Agenda Item # 52

Distribution
County Board
Finance and Administrative Services
County Administrator
Accounts Payable

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

COUNTY BOARD, LAKE COUNTY, ILLINOIS

ADJOURNED REGULAR SEPTEMBER, A.D., 2006 SESSION

JANUARY 16, A.D., 2007

MADAM CHAIRMAN AND MEMBERS OF THE COUNTY BOARD:

Your Financial and Administrative Committee presents herewith a Resolution amending the Lake County Purchasing Ordinance; and request its adoption.

Respectfully submitted,

	AYE	NAY
CHAIR	X	
VICE-CHAIR	✓	
	✓	
	X	
	✓	
	✓	
	✓	

FINANCIAL and ADMINISTRATIVE COMMITTEE

RESOLUTION

WHEREAS, it is the goal of Lake County to establish purchasing procedures to ensure that taxpayer funds are spent wisely and in compliance with the laws of the State of Illinois to best meet department needs; and

WHEREAS, in 1986, Lake County adopted a Purchasing Ordinance; and

WHEREAS, in 2006, the Purchasing Ordinance was last modified; and

WHEREAS, to be in compliance with Statute regarding public meetings it is necessary to change Article 6 – SOLE SOURCE, EMERGENCIES AND SMALL PURCHASES to PURCHASES EXEMPT FROM BIDDING AND COMPETIVE SEALED PROPOSALS, EMERGENCIES AND SMALL PURCHASES, to modify Section 6-102 PURCHASES EXEMPT FROM BIDDING AND COMPETIVE SEALED PROPOSAL authorizing the Purchasing Agent to review and approve all Exempt requests and consult with ad hoc groups of county staff in making his or her determination with regard to a particular procurement; and

WHEREAS, Lake County has determined it to be in their best interest to adopt these amendments;

NOW, THEREFORE, BE IT RESOLVED, that the Lake County Purchasing Ordinance be amended as attached hereto, and that changes shall be effective upon adoption by the County Board on January 16, 2007.

DATED, at WAUKEGAN, LAKE COUNTY, ILLINOIS, on this 16th day of January, A.D., 2007.

Lake County Purchasing Ordinance

ADOPTED APRIL 8, 1986
AMENDED MARCH 13, 1990
AMENDED APRIL 10, 1990
AMENDED OCTOBER 8, 1996
AMENDED NOVEMBER 14, 2000
AMENDED JANUARY 14, 2003
AMENDED OCTOBER 14, 2003
AMENDED FEBRUARY 10, 2004
AMENDED MARCH 3, 2004
AMENDED MARCH 8, 2005
AMENDED NOVEMBER 14, 2006
AMENDED JANUARY 16, 2007

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PURCHASING QUICK REFERENCE GUIDE

PURCHASE TYPE	DOLLAR AMOUNT	PROCESS	FORMS	APPROVAL	PAGE
1. Goods & Equip. 2. Construction 3. Services 4. Professional Svs	Under $2,500	Quotes at dept discretion (*1)	Dept Purchase Order	Department Head	6, 12
1. Goods & Equip. 2. Construction 3. Services	Purchases between $2,500 – $20,000	Quotes required (*1)	Requisition & Purchase Order	Department Head & Purchasing Division	12
	Purchases over $20,000 (*2)	Competitive Sealed Bidding	Requisition & Purchase Order	Department Head & Purchasing Division	
1. Construction 2. Services	Purchases over $25,000	Above Processes Plus	Above forms Plus Resolution	Above approvals Plus County Board	7-10
Professional Services	Purchases between $2,500 - $50,000	Quotes at dept discretion (*1)	Requisition & Purchase Order	Department Head & Purchasing Division	11
	Purchases over $50,000	Competitive Sealed Proposals	Above forms Plus Resolution	Above approvals Plus County Board	
1. Sole Source 2. Emergency	Purchases between $2,500 – $20,000	Written Substantiation	Requisition w/ substantiation & Purchase Order	Department Head & Purchasing Division	12-13
	Purchases between $20,000 – $25,000	Quotes or Price Analysis (*1) (*3)	Requisition & Purchase Order	Department Head & Purchasing Division	
	Purchases over $25,000	Quotes or Price Analysis (*1) (*4)	Above forms Plus Resolution	Above approvals Plus County Board	

