

County of Peoria

Purchasing Ordinance

As Amended September 11, 2008



Purchasing Division
County of Peoria, IL

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PEORIA COUNTY CENTRALIZED PURCHASING ORDINANCE

Adopted September 11, 2008

ARTICLE I. GENERAL

Sec. 6.5-1. Purpose and application.

(1) Purpose.

The underlying purpose of the Peoria County Centralized Purchasing Ordinance (Ordinance) is to:

- (a) Manage the procurement process in accordance with the law;
- (b) Spend tax payers' money wisely and fairly;
- (c) Meet the needs of Peoria County (County) departments through continuous improvement of purchasing systems and procedures;
- (d) Establish a comprehensive plan for the purchase of goods and services for the county and its divisions;
- (e) Protect against fraud and favoritism by providing fair and equitable treatment of all persons and entities involved in public purchasing;
- (f) Ensure that all segments of its business community, including women and minority owned businesses, are encouraged to contract with the county for goods and services;
- (g) Maximize the purchasing value of public funds in procurement, to the fullest extent practicable, while giving consideration to the lifetime cost as well as other factors needed to determine the best over all value to the county;
- (h) Provide safeguards for the maintenance of a procurement system of quality and integrity; and
- (i) Provide guidelines for purchasing equipment, materials, supplies, and services for the operational requirements of Peoria County that insure competitive and unbiased selection of vendors.

(2) Application. This Ordinance 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 agency

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. The Peoria County's purchasing agent may adopt administrative procedures to ensure compliance with all bidding requirements and those procedures may be more restrictive than required by statute. Certain officers and agencies may have independent statutory authority to purchase their own supplies, equipment, or services. These officers and agencies are encouraged to participate in the county purchasing program. Nothing in this Ordinance shall prevent any county officer or agency from complying with the terms and conditions of any grant, gift, bequest, or co-operative purchasing agreement that is otherwise consistent with law.

- (3) Requirement of good faith. This Ordinance requires all parties involved in the procurement, negotiation, performance, or administration of county contracts to act in good faith.
- (4) 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.
- (5) 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.

(Ord. of 6-12-03, Art. 1, 1-101--1-105)

Sec. 6.5-2. 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) Authorized bidder/contractor. Any vendor that is: (a) listed on the county's approved vendor list, and (b) complies with the affirmative action requirements of this Ordinance.

- (3) 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 would be considered blanket bids as long as the bidding process was conducted on a competitive open bid process.
- (4) Business. Any corporation, partnership, individual, sole proprietorship, joint venture, or any other private legal entity.
- (5) 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.
- (6) Confidential information. Any information which is available to an employee only because of the employee's status as an employee of the county and is not a matter of public knowledge or available to the public on request pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.*
- (7) Construction. The process of building, altering, repairing, improving, demolishing, or making improvements of any kind to any structure, building, or real property.
- (8) Contract. All types of county agreements, regardless of what they may be called, for the procurement of goods, services, construction, or professional services.
- (9) Contract file. A record maintained in the purchasing division, which may include a purchase order, contract documents, and/or related correspondence.
- (10) 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.
- (11) Contractor. Any person or entity that is a party or beneficiary of a contract with the county or through a using agency thereof. All authorized contractors, bidders, suppliers, vendors, and financial institutions which are in compliance with section 6.5-51 (Affirmative action requirement) of this Ordinance.
- (12) Cooperative purchasing. Procurement conducted by or on behalf of more than one public procurement unit.
- (13) County administrator. When the title of county administrator is referenced in this Ordinance it also includes acting administrator.
- (14) County board chairman. The county board chairman of Peoria County, Illinois.

- (15) County agency. A county officer, employee, department, office, committee, or agency whose purchasing authority is subject to the Peoria County Board.
- (16) 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.
- (17) Employee. Individuals including elected and appointed officials providing services for the county and drawing a salary from the county.
- (18) 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 such as officer, director, trustee, partner, employee, or holding any position of management.
- (19) Goods and services. All tangible articles and services which shall be furnished to or used by any agency 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.
- (20) Immediate family. Husband, wife, mother, father, son, daughter, step-father, step-mother, step-son, step-daughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, uncle, aunt, brother-in-law, and sister-in-law.
- (21) Invitation for bid. All documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.
- (22) Irresponsible vendor/bidder. Any bidder, vendor, contractor, supplies, or prospective bidder who fails to furnish proof of his responsibility; who has, as a contractor or vendor for the county, repeatedly failed to meet the needs, requirements and/or specifications of the using agency. It also includes any failure to comply with the provisions of this Ordinance.
- (23) Invoice. A bill for goods or services furnished by a seller to a buyer specifying one price and the terms of sale.
- (24) 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, conditions of warranty, and

compliance with the Equal Employment Opportunity (EEO) and affirmative action requirements (section 6.5-51) of this Ordinance.

