



## **PURCHASING POLICY**

**Approved: *(March 2022 Draft)***

**Ordinance: *(Ordinance #)***

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Dixon, Illinois  
Ordinance NO. \_\_\_\_\_**

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**LEE COUNTY  
PURCHASING ORDINANCE**

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**General**

- 1) Purpose. The underlying purpose of the Lee County Purchasing Ordinance (Ordinance) is to:
  - a) Manage the procurement process in accordance with the law;
  - b) Spend taxpayers' money wisely and fairly;
  - c) Establish a comprehensive plan for the purchase of goods and services for the county and its divisions;
- 2) Severability. The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional, invalid, or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity, or unenforceability shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance.
- 3) Singular, plural and gender rules.
  - a) Singular, plural. Words in the singular number include the plural, and those in the plural include the singular.
  - b) Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships, and corporations as well as to males.

**Definitions**

The terms defined in this section shall have the meanings set forth below whenever they appear in this Ordinance:

- 1) Architect, engineer, and land surveying services. Those professional services within the practice of architecture, professional engineering, structural engineering, or land surveying, as defined by the State of Illinois Professional Services Selection Act, 50 ILCS 510 /1 *et seq.*
- 2) Blanket bidding. Bids normally prepared and issued for purchases of commodities, supplies, food, and equipment, generally intended for usage of more than one department. These bids may be considered as purchasing contracts for a set period of time, generally three (3) months to three (3) years. State of Illinois Central Management Services (CMS) contracts or other joint bids (such as Sourcewell) would be considered blanket bids as long as the bidding process was conducted on a competitive open bid process.

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- 3) Business. Any corporation, partnership, individual, sole proprietorship, joint venture, or any other private legal entity.
- 4) Change order. Any written alteration in specifications, delivery points, delivery terms, contract period, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.
- 5) Construction. The process of building, altering, repairing, improving, demolishing, or making improvements of any kind to any structure, building, or real property.
- 6) Contract. All types of county agreements, regardless of what they may be called, for the procurement of goods, services, construction, or professional services.
- 7) Contract file. A record which may include a contract document, and/or related correspondence.
- 8) Contractually required documentation. Documents required in the contract or necessary for contract implementation that may include but are not limited to certificates of insurance and bid bonds.
- 9) Contractor. Any person or entity that is a party or beneficiary of a contract with the county or through a county department thereof.
- 10) Cooperative purchasing. Procurement conducted by or on behalf of more than one public procurement unit, such as CMS and Sourcewell.
- 11) County administrator. When the title of county administrator is referenced in this Ordinance it also includes acting administrator.
- 12) County Board Chairman. The acting county board chairman of Lee County, Illinois.
- 13) Department Head. A county department officer.
- 14) 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 advice, investigation, auditing, or in any other advisory capacity.
- 15) Employee. Individuals including elected and appointed officials providing services for the county and drawing a salary from the county.
- 16) Financial interest. Any employee, or the immediate family of an employee, having the following interest in any contractor or contract with the county: (a) any interest or relationship from which, or as a result of which an individual within the past year has received, or is presently or in the future entitled to receive, more than fifteen hundred dollars (\$1,500.00) per year, or its equivalent; (b) ownership of five percent (5%) of any property or business; or (c) holding a position in a business

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such as officer, director, trustee, partner, employee, or holding any position of management.