(*1) 3 quotes whenever possible

(*2) purchases of computers and telecommunications equipment follow goods & equip. guidelines, except the threshold for competitive bidding is $25,000

(*3) review by Sole Source Committee

(*4) Requests greater than $25,000 will be reviewed by Sole Source Committee

LAKE COUNTY PURCHASING ORDINANCE

ARTICLE 1 - GENERAL PROVISION

1-101 POLICIES AND PROCEDURES

It shall be the policy of Lake County to enter into contracts for goods, services, construction and professional services at fair and reasonable compensation for the work performed. Procedures shall be developed to manage the procurement process in accordance with the law; spend the taxpayers money wisely and fairly; protect against fraud and favoritism; encourage participation by Lake County businesses and promote equality of opportunity for minority and women owned businesses; and to best meet the needs of Lake County departments through continuous improvement of purchasing systems and procedures.

1-102 APPLICABILITY

This Ordinance applies to contracts for the procurement of goods, services, construction and professional services entered into by Lake County. It shall apply to every expenditure of public funds by a County agency for public purchasing irrespective of its source, except as otherwise provided by State law, State regulation, County of Lake Ordinance or administrative policy. When the procurement involves the expenditure of State or Federal assistance or contract funds, the procurement shall be conducted in accordance with any applicable mandatory State and/or Federal law. Nothing in this Ordinance 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 ordinance does not apply to the procurement of legal services.

1-103 PUBLIC ACCESS TO PROCUREMENT INFORMATION

Procurement information shall be a public record to the extent provided in the Illinois Freedom of Information Act and shall be available to the public as provided by the Lake County Ordinance implementing said Act.

1-104 AUTHORIZATION

Department heads, or their designee, 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. 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.

1-105 DEFINITIONS

The words defined in this Section shall have the meanings set forth below whenever they appear in this Ordinance or regulations promulgated thereunder:

(1) Bid. An advertised, open, competitive solicitation for prices that are opened publicly.

(2) Change Order. A written order signed and issued by authorized individuals of Lake County directing the contractor to make changes to the original contract specifications.

(3) Confidential Information. Any information which is available to an employee only because of the employee's status as an employee of the County and is not a matter of public knowledge or available to the public via request pursuant to the Freedom of Information Act. (5 ILCS 140/1, et seq.)

(4) Construction. The process of building, altering, demolishing, making structural repairs or other capital improvements to public real property.

(5) Contract. All types of County agreements, regardless of what they may be called, for the procurement of goods, services, construction or professional services.

(6) Contract File. A record maintained in the Purchasing Division which may include a requisition, purchase order, contract documents and/or related correspondence.

(7) Contractor. Any person having a contract with the County or a using agency thereof.

(8) Cooperative Purchasing. Procurement conducted by or on behalf of more than one Public Procurement Unit.

(9) Department Purchase Order. A written order signed and issued by a Lake County Department Head directing a business to provide goods, services, construction, or professional services on behalf of Lake County.

(10) 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.

(11) Employee. An individual drawing a salary or wages from the County, whether elected or not.

(12) Financial and Administrative Committee. The Committee established by the Lake County Board to review and recommend appropriation budgets and expenditures of funds for all using agencies.

(13) Financial Interest.

(a) Ownership of any interest 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;

(b) Ownership of *5%* of any property or business; or

(c) Holding a position in a business such as officer, director, trustee, partner, employee, or holding any position of management.

(14) Goods. All maintenance, repair and operating supplies and equipment necessary to sustain day-to-day county operations.