- (25) Parent committee. A standing committee of the Peoria County Board charged with the budgetary oversight of the department or office that is requesting bids or purchase approval.
- (26) Person. Any individual or group of individuals, business, union, firm, corporation, trustee, partnership association, joint venture, committee, club, or other entity.
- (27) 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.
- (28) 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.*
- (29) 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, and to the extent provided by law, any other entity which expends public funds for the procurement of goods, services, construction, and professional services.
- (30) 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).
- (31) Purchase order. The document created in purchasing that converts the purchase requisition into a legal document that authorizes a vendor to deliver products or to perform a service.
- (32) Purchase requisition. An internal request for the creation of a purchase order to the purchasing department to buy goods, material or services. A purchase requisition is used to pre-encumber funding and to initiate the purchasing process where the vendor and price are not yet known.
- (33) Purchasing agent. The purchasing agent shall be appointed by the Peoria County Administrator.
- (34) Request for proposals. All documents, whether attached or incorporated by reference, utilized for soliciting proposals.

- (35) 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.
- (36) 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.
- (37) 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.
- (38) 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.
- (39) Stringing. Multiple payments and purchases of the same goods or service made within the appropriation period.
- (40) Surplus property. Any items including supplies, equipment, vehicles, furniture, real estate, or any item of value owned by Peoria County that is no longer providing a useful purpose to the using agency.
- (41) Using agency. Any county agency or department requiring goods, services, construction, or professional services procured pursuant to this Ordinance.
- (42) Used equipment. Equipment that is: (a) at least one (1) year old; or, if a vehicle, has at least ten thousand (10,000) miles of previous use; (b) a floor or demonstration model that is offered at a price at least twenty-five percent (25%) below current market price; or (c) otherwise determined by the purchasing agent, on a case by case basis, to be bona fide used equipment.

(Ord. of 6-12-03, Pt. B, 1-201)

Secs. 6.5-3--6.5-10. Reserved.

ARTICLE II. PURCHASING DIVISION

Sec. 6.5-11. Purchasing division; authority and duties.

The purchasing division is the procurement agency of the county. The purchasing division shall serve as the principal purchasing agency of the county, and shall be responsible for the procurement of supplies, equipment, vehicles, services, and construction in accordance with this Ordinance, as well as the management of disposing of all county owned assets. All bids, request for proposals, and other procurement methods, as outlined in this Ordinance, shall be the responsibility of the purchasing division. The Peoria County Administrator shall supervise the purchasing division, including determining the position of such division within the County Administrative organization.

(Ord. of 6-12-03, Art. 2)

Sec. 6.5-12. Role of purchasing division.

- (1) The purchasing division is responsible for providing standardized contractual terms, conditions, notices, instructions, etc., for all bid and/or proposal documents.
- (2) The primary responsibility for the preparation of detailed specifications shall remain with the ordering or using agency. The purchasing division shall review and offer recommendations regarding the final specification issued to vendors.

(Ord. of 6-12-03, Art. 2, Pt. A; Ord. of 1-12-06)

Sec. 6.5-13. Purchasing agent, using agency, auditor; duties and responsibilities.

- (1) Purchasing agent duties and responsibilities. The Peoria County Administrator shall appoint the Peoria County purchasing agent. The purchasing agent shall serve as the principal public purchasing official for the county. He shall be responsible for the procurement of goods, service, construction, and professional services in accordance with this Ordinance, as well as disposing of county assets as outlined within this Ordinance. No department, office, agency, or employee of the county shall be empowered to execute any purchase order, change order, agreement, or contract except as authorized by this Ordinance.

Duties. In accordance with this Ordinance, the purchasing agent shall:

- (a) Procure and supervise the procurement of all goods and services, and construction needed by the county according to this Ordinance, except as noted in section 6.5-13 for road construction projects and any using agency purchases independent of the purchasing division;
- (b) Dispose of surplus goods, equipment and real estate belonging to the county in accordance with this Ordinance;

