing directs a business to provide goods, services, construction or professional services on behalf of the county.

*PURCHASING AGENT*. The person employed by Lake County as the head of its Purchasing Division (and whose title at the adoption of this Ordinance is "Purchasing Manager"), Purchasing Agent or any staff member of the County's Purchasing Division authorized to administer the County's purchasing process, act as a PURCHASING AGENT.

*REQUEST FOR PROPOSALS*- A formal request to prospective vendors that solicitssoliciting proposals for professional services and contains, (or incorporates by reference), the specifications or scope of work and all contractual terms and conditions. Vendor pProposals are submitted in sealed envelope and opened privately. Vendors are selected based on a qualification based evaluation.

*REQUISITION*. An electronic request issued by a county department heads or their or his or her designee against available and approved funds, which will authorizing authorize the Purchasing Division to issue a purchase order on the department's behalf.

*RESPONSIBLE BIDDER OR OFFEROR*.

(1) {a} A person {firm) who has the capability in all respects to perform fully the Public Works contract requirements, and the experience, personnel, integrity, reliability, facilities capacity, equipment, acceptable past performance and credit which will assure good faith performance.

{b} *RESPONSIBLE BIDDER FOR CONSTRUCTION CONTRACTS* means a bidder for Public Works construction contracts over \$30,000 advertised, awarded, and financed, in whole or in part, with county public funds, who meets all of the job specifications, including the following applicable criteria, and submits evidence of such compliance:

1. All applicable laws prerequisite to doing business in Illinois, and all local ordinances, and not in conflict with any federal law.

2. Evidence of compliance with:

A. Federal Employer Tax Identification Number or Social Security Number {for individuals}.

B. Provision of Section 2000(e) of Chapter 21, Title 42 of the United States Code and Federal Executive Order No. 11246 as amended by Executive Order No. 11375 {known as the Equal Opportunity Employer provisions}.

C. Certificates of insurance indicating the following coverages: general liability, workers' compensation, completed operations, and automobile.

D. Compliance with all provisions of the Illinois Prevailing Wage Act, including wages, medical and hospitalization insurance and retirement for those trades covered in the Act.

E. Disclosure of the name and address of each subcontractor from whom the contractor has accepted a bid and/or intends to hire on any part of the project prior to the subcontractor commencing work on the project.

~~F.—The bidder and all bidder's sub-contractors must participate in active apprenticeship and training programs for at least one approved and registered with the U.S. Department of Labor's Office of Apprenticeship for each of the trades of work contemplated under the awarded contract.~~

G.F. All contractors and sub-contractors are required to turn in certified payrolls as specified in Illinois Public Act 94-0515, and follow all provisions of the Employee Classification Act, 820 ILCS 185/1 et seq.

H.G. All bidders must provide three projects of a similar nature as being performed in the immediate past five years with the name, address and telephone number of the contact person having knowledge of the project or three references {name, address, and telephone number} with knowledge of the integrity and business practices of the contractor.

3. For purposes of this definition, *PUBLIC WORKS* is defined as set forth in the Employee Classification Act, 820 ILCS 185/1 et seq.

(2) The provisions contained in division (1){b} of this definition shall not apply to federally funded construction projects if such application would jeopardize the receipt or use of federal funds in support of such a project. Division of Transportation projects shall be exempt from provisions contained in division (1)(b) of this definition that are not in concurrence with Illinois Department of Transportation rules.

*RESPONSIVE BIDDER.* A person who has submitted a bid ~~which that~~ conforms in all material respects to the requirements set forth in the invitation for bids.

*REVERSE AUCTIONS.* A real time bidding process taking place at a scheduled time and internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods and services specified in the invitation to bid.

*SERVICES.* The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance.

*SMALL PURCHASE.* Purchase ~~for of~~ goods, services, construction or professional services by a department in an amount less than the applicable statutory minimum for competitive sealed bids and also less than ~~the Lake County Purchasing this~~ Ordinance's requirements for competitive sealed proposals.

*SPECIFICATION.* Any description of the physical or functional characteristics or of the nature of a good, service, construction item, or professional service. ~~It A specification~~ may include a description of any requirement for inspecting, testing, or preparing a good, service, or construction

item for delivery, or of a professional services.

*STANDING COMMITTEE.* Any committee ~~established that~~ by the County Board establishes that meets regularly and has specific ~~with specific agency and/or jurisdiction and~~ responsibilities.

*SURPLUS PROPERTY.* Property in excess of the needs of the county and not required for its foreseeable need or no longer having any use to the county.

#### § 33.006 PURCHASING AGENT; AUTHORITY AND DUTIES.

(1) *Principal public purchasing official.* The Purchasing Agent shall serve as the principal public purchasing official for the county, and shall be responsible for the procurement of goods, supplies, equipment, services, construction, and professional services, in accordance with this subchapter, as well as the management and disposal of surplus property.

(2) *Duties.* In accordance with this subchapter, and subject to the supervision of the County Board, the Financial and Administrative Committee, and the County Administrator, the Purchasing Agent shall:

(a) Procure or supervise the procurement of all goods, supplies, equipment, services, construction, and professional services needed by the county, with the exception of policies as determined by Illinois Department of Transportation for the Lake County Division of Transportation. In doing so, the Purchasing Agent shall:

- i. Work cooperatively with departments and county agencies in determining what to purchase, making determinations relative to the purchase of goods, services, construction, and professional services;
- ii. Receive suggested specifications for goods, supplies, equipment, services, construction, and professional services. The Purchasing Agent shall finalize, revise, issue, maintain, and monitor the use of specifications required by the county, except that specifications for any public works project involving professional engineering shall be prepared by a professional engineer. Specifications for construction and maintenance of highways, bridges, and culverts shall be prepared by the Lake County Director of Transportation/County Engineer. All specifications, including those prepared for the county by architects, engineers, designers, and draftsmen, shall be drafted so as to promote overall economy for the purposes intended and to encourage competition in satisfying the county's needs, and shall not be unduly restrictive;
- iii. Obtain expert advice and assistance from personnel of user departments in the development of specifications and may delegate in writing to a user department to prepare and utilize its own specifications; and
- iv. Have discretion to select the appropriate method of construction contracting management for a particular project. In determining which method to use, the Purchasing Agent shall consider compliance with applicable county and state laws, the county's requirements, its resources, and the potential contractor's capabilities. For construction projects, the Purchasing Agent shall include in the contract file a memorandum that sets forth the considerations that led to the selection of the particular construction management method that the County employed, execute, and include in the contract file, a written statement setting forth the facts which led to the selection of a particular method of construction contracting management for each project.

(b) Execute contracts and purchase orders based upon open competition for all goods, services, construction, and professional services needed by the county; and



(c) Establish a contract administration system to monitor compliance and payments with specifications developed in cooperation with the agencies using the goods, services, construction, and professional services; and

(d) Exercise general supervision over inventories of goods belonging to the county:

- i. Establishing a surplus-Surplus policy-Policy for the county to manage, sell, trade, transfer, or otherwise dispose of surplus county property; and
- ii. Allocate-Allocating net proceeds from the sale, lease, or disposal of surplus goods back to the appropriate fund.

(3) *Purchasing regulations and operational procedures.* Consistent with this subchapter, and with the approval of the Financial and Administrative Committee of the County Board, the Purchasing Agent may adopt purchasing regulations and operational procedures relating to the execution of his or her duties and may also suggest amendments to monitor and update the Lake County Purchasing Ordinance {codified as §§ 33.001 through 33.137), as necessary.