- 17) Goods and services. All tangible articles and services which shall be furnished to or used by any department of the county. These include, but may not be limited to, maintenance, repairs, and operation supplies, commodities, physical computer software, independent contractual services, and any equipment necessary to sustain day-to-day county operations.
- 18) Immediate family. Husband, wife, mother, father, son, daughter, stepfather, stepmother, stepson, stepdaughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, uncle, aunt, brother-in-law, and sister-in-law.
- 19) Invitation for bid. All documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.
- 20) Invoice. A bill for goods or services furnished by a seller to a buyer specifying one price and the terms of sale.
- 21) Lowest cost/responsible bidder. The bid providing the best long-term value for the county. The evaluation to determine the best long-term value may include, quality of offer, conformity with specifications, delivery date and terms, discount terms, service reputation, total cost of the item over its useful life, and conditions of warranty.
- 22) Parent committee. A standing committee of the Lee County Board which has been assigned to oversee the operations of a particular department.
- 23) Person. Any individual or group of individuals, business, union, firm, corporation, trustee, partnership association, joint venture, committee, club, or other entity.
- 24) Procurement. The buying, purchasing, using, renting, leasing, or otherwise acquiring of any goods, services, construction, or professional services. It also includes all functions pertaining to the obtaining of any goods, services, construction, or professional services, including descriptions of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.
- 25) Professional services. The service of any person possessing a high degree of professional skill where the judgment, artistic or subjective talent, ability, experiences, qualifications, and fitness of the provider(s) play an important part in the selection and primary reason for the service provided, other than those described in the Illinois Professional Services Selection Act, 50 ILCS 510/1, *et seq.*
- 26) 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, education, health, or other institution, any agency of the United States,

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and to the extent provided by law, any other entity which expends public funds for the procurement of goods, services, construction, and professional services.

- 27) Public works. All fixed works constructed by any public body, other than work done directly by any public utility company, as defined in the Illinois Prevailing Wage Act (820 ILCS 130/2).
- 28) Request for proposals. All documents, whether attached or incorporated by reference, utilized for soliciting proposals.
- 29) Responsible bidder or offeror. Any bidder, vendor, contractor, supplies, or prospective bidder having the capability in all respects to perform fully the contract requirements, and the experience, personnel, integrity, reliability, facilities capacity, equipment, acceptable past performance, and credit which will assure good faith performance.
- 30) Responsive bidder. Any bidder, vendor, contractor, supplies, or prospective bidder who has submitted a bid conforming in all material respects to the requirements set forth in the invitation to bid.
- 31) 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. This definition shall not apply to employment agreements, collective bargaining agreements, or to the definition of "professional services" as provided above in this section.
- 32) Specifications. Any description of the physical or functional characteristics or the nature of a good, service, construction item, or professional service. It may also include a description of any requirement for inspecting, testing, or preparing goods, services, construction projects, or professional services.
- 33) Stringing. Multiple payments and purchases of the same goods or service made within the appropriation period.

**Purchasing**

- 1) Application. The section applies to contracts for procurement of goods, services, construction, and professional services entered into by the county after the effective date of this Ordinance. It shall apply to every expenditure of public funds by a county department for public purchasing irrespective of its source, except as otherwise provided by the state law and state regulation. 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. Lee County may adopt administrative procedures to ensure compliance with all bidding requirements and those procedures may be more restrictive than required by statute. Certain elected officers and departments may have independent statutory authority to purchase their own supplies, equipment, or services. These officers and departments are encouraged to follow the County Purchasing Ordinance

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to ensure consistent county practices. Nothing in this Ordinance shall prevent any county officer or department from complying with the terms and conditions of any grant, gift, bequest, or co-operative purchasing agreement that is otherwise consistent with law.

**Spending Limits**

- 2) Department heads have the authority to sign any contract and/or purchase agreement for purchases up to ten thousand dollars (\$10,000.00), including commodities, supplies materials, equipment, construction, and services. Procurements may be obtained in a way that it is in the best interest of the county. The payment of these purchases shall be processed in the same manner as all other invoices.
- 3) Departmental purchases including commodities, supplies materials, equipment, construction, and services. that are greater than ten thousand dollars (\$10,000.00) but are less than minimum bid limit as established by 55 ILCS 5/5-1022 shall obtain quotations from at least three (3) vendors whenever feasible. Award shall be made to the vendor offering the lowest responsive and responsible quote meeting the specifications.
  - a) Circumstances may exist where the department head determines that it is not feasible to secure three (3) quotations. In other situations, the department head may determine that it is in the best interests of the county to consider only one or two (1-2) suppliers having previous expertise relative to the procurement.
  - b) Circumstances may exist which justify an award to a vendor who has not provided the lowest quotation including: delivery requirements, quantity requirements, quality, and past vendor performance.
  - c) Contract and purchase requirements shall not be artificially divided so as to constitute a small procurement or evade the competitive bidding requirements.

