



Legislation Text

File #: 21-713, Version: 1

Memorandum

Date: August 3, 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. Based on the direction received from your Board on 7/20/2021 staff is submitting this Ordinance for a first reading.

Section 38.2 is amended to include additional information regarding exemptions from competitive bidding. The additions are shown in **bold** below.

38.2 Not in the public interest. Notwithstanding the provisions of Section 2-39, competitive bidding is not required when the Board of Supervisors determines that competitive bidding would not be in the public's interest because of any of the following:

- (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) Use of this criterion requires documentation demonstrating both why the goods or services contracted are unique and why competitive bidding is precluded. Appropriate documentation shall be attached to the Memorandum to the Board of Supervisors at the time the item is submitted for consideration of Agenda placement.**
- (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 three (3) years.

C) Extensions during the three (3) year period shall not require competitive bidding.

Section 40.3 is amended to adjust the not to exceed amount of the local preference for informal solicitations. The changes are shown in **bold** below.

(b) In addition to the foregoing criteria, if the total combined quote amount submitted by a responsible local vendor is not greater than one hundred ten (110) percent of the apparent low quote and all other criteria being equal, preference shall be given to the responsible local vendor. However, in no case shall the amount of the preference exceed **five thousand dollars (\$5,000.00) two thousand five hundred dollars (\$2,500.00)**, unless waived by the Lake County Board of Supervisors when it determines that a waiver would serve the best interests of the County and the public due either to the nature of the goods or services provided, the projected long-term costs to the County, or the ability to respond to the County's needs in a timely manner. This provision shall not apply to contracts required by State or Federal statutes and/or regulations to be awarded to the 'lowest responsible respondent' or otherwise exempted from local preference.

Section 41.3 is amended to adjust the not to exceed amount of the local preference for formal bids. The changes are shown in **bold** below.

(b) Local Vendor Preference. A ten percent (10%) preference shall be granted to Lake County local vendors on all sealed bids. However, in no case shall the amount of the preference exceed **ten twenty thousand dollars (\$420,000.00)**, unless waived by the Lake County Board of Supervisors when it determines that a waiver would serve the best interests of the County and the public due either to the nature of the goods or services provided, the projected long-term costs to the County, or the ability to respond to the County's needs in a timely manner. This provision shall not apply to contracts required by State or federal statutes and/or regulations to be awarded to the 'lowest responsible bidder,' or otherwise exempted from local preference.

Sections 46.1 and 46.3 are amended to include additional information regarding bid protests. The additions are shown in **bold** 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 seven (7) days after the date of the Notice of Intent to Award Letter and/or formal Bid Opening (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):

- | | | | |
|--|--|---|---|
| <input type="checkbox"/> Well-being of Residents | <input type="checkbox"/> Public Safety | <input type="checkbox"/> Infrastructure | <input checked="" type="checkbox"/> Not applicable |
| <input type="checkbox"/> Economic Development | <input type="checkbox"/> Disaster Recovery | <input type="checkbox"/> County Workforce | <input type="checkbox"/> <i>Technology Upgrades</i> |
| <input type="checkbox"/> Community Collaboration | <input type="checkbox"/> Business Process Efficiency | <input type="checkbox"/> Clear Lake | <input type="checkbox"/> <i>Revenue Generation</i> |
| | | | <input type="checkbox"/> <i>Cost Savings</i> |

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