~~(4) Allocation of the proceeds from sale or disposal of surplus goods. The Purchasing Agent shall allocate net proceeds from the sale, lease, or disposal of surplus goods back to the appropriate fund.~~

(4) Purchasing determinations. The Purchasing Agent shall work cooperatively with departments in making determinations relative to the purchase of goods, services, construction, and professional services.

(5) Authorization for the Use of Electronic Transmissions. The use of electronic media for all procurement procedures, including acceptance of electronic signatures, is authorized consistent with Illinois law for use of such media. The Purchasing Agent shall determine which solicitations are suitable for electronic transmissions.

## PURCHASE ORDERS PAYMENT METHODS

### **§ 33.020 GENERAL.**

~~Purchase orders shall be the basis to authorize all procurement of goods, services, construction, and professional services. Purchases authorized by County Board resolution satisfy the requirements as set forth under this subchapter for the Purchasing Division to issue a purchase order. Lake County contracts for payment with vendors through three methods: purchase order, direct voucher and procurement card. All payments are made pursuant to the State of Illinois Prompt Payment Act (30 ILCS 540/), unless otherwise contractually obligated.~~

### **§ 33.021 PURCHASE ORDER.**

Purchase orders shall be preferred method to authorize all procurement of goods, services, construction, and professional services. Purchases authorized by County Board resolution satisfy the requirements as set forth under this subchapter for the Purchasing Division to issue a purchase order.

(A) *Department purchase order.* The department, agency or county office shall approve and issue a purchase order for purchases less than \$5,000. Whenever possible, pPurchases shall be made in accordance with ~~county or other government contracts whenever possible.~~

(B) *County purchase orders.* Except as stated in subsection (A) above, the department shall forward a requisition to the Purchasing Division requesting goods, services, construction, or professional services for purchases greater than \$5,000.

~~(1)~~The Purchasing Division shall issue all purchase orders for items in the following

categories: (a) for goods, equipment and services valued at more transactions either greater than

~~(2)(1)~~ \$5,000 but less than \$30,000-; (b) for data processing equipment (computers), software or for services and telecommunications and inter-connect equipment, software, and services valued at more than \$5,000 but less than \$35000; (c) for professional services valued at for goods, equipment, and services, or less than \$35,000 for data processing and telecommunications equipment software and services, or less than \$50,000 for professional services in accordance with § 33.068.

(2) For purchases greater than the amounts listed in subsection (1), an agency or department - \$30,000 for goods, equipment and service, or \$35,000 for data processing and telecommunications equipment, software, and services, or \$50,000 for professional services the using department shall forward a requisition to encumber funds and direct the Purchasing Division to procure the goods or services through either a competitive bid or sealed proposal process, except as provided for in §§ 33.066 and 33.067.

### §33.022 EXCEPTIONS DIRECT VOUCHER.

(A) Certain Eexamples of non-negotiable purchases ~~that~~ do not require a purchase order and, therefore, may be processed by voucher directly to Accounts Payable. Examples include without limitation; include, but are not limited to:

~~(1) Books;~~

~~(2) Subscriptions;~~

~~(3) Copyrighted material;~~

~~(4) Membership and registration fees;~~

~~(5) Travel;~~

~~(6)(1)~~ Interdepartmental -reimbursements;

~~(7)(2)~~ Employee -reimbursements;

~~(8)(3)~~ Legal services and related litigation expenses;

~~(9)(4)~~ U.S. post office;

~~(10)(5)~~ Intergovernmental payments;

~~(11)(6)~~ Bank payments;

~~(12)(7)~~ Settlement of judgments and claims;

~~(13) Utility payments for sewer, water, gas and electric, telephone, and cell phone;~~

~~(14)(8)~~ Refunds; and

~~(15)(9)~~ Hospital, doctor, and dentist expenses.

(B) Additional categories of nNon-negotiable purchases ~~shall~~ may be determined by the Purchasing Agent and approved by the Financial and Administrative Committee of the County Board.

### §33.023 EXCEPTIONS PROCUREMENT CARD (P-CARD)

The P-Card is the County's preferred method of making small dollar purchases less than the amount required to issue a purchase order, as well as the payment method for recurring payments

for utilities and other routine operational expenses that do not require a purchase order.

The P-Card is not a personal credit card and remains the property of Lake County. Lake County carries the liability for all outstanding charges on the card. The card should not only be used for purchases required in the normal course of business and in accordance with the Lake County P-Card Policy.

The P-Card should not be used for individual purchases which have been artificially separated from larger or bulk requirements to fall within spending limits, nor should it be used for repair and maintenance work that requires notification of Prevailing Wage requirements, or for any legal services. If required. Cardholders must obtain and document price quotes from multiple vendors.

## COMPETITIVE BIDDING

### § 33.035 GENERAL.

An openly publicized competitive ~~process for the procurement of goods, services, construction, and professional services~~ is the most effective means of determining the lowest cost from a responsible source and such a process shall be utilized whenever possible when procuring goods, services, construction, and professional services. Competitive sealed bidding is required for the following categories of goods and services:

(1) \$30,000: For p. Purchases of goods, services, and construction in excess of \$30,000 or for multiple purchases of the same item that will cumulatively exceed \$30,000 or for purchases with a single vendor within a fiscal year are likely to exceed \$30,000, or with a single vendor within a fiscal year are likely to exceed \$30,000 shall be subject to competitive sealed bidding. For data processing and telecommunications goods and services, these competitive provisions shall apply for purchases in excess of \$35,000 or where multiple purchases of the same item or with a single vendor within a fiscal year are likely to exceed \$35,000. For professional services contracts, refer to §§ 33.050 and 33.051.

If a contract with a vendor is for less than \$30,000 ("Contract 1"), but a department or agency seeks to use that same vendor again within the same budgetary year for a different contract ("Contract 2"), and Contract 1 and Contract 2 will cumulatively exceed the \$30,000 threshold, then the Purchasing Agent shall first determine whether the two contracts are independent from another and not being used with the intent to evade the County's bidding requirements. The determination shall be made in writing and kept in the contract file.

(2) \$35,000: For data processing equipment (computers), software, or services and telecommunications and inter-connect equipment, software, and services above \$35,000.

(3) For Professional Services Contracts, refer to § 33.050.

### § 33.036 PROCEDURES.

(A) *Invitation for bids.* An invitation for bids shall be issued and shall include specifications, and all material contractual terms and conditions applicable to the procurement.

(B) *Public notice.* Public notice of the invitation for bids shall be given, and it shall set a date for the opening of bids that is at least 10 days after the notice is made public, not less than ten calendar days prior to the date set forth therein for the opening of bids. ~~This~~ The notice shall include publication in a newspaper of general circulation within the county or internet posting on the county website. The public notice shall state the place, date, and time of bid opening and specifications for the invitation to bid or request for proposal.

(C) *Standard clauses and their modification.* The Purchasing Agent, after consultation with the State's Attorney, may establish standard contract clauses for use in county contracts.

(D) *Bid security and performance and payment bonds on goods or service contracts.*

(1) Bid and performance bonds or other security shall be requested for public contracts when provided by statute. Bid and performance bonds or other security for supply and service contracts may be requested as the Purchasing Agent deems advisable to protect the county's interests. Any such bonding requirements for supply and service contracts shall be set forth in the invitation to bid or request for proposal as established by the Purchasing Agent.