**Purchases requiring competitive bidding**

- 1) All purchases by a Department Head and Parent Committee where the actual cost exceeds the limit established by 55 ILCS 5/5-1022 (thirty-thousand dollars as of 2022), shall be awarded by competitively sealed bidding following the guidance of 55 ILCS 5/5-1022, excluding professional services, cooperative joint purchases or blanket bids and those provided for by state statute.
- 2) Stringing is forbidden and purchases shall not be artificially divided for purposes of evading the competitive sealed bidding requirement.
  - a) At a minimum, all bid documents shall include:

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- i. Instruction to bidders and/or offerors;
- ii. General conditions;
- iii. Bid and/or proposal forms;
- iv. Special or supplemental conditions;
- v. Affidavits or certificates required by statute;
- vi. Language indicating specific state statutes relating to the procurement function;
- vii. Bonds and insurance requirements; and
- viii. Prevailing Wage Requirements, as applicable

3) Bid security/bonding/requirements.

- a) A performance bond shall be required for all competitive sealed bidding for contracts of public works. It shall be in the form of a bond conditioned for the completion of the contract and shall be provided by a surety company authorized to do business in the State of Illinois. An irrevocable letter of credit may also be accepted for contracts under one hundred thousand dollars (\$100,000.00) other than contracts funded by motor fuel taxes, federal-aid funds, or funds received from the state. All security, whether in the form of a performance bond or irrevocable letter of credit, shall be deemed to contain the mandatory language in the Illinois Procurement Code, 30 ILCS 500/1-1 *et seq*,
- b) Amount of bid security or bid bond. Bid security shall be in an amount not to exceed five percent (5%) of the amount of the bid. Bid security or bid bond need not be required unless the parent committee or elected official requests the bid instructions include a bid security or bid bond.
- c) Delivery of bonds, when required. When a contract is awarded the required bonds or security in the amount stated in the bid document shall be delivered to the county and shall become binding on the parties upon the execution of the contract.
- d) Insurance requirements. In some cases, the parent committee or Department Head will require the contractor and all subcontractors to maintain adequate insurance coverage for the duration of the contract. The department head shall determine, in consultation with the parent committee, 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 parent committee with satisfactory evidence of said insurance.
- e) Bid acceptance and bid evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Ordinance. The department head, based on the requirements set forth in the invitation for bids, shall evaluate bids for responsiveness and recommend to the parent committee the vendor that is the lowest responsible bidder. Those criteria affecting the bid price and considered in evaluation for award shall be



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objectively measurable, such as discounts, transportation costs, total or life cycle costs, maintenance costs, and resale value. The invitation for bid shall set forth the evaluation criteria to be used. No criteria may be used in the evaluations that are not set forth in the invitation for bid. Alternative bids may be considered and accepted only if they are specifically provided for in the invitation for bids and meet the evaluation criteria set forth.

- f) Correction or withdrawal of bids; cancellation of award.
  - i) Bids withdrawn prior to opening. Bids may be withdrawn prior to the bid opening upon written request of the bidder and in accordance with the terms and conditions contained in the bid document.
  - ii) Correcting bid totals. After the bid opening, no changes in prices or other provisions shall be permitted, except to correct calculations, as stated in the terms and conditions contained in the bid document. If the vendor incorrectly extends their bid totals, the unit cost shall be used to correctly establish the vendor's bid response. The department head shall be responsible for reviewing all bid forms.
  - iii) Bid withdrawal after bid opening. If the bidder alleges a material error or mistake of fact, he may be permitted to withdraw the bid if the bidder submits evidence, which clearly and convincingly demonstrates that an error was made. The withdrawal of the bid shall be supported by written documentation provided by the bidder that shall be presented for approval to the parent committee. When State or Federal Funds are used bid withdrawal conditions shall be subject to the respective fund requirements.
- g) Tie bids. Should tie bids between equally responsive responsible bidders be received, the award shall be made by a coin toss or otherwise by random selection by the department head or parent committee. The department head shall notify all parties involved of the time and request that a representative of each party be present.
- h) Right of rejection. The Parent Committee reserves the right to accept or reject any and all bids and the right to waive any technical errors found in any document.
- i) Award. Federal, State or locally funded contracts shall be awarded by the Parent Committee with reasonable promptness by appropriate written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids and/or request for proposals. After the bid is awarded, the department head shall issue notices of awards and notices to proceed. All contractually required documentation is required prior to any notice to proceed.