(15) Gratuity. A payment, loan, subscription, advance, deposit of money, service, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

(16) Immediate Family. Husband, wife, mother, father, mother-in-law, father-in-law, son, daughter, brother, sister, son-in-law, daughter-in-law, uncle, aunt, brother-in-law, and sister-in-law.

(17) Invitation for Bids. All documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.

(18) Invoice. A bill for goods or services furnished by a seller to a buyer specifying one price and terms of sale.

(19) Nominal Gift. Any item given to an individual with a value of less than Seventy-Five Dollars ($75).

(20) Person. Any individual or group of individuals, business, union, firm, corporation, trustee, partnership, association, joint venture, committee, club, or other entity.

(21) 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.

(22) Professional Service. Services which require a high degree of intellectual skill whereby the County's best interests are served by a unique combination of specialized knowledge, experience and expertise.

(23) Public Procurement Unit. The State of Illinois, any county, city, town, 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 expends public funds for the procurement of goods, services, construction and professional services.

(24) Purchasing Agent. The Purchasing Agent or any staff member of the Purchasing Division authorized to act as a Purchasing Agent.

(25) Purchase Order. A written order signed and issued by Purchasing Division directing a business to provide goods, services, construction or professional services on behalf of Lake County.

(26) Request for Proposals. All documents, whether attached or incorporated by reference, utilized for soliciting proposals.

(27) Requisition. An Electronic request issued by a Lake County Department Head or their designee against available, approved funds authorizing the Purchasing Division to issue a Purchase Order on the Departments behalf.

(28) Responsible Bidder or Offeror. A person who has the capability in all respects to perform fully the contract requirements, and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment, financial strength, and credit which will assure good faith performance.

(29) Responsive Bidder. A person who has submitted a bid, which conforms in all material respects to the requirements set forth in the invitation for bids.

(30) 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.

(31) Specification. Any description of the physical or functional characteristics or of the nature of a good, service, construction item, or professional service. It may include a description of any requirement for inspecting, testing, or preparing a good, service or construction item for delivery, or professional services.

(32) Standing Committee. Any committee established by the Lake County Board with specific using agency jurisdiction and responsibilities.

(33) Agency. Any County agency requiring goods, services, construction or professional services procured pursuant to this Ordinance.

ARTICLE 2 - OFFICE OF THE PURCHASING AGENT

2-101 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, services, construction and professional services, in accordance with this Ordinance, as well as the management and disposal of surplus property.

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

(a) execute contracts and purchase orders based upon open competition for all goods, services, construction and professional services needed by the County;

(b) sell, trade, transfer, or otherwise dispose of surplus County property;

(c) establish and maintain programs for specifications development, contract administration, inspection and acceptance, in cooperation with the agencies using the goods, services, construction and professional services;

(d) exercise general supervision over inventories of goods belonging to the County;

(e) establish procedures for contract management including the monitoring of compliance and payments;

(3) Purchasing Regulations and Operational Procedures. Consistent with this Ordinance, 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/her duties.

(4) Allocation of the Proceeds from Sale of 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.

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

ARTICLE 3 – PURCHASE ORDERS

3-101 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 Ordinance for the Purchasing Division to issue a Purchase Order.

3-102 PROCEDURES

(1) Department Purchase Order. The department shall approve and issue a Lake County Department Purchase Order for purchases less than $2,500 and for department releases against Lake County blanket Purchase Orders. Purchases shall be made in accordance with Lake County or other government contracts whenever possible.

(2) Lake County Purchase Orders. Except as stated in 3-102 (1), the department shall forward a requisition to The Purchasing Division requesting goods, services, construction or professional services. The Purchasing Division shall issue purchase orders for these transactions. For purchases greater than $20,000 and professional services greater than $50,000, the department shall also forward a Request to Solicit Bids or proposals and suggested specifications to initiate the purchase of goods, services or construction, except as provided for in 6-102 and 6-103.