(2) Acceptable forms of security which may be submitted are: an executed surety bond issued by

a company or companies qualified to do business in the State of Illinois with an A.M. Best Rating of at least A-; cash, certified check or cashier's check made payable to Lake County; an irrevocable letter of credit; or any other form of deposit issued by a financial institution and acceptable to the county. Personal or company checks are not acceptable.

(3) Bid security shall be in an amount not to exceed 10% of the amount of the bid/offer.

(4) Contract performance and payment bonds: upon receipt of the award letter the required performance bonds or payment bonds shall be delivered to the county and shall become binding on the parties upon the execution of the contract.

(E) *Insurance requirements on goods or service contracts.* The Purchasing Agent shall determine, in consultation with the risk manager, whether insurance coverage by the contractor shall be required, and, if so, the types and amounts of coverage that shall be required. The contractor shall have the county named as an additional insured as its interest may appear and furnish the Purchasing Agent with satisfactory evidence of the insurance.

(E)(F) *Contractor Record Retention: The Illinois Prevailing Wage Act imposes recordkeeping requirements on contractors, 820 ILCS 130/1 et seq. For all contracts awarded for public works construction, the contractor and all sub-contractors shall be required to maintain adequate records appropriate to the type of contract, to retain such records for a minimum of five years from final payment, unless otherwise specified in the solicitation, and to make such records available for the County's inspection upon reasonable terms and consistent with state law. To receive payment for contracts subject to the Illinois Prevailing Wage Act, the contractor shall also be required to submit confirmation from the Illinois Department of Labor that they have met the filing requirements for certified payroll.*

(F)(G) *Cancellation or rejection of invitations for bids or requests.* An invitation for bids, a request for proposals, or any other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is for good cause and in the best interests of the county. Each solicitation issued by the County shall state that the solicitation may be canceled by the Purchasing Agent and that any bid or proposal may be rejected in whole or in part for good cause when in the best interests of the County. The reasons for the cancellation or rejection shall be made part of the contract file and shall be provided to bidders or offerors upon request.

(G)(H) *Bid opening.* Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as the Purchasing Agent deems appropriate, together with the name of each bidder shall be recorded on a bid tab. The bid tab shall be made available to the public.

(H)(I) *Late bids.* No bids received after the time specified in the invitation for bids will be considered, ~~as it is the responsibility of the bidder to ensure the bid is delivered according to the requirements stated in the solicitation.~~ All bids received after the specified time will be returned unopened to the bidder.

(H)(J) *Correction or withdrawal of bids: cancellation of awards.* Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate. Mistakes that a bidder discovered be corrected or the bid may be withdrawn before bid opening may be withdrawn by written be modified or withdrawn by written, electronic or telegraphic notice received in the office designated in the invitation for bids prior to the time set for the bid opening. After bid opening, corrections in bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake of a non-judgmental character was made, the nature of the mistake, and the bid price actually intended. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the county or fair competition shall be permitted.

(1) In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:

(a) The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or

(b) The bidder submits evidence which clearly and convincingly demonstrates that a mistake was made.

(2) All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the Purchasing Agent.

(3) In the event of a discrepancy between the unit price and the extended total, the unit price bid shall prevail.

~~(J)~~(K) Bid evaluation. Consistent with the provisions of 55 ILCS 5/5-1022, bBids shall be evaluated based on their responsiveness to the e requirements set forth in the invitation for bids, and the demonstrated responsibility of the bidder, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, experience, past performance, financial stability, delivery, and suitability for a particular purpose. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bids. Alternative bids may be considered and accepted provided they are specifically provided for in the invitation for bids and meet the evaluation criteria set forth therein and are in the best interest of the county.

~~(K)~~(L) Tie bids. If two or more bids meeting the specifications and other requirements of the bid information are tied for low price, the bids will be treated as follows.

(1) If there is significant difference in the responsibility of the bidders (including ability to deliver in the quantity and at the time required), the award will be made to the bidder who is deemed to be the most responsible.

(2) If there is no significant difference in the responsibility of the bidders, but there is difference in the quality of the commodities of or services offered, the bid offering the best quality of services will be accepted.

(3) If there is no significant difference in the responsibility of the bidders and no difference in the quality of the items and or services offered, the bid offering the earliest delivery time will be accepted if delivery in any case in which the bid information specified that the needs of the county require as early delivery as possible was a bid criteria. In all other cases, delivery time will not be considered in making awards so long as the bidder states that delivery will occur not later than the time specified in the bid information as the latest acceptable delivery time.

(4) If the bids quoting the same price are equal in every respect, then the Purchasing Agent may make the award based on their determination of what is in the best interest of the County ~~the award may be made at the discretion of the Purchasing Agent or otherwise~~ by lot.

{L} Determination of non-responsibility -of bidder and offerors. Determinations of non-responsibility shall be made by the Purchasing Agent and the bases for such determinations can include, but are not limited to: failure to satisfy one or more of the criteria set forth in the definition of "Responsible Bidder or Offeror" contained in § 33.005 DEFINITIONS, failure to perform or; unsatisfactory performance documented on one or more prior county contracts; unreasonable failure of a bidder or offeror to promptly supply information or samples in connection with an inquiry with respect to responsibility; and/or debarment by the State of Illinois or the United States of America. If a bidder or offeror who otherwise would have been awarded a contract is found non- responsible, then the Purchasing Agent will make a written determination of non- responsibility that sets, ~~setting~~ forth the basis of the finding, ~~shall be prepared by the Purchasing Agent~~. A copy of the determination shall be sent promptly to the non-responsible bidder or offeror, and the ~~The~~ final determination will~~shall~~ be made part of the contract file.

{M} Award. The contract shall be awarded by appropriate written notice to the lowest responsive and responsible bidder ~~whose bid best meets the requirements and criteria set forth in the invitation~~

~~for bids~~, if the bid is within the amount of funds appropriated. The Purchasing Agent is authorized to negotiate an adjustment in the bid price with the low responsive and responsible bidder, without changing the specifications of the bid.

(1) ~~For contracts in excess of \$100,000. The~~ Purchasing Agent shall request that the State's Attorney ~~to~~ review prior to award all contracts in excess of \$100,000. This threshold amount is for annual contract value for reoccurring operating costs and the full contract value if services extend more than one year. This review shall not be required when the form and content of the contract documents has previously been approved by the State's Attorney.

(2) Except as provided in subsection (M)(3) below, the standing committee in charge of the using agency and the Financial and Administrative Committee shall, by resolution, jointly submit their recommendation ~~on about~~ the award of a contract ~~above of~~ \$30,000 or more, ~~by resolution~~, for goods or capital equipment and contracts of \$35,000 or more for data processing and telecommunications equipment, services and software, and submit for consideration at a regularly scheduled County Board meeting. After award by the County Board, contracts shall be signed by the Purchasing Agent.

(3) Notwithstanding the provisions of subsection (M)(2) above, the Purchasing Agent is authorized to award and to sign contracts, other than sole source or emergency contracts, for the purchase of goods or capital equipment within the amount specifically authorized in the budget, without submitting these contracts for committee and ~~County Board board~~ approval.

