

PROPOSED SUBSTITUTE ORDINANCE AMENDMENT (NEW ITEM 4)

Sponsored by:

**THE HONORABLE JOHN P. DALEY, FORREST CLAYPOOL, BRIDGET GAINER,
ELIZABETH “LIZ” DOODY GORMAN, GREGG GOSLIN, EDWIN REYES,
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LARRY SUFFREDIN, COOK COUNTY COMMISSIONERS**

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 34, Finance, Article IV. Procurement and Contracts, of the Cook County Code is hereby amended as follows:

Sec. 34-121. Contracts for supplies, material and work.

All contracts for supplies, materials and equipment for the County of Cook shall be let as provided in this Article IV. All contracts for supplies, materials and equipment for Cook County, including the separately elected Officials, which involve an expenditure of \$100,000.00 or more shall be approved by the Board of Commissioners and signed by the President of the Board, the County Purchasing Agent and the Comptroller. All contracts for supplies, materials, and equipment for Cook County, including the separately elected Officials, which involve an expenditure of less than \$100,000.00 shall be approved by the Purchasing Agent; however, all contracts for supplies, materials and equipment for Cook County, including the separately elected Officials, shall also require Board approval in circumstances where the aggregate of expenditures by a Department within the County, or any separately elected official, to the same vendor for the same, or substantially the same, supplies, materials, or equipment within the same fiscal year equal a sum of \$100,000.00 or more.

All contracts for professional and managerial services for the County of Cook shall be let as provided in this Article IV. All contracts for contractual services for Cook County, including the separately elected Officials, which involve an expenditure of \$25,000.00 or more shall be approved by the Board of Commissioners and signed by the President of the Board, the County Purchasing Agent and the Comptroller. All contracts for professional and managerial services for Cook County, including the separately elected Officials, which involve an expenditure of less than \$25,000.00 shall be approved by the Purchasing Agent; however, all contracts for contractual services for Cook County, including the separately elected Officials, shall also require Board approval in circumstances where the aggregate of expenditures by a Department within the County, or any separately elected official, to the same vendor for the same, or substantially the same contractual services within the same fiscal year equal a sum of \$25,000.00 or more.

The Comptroller shall provide to the Board of Commissioners a report of all payments made pursuant to contracts for supplies, materials and equipment for Cook County, including the separately elected Officials, which involve an expenditure of less than \$100,000.00 that were approved by the Purchasing Agent and of payments pursuant to contracts for professional and managerial services for Cook County, including the separately elected Officials, which involve

an expenditure of less than \$25,000.00 that were approved by the Purchasing Agent, within 72 hours of being made (excluding Saturdays, Sundays and holidays). Such reports shall include:

- a. The name of the Vendor;
- b. A description of the product or service provided;
- c. The name of the Using Department and budgetary account from which the funds are being drawn;
- d. The contract number under which the payment is being made; and
- e. Any related Board Agenda Communication Number **or tracking number utilized by the office of the Comptroller** related to the contract, if applicable.

Such report shall be provided to the Board of Commissioners in an electronic, sortable format.

Sec. 34-151. Purchase procedures and competitive bidding.

The purchases of and contracts for supplies, materials, equipment and contractual services and all sales of personal property which has become obsolete or unusable shall be based on competitive sealed bids in accordance with this Section 34-151 and the additional procedures set forth in Section 34-153, or shall be based on competitive requests for proposals or requests for qualifications as provided in Section 34-152, unless designated as charitable donations pursuant to Subsection 34-153(f). No purchases, orders, or contracts of \$100,000.00 or more or contracts for professional and managerial services of \$25,000.00 or more shall be made unless authorized by the County Board. All sales of obsolete or unusable material, property, or equipment shall be made to the highest bidder, except as provided for in Section 34-153. Notwithstanding the foregoing, if a governmental agency similar in size or larger than the County has awarded a bid to a vendor for the same or similar supplies, materials, equipment or contractual services as that sought by the County, the Purchasing Agent, in his or her discretion, is authorized to purchase the supplies, materials, equipment or contractual services from that vendor at the awarded bid price without having to issue a bid for the supplies, materials, equipment or contractual services as provided in this Section 34-151.