- (c) Provide service to all offices, departments, and agencies of the county for all areas of contracts, negotiation, placement of orders, expediting delivery, and follow-up on orders in such manner that the maximum value shall be obtained per dollar expended;
- (d) Evaluate vendor performance to determine potential suitability for future use by the county;
- (e) Upon the request of the using agency/department, prepare and issue invitations for bids (IFB), request for proposals (RFP), and requests for quotations (RFQ), purchase orders, and addenda or corrections thereto;
- (f) Conduct pre-bid or pre-proposal conferences as necessary in cooperation with the requesting department or using agency;
- (g) Maintain a record of all purchasing transactions until approval for the destruction of those records is obtained from the appropriate state agency;
- (h) Develop and maintain current lists of the county's approved vendors and authorized bidders and contractors;
- (i) Develop and maintain, when feasible, current prices through study of published price lists, information from vendors, published market data, or through negotiations or competitive bids;
- (j) Function as the county's representative on all matters pertaining to purchasing, in cooperation with the requesting using agency or department;
- (k) Periodically review systems and procedures to determine improved methods, which results in efficiencies in performance;
- (l) Report noncompliance expenditures to the parent committees of the Peoria County Board after a reasonable period of time has been allotted to county personnel to become familiar with the requirements of this Ordinance;
- (m) Manage the procurement process in accordance with section 6.5-1 (Purpose) this Ordinance to best meet the needs of Peoria County; and
- (n) Consistent with this Ordinance, the purchasing agent may adopt purchasing regulations and operational procedures relating to execution of his duties. These purchasing procedures issued by the purchasing agent shall be disseminated to all using agencies and considered as an addition to the language contained within this Ordinance.

- (2) Using agency's duties and responsibilities. All Peoria County departments should familiarize themselves with the provisions of this Ordinance and work in cooperation with the purchasing division to insure that using agency purchases are in compliance with the requirements of this Ordinance. Until using agencies have familiarized themselves with the provisions of this Ordinance and the purchasing procedures as drafted by the purchasing division, they should use caution when making purchases in excess of one thousand dollars (\$1,000.00) independent of the purchasing division. Additional responsibilities are as follows:
- (a) Using agencies shall submit detailed specifications to the purchasing division for all purchases in excess of twenty thousand dollars (\$20,000.00), unless using agency is purchasing from a multiyear contract, blanket bid or joint bid, for formal sealed bidding by the purchasing division.
 - (b) Using agency purchases, independent of the purchasing division, that are greater than one thousand dollars (\$1,000.00) but are less than twenty thousand dollars (\$20,000.00) shall meet the requirements of this Ordinance. This shall include attaching proof of quotes obtained or proof that the purchase was made in compliance of existing blanket bids. Purchases falling under subsection 6.5-21(3) (Noncompetitive procurement) of this Ordinance shall have documentation attached to the purchase requisition explaining the noncompetitive nature of the purchase.
- (3) Auditor's duties and responsibilities. The auditor shall:
- (a) Audit invoices for payment pursuant to subsection 6.5-21(1)(b) of this Ordinance;
 - (b) Audit and review compliance with subsection 6.5-21(9) of this Ordinance;
 - (c) Audit contractor and subcontractor books and records, when necessary, pursuant to subsection 6.5-23(2)(b) of this Ordinance;
 - (d) Perform duties required under subsection 6.5-25(8) of this Ordinance;

(Ord. of 6-12-03, Art. 3, Pt. A)

Sec. 6.5-14. Parent committee/board agendas; placement of purchasing items on agendas.

The department of bid/purchase origin of any item submitted for approval to the parent committee shall notify the purchasing division if the recommended item/vendor is not the low bid/proposal. This is all-inclusive except those road construction items that are placed on the agenda directly for the Peoria County Transportation Committee and County Board.

(Ord. of 6-12-03, Art. 2, Pt. C)

Sec. 6.5-15. Public access to procurement information.

Procurement information shall be a public record subject to the exceptions of disclosure to the extent provided in the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.*, and shall be available to the public as provided by the Peoria County policy implementing said Act. This does not limit or prevent the purchasing division from releasing any bid results to the public on or after the public bid opening. In addition, this language shall not prevent the purchasing agent from conducting a public bid opening and conducting a public reading of the information contained within the cost section of the bid submitted, to all persons in attendance. Except as provided for under the Illinois Professional Services Selection Act, 50 ILCS 510/1 *et seq.*, the purchasing agent may conduct this public bid opening and public release of the information contained within the cost section of the bids received for all invitations for bids. This excludes requests for proposals for which only the names of the responding firms shall be publicly read.

(Ord. of 6-12-03, Art. 2, Pt. D; Ord. of 1-12-06)

Secs. 6.5-16--6.5-20. Reserved.

ARTICLE III. SOURCE SELECTION AND CONTRACT FORMATION

Sec. 6.5-21. Methods of source selection.