(4) Notwithstanding the provisions of subsection (M)(2) above, department heads are authorized to award and sign professional services contracts, less than \$50,000 pursuant to §§ 33.050 and 33.051, of less than

~~(4)(5)~~ Consistent with 55 ILCS 5/5-1130 and in addition to the authority in subsection (M)(3) above, the Purchasing Agent is authorized to award and to sign contracts that extend for five years for existing software and computer equipment maintenance that has been specifically authorized in the budget without submitting these contracts for Committee and County Board approval. This does not include renewals that contain implementation services

{N) *Right to inspect plant.* The county may, at reasonable times, inspect the part of the plant, place of business, or worksite of a contractor or subcontractor at any tier which is pertinent to the performance of any contract awarded or to be awarded by the county.

{O) *Right to audit records.*

(1) *Audit of contract costs.* The county may, at reasonable times and places, audit the books and records of any contractor to the extent that the books, documents, papers, and records are pertinent to a county contract. Any person; or entity contracting with the County, who receives a contract shall maintain the books, documents, papers, and records related to a County that are pertinent to the contract costs for three years from the date of final payment ~~under the contract. To ensure this provision,~~ language shall be included in the County's invitation to bid and its contract to ensure enforceability of this subsection.

(2) *Contract audit.* The county shall be entitled to audit the books and records of a contractor or a subcontractor at any tier under any negotiated contract or subcontract other than a firm fixed price contract to the extent that the books, documents, papers, and records are pertinent to the performance of the contract or subcontract. The books and records shall be maintained by the contractor or subcontractor for a period of three years from the date of final payment.

{P) *Reporting of anti-competitive practices.* When ~~for any reason~~ collusion or other anticompetitive practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the State's Attorney.

{Q) *County ~~procurement~~ Procurement records* Records.

(1) *Contract file.* All determinations and other written records pertaining to the solicitation, award, and performance of a contract shall be maintained for the county in a contract file in the Purchasing Division.

(2) *Retention of procurement records.* All procurement records shall be retained and disposed of by the county in accordance with records retention guidelines and schedules approved by the Illinois Local Records Commission.

{R) *Multi-step sealed bidding.*

(1) When it is considered impractical to initially prepare a purchase description to support an award based on price, a multi-step sealed bid may be used if the Purchasing Agent determines the following:

{a) Available specifications or purchase descriptions are not sufficiently complete to permit full competition without technical evaluations and discussions to ensure mutual understanding between the bidder and the county;

{b) Definite criteria exist for evaluation of technical offers;

{c) More than one technically qualified source is expected to be available; and

{d) A fixed unit price contract will be used.

(2) Multi-step sealed bidding shall be conducted in two phases: first, non-priced technical offers shall be evaluated; second, priced bids shall be considered, but only from those bidders whose non-priced technical offers were found acceptable under the first step. and priced bids shall be considered only in the second phase from bidders whose non-priced technical offers are found acceptable in the first phase. Non-priced technical offers shall be evaluated solely in accordance with the criteria set forth in the invitation to submit technical offers and shall be determined to be either acceptable or potentially acceptable for further consideration or unacceptable. AdDeterminations that a non-priced technical proposal is unacceptable shall be in writing and state, state the basis of the determination. The determination shall be, retained in the procurement file, and the bidder shall be notified that it will not be notification sent that the bidder shall not be afforded an opportunity to amend its technical offer.

(3) Upon completion of phase-step one, an invitation to bid shall be issued under the provisions of §§ 33.35 and 33.036; except that, the invitation for bid shall be issued only to bidders whose technical offers were determined to be acceptable in phase-step one.

{S) *Electronic reverse auctions.* The Purchasing Agent may procure materials, equipment, and services with an electronic reverse auction company, in accordance with the Local Government Electronic Reverse Auction Act (30 ILCS 500/20-10j), if the Purchasing Agent determines that such a process will provide the when deemed to provide the best value or all purchasing methods provide equal value to the county (or that all purchasing methods provide equal value). Vendors interested in participating in the reverse auction shall be pre-qualified to meet the specifications and must agree to the county's terms and conditions for the bid prior to the start of the auction. During the auction, a bidder's price shall be disclosed to other bidders and those participating bidders shall have an opportunity to reduce their bid prices during the auction. At the conclusion of the auction, the record of the bid prices received, and the name of each bidder shall be open to public inspection.

{T) Multiple Source Contracting: Multiple source contracting involves awarding to more than one bidder a contract for an indefinite quantity for one or more similar supplies or services. A multiple source award may be made when the Purchasing Agent determines that it is in the County's best interest that two or more bidders be awarded a contract for similar products or services of an indefinite quantity.

Multiple source awards shall not be made when a single award will meet the County's needs.



without sacrificing economy or service. Multiple source awards shall not be made solely for the purpose of dividing the business among suppliers or resolving tie bids. Multiple source awards shall be limited to the least number of suppliers necessary to meet the County's requirements without sacrificing economy and service.

{U} Bid Addenda and Questions. Once bid document has been issued, all questions regarding the document shall be submitted in writing to the Purchasing Division. All addenda shall be issued by the Purchasing Division pursuant to specifications in the bid document. If it is determined that a bidder received an unfair advantage from information obtained through other departments or agencies, the bid may be cancelled.

{V} Communication with Bidders. Consistent with the Lake County Ethics Ordinance and the statute on Public Contracts in the Illinois Criminal Cod (720 ILCS 5/33E-6). County officers and employees shall limit communications with bidders during the solicitation process so that the integrity of the competitive solicitation process is maintained. If it is determined that a bidder received unfair advantage from information obtained from prohibited sources or under prohibited circumstances, the solicitation may be canceled, or the bidder disqualified from participation if that solicitation request.

{W} Accepting Single Bid Received. If only one responsive bid is received after a competitive solicitation, the County may, after determining whether the bidder is responsible, accept the bid.

## **PROFESSIONAL SERVICES AND COMPETITIVE SEALED PROPOSALS**

### **§33.050 GENERAL.**

(A) Department heads, agencies and/or elected officials shall have the authority to award professional services contracts of less than \$50,000 and may determine, in their discretion, whether such contracts will be awarded on the basis of competitive sealed proposals. Professional services contracts for \$50,000 or greater or where multiple professional services contracts for the same item and/or with a single vendor within a fiscal year are likely to exceed \$50,000 will be subject to the competitive sealed proposals provisions pursuant to § 33.051, unless they meet one of the exceptions and/or requirements enumerated in §§ 33.065 through 33.069, or unless they fall within the scope of subsection (C) below. All contracts that fall within the scope of subsection (C) below shall be awarded on the basis of qualification-based factors rather than price and will follow the statement of interest procedures according to the Local Government Professional Services Selection Act (50 ILCS 510/1 et seq.) rather than a competitive bid or a competitive sealed proposal.

(B) For professional services contracts for \$50,000 or greater, the respective department head and the Purchasing Agent shall present a joint recommendation to the County Board for consideration and approval.

(C) All professional services contracts relative to engineering, architectural and land surveying services will be governed by the requirements of the Local Government Professional Services Selection Act (50 ILCS 510/1 et seq.). In the event the county does not have a satisfactory relationship with one or more firms, a statement of interest shall be issued for the initial selection of engineering, architectural, or land surveying services with evaluation based on qualifications such as ability of professional personnel, past record and experience, performance data on file, willingness to meet requirements, location, workload of the firm, work on similar projects, past performance and other applicable qualification-based factors, but excluding consideration of price or compensation. Responders are then ranked in order of preference and contract negotiations are initiated with the firms individually in order of preference. A request for statement of interest is not required for contracts

up to \$25,000 regardless of the existence or non-existence of a satisfactory relationship with one or more firms. In all cases, a written description of scope of services to be provided shall be prepared and used as the basis of contract negotiations.