(a) Purchases and Contracts of less than \$100,000.00 or contracts for professional and managerial services of less than \$25,000. Purchases and contracts for supplies, materials and equipment and sales of personal property which has become obsolete or unusable and has a value of less than \$100,000.00, or contracts for professional and managerial services that has a value of less than \$25,000.00 as estimated by the Purchasing Agent, shall be made in accordance with this Subsection (a). Purchases, excluding professional services, having a cost of \$750.00 or less may be made with "petty cash" in the open market. All purchases greater than \$750.00 and less than \$100,000.00 may be made by competitive quotations on the open market without publication in a newspaper as provided below, but whenever practical shall be based on at least three such quotations.

Effective immediately, the Purchasing Agent shall provide to the Board of Commissioners a list of all purchases authorized by the Purchasing Agent greater than \$750.00 and less than \$100,000.00 pursuant to this subsection, within 72 hours of authorization (excluding Saturdays, Sundays and holidays). Such report shall include the name of the vendor, a description of the item or service purchased, the Using Department and the budget account from which payment shall be drawn.

(b) *Purchases and Contracts of \$100,000.00 or more or contracts for professional and managerial services of \$25,000.00 or more; Authorization to advertise for bids.* The Department shall be responsible for requesting that the Board of Commissioners authorize the advertisement of a competitive bid.

(c) *Purchases and Contracts of \$100,000.00 or more or contracts for professional and managerial services of \$25,000.00 or more; Advertisement for bids.* Upon authorization from the Board of Commissioners, the Purchasing Agent shall publish the advertisement at least once in a secular newspaper of general circulation within Cook County and at least five calendar days before the final date of submitting bids. Purchasing shall also post notification of the competitive bid on the Purchasing Agent's page of Cook County's web-site, located at www.cookCountygov/purchasing.com and on the Purchasing Office bulletin board in accordance with the provisions of Subsection 34-153(a). Such notices shall include a general description of the commodities or contractual services to be purchased or personal property, equipment or other property to be sold and shall state where all blanks and specifications may be obtained and the time and place for the opening of bids. The County Purchasing Agent may also send requests by mail to prospective suppliers.

(d) *Purchases and Contracts of \$100,000.00 or more or contracts for professional and managerial services of \$25,000.00 or more; Development and approval of specifications and contract terms.* The Department shall provide to the Purchasing Agent draft contract documents which shall include a description of the services or supplies to be procured, any minimum bidder qualifications, a description of the environment within which a successful bidder will be required to perform a site inspection, cost proposal information and any other information requested by the Purchasing Agent in order to prepare and finalize the bid specifications and contract documents. The Purchasing Agent may revise the draft documents prior to finalizing and issuing the contract documents.

(e) *Purchases and Contracts of \$100,000.00 or more or contracts for professional and managerial services of \$25,000.00 or more; Pre-bid conferences.* The Department shall include the details of any pre-bid conferences in the draft contract documents submitted to the Purchasing Agent. Any changes to the date, time or place of a pre-bid conference must be communicated in writing, not less than five business days, prior to originally scheduled Bid Opening to the Office of the Purchasing Agent, the Purchasing Agent will issue an Addendum to all entities or persons registered as having picked up a Bid Package by the Office of the Purchasing Agent.

(f) *Purchases and Contracts of \$100,000.00 or more or contracts for professional and managerial services of \$25,000.00 or more; Requests for information, clarifications or*

exceptions to contract documents. As provided in the Instructions to Bidders, all requests for information, clarification or exceptions submitted by bidders must be directed in writing only to the Purchasing Agent, not less than five business days prior to the Bid Opening. Upon receipt of such a request, the Purchasing Agent's Office will determine if a response will be provided. If a Using Department or Elected Official receives a written inquiry, it shall be forwarded to the Purchasing Agent immediately. If the Department receives an oral inquiry, the prospective bidder shall be referred to the Instructions to Bidders which require that all inquiries be submitted in writing to the Purchasing Agent.

(g) *Purchases and Contracts of \$100,000.00 or more or contracts for professional and managerial services of \$25,000.00 or more; Communications with bidders during bid process.* From the time a Bid Package is made available until the recommendation for award of the contract is approved by the Board, all communications from bidders must be directed in writing to the Purchasing Agent. However, bidders may communicate with the County's Office of Contract Compliance relative to the submission of information regarding proposed minority and women owned business enterprise participation in the contract. All responses to inquiries regarding the status of a bid evaluation or award shall be provided by the Office of the Purchasing Agent in accordance with approved procedures.

