

BCC Mtg. Date: March 11, 2025

Effective Date: March 14, 2025

ORDINANCE NO. 2025-04

AN ORDINANCE PERTAINING TO THE PROCUREMENT OF GOODS AND SERVICES IN ORANGE COUNTY; AMENDING ORANGE COUNTY'S PROCUREMENT ORDINANCE AS CODIFIED IN CHAPTER 17, ARTICLE III, DIVISION 3, SECTION 17-310 OF THE ORANGE COUNTY CODE TO REMOVE SPECIFIC BOARD APPROVAL THRESHOLDS FOR CONTRACT AWARDS AND AMENDMENTS/CHANGES AND ADD REFERENCES TO THE ORANGE COUNTY ADMINISTRATIVE REGULATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY:

Section 1. Amendments; In General. Chapter 17, Article III ,of the Orange County Code, known as the “ Procurement” Ordinance set forth in Division 3, is hereby amended as set forth in Section 2 through Section 3 of this ordinance, with additions being shown as underlined and deletions being shown as strike-throughs.

Section 2. Amendment to Section 17-310. Section 17-310 is amended to read as follows:

Sec. 17-310. Competitive sealed bid process.

- (a) *Invitation for bids.* An invitation for bids shall be issued which shall include the specifications and all contractual terms and conditions applicable to the procurement.
- (b) *Public notice.* General public notices of invitations for bids shall be published in a newspaper or other media of general circulation in the county for a reasonable period prior to bid opening.

- (c) *Bid submission.* Bids must be received no later than the time and date and at the location specified for bid opening in the invitation for bid. No bids shall be accepted after such time and date or at any other location than specified; any bids received later or at any other location than specified shall be returned unopened to the bidder. It shall be the bidders' sole responsibility to ensure that their bids reach the specified time and place for receipt of bids. Bidders shall be allowed to withdraw their bids at any time prior to bid opening.
- (d) *Bid opening.* Bids shall be opened publicly at the time and place specified in the invitation for bids. The name of each bidder and the amount of each bid shall be announced and recorded at the time of public opening.
- (e) *Bid cancellation or postponement.* The chief of purchasing and contracts may, prior to bid opening, elect to cancel an invitation for bid or postpone the date and/or time of bid opening. An invitation for bid may be canceled at any time prior to award when such action is considered by the chief of purchasing and contracts to be in the best interest of the county.
- (f) *Corrections, additions to and withdrawal of bids.*
- (1) The following shall govern the correction of information submitted in a bid when that information is a determinant to the responsiveness of the bid:
 - a. Errors in the extension of unit prices stated in a bid or in multiplication, division, addition or subtraction in a bid may be corrected by the chief of purchasing and contracts prior to award. In such cases, the unit prices bid shall not be changed. When bidders quote in words and figures on items on the bid form, and the words and figures do not agree, the words shall govern and the figures shall be disregarded.
 - b. No bidder shall be permitted to correct a bid error after bid opening that would cause such bidder to have the low bid, except that any bidder may correct errors in extension of unit prices stated in the bids, or in multiplication, division, addition or subtraction. In such

cases, unit prices bid shall not be changed, and such error must be readily apparent on the face of the bid form.

- c. Nothing herein is intended to prohibit the acceptance of a voluntary reduction in price from a low bidder after bid opening, and prior to commencement of work, provided such reduction is not conditioned on, or does not result in, the modification or deletion of any specifications or conditions contained in the invitation for bids.
- (2) A bidder who alleges a judgmental error of fact shall not be permitted to withdraw his/her bid after bid opening. If such bidder unilaterally withdraws his/her bid without permission after bid opening, the chief of purchasing and contracts may suspend the vendor from receiving new orders from the county for up to two (2) years, dating from the date of unilateral withdrawal, and retain any bid security submitted with the bid.
 - (3) A bidder who alleges a nonjudgmental error of fact may be permitted to withdraw his/her bid only when it is determined by the chief of purchasing and contracts that there is reasonable proof that such a mistake was made and, if the bid is the low bid, that the intended bid cannot be determined with reasonable certainty. If a bidder unilaterally withdraws his/her bid without permission after bid opening, the chief of purchasing and contracts may suspend the vendor from receiving new orders from the county for up to two (2) years, dating from the date of the unilateral withdrawal, and retain any bid security submitted with the bid.
 - (4) Information in a bid, which concerns the responsibility of the bidder, shall not necessarily be considered conclusive at the time of bid opening, except when the invitation for bids unequivocally states that the bid shall not be considered responsive unless the particular information is provided in the bid. When such information has not been so declared as a determinant of responsiveness of the bid:
 - a. The chief of purchasing and contracts may determine that the information submitted concerning the

responsibility of the bidder is so administratively inadequate as to warrant a recommendation of rejection of the bid based on a lack of demonstrated bidder responsibility.