3-103 EXCEPTIONS

Examples of non-negotiable purchases that do not require a purchase order and, therefore, may be processed by voucher directly to Accounts Payable, include, but are not limited to:

(a) Books
(b) Subscriptions
(c) Copyrighted Material
(d) Membership and Registration Fees
(e) Travel
(f) Interdepartmental Reimbursements
(g) Employee Reimbursements
(h) Legal Services and Related Litigation Expenses
(i) US Post Office
(j) Intergovernmental Payments
(k) Bank Payments
(l) Settlement of Judgments & Claims
(m) Utility Payments for Sewer, Water, Gas and Electric, Telephone, and Cell Phone
(n) Refunds
(o) Hospital, Doctor and Dentist Expenses

Non-negotiable purchases shall be determined by the Purchasing Agent and approved by the Financial and Administrative Committee of the County Board.

ARTICLE 4 – COMPETITIVE BIDDING

4-101 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 shall be utilized whenever possible. Purchases of goods, services and construction in excess of $20,000 or where multiple purchases within a year are likely to exceed $20,000 shall be subject to competitive sealed bidding. However, for data processing and telecommunications goods and services these provisions shall apply for purchases in excess of $25,000 or where multiple purchases within a year are likely to exceed $25,000. For Professional Services Contracts refer to Article 5.

4-102 PROCEDURES

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

(2) Public Notice. Adequate public notice of the invitation for bids shall be given a reasonable time, not less than five (5) calendar days prior to the date set forth therein for the opening of bids. Such notice shall include publication in a newspaper of general circulation within the County or internet posting on the County website, a reasonable time prior to bid opening. The public notice shall state the place, date, and time of bid opening.

(3) 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.

(4) Requirement for Bid Security. Bid Security in the amount of 10% shall be required for all competitive sealed bidding for construction contracts when the price is estimated to exceed $25,000. Bid security shall be a bond provided by a surety company authorized to do business in the State of Illinois, or the equivalent in cash, or otherwise supplied in a form satisfactory to the County. Nothing herein shall prevent the requirement of such bonds or other security in addition to or in lieu of those bonds, on construction contracts under $25,000 or other contracts when the circumstances warrant.

(5) Bid and Performance Bonds on Goods or Service Contracts. Bid and performance bonds or other security may be requested for supply or service contracts as the Purchasing Agent deems advisable to protect the County's interests. Any such bonding requirements shall be set forth in the solicitation. Bid or performance bonds shall not be used as a substitute for a determination of a bidder or offeror's responsibility. When a construction contract is awarded in excess of $25,000, the following bonds or security shall be delivered to the County and shall become binding on the parties upon the execution of the contract:

(a) a performance bond satisfactory to the County, executed by a surety company authorized to do business in the State, or otherwise security in a manner satisfactory to the County, in an amount equal to one-hundred percent (100%) of the price specified in the contract; and

(b) a payment bond satisfactory to the County, executed by a surety company authorized to do business in the State or otherwise secured in a manner satisfactory to the County, for the protection of all persons supplying labor or material to the contractor or its subcontractors for the performance of the work

(c) provided for in the contract. The bond shall be in an amount equal to one hundred percent (100%) of the price specified in the contract.

(6) 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 said insurance.

(7) Cancellation or Rejection of Invitations for Bids or Requests. An invitation for bids, a request for proposals, or 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 therefor shall be made part of the contract file and shall be provided upon request by unsuccessful bidders or offerors.

(8) 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; the record and each bid shall be open to public inspection.

(9) 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 discovered before bid opening may 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 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 nonjudgmental 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. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw it's 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.

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.

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

(10) Bid Evaluation. Bids shall be evaluated based on the requirements set forth in the invitation for bids, 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.

(11) Determination of Nonresponsibility of Bidder and Offerors. Failure to perform, or unsatisfactory performance, on one or more County contracts within a 2 year period shall be cause for the Purchasing Agent to determine non-responsibility. The unreasonable failure of a bidder or offeror to promptly supply information or samples in connection with an inquiry with respect to responsibility, or unacceptable performance on prior contracts, may be grounds for a determination of nonresponsibility with respect to such bidder or offeror. If a bidder or offeror who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility, 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. The final determination shall be made part of the contract file.