(D) Contracts, other than professional services contracts, in which the Purchasing Agent determines that competitive sealed bidding is neither practical nor advantageous, may be entered into by a competitive sealed proposal.

### §33.051 PROCEDURES.

Competitive sealed ~~Requests for Proposals (RFP) proposals~~ shall be initiated and created in accordance with the procedures for competitive sealed bidding as enumerated in §§ 33.035 and 33.036 except as follows.

(A) Proposals shall not be publicly opened and the register of proposals shall be available for public inspection only after contract execution.

(B) Fair and equal treatment with respect to any opportunity for discussion and revision of proposals and any revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers.

(C) RFP Addenda and Questions. Once the RFP document has been issued, all questions regarding the document shall be submitted in writing to the Purchasing Division. Any and all addenda shall be issued by the Purchasing Division and pursuant to specifications in the RFP document. If it is determined that a bidder received an unfair advantage from information obtained through other departments or agencies, the RFP may be cancelled.

~~(B)~~(D) Communication with Proposers. County officers and employees shall take care to limit communication with proposers during the solicitation process so that the integrity of the competitive solicitation process is maintained. All representatives of the County shall avoid any vendor contact that would constitute interference with contract submission and award under the Criminal Code, 720 ILCS 5/33E-6. If it is determined that a proposer received unfair advantage from information obtained from prohibited sources or under prohibited circumstances, the solicitation may be canceled, or the proposer disqualified from participation in the solicitation request.

## PURCHASES EXEMPT FROM BIDDING AND COMPETITIVE SEALED PROPOSALS

### §33.065 GENERAL.

This section applies to and details the requirements for purchases that, for various reasons, may be exempt from the competitive sealed bid process. Despite the exemptions, competitive pricing shall be encouraged and/or a cost or price analysis shall be conducted prior to award of contracts under this section whenever possible.

(1977 Code, § 14-1) (Ord., § 6-101, passed 12-8-2009; Ord. passed 2-12-2013)

### §33.066 ~~REQUEST FOR PROPOSAL.~~BID EXEMPTION

(A) If ~~and when~~ a department head conducts a good faith review of available sources and determines that the contract by its very nature is not suitable to competitive bids or proposals, he or she shall forward an exemption request to the Purchasing Agent. The Purchasing Agent will review and approve all exempt exception requests. The Purchasing Agent may consult with ad hoc groups of county staff in making his or her determination with regard to a particular procurement. If the Purchasing Agent reviews and approves the department head's recommendation that the procurement is exempt from competitive bids or proposals, the department is not required to employ the competitive proposal or bidding process to enter into a contract. A written determination for the

basis for the bid exemption shall be made by the Purchasing Agent and included in the contract file.

- (B) Examples of contracts which may not be suitable for competitive bids or proposals fall into the following categories are:
- (1) Single Source: There is only one source for the required goods, services, or construction item;
  - (2) Professional Services: There exists a long-standing, successful relationship for professional services, and the knowledge gained through this relationship adds value integral to the services provided;
  - (3) Trial use or testing: use or testing: A sole-supplier's item is needed for trial use or testing;
  - (4) Used equipment: The purchase is for used equipment; and
  - (5) Auctions: The purchase is made at auctions.

### § 33.067 EMERGENCY PROCUREMENT.

An emergency justifying a departure from the standard rules set forth in this Ordinance shall be deemed to exist when there arises a threat to the public health, welfare, or safety, or there is a need to prevent or minimize serious disruption of government services. ~~Notwithstanding any other provisions of this subchapter, the procurement of goods, services, or construction items when there exists a threat to public health, welfare, or safety, or to prevent or minimize serious disruption of government services, shall be considered an "emergency".~~ Emergency procurements shall be made with any competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be certified by the appropriate department head, forwarded to the Purchasing Agent, and included in the contract file. A confirming resolution, along with the written determination, shall be submitted to the County Board for all emergency procurements of greater than \$30,000 ~~or more~~ for goods, equipment and services; or greater than \$35,000 ~~or more~~ for data processing and telecommunications equipment, software and services; and greater than \$50,000 ~~or more~~ for professional services.

### § 33.068 SMALL PURCHASE PROCUREMENT DEPARTMENTAL PROCUREMENT.

Small-Departmental purchases shall be made in accordance with the county or other government contracts whenever possible. For non-contract purchases, competitive quotations for purchases of goods, services or construction up to \$5,000, or up to \$50,000 for professional services, are encouraged by the department head or ~~his or her~~ their designee to determine the source that is in the county's best interests.

(A) For purchases greater than ~~between~~ \$5,000-~~\$30,000 (or \$35,000 for data processing and telecommunications equipment, software and services)~~, the Purchasing Agent or the agent's designee shall document quotations from at least three vendors whenever feasible ~~for purchases up to \$30,000 for goods, services, and construction, and \$35,000 for data processing and telecommunications equipment, software and services.~~

### § 33.069 PROCEDURES.

(A) *Solicitation factors*. Three quotations shall be received whenever possible prior to the contract. Circumstances may exist where the Purchasing Agent or the agent's designee determines that it is not feasible to secure three quotations. In other situations, the Purchasing Agent or the agent's designee

may determine that it is in the best interests of the county to consider only one supplier who has previous expertise relative to a procurement. Whenever the Purchasing Agent or the Agent's designee determines that it is not feasible, or is not in the county's best interests, to satisfy the minimum quotation requirements of this section, the reason for this determination shall be indicated in writing and retained in the contract file. The Purchasing Agent, Department or agency head shall conduct negotiations, as appropriate, as to price, delivery, and terms.

(B) *Evaluation factors.* Evaluation factors ~~which that~~ may justify an award to a vendor who has not provided the lowest quotation include without limitation, but are not limited to delivery requirements, quantity requirements, quality, and past vendor performance. Whenever the Purchasing Agent or the Agent's designee determines that it is in the county's best interests to award a small purchase contract to a vendor who did not submit the lowest quote, the reason for this determination shall be indicated in writing and retained in the contract file.

~~(C) *Award/Contract Administration.* Award shall be made to the vendor offering the lowest responsive and responsible quote who best meets the specifications.~~ Adequate records to document the competition solicited and award determination made shall be retained in the contract file managed by the Department or agency. A quote that exceeds the applicable bid limit (\$30,000, \$35,000 or \$50,000, as the case may be) ~~bid limit~~ shall not be eligible for award under this section. In a situation where all responsible quotations exceed the bid limit, all quotes shall be rejected and formal bidding procedures shall be followed.

### §33.069 GRANT PROGRAMS

Under certain grant programs, the County acts as a third-party administrator of local, state or federal funds and does not procure goods and services for the County. Requisitions processed for grants are processed so as to facilitate the method of payment and do not require any of the normal procedures or approvals under this Ordinance unless stipulated by the grant.

## CONTRACT ADMINISTRATION AND CONTRACT TERM

### §33.080 GENERAL PROVISIONS.

A system for contract administration ~~system~~ is designed to ensure that the contractor is performing in accordance with the terms and conditions of the contract. Contract administration results may be used by the Purchasing Agent for vendor evaluation.

(A) The department or agency involved in the contract is responsible ~~it is the using department's responsibility to match for matching~~ contract terms and prices with invoices, and to otherwise monitor compliance with the contract terms. The department or agency using department is also responsible ~~to determine for determining~~ the ~~imminent~~ need for ~~and to begin processing any~~ change orders where appropriate, and for starting the process to obtain such an order.