- (1) Purchases less than twenty thousand dollars.
 - (a) Condition of use. Any contract or purchase of twenty thousand dollars (\$20,000.00) or less shall be made in accordance with procedures authorized in this section. These purchases include commodities, supplies materials, equipment, construction, and services. Contract and purchase requirements shall not be artificially divided so as to constitute a small procurement or evade the competitive bidding requirements for amounts in excess of twenty thousand dollars (\$20,000.00) under this section. Department heads have the authority to sign any contract and purchase agreements for purchases under twenty thousand dollars (\$20,000.00) to a single vendor within the appropriation year. This section equally applies to any and all contracts or purchases that were anticipated to cost more than twenty thousand dollars (\$20,000.00), but where the lowest responsible bid received was less than twenty thousand dollars (\$20,000.00).
 - (b) Minimum quotation requirements.
 1. Procurements up to and including one thousand dollars (\$1,000.00) 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.
 2. For purchases over one thousand dollars (\$1,000.00) and up to and including five thousand dollars (\$5,000.00), the using agency or, if requested by the using agency, the purchasing division shall obtain

quotations from at least three (3) vendors whenever feasible. These quotations may be verbal, but shall be memorialized in writing by the using agency with the purchase requisition. A purchase requisition, along with the quotes, shall be sent to the purchasing division for processing a purchase order. The purchasing division reserves the right to recommend to the using agency another vendor if a current contract, blanket bid, or joint bid exists for the requested goods or services, or if better prices may be obtained. If a dispute arises between the using agency and the purchasing division regarding selection of the lowest responsible quote, the county administrator shall determine the vendor selection.

3. For purchases over five thousand dollars (\$5,000.00) and up to and including twenty thousand dollars (\$20,000.00), the procedures shall be the same as those set forth in subsection 6.5-21(b)(2) of this section, except the using agency or the purchasing division shall obtain written/fax quotations or proposals from at least three (3) vendors, wherever feasible, or obtain pricing from a current contract, product catalog, blanket bid, or joint bid. A requisition shall be sent to the purchasing division specifying the required goods or services along with the quotes. It is the purchasing division's responsibility to gather all required documentation prior to letting the purchase order or executing the contract. As long as the funds for these purchases are budgeted, parent committee or county board approval is not required.
- (c) Sole/single source. Circumstances may exist where the purchasing agent or department head determines that it is not feasible to secure three (3) quotations. In other situations, the purchasing agent, or designee, 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. Whenever the purchasing agent or department head determines that it is not feasible, or is not in the county's best interest, to satisfy the minimum quotation requirements of subsection (b) of this section, the reason for this determination shall be indicated in writing and retained in the contract file or attached to the purchase requisition. For purchases over five thousand dollars (\$5,000.00), as defined in this section as sole/single source, the county administrator shall approve these purchases by signing the purchase requisition.
 - (d) Evaluation factors. Evaluation factors which justifying an award to a vendor who has not provided the lowest quotation may include: delivery requirements, quantity requirements, quality, and past vendor performance. Whenever the purchasing agent and or department head determines that it is in the county's best interest to award a purchase contract to a vendor who did not submit the lowest acceptable quotation, the reason for the determination shall be indicated in writing and retained in the contract file. This action requires county administrator approval for purchases over five thousand dollars (\$5,000.00) when the lowest bidder is not granted the award.

- (e) Award. Award shall be made to the vendor offering the lowest responsive and responsible quote meeting the specifications. Adequate records to document the competition solicited and award determination made shall be retained in the contract file to be maintained by the purchasing division. A quote that exceeds the twenty thousand dollar (\$20,000.00) limit shall not be eligible for award under this section.
- (2) Purchases over twenty thousand dollars.
- (a) Competitive sealed bidding requirement. All purchases by the county where the actual cost exceeds twenty thousand dollars (\$20,000.00) as established by statutes, shall be awarded by competitively sealed bidding, excluding professional services, addressed in subsection 6.5-21(7) of this Ordinance, and except as otherwise provided in subsections 6.5-21(3) (Noncompetitive procurement); (4) (Request for proposals); (5) (Emergency procurements); and (6) (Cooperative joint purchases or blanket bids); or as provided by state statute. All using agencies shall forward their specifications to the purchasing division for issuing of competitive bids. Stringing is forbidden and purchases shall not be artificially divided for purposes of evading the competitive sealed bidding requirement.
 - (b) Invitation for bids. An invitation for bids shall be issued by the purchasing division and it shall include specifications or general descriptions, and material nonnegotiable contractual terms and conditions applicable to the procurement.
 - (c) Bid and request for proposals document addenda and questions. Once the bid or request for proposals document has been issued, all questions regarding this document shall be submitted in writing to the purchasing division. The purchasing division, pursuant to any alterations required in the bid document, shall issue any and all addenda.
 - (d) Public notice. Adequate public notice of an invitation for bids shall be given. Public notice shall be published no less than fourteen (14) calendar days prior to the date set forth therein for the submittal and opening of bids. For bids with a mandatory pre-bid meeting, public notice shall be published at least seven (7) calendar days prior to the meeting date. Such notice shall include publication in a newspaper of general circulation within the county and in reasonable time prior to bid opening and shall be publicly posted on an accessible bulletin board in the Peoria County Courthouse. The purchasing division may use other forms of public notice as determined by the purchasing agent. The public notice shall state the project, items or services requested, location for vendors to obtain bid documents, submittal date and time, date and time of bid opening, and location of bid opening. The bid notice shall not be published until plans and specifications are finalized. Pursuant to subsection 6.5-13(1)(n) of this Ordinance, the purchasing agent may develop such policies and procedures needed to permit internet-based tools to expedite and simplify the bidding process, including