(12) 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.

(a) The Purchasing Agent shall request the State's Attorney to review prior to award all contracts in excess of $100,000. This review shall not be required when the form and content of the contract documents has previously been approved by the State's Attorney.

(b) Except as provided in subsection (c), the Standing Committee in charge of the using agency and the Financial and Administrative Committee shall jointly submit their recommendation on the award of a contract of $25,000 or more, by Resolution, to the County Board for its consideration at its next meeting. After award by the County Board, contracts shall be signed by the Purchasing Agent.

(c) Notwithstanding the provisions of subsection (b), 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 board approval.

(d) Notwithstanding the provisions of subsection (b), department heads are authorized to award and sign professional services contracts, pursuant to Article 5, of less than $50,000 (fifty thousand dollars).

(13) 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.

(14) Right to Audit Records.

(a) Audit of Contract Costs. The County may at reasonable times and places, audit the books and records of any contractor to the extent that such books, documents, papers, and records are pertinent to a County contract. Any person, who receives a contract, shall maintain such books, documents, papers, and records that are pertinent to the contract costs for three years from the date of final payment under the contract.

(b) 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 such books, documents, papers, and records are pertinent to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor or subcontractor for a period of three years from the date of final payment.

(15) 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.

(16) County Procurement Records

(a) 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.

(c) 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 State of Illinois Local Records Commission.

(17) Multi-Step Sealed Bidding. When it is considered impractical to prepare initially a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.

ARTICLE 5– PROFESSIONAL SERVICES AND COMPETITIVE SEALED PROPOSALS

5-101 GENERAL

(1) Department Heads shall have authority to award Professional Services Contracts of less than $50,000.00 (fifty thousand dollars) and may determine, in their discretion, whether such contracts will be awarded on the basis of competitive sealed proposals. Professional Services Contracts for $50,000.00 (fifty thousand dollars) or greater or where multiple Professional Services Contracts within a year are likely to exceed $50,000.00 will be subject to the competitive sealed proposals provisions pursuant to Article 5-102, unless they meet one of the exceptions and/or requirements enumerated in Article 6, or unless they fall within the scope of subparagraph (3) of this article.

(2) For Professional Services Contracts for $50,000.00 (fifty thousand dollars) or greater, the respective Department Head and the Purchasing Agent shall present a joint recommendation to the County Board for consideration and approval.

(3) 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 that Lake County issues a Request for Proposals for the selection of engineering, architectural, or land surveying services, proposals shall be evaluated based on the requirements set forth in the Request for Proposals, which may include qualifications, ability of professional personnel, past record and experience, performance data on file, willingness to meet time and budget requirements, location, workload of the firm, work on similar projects, past performance with Lake County, financial stability, and cost. Contracts for less than $50,000 (fifty thousand dollars) may be awarded by department heads; contracts for $50,000 (fifty thousand dollars) or greater must be referred to the County Board for approval. Competitive sealed proposals are required for contracts greater than $25,000 unless a prior, satisfactory relationship exists for the services desired.

(4) 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.

5-102 PROCEDURES

Competitive Sealed Proposals shall be initiated and created in accordance with the procedures for Competitive Sealed Bidding as enumerated in Article 4 except as follows:

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

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

ARTICLE 6 – ~~SOLE SOURCE~~PURCHASES EXEMPT FROM BIDDING AND COMPETITIVE SEALED PROPOSALS, EMERGENCIES AND SMALL PURCHASES

6-101 GENERAL

Competitive pricing shall be encouraged or a cost or price analysis shall be conducted prior to award of contracts under this section whenever possible.