(B) The Purchasing Division will maintain a database of executed contracts and work with ~~the using~~ departments and agencies to monitor renewal options, the contractor's compliance with terms and conditions and the parties' satisfaction with overall contract performance.

(C) ~~Using departments~~ Departments and agencies experiencing difficulty in contract performance finding any dissatisfaction with a vendor shall submit a written request to the Purchasing Agent to evaluate the parties' compliance with the contract's terms and conditions. The Purchasing Agent or the agent's ~~Agent's~~ designee shall communicate with said vendor and assist in negotiating a resolution to whatever barriers contract performance exist. ~~either makes a mitten finding of compliance or recommendation for corrective action.~~

(D) Invoices must be identified to an existing contract or purchase order before payment is issued.

### § 33.081 CONTRACT TERM.

(A) Specified period. Unless otherwise provided by law statute, a contract for goods or services may ~~generally only extend for two years~~~~be entered into for any specified period of time deemed to be in the best interests of the county~~, provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. As a matter of policy, contracts may contain automatic renewal provisions if it is in the best interest of the County, but for any renewal period beyond two years (or any applicable statutory timeframe that is longer than two years), the County Board must have the ability to terminate the contract within a time not to exceed 90 days after the renewal period begins. However, the~~The~~ total contract term for any contract, including the time periods by which the contract is extended due to renewal, shall not exceed five years, unless a unique ~~capitol capital~~ investment or other extenuating factors necessitate a longer contract period and it is approved by Board resolution. ~~Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor.~~

(B) *Cancellation due to unavailability of funds in succeeding fiscal periods.* When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled.

### § 33.082 CHANGE ORDERS AND CONTRACT MODIFICATIONS.

(A) When the total of change orders, contract modifications, or price adjustments on any contract approved by resolution of the County Board exceeds 10% of the original contract amount, approval of the standing committee in charge of the using contracting department or agency and the Financial and Administrative Committee is required.

(B) When a change order or series of change orders authorize or necessitate an increase or decrease in either the cost of a contract by a total of \$10,000 or more, or the time of completion by a total of 30 days or more, the authorized employee or official shall make a determination in writing that:

(1) The circumstances ~~said to necessitate~~giving rise to the change in performance were not reasonably foreseeable at the time the contract was signed;

(2) The change is germane to the original contract as signed; or

(3) The change order is in the best interests of the county and authorized by law.

(C) The written determination and the written change order resulting from that determination shall be retained in the contract file which shall be open to the public for inspection.

(D) (1) The Purchasing Agent is authorized to sign all change orders and to consent to contract assignments.

(2) Additionally, the County Engineer is authorized to sign change orders for projects relating to planning, design, construction, and maintenance of highways, bridges, and culverts.

(3) The Superintendent of Public Works is authorized to sign change orders relating to planning, design, construction, and maintenance of water and sewer projects.

(4) The ~~Facilities Manager~~ Director of Facilities and Construction Services is authorized to sign change orders relating to planning and design (those relating to services provided by engineers, architects and land surveyors under the Local Government Professional Services Selection Act (510 ILCS 510/1 et seq.), and any on such other projects he or she is assigned by the County Administrator to administer that the County Administrator has designated to the Director of Facilities and Construction Services.

(5) As required by the Public Works Contract Change Order Act (50 ILCS 525/1 et seq.),

~~w~~When a change order for any public works contract necessitates any increase in the contract price that is 50% or more of the original contract price or that authorizes or necessitates any increase in the price of a subcontract under the contract that is 50% or more of the original subcontract price, then the portion of the contract that is covered by the change order must be resubmitted for bidding in the same manner ~~for in~~ which the original contract was bid ~~(50 ILCS 525, Public Works Contract Change Order Act).~~;

## APPEALS AND REMEDIES FOR VENDORS; DEBARMENT

### § 33.095 GENERAL.

This section provides a forum for bidders or ~~offerers-offerors~~ who seek a contract with the county, and believe that ~~either~~ a contract has been or is about to be awarded in violation of the Lake County Purchasing Ordinance. Remedies are also provided for vendors who have been contracted by the county to dispute contract claims.

(1977 Code, § 14-1) (Ord., § 9-105, passed 12-8-2009; Ord. passed 2-12-2013)

### § 33.096 BID PROTESTS.

(A) *Right to protest; Timeframe.* Any actual or prospective bidder, ~~offerer-offeror~~, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the Purchasing Agent. ~~Any protest~~ Protests must be submitted in writing within ten calendar days ~~from of when~~ either ~~the issuance of~~ the solicitation, addendum, notice of award, or other written decision by the Purchasing Division was issued.

(B) *Procurement process during pendency of the bid protest.* In the event of a timely protest ~~under subsection (A) above~~, the Purchasing Agent, in consultation after consulting with the State's Attorney, shall determine whether it is in the best interest of the county to proceed with ~~the any ongoing~~ solicitation or award process ~~relative to the invitation to bid or award of the contract.~~

(C) *Authority.*

(1) The Purchasing Agent ~~is authorized may to~~ attempt to settle ~~any a~~ bid protest regarding the solicitation or award of a county contract. If the bid protest is not resolved by mutual agreement, the Purchasing Agent shall promptly issue a written decision which shall be transmitted to the protestor either electronically or via U.S. mail ~~to the protestor~~.

(2) The decision shall state the reasons for the decision reached and shall inform the protestor of his or her appeal rights under subsection (D) below.

(3) If the Purchasing Agent does not issue a written decision regarding the bid protest on or before the ten-day deadline, or within such longer period mutually agreed to by the parties, then the protestor may proceed as if an adverse written decision had been received.

(D) *Purchasing Agent decision final and protestor's right to appeal.* The Purchasing Agent's decision shall be final and conclusive unless, within ten calendar days from the date of the protestor receives receipt of the written decision, the Chair of the Financial and Administrative Committee receives a written appeal from the protestor.

*Appeal.* Any actual or prospective bidder, offeror or contractor may appeal a decision of the Purchasing Agent ~~regarding bid protests or contract claims~~ to the Financial and Administrative Committee. Said The appeal shall be made in writing no later than ten calendar days from the date the protestor receives of receipt of the written decision from the Purchasing Agent. The Financial and Administrative Committee will hear the appeal ~~will be heard at the its~~ next scheduled meeting ~~of the Financial and Administrative Committee~~ and the protestor shall be notified of said the meeting and be afforded a reasonable opportunity to state his or her position. Any party whose interest may

be adversely affected by a protest or appeal shall also be notified and have the right to appear for the purpose of protecting those interests.

(1) *Decision.* After hearing the appeal, the Financial and Administrative Committee shall promptly issue a decision. ~~If the decision has occurred~~ occurs prior to the ~~contract's award of the contract,~~ then the decision shall be referenced with a resolution for award of the contract to the County Board for its consideration. ~~If the decision has occurred after the award of the contract,~~ the decision of the Financial and Administrative Committee shall be final.

(2) *Entitlement to costs.* If the contract has already been awarded but the bid protest is sustained and it is determined that the protesting bidder should have been awarded the contract under the solicitation but was not, then the protesting bidder shall be entitled to only their reasonable bid preparation and response costs, excluding attorneys' fees.