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**Cooperative joint purchasing and blanket bids**

County departments are not required to (a) conduct local sealed bids for purchases requiring competitive sealed bids, ; or (b) obtain quotes for purchases under the minimum required bidding threshold established by 55 ILCS 5/5-1022, if purchases are made following 30 ILCS 525/1 et seq., which includes joint purchasing consortiums, such as CMS and Sourcewell.

**Bidder/Offeree qualifications and duties**

Vendor information required. For any vendor to conduct business with Lee County, it shall first provide the county with certain information as required by this Ordinance, as well as all applicable state and federal law. All vendors shall provide the county with any additional information requested by the department head or parent committee. Any vendor who fails to submit requested information may be disqualified as an approved county vendor. The department head and parent committee are authorized to withhold payments to any vendor that fails to provide the necessary requested information.

**Contract execution**

- 1) Fiscal responsibility. Prior to the approval of a contract, change order, or contract modification, the county parent committee shall certify that sufficient budgeted funds are available.
- 2) Change orders and contract modifications.
  - a) The department head, in cooperation with the parent committee, shall have the authority to approve and authorize change orders as authorized by Illinois Public Works Contract Change Order Act, 50 ILCS 525/1 *et seq.* or change order specifications dictated by the Federal or State Funding Source.
  - b) Compliance with Criminal Code of 1961 and Public Works Contract Change Order Act. All change orders shall comply with section 33E-9 of the Illinois Criminal Code of 1961, 720 ILCS 5/33E-9, now in effect or as hereafter amended.

**Contract renewals**

- 1) All contracts that contain an optional renewal clause shall be presented for approval to the Parent Committee with the total dollar value for the initial period of award.
- 2) All requests for contract renewals shall originate from the department head indicating the desire for the renewal, the subsequent renewal term and the total dollar value for the renewal period.

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- 3) Unless otherwise provided by law, a contract renewal clause may be entered into for any specified period of time deemed to be in the best interests of the County, not to exceed a total term of ten (10) years provided the term of the contract and conditions of additional renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting.

**Additional criteria for construction and public works projects**

All department heads, bidders and contractors contributing to a Lee County public works project shall comply with the Illinois Prevailing Wage Act (Act), 820 ILCS 130/1 *et seq.*,

**Specifications, Responsibilities and Competition**

- 1) Department Head - Responsibility for Specifications. The department head shall issue, revise, maintain, and monitor specifications for goods, services, construction, and professional services required by the county, except that specifications for any public work involving professional engineering shall be prepared by a professional engineer. The highway department may prepare specifications for construction and maintenance of highways, bridges, and culverts pursuant to IDOT standards.
- 2) Parent Committee - Relationship with Department Heads. The parent committee shall provide advice and assistance to the department head in the development of specifications. The department head may use established bid specifications issued by named brand vendors. However, when doing so the department head shall issue notice within those specifications that any item or equipment that is like or equal to the name brand specifications shall be considered for award.
- 3) Maximum practicable competition. All specifications 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. The policy applies to all specifications including those prepared for the county by architects, engineers, designers, and draftsmen.

**Declaration of Non-Responsibility**

- 1) Declaration process.
  - a) Authority to issue a declaration of non-responsibility. After reasonable notice to the vendor involved and reasonable opportunity for that person to be heard,

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the Parent Committee is authorized to declare the vendor non-responsible for purposes of supplying goods, services, construction, and professional services to the county. The declaration shall be in effect for a period of not more than two (2) years, for all solicitations. The causes for such a declaration include:

