



Legislation Text

File #: 21-671, Version: 2

Memorandum

Date: July 20, 2021

To: The Honorable Bruno Sabatier, Chair, Lake County Board of Supervisors

From: Carol J. Huchingson, County Administrative Officer

Subject: Consideration of an Ordinance Amending Article X of Chapter Two of the Lake County Code to Include Further Requirements for Exemptions from Competitive Bidding and Requirements for Bid Protests

Executive Summary: (include fiscal and staffing impact narrative): Article X of Chapter Two of the Lake County Code is being amended to include further requirements for exemptions from competitive bidding as well as additional requirements for bid protests.

Section 38.2 is amended to include further requirements for exemptions from competitive bidding. The additions to this section are shown below in bold below.

- (1) A state of emergency,
 - A) An "emergency purchase" is a purchase made in response to an emergency as defined in Section 34.1(k) herein.
 - B) Section 42.1 and 42.2 herein provides further guidance.
- (2) The unique nature of the goods or services precludes competitive bidding,
 - A) Competitive bidding shall be required every five (5) years if the previous attempt to obtain competitive bids resulted in a single responsible bid.
 - B) Extensions during the five (5) year period shall not require competitive bidding.
- (3) A determination that competitive bidding would produce no economic benefit to the County.
 - A) The cost of supplies, materials, equipment, or contractual services would not offer a large variation in the overall cost. The possibility of completing the competitive bidding process for new supplies, materials, equipment, or contractual services would offset any potential savings.
 - B) Competitive bidding shall be required every five (5) years.
 - C) Extensions during the five (5) year period shall not require competitive bidding.

Sections 46.1 and 46.3 are amended to include additional information regarding bid protests. The additions are shown in red below.

46.1 Any party with a direct financial interest who is aggrieved by any alleged material irregularity in connection with the intended award of a bid, may file a bid protest with the Purchasing Agent **or Assistant Purchasing Agent**, where such protest is based on alleged violations of Federal, State, or local law or ordinance, or alleged material irregularity in either the County's bid invitation or in the bid to which an awarded is intended. Generally, non-material irregularities in a bid response are those that substantially conform to the bid requirements and do not affect the bid price, time or conditions in such a way as to affect the amount of the bid or provide a competitive advantage or benefit not allowed to other bidders. Material irregularities in a bid invitation provide a competitive advantage or benefit to one (1) bidder that is not enjoyed by other bidders. The Purchasing Agent **or Assistant Purchasing Agent** may determine whether an alleged irregularity exists and whether it is material or non-material and shall have the authority to waive non-material irregularities. A bid protest must:

- (a) Be written,
- (b) State the specific alleged violation of law or alleged material irregularity,
- (c) Request a determination of the appeal,
- (d) Provide a telephone number and email address at which the appellant can be contacted,
- (e) Be filed no later than seventy-two (72) hours after the bid opening (Saturdays, Sundays and holidays excepted). Any protest filed after this time will not be considered.

46.3 Within seventy-two (72) hours of receipt of appeal, the Purchasing Agent **or Assistant Purchasing Agent** shall provide written notification to the appellant of the determination. A determination under this procedure shall be final except that the Purchasing Agent's **or Assistant Purchasing Agent's** decision may be appealed to the County Administrative Officer in writing within forty-eight (48) hours from the Purchasing Agent's **or Assistant Purchasing Agent's** notification to appellant.

If not budgeted, fill in the blanks below only:

Estimated Cost: _____ Amount Budgeted: _____ Additional Requested: _____ Future Annual Cost: _____

Consistency with Vision 2028 and/or Fiscal Crisis Management Plan (check all that apply):

☒ Not applicable

- | | | | |
|--|--|---|--|
| <input type="checkbox"/> Well-being of Residents | <input type="checkbox"/> Public Safety | <input type="checkbox"/> Infrastructure | <input type="checkbox"/> Technology Upgrades |
| <input type="checkbox"/> Economic Development | <input type="checkbox"/> Disaster Recovery | <input type="checkbox"/> County Workforce | <input type="checkbox"/> Revenue Generation |
| <input type="checkbox"/> Community Collaboration | <input type="checkbox"/> Business Process Efficiency | <input type="checkbox"/> Clear Lake | <input type="checkbox"/> Cost Savings |

If request for exemption from competitive bid in accordance with County Code Chapter 2 Sec. 2-38, fill in blanks below:

Which exemption is being requested?

How long has Agreement been in place?

When was purchase last rebid?

Reason for request to waive bid?

Recommended Action: Adopt Ordinance Amending Article X of Chapter Two of the Lake County Code to Include Further Requirements for Exemptions from Competitive Bidding and Requirements for Bid Protests