### **§ 33.097 CONTRACT DISPUTES.**

(A) *Right to dispute.* All claims by a contractor against the county relating to an existing contract, except bid protests (see § 33.096), shall be submitted in writing to the Purchasing Agent. The contractor may request a conference with the Purchasing Agent on the claim. Claims include, but are not limited to, disputes arising from such issues as breach of contract, mistake, misrepresentation, or other cause for contract modification and/or revision.

(B) *Authority.* The Purchasing Agent is authorized to attempt to settle any dispute. ~~If the dispute or claim is not resolved by mutual agreement,~~ the Purchasing Agent shall promptly issue a decision in writing and it shall be immediately transmitted electronically and/or sent via U.S. mail to the disputing party.

(C) *Purchasing agent's decision final; right to appeal.* The Purchasing Agent's decision shall be final and conclusive unless, within ten calendar days from the date ~~of receipt~~ of the written decision (or such other date to which the parties mutually agree), the Chairman of the appropriate standing committee of the County Board, receives a written appeal from the disputing contractor.

(D) *Appeal; settlement of monetary claim.* The disputing contractor's appeal will be heard at the next scheduled meeting of the Financial and Administrative Committee at which the disputing contractor will be given a reasonable opportunity to present his or her position. The Purchasing Agent, after consulting with the State's Attorney and the Director of Finance and Administrative Services, is authorized to make recommendations on the settlement of any monetary claim to the Financial and Administrative Committee.

(E) *Decision.* Any and all decisions made by either the standing committee and/or Financial and Administrative Committee shall be issued promptly and be final and conclusive.

### **§ 33.098 REMEDIES FOR SOLICITATIONS OR AWARDS IN VIOLATION OF LAW.**

If, after an award, the Purchasing Agent, after consultation with the State's Attorney, determines that a solicitation or award of a contract was in violation of applicable law, then:

(A) The contract may be modified to comply with the law, provided it is determined that doing so is in the best interests of the county; or

~~(A)~~(B) The contract may be terminated, and the contractor shall be compensated for the actual costs reasonably incurred under the contract prior to notification.

### **§ 33.099 ELECTED COUNTY OFFICIALS.**

Decisions and determinations made under §§ 33.096 through 33.098, if applicable, are subject to the review and approval of elected county officials as provided by Illinois statutes.

## COOPERATIVE JOINT PURCHASING

### § 33.115 COOPERATIVE JOINT PURCHASING AUTHORIZED.

Subject to applicable state statutes, the county may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of goods, services, construction, or professional services with one or more public procurement units in accordance with an agreement ~~between those units to do so entered into between the participants.~~ This cooperative purchasing may include, without limitation, joint or multi-party contracts between public procurement units and open-ended state public procurement unit contracts, which are made available to other public procurement units.

### § 33.116 SALE, ACQUISITION, OR USE OF GOODS.

The county may sell to, acquire from, or use any goods belonging to another public procurement unit independent of the requirements stated ~~herein~~ in this ordinance.

### § 33.117 COOPERATIVE USE OF GOODS AND SERVICES.

The county may enter into an agreement independent of the requirements stated ~~herein~~ in this ordinance with any other public procurement unit for the cooperative use of goods or services under the terms agreed upon between the parties.

### § 33.118 JOINT USE OF FACILITIES.

The county may enter into agreements for the common use or lease of warehousing facilities, capital equipment, and other facilities with another public procurement unit under the terms agreed upon between the parties.

## DEBARMENT

### § 33.125 AUTHORITY TO DEBAR.

~~(1)~~ After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Purchasing Agent, after consulting with the State's Attorney, is authorized to debar a person for cause from consideration for award of contracts. The debarment shall be for a period of not more than three years.

The causes for debarment include:

- (1) Criminal conviction for an incident related to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of the contract or subcontract;
- (2) State or federal conviction for embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a county contractor;
- (3) Conviction under state or federal antitrust statutes arising out of the submission of bid or proposals;
- (4) Violation of contract provisions, of a character which is regarded by the Purchasing Agent to be so serious as to justify debarment actions as follows:



(a) Deliberate failure to perform the specifications of or within the time limit provided in the contract; or

(b) A recent record of failure to perform or to unsatisfactorily perform the terms of one or more contracts, excluding situations in which the lack of performance is caused by acts beyond the control of the contractor.

(5) Any other cause the Purchasing Agent determines to be so serious and compelling as to affect responsibility as a county contractor, including debarment by any other governmental entity for any cause listed in this chapter; and

~~(a)~~ For violation of the ethical standards set forth in §§ 33.130 through 33.137.

### **§ 33.126 DECISION TO DEBAR.**

The Purchasing Agent shall issue a written decision to debar.

The decision shall state the reasons for the action taken and inform the debarred person involved of his or her rights concerning administrative review, and:

(1) A copy of the decision required by this section shall be mailed or otherwise furnished immediately to the debarred person; and

(2) A decision to debar under this subchapter shall be final. The debarred person has ten calendar days after receipt of the decision to submit a written appeal to the Chairman of the Financial and Administrative Committee for consideration by the full committee.

## **ETHICS IN PUBLIC PURCHASING/CONTRACTING**

### **§ 33.130 STATEMENT OF POLICY.**

(A) Public employment is a public trust. Proper conduct by the county officers and employees inspires confidence in the work of the county. County officers and employees involved directly or indirectly in the county's various procurement activities have a responsibility to perform their duties in a manner that will ensure the integrity of the county's purchasing transactions.

(B) This subchapter is intended to provide principles and guidelines to maintain the highest ethical standards in the county's purchasing/ contracting policies, procedures, and systems.

### **§ 33.131 APPLICABILITY.**

The policies and guidelines expressed in this subchapter shall apply to all employees, officers, and agents of the county involved in any procurement procedure with or on behalf of the county or any of its divisions or departments, excepting in those sections which expressly state to whom the section applies.

### **§ 33.132 GENERAL ETHICAL STANDARDS.**

(A) It shall be unethical for individuals and organizations to use their positions to manipulate the county's purchasing/contracting ordinance, policies, and procedures for personal gain or profit.

(B) It shall be unethical for an individual to attempt to influence any involved individual or organization to violate the ethical standards for the county purchasing/contracting activities.

(C) Individuals involved in the county's purchasing/contracting activities shall conduct their activities in good faith and shall use the resources, property, and funds under their control wisely and in accordance with ethical standards and legal requirements.

(1) All county employees and officers shall, at all times, comply with any and all rules and regulations enacted by the county as defined in the county ethics ordinance. With respect to any provisions of this subsection (C)(1) which overlap and/or conflict with the above described ordinance, the stricter of the two provisions shall govern.

(2) To the extent that violations of the ethical standards of conduct set forth in this subchapter constitute violations of state statutes, they shall be prosecuted and punishable as provided therein. The penalties shall be in addition to the civil sanctions set forth in this subchapter. Criminal, civil, and administrative sanctions against individuals, which are in existence on the effective date of this chapter shall not be impaired.

(D) Individuals involved in the county's purchasing/contracting activities shall conduct their activities to avoid the appearance of attempting to influence others or of being influenced by others to violate the ethical and legal standards for the county's purchasing/contracting standards.