6-102 ~~SOLE SOURCE PROCUREMENT~~PURCHASES EXEMPT FROM BIDDING AND COMPETITIVE SEALED PROPOSALS

Pursuant to the dollar thresholds in Section 4-101, w~~W~~hereas 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, they shall forward an Exempt ~~sole source~~ request to the Purchasing Agent. The Purchasing Agent will review and approve all Exempt 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. ~~Requests greater than $25,000 shall be forwarded for consideration by the Sole Source Committee as appointed by the County Administrator.~~ If the ~~Sole Source Committee~~Purchasing Agent reviews and approves the department head's recommendation that the~~for a Sole Source Procurement~~, 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. Examples of contracts which may not be suitable for competitive bids or proposals are;

(a) There is only one source for the required goods, service, or construction item.
(b) There exists a long standing, successful relationship for professional services, and the knowledge gained through this relationship adds value integral to the services provided.
(c) A sole suppliers item is needed for trial use or testing.
(d) Purchases of used equipment.
(e) Purchases at auctions.

6-103 EMERGENCY PROCUREMENT

Notwithstanding any other provisions of this Ordinance, the 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 such 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 Facilities Manager or other manager as may be appropriate, and shall be 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 $25,000 or more.

6-104 SMALL PURCHASE PROCUREMENT

Purchases shall be made in accordance with Lake County or other government contracts whenever possible. For non-contract purchases, competitive quotations for purchases up to $2,500, or up to $50,000 for professional services, are encouraged by the Department Head or their designee to determine the source that is in the County's best interests.

For Purchases greater than $2,500 the Purchasing Agent or the agent's designee shall document quotations from at least three vendors whenever feasible for purchases up to $20,000 for goods, services, and construction, $25,000 for data processing and telecommunications.

6-105 PROCEDURES

(1) 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 shall conduct negotiations, as appropriate, as to price, delivery and terms.

(2) Evaluation Factors. Evaluation factors which may justify an award to a vendor who has not provided the lowest quotation include, but are not limited to, delivery requirements, quantity requirements, quality, and past vendor performance. Whenever the Purchasing Agent or the agents' 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.

(3) Award. 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. A quote that exceeds the $20,000 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.

ARTICLE 7 – SPECIFICATIONS AND CONTRACT TERM

7-101 GENERAL

Departments shall forward to the Purchasing Division suggested specifications for goods, services, construction and professional services. The Purchasing Agent shall finalize, issue, revise, maintain, and monitor the use of specifications required by the County except that specifications for any public work 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 County Engineer. Specifications for water and sewer projects shall be prepared by the Superintendent of Public Works. 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 encourage competition in satisfying the County's needs, and shall not be unduly restrictive.

7-102 CONTRACT TERM

(1) Specified Period. Unless otherwise provided by law, a contract for goods or services may 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. However, the total contract term for any contract, including the time periods by which the contract is extended due to renewal, shall not exceed five (5) years, unless a unique capitol 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.

(2) 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.

ARTICLE 8 – CONTRACT CHANGES

8-101 CHANGE ORDERS AND CONTRACT MODIFICATIONS

(1) When the total of change orders, contract modifications or price adjustments on any contract approved by Resolution of the County Board exceeds ten percent (10%) of the original contract amount, approval of the Standing Committee in charge of the using agency and the Financial and Administrative Committee is required.

(2) 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;

(a) the circumstances said to necessitate the change in performance were not reasonably foreseeable at the time the contract was signed, or

(b) the change is germane to the original contract as signed, or

(c) the change order is in the best interests of the County and authorized by law.

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.

The Purchasing Agent is authorized to sign all change orders and to consent to contract assignments. Additionally, the County Engineer is authorized to sign change orders for projects relating to planning, design, construction and maintenance of highways, bridges, and culverts. The Superintendent of Public Works is authorized to sign change orders relating to planning, design, construction and maintenance of water and sewer projects. The Facilities Manager is authorized to sign change orders relating to planning and design and such other projects he is assigned by the County Administrator to administer. Planning and design contracts that are included are those relating to services provided by engineers, architects and land surveyors pursuant to the Local Government Professional Services Selection Act (510 ILCS 510/1et seq).