- b. The chief of purchasing and contracts may, after bid opening, request additional information from the bidder concerning his/her responsibility to perform; and the bidder may voluntarily, after bid opening, provide additional or corrective information concerning his/her responsibility as a bidder. The chief of purchasing and contracts shall consider this and all other information gained prior to the time of award or rejection in making his/her determinations and recommendations concerning bid acceptance and award.
- (5) A bid shall be considered responsive only if it conforms to the requirements of the invitation for bids concerning all matters unequivocally stated in the invitation for bids as a determinant of responsiveness. A lack of conformity on these matters which is nonsubstantive in nature may be considered a technicality or irregularity which may be waived by the chief of purchasing and contracts.
 - (6) Failure of a bidder or proposer to certify the firm as a drug-free workplace, in accordance with F.S. § 287.087, shall result in rejection of the bid or proposal as nonresponsive provided this requirement is stipulated in the invitation for bid or request for proposal.
 - (g) *Bid evaluation.*
 - (1) The county reserves the right to accept or reject any and all bids and/or to make award to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bid and whose award will, in the opinion of the county, be in the best interest of and most advantageous to the county.
 - (2) Factors to be considered in determining whether the standard of responsibility has been met include whether, in the county's determination, a prospective vendor/contractor has:

- a. Appropriate financial, material, equipment, facility and personnel resources;
- b. Experience, knowledge, and expertise, or the demonstrated ability to obtain same;
- c. Capability to meet all contractual requirements;
- d. A satisfactory record of performance on similar projects;
- e. A satisfactory record of integrity;
- f. Qualified legally to contract with the county; and
- g. Supplied all necessary information in connection with the inquiry concerning responsibility including, but not limited to, any licenses, permits, insurance or organization papers required.

The prospective vendor/contractor shall supply information requested by the county concerning the responsibility of such vendor/contractor. If such vendor/contractor fails to supply the requested information, the county shall base the determination of responsibility upon any available information or may find the prospective vendor/contractor nonresponsible if such information is not submitted within the time specified by the chief of purchasing and contracts.

- (3) The county may conduct a prequalification process in which the responsibility of potential vendors/contractors is evaluated and may then limit acceptance of bids or proposals to those vendors/contractors deemed qualified in such process.
- (4) In the event the lowest responsive and responsible bid submitted in response to any invitation for bid is by a bidder whose principal place of business is in a county other than Orange County, and such county grants a bid preference for purchases to a bidder whose principal place of business is in such county, then Orange County may award a preference to the (next) lowest responsive and responsible bidder having a principal place of business within Orange County, Florida. Such preference shall be equal to the preference granted by the

county in which the lowest responsive and responsible bidder has its principal place of business.

- (h) *Bid award.* Award shall be made to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bid, and shall be effective upon issuance of a purchase order, contract or written notice of award by the chief of purchasing and contracts. The county may reject any bid prior to such issuance. In the event only one (1) bid is received, the county may award to the sole bidder rebid, or negotiate with the sole bidder. ~~All bid awards in excess of one hundred thousand dollars (\$100,000.00) must be approved by the board;~~ Awards shall be subject to board approval in accordance with the then current thresholds promulgated in the Orange County Administrative Regulations; provided, however, prior authority to award any bid exceeding this amount may be granted to the chief of purchasing and contracts by the board with the stipulation that award shall be made to the lowest responsive and responsible bidder within the budget amount for such purchase.

- (i) *Amendments/changes* after award. The chief of purchasing and contracts may authorize changes/amendments for construction, and goods and/or services within the overall scope of the project or procurement ~~of up to a cumulative amount of five (5) percent or fifty thousand dollars (\$50,000.00), whichever is higher,~~ subject to board approval in accordance with the then current thresholds promulgated in the Orange County Administrative Regulations. ~~If the amendment/change order exceeds the maximum amounts herein, the amount of the amendment/change order must be approved by the board of county commissioners.~~ If the change is outside the scope of the original project or procurement as determined by the chief of purchasing and contracts, a new invitation for bid must be issued, unless bidding would cause a significant delay or other adverse impact on the project, wherein a new contract with the existing contractor may be negotiated, provided such contractor is qualified and

available to perform on the new project, or is capable of securing the services of a qualified subcontractor. Extensions of time frames for completion of contracts may be authorized by the chief of purchasing and contracts.

In all other respects, Section 17-310 shall remain unchanged.

Section 3. Effective Date. This ordinance shall take effect pursuant to general law.

ADOPTED THIS 11th DAY OF March, 2025.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Jerry L. Demings*
for Jerry L. Demings
Orange County Mayor

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: *Jennifer Ann-Kline*
Deputy Clerk