### § 33.133 EMPLOYEE CONFLICT OF INTEREST/BAS.

(B) County employees shall not participate directly or indirectly or influence or attempt to influence any procurement, contract, purchase order, or invoice decision when the county employee knows or has reason to know that:

(1) The county employee or any ~~individual that there is a familial relationship with member of the county employee's immediate family~~ has a financial interest related to the procurement, contract, purchase order or invoice, decision, or activity; or

(2) The county employee or ~~any individual that there is a familial relationship with member of a county employee's immediate family~~ is negotiating for or already has an arrangement concerning employment with an individual or organization involved in the procurement, decision, or activity.

(C) County employees who discover an actual or potential conflict of interest, relative to a procurement, contract, purchase order, or invoice decision shall immediately disclose the conflict and file a written statement of disqualification with their department head or the Purchasing Agent and shall withdraw from further participation in the transaction.

(D) County employees involved directly or indirectly in the procurement process shall not become contemporaneous employees of any person or organization with whom the county is contracting. The Financial and Administrative Committee may grant a waiver from the employee conflict of interest provision of subsection (B) above, or the contemporaneous employment provision of subsection (C) above upon making a written determination that:

a. The contemporaneous employment or financial interest of the county employee has been publicly disclosed; and

b. The county employee will be able to perform his or her procurement functions without actual or apparent bias or favoritism; and

c. The award will be in the best interests of the county.

(E) Individuals shall not engage in unlawful discrimination or prejudice based on race, religion, national origin, language, gender, political affiliation, disability, or age when involved in a procurement, contract, purchase order, or invoice decision.

### § 33.134 GIFTS OR FINANCIAL GAIN.

(A) Individuals involved either directly or indirectly in the procurement process are prohibited from the following activities:

(1) Accepting financial gratuities, gifts, offers of employment expense-paid trips, private vacations, or other special financial treatment and favors from any person or organization in

connection with any direct or indirect involvement in a procurement activity or decision, excluding the acceptance of nominal gifts, including but not limited to advertising samples;

(2) Participating in or allowing situations in which any form of payment, gratuity, or offer of employment is made by or on behalf of any contractor or subcontractor in an effort to influence the award of a contract with the county; and

(3) Accepting a commission, percentage, or brokerage or contingent fee in exchange for assisting individuals or organizations to secure a county contract, purchase, or invoice.

(B) Individuals involved either directly or indirectly in the procurement process are not prohibited from the following activities:

(1) Accepting food or refreshment not exceeding \$75 per person on a single calendar day in the course of conducting business with an individual or organization with whom the county is involved in business activities, provided:

(a) The food or refreshment is consumed on the premises from which it was purchased or prepared; or

(b) It is catered.

(2) Accepting only nominal gifts similar to advertising samples, from an individual or organization with whom the county is involved in procurement activities; or

(3) Attending conferences, trainings, or professional events at the expense of an individual or organization with whom the county is involved in procurement activities to which all customers or suppliers and/or the general public is also invited.

### **§33.135 CONFIDENTIALITY.**

{A) Individuals are prohibited from using confidential or proprietary information received in the course of their jobs to give any other individual or organization unfair advantage in the county's procurement process.

(B) Individuals are prohibited from using confidential information received in the course of their procurement-related duties for personal gain, including but not limited to financial gain.

(C) Individuals have a duty to protect confidential information, gained through procurement activities, from being disclosed to other parties.

### **§33.136 DUTY TO REPORT.**

(A) An employee shall immediately report to his or her supervisor or department head any attempt by any other individual or organization to induce him or her to violate any of the ethical principles and guidelines in this subchapter.

(B) A non-employee shall immediately report to the Purchasing Agent any attempt by any other individual or organization to induce him or her to violate any of the ethical principles and guidelines in this subchapter.

### **§33.137 SANCTIONS; PENALTIES.**

(A) An employee who violates the ethical principles and guidelines of this subchapter may be subject to discipline up to and including the termination of employment pursuant to the Lake County Employee Policies and Procedures Ordinance. Employees may also be subject to sanctions under the Lake County Ethics Ordinance.

(B) A non-employee, non-officer who violates the ethical principles and guidelines is subject to the

applicable state statutes and the following penalties as determined by the Financial and Administrative Committee after consulting with the Purchasing Agent:

- (1) Written warning or reprimand;
- (2) Termination of contract;
- (3) Determination as a non-responsible contract bidder; or
- (4) Recovery by the county of the value of anything given or received in violation of the ethical principles and guidelines of this subchapter, including but not limited to monetary gifts, gratuities, and kickbacks.

## REAL PROPERTY LEASES

### § 33.138 STATEMENT OF POLICY

1. For real property leases, the Purchasing Division in conjunction with Facilities and Construction Services shall, on request, assist County officeholders, agencies, or department heads with locating suitable space for lease or with lease renewals. Such leases may extend for a maximum of 20 years under 55 ILCS 5/5-1083.
2. Requests for Real Property Leases shall be accompanied by the following information:
  - a. A general description of the geographic location desired (e.g., "Waukegan," or "northwestern Lake County"); and
  - b. The minimum square footage required; and
  - c. Property amenities (operational needs) that are (1) critical, and (2) not critical, but desired; and
  - d. Any information on the amount budgeted for the lease.
3. A real estate broker or other professional may be engaged to provide a market analysis on pricing for space in the requested location.
4. Upon identifying suitable space, the Purchasing Division may assist the requestor with entering into a lease agreement. After securing the lease, the Purchasing Division shall turn over any management or other issues related to the lease to Facilities and Construction Services.

## MOTOR VEHICLE PURCHASING SUBCHAPTER

### MOTOR VEHICLE PURCHASING

#### § 33.150 PURPOSE.

This subchapter is intended to provide county- wide coordination of the purchase and maintenance of all county motor vehicles.

(1977 Code, § 14-3) (Ord. passed 10-11-1977)

#### § 33.151 AUTHORITY.

This subchapter will be administered by the Lake County Division of Transportation.

(1977 Code, § 14-3) (Ord. passed 10-11-1977)

**§ 33.152 VEHICLE MAINTENANCE.**

The Lake County Division of Transportation will authorize, schedule, assign, identify and document repair work for all county vehicles.

(1977 Code, § 14-3) (Ord. passed 10-11-1977)

**§ 33.153 VEHICLE SPECIFICATIONS.**

The Lake County Division of Transportation in conjunction with purchasing will determine specifications for new vehicles based on type of use by departments and historical replacement costs.

(1977 Code, § 14-3) (Ord. passed 10-11-1977)

**§ 33.154 NEWVEHICLE PURCHASE AND RESALE.**

The Lake County Division of Transportation will determine optimum time for replacing county vehicles; the replacement factor will be based on vehicle's service life record, resale value, and mileage rates.

(1977 Code, § 14-3) (Ord. passed 10-11-1977)

**§ 33.155 NOTICE FOR INSPECTIONS.**

Inspection dates for new vehicles will be determined according to a predetermined maintenance schedule, as prescribed by the Lake County Division of Transportation.

(1977 Code, § 14-3) (Ord. passed 10-11-1977)

**§ 33.156 USER GUIDELINES.**

This subchapter will be implemented and enforced in accordance with the Motor Vehicle User Guidelines codified as Appendix B to this chapter, and any procedures that may be required by the Lake County Division of Transportation from time to time.

(1977 Code, § 14-3) (Ord. passed 10-11-1977)

**§ 33.157 BUDGET.**

The Division of Transportation will make annual recommendations to each department on the amounts to budget in their funds for vehicles and fuel expense.

(1977 Code, § 14-3) (Ord. passed 10-11-1977; Ord. passed 2-12-2013; Res. passed 2-10-2015)