ARTICLE 9 - APPEALS AND REMEDIES

9-101 BID PROTESTS

(1) Right to Protest. Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the Purchasing Agent. Any protest must be submitted in writing within ten (10) calendar days from the issuance of the solicitation, addendum, notice of award or other decision by the Purchasing Division.

(2) Stay of Procurement During Protest. In the event of a timely protest under Subsection (1) of this Section, the Purchasing Agent or appropriate Standing Committee, after consulting with the State's Attorney, shall determine whether it is in the best interest of the County to proceed with the solicitation or award of the contract.

(3) Entitlement to Costs. When a protest is sustained and the protesting bidder or offeror should have been awarded the contract under the solicitation but is not, then the protesting bidder or offeror shall be entitled only to the reasonable costs incurred in connection with the solicitation, including bid preparation costs other than attorneys fees.

9-102 CONTRACT CLAIMS

All claims by a contractor against the County relating to a contract, except bid protests, shall be submitted in writing to the Purchasing Agent. The contractor may request a conference with the Purchasing Agent on the claim. Claims include, without limitation, disputes arising under a contract, and those based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or revision.

9-103 AUTHORITY OF THE PURCHASING AGENT TO SETTLE

(1) Authority. The Purchasing Agent is authorized to settle any procedural protest regarding the solicitation or award of a County contract prior to an appeal to the Lake County Board, or any committee thereof. The Purchasing Agent, after consulting with the State's Attorney, is authorized to make recommendations on the settlement of any monetary claim to the appropriate committees of the Lake County Board for their consideration.

(2) Notice to the Contractor of the Purchasing Agents' Decision. If the protest or claim is not resolved by mutual agreement, the Purchasing Agent shall promptly issue a decision in writing, and it shall be immediately mailed or otherwise furnished to the contractor. The decision shall state the reasons for the decision reached, and shall inform the contractor of its appeal rights under Subsection (3) of this Section.

(3) Finality of Purchasing Agents' Contractors Right to Appeal. The Purchasing Agent decision shall be final and conclusive unless, within ten (10) calendar days from the date of receipt of the decision, the Chairman of the Financial and Administrative Committee receives a written appeal from the contractor.

(4) Failure to Render Timely Decision. If the Purchasing Agent does not issue a written decision regarding any protest or claim within ten (10) calendar days after written request for a final decision, or within such longer period as may be agreed upon between the parties, then the aggrieved party may proceed as if an adverse decision had been received.

9-104 ACCESS TO ADMINISTRATIVE FORUM, SUBJECT TO STATUTORY PROVISIONS

(1) Appeal Process. 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 appeal shall be made in writing within ten (10) calendar days from the date of receipt of the decision. The protestor shall be notified of the time and date when the appeal shall be considered and afforded a reasonable opportunity to state its 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.

(2) Decision. The Financial and Administrative Committee shall promptly issue a decision:

(a) Prior to award, said decision shall be referred with the Resolution for award of the contract for consideration by the County Board; or

(b) After award: the decision of the Financial and Administrative Committee shall be final and conclusive.

(3) Elected County Officials. Decisions and determinations made under this Section and Section 9-103 (Authority of the Purchasing Agent to Settle Bid Protests and Contract Claims, Subject to Statutory Provisions) are subject to the review and approval of elected county officials as provided by State law.

9-105 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

(b) the contract may be terminated and the contractor shall be compensated for the actual costs reasonably incurred under the contract prior to notification.

ARTICLE 10 - COOPERATIVE PURCHASING

10-101 COOPERATIVE PURCHASING AUTHORIZED

Subject to applicable state statutes, Lake 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 entered into between the participants. Such cooperative purchasing may include, but is not limited to, 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.

10-102 SALE, ACQUISITION, OR USE OF GOODS

Lake County may sell to, acquire from, or use any goods belonging to another public procurement unit independent of the requirements stated herein.