implementing programs providing public notice electronically; posting digital bidding documents and forms; providing for electronic receipt of bids and quotes; electronically posting requests for proposals and sending out requests for proposals to companies who have signed up for such a service.

- (e) Bid opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid and other such relevant information as the purchasing agent or designee deems appropriate, together with the name of each bidder shall be recorded and read aloud. In certain cases, such as professional services, and others determined by the purchasing agent, the purchasing division may withhold the public reading of some or all of the information contained within the bids submitted at the bid opening. The record and each bid shall be open to public inspection in accordance with section 6.5-15 (Public access to procurement information) of this Ordinance.
- (f) At a minimum, all bid/proposal documents shall include:
 - 1. Instruction to bidders and/or offerors;
 - 2. General conditions;
 - 3. Bid and/or proposal forms;
 - 4. Special or supplemental conditions;
 - 5. Affidavits or certificates required by statute;
 - 6. Language indicating specific state statutes relating to the procurement function; and
 - 7. Bonds and insurance requirements.
- (g) Bid security/bonding/requirements.
 - 1. Requirement for performance bond. A performance bond shall be required for all competitive sealed bidding for contracts of public works when the project cost is estimated to exceed five thousand dollars (\$5,000.00). 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*,
 - 2. Amount of bid security or bid bond. Bid security shall be in an amount not to exceed ten percent (10%) of the amount of the bid. Bid security or bid bond need not be required unless the county administrator, elected

official, or state's attorney's office requests the bid instructions include a bid security or bid bond.

3. 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.
- (h) Insurance requirements. For some contracts, as determined by the county administrator or state's attorney, the contractor and all subcontractors shall be required to maintain adequate insurance coverage for the duration of the contract. The department head or elected official shall determine, in consultation with the state's attorney or county administrator, 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 purchasing agent with satisfactory evidence of said insurance.
- (i) Bid acceptance and bid evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Ordinance. The purchasing agent and using agency, based on the requirements set forth in the invitation for bids, shall evaluate bids for responsiveness and recommend to the parent committee and county board the vendor that is the lowest responsible bidder. Those criteria affecting the bid price and considered in evaluation for award shall be 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.
- (j) Correction or withdrawal of bids; cancellation of award.
1. 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.
 2. 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 purchasing division and the using agency shall be responsible for reviewing all bid forms.
 3. 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 and the county board.

4. Cancellation of contracts. All contract cancellations recommended by the purchasing agent or using agency shall be presented for acceptance to the parent committee and placed on the county board's consent agenda for approval.
- (k) 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 in the purchasing division by the purchasing agent or designee. The purchasing agent shall notify all parties involved of the time and request that a representative of each party be present.
 - (l) Right of rejection. The county board reserves the right to accept or reject any and all bids and the right to waive any technical errors found in any document. However, the county administrator may also reject all bids received. In cases when the county administrator rejects all bids received, he shall make a written report of his actions to the county board.
 - (m) Award. The contract shall be awarded 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, in accordance to section 6.5-24(5) (Approval of contracts and bids), the purchasing division shall issue all purchase orders and the using agency shall issue notices of awards and notices to proceed. All contractually required documentation is required prior to any notice to proceed.
- (3) Noncompetitive procurement. In addition to sole source procurement under subsection 6.5-21(1)(c) of this section, a contract may be awarded without competition, as outlined in subsections (1) and (2) of this section, when a department head, with the approval of the county administrator, determines in writing, after conducting a good faith effort by reviewing the available sources, that the contract by its very nature is not suitable to competitive bids or proposals. When a department head and the county administrator both determine that an award of a contract should be made by noncompetitive procurement they shall submit copies of their determining factors in writing to the purchasing agent. Examples of contracts, which may not be suitable for competitive bids or proposals, are as follows:
 - (a) There is only one source for the required supply, equipment, service, construction item, or professional service;
 - (b) A sole supplier's item that is required for trial use or testing;