(h) *Purchases and Contracts of \$100,000.00 or more or contracts for professional and managerial services of \$25,000.00 or more; Communication between bidders.* From the time a Bid Package is made available to bidders until the recommendation for award of the contract is approved by the Board, no bidder shall communicate with another bidder regarding the subject matter of the procurement, with the sole exception of communications a bidder may have with a minority or women owned business enterprise to meet requirements of minority or women owned business enterprise goals.

Such quotations shall not be solicited or provided in a manner that discloses or requires the disclosure of the amount of a prospective bid.

(i) *Purchases and Contracts of \$100,000.00 or more or contracts for professional and managerial services of \$25,000.00 or more.* Bids to conform to conditions in advertisements.

- (1) The County Board will not entertain or consider any bid:
 - a. Received after the exact time for submission of bids specified in the advertisement for bids, except as may be extended in an Addendum issued to all bidders by the Purchasing Agent;
 - b. Not accompanied by the required certified check, bid deposit, or bid bond;
 - c. Not accompanied by the affidavits, certifications or economic disclosure statements required to be submitted pursuant to this article; or
 - d. Which in any other way fails to fully comply with the terms and conditions as stated in the advertisement for bids.
- (2) No bid may be changed, amended, or supplemented in any way after the exact time for submission of bids specified in the advertisement for bids. Any bidder that cancels, withdraws or modifies its bid after the bid opening will result in the bidder being deemed

unqualified and will prohibit said bidder from receiving a County contract for a period of one year from the date of bid opening. No certified check, bid deposit, or bid bond may be accepted after the exact time for submission of bids specified in the advertisement for bids.

(j) *Purchases and Contracts of \$100,000.00 or more or contracts for professional and managerial services of \$25,000.00 or more; Examination and tallying of bids.* All bids shall be opened and tallied at a time predetermined by the President, who shall appoint a member of the County Board to preside and witness the conduct of the reading and announcing in public of all bids before all who desire to attend. The bids shall then be reported to the County Board at the next meeting after the opening thereof. If it is evident that only one qualified bid has been submitted with respect to a particular contract, no bid envelope is opened and any sealed bid(s) shall be returned to the bidder(s) via certified mail unopened. The Clerk announces this fact and that the Purchasing Agent will thereafter determine whether to re-issue the solicitation of competitive bids as a result. If it is determined that an error was made in announcing the bid or there was a failure to read all bids into the record, the Purchasing Agent shall notify the Commissioner who presided over the Bid Opening and the Clerk of the Board of the need to reconvene the Bid Opening to correct the record. As soon as reasonably possible, the Bid Opening is reconvened for the purpose of correcting the record.

(k) *Purchases and Contracts of \$100,000.00 or more or contracts for professional and managerial services of \$25,000.00 or more; Evaluation of bids.* Immediately after the Bid Opening, a post bid meeting is scheduled wherein the Department and Contract Compliance reviews bids for technical specifications and minority business enterprise/women business enterprise requirements. Upon notification of a recommended vendor from the Department and Contract Compliance, the Office of the Purchasing Agent prepares the pre-award bids report and posts said report on the County's web-site and on the bulletin board outside the Purchasing Agent's Office. The time intervals required to evaluate bids are not always predictable. Bidders are responsible for monitoring the web-site or, if they lack web access, for calling the Office of the Purchasing Agent on Mondays after 12:00 noon at (312)603-5370 to determine whether a recommendation for award will be posted during the upcoming week.

(l) *Purchases and Contracts of \$100,000.00 or more or contracts for professional and managerial services of \$25,000.00 or more; Bid protest procedure.* Any bidder who has reason to believe that the bidder identified in the posted recommendation for award is not entitled to be awarded the contract, or who has a complaint about the bid process, may submit a written bid protest, in writing, directed to the Purchasing Agent. Such protest may be submitted at any time prior to the announcement of the recommended bidder, but no later than three business days after the date upon which the recommendation for award is posted on the County's web-site and on the Purchasing Agent's bulletin board. The bid protest must state with specificity the basis upon which the bidder believes that the recommendation for award is erroneous, or the basis upon which the bidder believes the bid procedure was unfair, including a statement of how the alleged unfairness prejudiced the protesting bidder. A bidder who could have submitted a request for exception, clarification or information prior to bid opening but failed to do so shall not be entitled to protest a bid on the basis of insufficient information or clarity after the bids have been opened.