10-103 COOPERATIVE USE OF GOODS AND SERVICES

Lake County may enter into an agreement independent of the requirements stated herein with any other public procurement unit for the cooperative use of goods or services under the terms agreed upon between the parties.

10-104 JOINT USE OF FACILITIES

Lake 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.

ARTICLE 11 – DEPARMENT

11-101 AUTHORITY TO DEBAR.

After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Purchasing Agent, after consulting with the States 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:

(a) criminal conviction for an incident related to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

(b) 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;

(b) conviction under state or federal antitrust statutes arising out of the submission of bid or proposals;

(d) 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:

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

(ii) 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.

(e) 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 Ordinance; and

(i) for violation of the ethical standards set forth in Article 12 (Ethics in Public Contracting) of this Ordinance.

11-102 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 its rights concerning administrative review and:

(a) A copy of the decision required by this Section shall be mailed or otherwise furnished immediately to the debarred person.

(b) A decision to debar under this Article shall be final. The debarred person has ten (10) 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.

ARTICLE 12 – ETHICS IN PUBLIC PURCHASING/CONTRACTING

12-101 STATEMENT OF POLICY

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

This Article is intended to provide principles and guidelines to maintain the highest ethical standards in Lake County's Purchasing/Contracting Policies, Procedures and Systems.

12-102 APPLICABILITY

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

12-103 GENERAL ETHICAL STANDARDS

(1) It shall be unethical for individuals and organizations to use their positions to manipulate Lake County's Purchasing/Contracting Ordinance, policies and procedures for personal gain or profit.

(2) It shall be unethical for an individual to attempt to influence any involved individual or organization to violate the ethical standards for Lake County Purchasing/Contracting activities.

(3) Individuals involved in Lake 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.

(a) 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 Lake County Ethics Ordinance which was adopted May of 2004 and is incorporated herein by reference. With respect to any provisions of this paragraph which overlap and/or conflict with the above described ordinance the stricter of the two provisions shall govern.

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

(4) Individuals involved in Lake 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 Lake County's Purchasing/Contracting standards.

12-104 EMPLOYEE CONFLICT OF INTEREST/BIAS

(1) 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:

(a) the county employee or any member of the county employee's immediate family has a financial interest related to the said procurement, contract, purchase order or invoice, decision or activity; or

(b) the county employee or a 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 said procurement, decision or activity.

(2) County employees who discover an actual or potential conflict of interest, relative to a procurement, contract, purchase order, or invoice decision shall immediately disclose said 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.

(3) 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.

(4) The Financial and Administrative Committee may grant a waiver from the employee conflict of interest provision (Section 11-104(2); Employee Conflict of Interest) or the contemporaneous employment provision (Section 11-104(3); Contemporaneous Employment Prohibited) upon making a written determination that:

(a) the contemporaneous employment or financial interest of the County employee has been publicly disclosed;

(b) the County employee will be able to perform his/her procurement functions without actual or apparent bias or favoritism; and

(c) the award will be in the best interests of the County.

(5) 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.

12-105 GIFTS OR FINANCIAL GAIN

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 Lake County.

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

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 Lake County is involved in business activities, provided the food or refreshment is (i) consumed on the premise from which it was purchased or prepared or (ii) if it is catered.

(2) accepting only nominal gifts similar to advertising samples, from an individual or organization with whom Lake County is involved in procurement activities.

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

12-106 CONFIDENTIALITY

(1) 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 Lake County's procurement process.

(2) 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.

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

12-107 DUTY TO REPORT

(1) 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 Article.

(2) 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 Article.

12-108 SANCTIONS

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

(2) 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;

(a) written warning or reprimand;

(b) termination of contract;

(c) determination as a non-responsible contract bidder;

(d) recovery by Lake County of the value of anything given or received in violation of the Ethical Principles and Guidelines of this Article, including, but not limited to, monetary gifts; gratuities and kickbacks.