- i. Conviction for commission of a criminal offence as an incident to obtaining or attempting to obtain public or private contract or subcontract, or in the performance of such contract or subcontract;
  - ii. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offenses indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a county contractor;
  - iii. Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;
  - iv. Violation of contract provisions, as set forth below, of a character regarded by the county department as evidencing non-responsibility:
    1. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
    2. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance is not caused by acts beyond the control of the contractor;
    3. Any other cause the department head determines to be so serious and compelling as to affect responsibility as a county contractor, including suspension by another governmental entity for any cause listed in this Ordinance.
- b) Decision to declare non-responsible. The department head shall issue a written determination stating the reasons for the action taken and informing the affected vendor involved of his rights concerning administrative review. This shall not prevent the adversely affected vendor from appealing the department head's decision to the County Board pursuant to this Ordinance.
- c) Notice of decision. A copy of the decision required by subsection (2) of this section shall be mailed by certified return receipt.
- d) Finality of decision. A decision under subsection (2) of this section shall be final or conclusive, unless properly appealed pursuant to this Ordinance.

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**Appeals and Remedies**

- 1) Authority of the department head to settle bid protests and contract claims, subject to statutory provisions.
  - a) Authority. The department head is authorized to resolve any procedural protest regarding the solicitation or award of any bid under his purview.
  - b) Right to protest. Any actual or prospective bidder, offeror, or contractor who believes he has been adversely affected in connection with the solicitation or award of a contract (protesting entity) may, within ten (10) calendar days of the solicitation, bid opening or award, by mail, fax or have served, a letter of protest to the parent committee. The department head shall submit a written response to the protesting entity within ten (10) calendar days from receipt of the protest.
  - c) Delay of procurement during protest. In the event a protesting entity timely submits a protest under subsection (1)(b) of this section, the Parent Committee shall determine whether it is in the county's best interest to proceed with the solicitation of the bid, bid opening, or award of the contract.
  - d) Notice to the protestor of the parent committee's decision. If the protest or claim is not resolved by mutual agreement, the parent committee shall promptly issue a written decision, and it shall be immediately mailed or otherwise furnished to the protesting entity. The decision shall state the reasons for the decision reached, and it shall inform the protestor of his option to appeal under subsection (5) of this section.
  - e) Protestor right to appeal. The parent committee's decision shall be final and conclusive unless, within ten (10) calendar days from the date of receipt of the decision, the protesting entity sends, via certified mail, the County Board Chairman a written appeal challenging the parent committee's decision. The County Board Chairman, with the consent and approval of the state's attorney, shall render a written decision no later than ten (10) calendar days after receiving the written appeal.
  - f) Failure to render timely decision. In the event the parent committee does not issue a written decision within the specified time period prescribed under subsection (1)(b) of this section, or within such longer period as may be agreed upon between the parties, the protesting entity may proceed with an appeal to the County Board Chairman as if an adverse decision had been received.
- 2) Remedies for solicitations or awards in violation of law.
  - a) Prior to bid opening or closing date for receipt of proposals. If, prior to the bid opening or the closing date for receipt of proposals, the parent committee, after consultation with the state's attorney, determines that a solicitation is

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in violation of federal, state, or local law, then the solicitation shall be canceled or revised to comply with applicable law.

- b) Prior to award. If after bid opening or the closing date for receipt of proposals, the parent committee, after consultation with the state's attorney, determines that a solicitation or a proposed award of a contract is in violation of federal, state, or local law, then the solicitation or proposal award shall be canceled in accordance with this Ordinance.
  - c) After award. If, after an award, the state's attorney determines that a solicitation or award of a contract violates federal, state, or local law, then, pursuant to Illinois law, the contract is *void ab initio*.
    - i. If the person awarded the contract has not acted fraudulently or in bad faith, the parent committee, after consultation with the state's attorney, may enter into a new contract, if necessary and feasible, correcting the federal, state, or local law violations.
    - ii. If the person awarded the contract has acted fraudulently or in bad faith, the state's attorney's office may take whatever action it deems necessary and proper against the person or entity.
- 3) Authority of elected officials. For economizing it is assumed that all elected officials will cooperate with this Ordinance. Certain elected officials may have independent statutory authority to make purchases independently of this Ordinance. In cases when elected officials are required to comply with this Ordinance, or they have elected to comply with this Ordinance, the authority granted the department head, parent committee, and County Board Chairman shall be transferred to the elected official.

Adopted by the County Board this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

BY: \_\_\_\_\_  
BOARD CHAIRPERSON

ATTEST:

\_\_\_\_\_  
COUNTY CLERK