(m) *Purchases and Contracts of \$100,000.00 or more or contracts for professional and managerial services of \$25,000.00 or more; The Purchasing Agent shall decide all bid protests.* When a protest has been submitted, the Purchasing Agent shall defer presentation of a recommendation for award to the Board's Finance Committee until the bid protest has been decided.

(n) *Purchases and Contracts of \$100,000.00 or more or contracts for professional and managerial services of \$25,000.00 or more; Contract award and execution.* The final recommendation for award shall be transmitted to the Board, through its Finance Committee, for approval of the recommendation for award and execution of a contract with the approved bidder. The Purchasing Agent shall ensure that all required certifications are executed and all due diligence is performed prior to the request to award and execute the contract.

(o) *Purchases and Contracts of \$100,000.00 or more or contracts for professional and managerial services of \$25,000.00 or more; Right to reject bids reserved.* The County Board reserves the right to reject any and all bids.

(p) *Purchases and Contracts of \$100,000.00 or more or contracts for professional and managerial services of \$25,000.00 or more; Local business preference.*

(1) In this section the term "local business" means a person authorized to transact business in this State and having a bona fide establishment for transacting business located within the County at which it was actually transacting business on the date when any competitive solicitation for a public contract is first advertised or announced and further which employs the majority of its regular, full-time work force within the County, including a foreign corporation duly authorized to transact business in this State and which has a bona fide establishment for transacting business located within the County at which it was actually transacting business on the date when any competitive solicitation for a public contract is first advertised or announced and further which employs the majority of its regular, fulltime work force within the County.

(2) The Purchasing Agent shall, in the purchase of all supplies, services and construction by competitive sealed bidding, accept the lowest bid price or lowest evaluated bid price from a responsive or responsible local business, provided that the bid does not exceed the lowest bid price or lowest evaluated bid price from a responsive and responsible non-local business by more than two percent.

(3) The Purchasing Agent shall be responsible for the implementation and enforcement of this section.

Sec. 34-152. Contracts not adaptable to competitive bidding; requests for proposals or qualifications.

(a) Contracts which by their nature are not adapted to award by competitive bidding, such as contracts for the services of individuals possessing a high degree of professional skill where the ability or fitness of the individual plays an important part; contracts for printing of Finance Committee pamphlets, controllers estimates, and departmental reports; contracts for the printing or engraving of bonds, tax warrants and other evidence of indebtedness; contracts for ballot cards, printing of election ballots and poll sheets, and moving of election equipment and supplies; contracts for utility services such as water, light, heat, telephone, or telegraph; and contracts for the purchase of magazines, books, periodicals, and similar articles of an educational or instructional nature, and the binding of such magazines, books, periodicals, pamphlets, reports, and similar articles shall not be subject to the competitive bidding requirements of Section 34-151.

- 1) *Criteria for use of requests for proposals or requests for qualifications* . Proposals for contracts not adaptable to competitive bidding shall be solicited through the issuance of requests for proposals ("RFP") or requests for qualifications ("RFQ") unless otherwise authorized by the Board. RFPs and RFQs are appropriate when competitive bidding is not practicable or advantageous to the County. RFPs and/or RFQs may result in the negotiation of a contract with one or more proposers selected as the result of an evaluation process which includes the simultaneous consideration of multiple evaluation factors.
- 2) *Notification* . In order to issue an RFP or RFQ, the Using Department or Elected Official must notify the Purchasing Agent in writing that it intends to issue a RFP or RFQ.
- 3) *Prescribed content of RFPs and RFQs* . All RFPs and/or RFQs shall include such forms and provisions as shall be issued from time to time by the Office of the Purchasing Agent. These forms shall include, but not be limited to: Instructions to Proposers; General Conditions; Cook County Certification and Execution Forms and a Proposer Registration Form and all additional documents as required by the Purchasing Agent. The Using Department or Elected Official shall be responsible for developing appropriate special conditions, a proposer questionnaire and a cost proposal form.
- 4) *Review prior to issuance* . RFPs and/or RFQs shall be submitted to the Office of the Purchasing Agent for review prior to their issuance. In addition to the direct transmittal of the RFP or RFQ to potential firms or individuals, all RFPs and RFQs shall be posted on the County's website. Such posting shall be performed by the Bureau of Information Technology and Automation upon the request of the Office of the Purchasing Agent.
- 5) *Opening of RFPs and RFQs* . The RFPs or RFQs shall be opened in the presence of one or more witnesses after the designated date for submission. A list of firms or individuals offering proposals or responding to RFQs shall be submitted to the Purchasing Agent within 24 hours of RFP or RFQ opening. The contents of the RFP or RFQ shall not be disclosed to competing offers during the process of negotiation. Any proposer that cancels, withdraws or modifies its proposal after the proposal due date without County approval may result in the