- (c) Patented or proprietary items with only one manufacturer, contractor, or dealer in the area.
 - (d) Used equipment, as defined in section 6.5-22 of this Ordinance;
 - (e) Auction purchases;
 - (f) Items by their own very nature experience rapid fluctuation in price. These items may not lend themselves for formal sealed bidding, due to the length of time involved in conducting sealed bids. However, quotes should be obtained as outlined in subsection (1) of this section;
 - (g) Certain maintenance contracts that are limited to only one source for the highest qualified provider;
 - (h) Emergency procurement, as defined in subsection 6.5-21(5) of this section; or
 - (i) Others, as determined by the county administrator and state's attorney.
- (4) Competitive Proposals.
- (a) Proposals shall be solicited through a request for proposals.
 - (b) Proposal packets. Proposal packets may include any or all of those documents required for bid packets, as outlined in subsection 6.5-21(2)(f) of this Ordinance.
 - (c) Condition for use. In cases where the county seeks to contract for a project or service whose goals, tasks, or results are known, but for which the procedure or method of accomplishing same either may not be specified or are otherwise undetermined, a contract may be entered into by use of the request for proposals procedure. Reasons for using the request for proposals procedure shall be approved by the purchasing division prior to the commencement of the procedure.
 - (d) Public notice. Adequate public notice of the request for proposals shall be given in the same manner as public notice for invitation for bids provided in subsections 6.5-21(2)(b) (Invitation for bids) and (2)(c) (Public notice) of this Ordinance.
 - (e) Evaluation criteria. The using agency shall develop criteria for evaluation of the proposal prior to notice. The completed evaluations shall be attached to the using agency recommendation.
 - (f) Receipt of proposals. Receipt of proposals or bid opening shall be conducted in the same manner as provided in section 6.5-15 (Public access to procurement information) and subsection 6.5-21(2)(d) (Competitive bidding and bid opening) of this Ordinance.

- (g) Discussions with responsible offeror and revisions to proposals. As provided in the request for proposals, discussions may be conducted with the responsible offerors who submitted proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to a successful understanding of and conformance to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revision may be permitted after submission and prior to award for the purpose of obtaining best and final offers.
 - (h) Award of contract. Awards of contracts shall be made in accordance to subsection 6.5-24(5) (Approval of contracts and bids) of this Ordinance.
- (65) Emergency procurements. In emergency situations, the county administrator, in consultation with the county board chairman, shall have the authority to waive the bidding procedures set forth in this section and to effect purchases in excess of the amounts otherwise provided in this section pursuant to the following procedures:
- (a) Emergency situation for the purpose of this subsection shall be defined as an imminent disruption of essential operations or conditions adversely affecting the safety, health or security of persons or property, where it is unfeasible to remedy such disruption or conditions through the use of normal competitive bidding procedures. The reason for the determination of the emergency shall be indicated in writing. Failure of the using agency to a timely compliance with this Ordinance shall not *prima facie* constitute an emergency. In emergency situations of this type, the county administrator shall not be required to comply with competitive bidding and advertising requirements of this Ordinance and shall be empowered to negotiate and execute contracts without prior approval of the Peoria County Board up to twenty-five thousand dollars (\$25,000.00) total expense. For emergency procurements in excess of twenty-five thousand dollars (\$25,000.00) the county administrator shall obtain the additional approval of the chairman of the Peoria County Board.
 - (b) When the county administrator and the county board chairman have declared an emergency, and when time allows, the purchasing agent shall request the effected department head obtain two (2) or more competitive quotes for all emergency services, equipment, repairs, and supply purchases, if the purchasing agent cannot do so himself.
 - (c) All emergency purchases approved by the county board chairman shall be reported in writing to the full Peoria County Board as soon as practicable. Emergency purchase reports shall contain the: (i) nature of the emergency, (ii) vendor(s) name and address, (iii) total amount expended, and (iv) items or services provided.
- (6) Cooperative joint purchasing and blanket bids authorized. Peoria County agencies and the purchasing division are not required to: (a) conduct local sealed bids for purchases