proposer being deemed unqualified and may prohibit said proposer from receiving a County contract for a period of one year. A record of proposals shall be prepared and shall be open for public inspection after contract award.

- 6) *Evaluation* . The Using Department or Elected Official shall identify the factors to be used in evaluating proposals, which information shall be set forth in the RFP. These factors include, but are not limited to, price, experience and qualifications of the proposer, the quality and cost effectiveness of the proposal, and the demonstrated willingness and ability of the proposer to satisfy the requirements of the County as described in the request. The Using Department or Elected Official shall evaluate proposals and shall conduct any negotiations of a possible contract with one or more proposers.
- 7) *Discussions* . As provided in the RFP or RFQ, discussions may be conducted with responsible proposers who submit proposals determined to have the greatest likelihood of being selected for a contract for the purpose of clarifying and assuring full understanding of and responsiveness to the County's requirements. Those proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. Revisions to proposals may be permitted after submission for the purpose of obtaining best and final proposals before a recommendation is made to the Board of Commissioners. In conducting discussions there shall be no disclosure of any confidential information derived from proposals submitted by competing proposers. If information is disclosed to any proposer, it shall be provided to all competing proposers. Once a proposer has been recommended to and approved by the Board of Commissioners, the Using Department or Elected Official shall finalize the contract terms for the Board's execution consideration.
- 8) *Recommendations* . The Using Department or Elected Official shall recommend to the Board of Commissioners that the County enter into a contract with the responsible proposer whose proposal or qualifications is determined in writing by such Using Department or Elected Official to be the most advantageous to the County, taking into consideration price, qualifications and the evaluation factors set forth in the request for proposals. The Using Department or Elected Official shall document the results of its evaluation and the reasons for its recommendation to the Purchasing Agent. The Using Department or Elected Official shall be responsible for requesting that the Board of Commissioners authorize a contract with the recommended proposer. The authorization of the Board of Commissioners to enter into a contract shall not result in a contract unless and until the Board has authorized the execution of the final contract documents upon the request of the Purchasing Agent. The Purchasing Agent's request to the Board for contract execution shall be subject to the proposed contractor's compliance with all applicable laws and County procedures and to the Purchasing Agent's review of the subject contract.

Effective immediately, the Purchasing Agent shall provide to the Board of Commissioners a report of all notifications made pursuant to subsection (2), within 72 hours of receiving such notice.

- (b) The Purchasing Agent is expressly authorized to procure from any Federal, State or local government unit or agency thereof such surplus materials, supplies, commodities, or equipment

as may be made available through the operation of any legislation heretofore or hereinafter enacted and to enter into cooperative educational agreements with not-for-profit universities and hospitals without conforming to the competitive bidding requirements of this article. Regular employment contracts in the County service, whether with respect to the classified services or otherwise, shall not be subject to the provisions of this article, nor shall this article be applicable to the granting or issuance pursuant to powers conferred by laws, ordinances, or resolutions or license, permits, or other authorization by the County Board, or by departments, offices, institutions, boards, commissions, agencies or other instrumentalities of the County, nor to contracts or transactions, other than the sale or lease of personal property pursuant to which the County is the recipient of money.

(c) This section shall take effect and be in force from and after its passage and is specifically intended to supersede 55 ILCS 5/5-36001 (Cook County purchasing-contracts for supplies, materials and work), 55 ILCS 5/5-36004 (Cook County purchasing-definitions) and 55 ILCS 5/5-36006 (Cook County purchasing-competitive bids, government surplus materials).

Effective date: This Ordinance Amendment shall be in effect upon adoption.