requiring competitive sealed bids, pursuant to subsection (3); or (b) obtain quotes for purchases under twenty thousand dollars (\$20,000.00), if purchases are made through a cooperative joint purchasing bid or contract that has been competitively bid by another unit of government. Subject to applicable state statutes, Peoria County may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of goods, services, construction, or professional services with one or more public procurement units in accordance with an agreement entered into between the participants. However, if Peoria County is the sponsor of the bid, the county board should approve the bid report of the purchasing agent and award the contract as set forth in subsection 6.5-24(5) (Approval of contracts and bids) of this Ordinance if all bids returned exceed twenty thousand dollars (\$20,000.00). County board approval for purchases contracted from bids conducted by the state or other governmental unit shall not be required as long as sufficient funds are budgeted. Such cooperative purchasing may include joint or multiparty contracts between public procurement units and open-ended state procurement unit contracts, which are made available to other public procurement units. Purchases made under cooperative joint purchasing bids or contracts may often exceed twenty thousand dollars (\$20,000.00). However, these purchases originating from competitive bids of other governmental units (state or local) which may include multiyear contracts, joint bids or blanket bids, need not have county board approval as long as sufficient funds have been budgeted.

- (7) Cooperative bidding. To optimize the benefits of using cooperative purchasing, described above in subsection (6), other governmental units shall be permitted to consider acceptance of bids already made to Peoria County through its competitive bidding process. Consequently, all competitive bids shall contain a "piggy-back" clause, whereby other governmental units may consider acceptance of a successful bid for twelve (12) months from the date the bid was made to Peoria County, or an entity thereof, in instances where the other governmental unit's bid requirements are substantially similar to those made by Peoria County during the competitive bidding process.
- (8) Professional services selection process. It is the intention of Peoria County to employ consultants on the basis of their perceived competence and expertise relative to the project, the cost of their services, their ability to complete work within a required time frame, their past record in performing similar type work, and their ability to work with county staff and elected officials. Written procedure to implement this Ordinance shall include the methodology by which selection of professional services will be made. These procedures shall be followed for professional services that are expected to exceed twenty-five thousand dollars (\$25,000.00). Types of services to be covered:
 - (a) Engineering, architects and land surveyors. These services require mandatory or essential technical skills provided by accredited professionals or quasi-professionals in connection with a defined assignments, which result in the preparation of a report, specifications or recommendation of a particular course of action, and may include supervision of an activity (such as construction). Providers of these services shall be selected in accordance with the Illinois Professional Services Selection Act, 50 ILCS 510/1 *et seq.*

- (b) Other professional services. These services are provided on the basis of a defined project, by individuals or organizations, to investigate or identify management issues related to policy, organizational, operational or administrative aspects of government, including recommendations, and the potential to assist in implementing recommendations (i.e., strategic planning, operational management, management information systems, human resources). The following subsections (c) and (d) of this section outline policy intention regarding selection and performance criteria for professional services.
 - (c) Selection criteria. Specific purchasing procedures will outline selection criteria for professional services and consultants. An internal department staff committee or using agency department head shall review and make ultimate recommendations, to the parent committee and county board, for the purposes of contractual award as described in subsection 6.5-24(5) in this Ordinance.
 - (d) Performance criteria. Upon completion of each project over twenty-five thousand dollars (\$25,000.00), the department involved shall prepare a written evaluation of the consultant's performance. The details of the evaluation shall be consistent with the cost and complexity of such assignments. For projects over twenty-five thousand dollars (\$25,000.00), the purchasing division shall maintain a record of such evaluations for the use of all departments when selecting future professional service/consultants.
- (9) Additional criteria for construction and public works projects. All bids and contracts for the purposes of public works, as defined and provided for by the Illinois Prevailing Wage Act (Act), 820 ILCS 130/1 *et seq.*, prohibit the prime contractor and all participating subcontractors from discriminating in employment practices. This act requires that the prevailing wage shall apply to these projects. "Public works" is defined as all fixed works constructed by any public body other than work done directly by a public utility company. All wages paid by the contractor and each subcontractor shall be in compliance with the Act as amended, except where a prevailing wage violates a federal law, order or ruling. The rate conforming to the federal law, order or ruling shall govern. The prime contractor shall be responsible for notifying each subcontractor of the wage rates set forth in the contract and any revisions thereto. If the Illinois Department of Labor revises the wage rates, the contractor will not be allowed additional compensation on account of said revisions.

The contractor and all participating subcontractors shall make and keep, for a period of three years from the date of completion of the project, records of the wages paid to its workers. The payroll records shall include each worker's name, address, telephone number, social security number, classification, rate of pay, number of hours worked each day, total hours worked each week, itemized deductions made, and actual wages paid. Upon two business days' notice, these records shall be available at all reasonable hours at

a location within the county for inspection by the county auditor or representatives of the Illinois Department of Labor.

The contractor and each subcontractor shall submit certified payroll records to the county auditor's office each week from the start to the completion of their respective work. The submittals shall be on state form SBE48, or an approved facsimile. When there has been no activity during a work week, a payroll record shall still be submitted with the appropriate box (no work, suspended, or complete) checked on the form.

Each submittal shall be accompanied by a statement signed by the contractor or subcontractor that avers that 1) such records are true and accurate, 2) the hourly rate paid to each worker is not less than the general prevailing rate of hourly wages required by the act, and 3) the contractor or subcontractor is aware that filing a payroll record that he or she knows to be false is a class B misdemeanor.

The contractor and each subcontractor shall permit its employees to be interviewed on the job during working hours by compliance investigators of the Illinois Department of Labor.

The county auditor shall verify that the certified payroll has been received and that wages shown paid to applicable trades conform to the current prevailing wages as determined by the State of Illinois Department of Labor. Failure by the contractor and his subcontractors to provide the required information or to pay correct prevailing wages shall result in withholding payments to the contractor and may reported to the State of Illinois Department of Labor.

In addition to prevailing wage requirements, the county has determined that additional provisions shall be required of all vendors contractors, and subcontractors providing services for new construction of facilities, renovation of current facilities, and any other public works projects in excess of five thousand dollars (\$5,000.00). The contractor and all subcontractors shall participate in apprenticeship and training programs approved by and registered with the United States Department of Labor's Bureau of Apprenticeship and Training.

Sec. 6.5-22. Disposal of surplus property

- (1) From time to time it is recognized that the county may be required to store surplus property. It is also recognized that it is in the best interest of the county to make available the use of surplus property to any other county agency when possible. Therefore, agencies are required to transfer all of their surplus property to a secured area designated by the purchasing agent. The purchasing agent should make a reasonable effort to make available these surplus items for requisition by other county using agencies. Except for electrical and mechanical equipment, vehicles and real estate, these items shall have county administrator approval by the requesting using agency before the purchasing agent may transfer those items to the requesting using agency.

After the purchasing agent has made a reasonable attempt to transfer these surplus items to other using agencies he is authorized to dispose of these surplus items, except real estate, by one of the following means:

- (a) Conduct a public auction that has been advertised in a public newspaper of general circulation within the county at least ten (10) days prior to the sale. The purchasing agent is authorized to sell/award all items to the highest bidder.
- (b) Conduct sealed bids that have been advertised in a public newspaper of general circulation within the county at least ten (10) days prior to the bid opening. The purchasing agent is authorized to sell/award all items to the highest bidder.
- (c) Sell or trade the surplus property to another governmental unit with the approval of the county administrator.
- (d) Electronic asset disposal.

These requirements shall not prohibit or prevent department heads from disposing items that have little or no value. This may include disposal at landfills or recycling agencies.

- (2) In cases when it has been determined by the appropriate parent committee of the county board, which certain real estate owned by the county should be disposed, the purchasing agent shall attempt to obtain the best value for the county by one of following means:
 - (a) Conduct sealed bids that have been advertised in a public newspaper of general circulation within the county at least ten (10) days prior to the bid opening. The purchasing agent shall report all bids received for the sale of real estate to the county board for final approval of the sale/award.
 - (b) Conduct sealed bids for the services of a real estate agent that have been advertised in a public newspaper of general circulation within the county at least ten (10) days prior to the bid opening. The purchasing agent shall report all bids received, for the services of a real estate agent, to the county board for final approval of the contract agreement. The selected real estate agent shall report all offers for the purchase of county owned real estate to the county administrator for reporting and approval by the county board.
 - (c) With the approval of the county board, the purchasing agent may sell or trade any county owned real estate to another governmental unit.

(Ord. of 6-12-03, Art. 4, Pt. A; Ord. of 1-12-06)

Sec. 6.5-23. Bidder/Offeror qualifications and duties.

- (1) Responsibility of bidders and offerors. If a bidder or offeror who otherwise would have been awarded a contract is found nonresponsible, a written determination of

nonresponsibility, setting forth the basis of the findings shall be prepared by the using agency. In determining responsibility of any bidder, the county may take into account, in addition to financial responsibility, past records of transactions with the bidder, experience, adequacy of equipment, EEO status, compliance with bid instructions, compliance with bid legal requirements, and ability to complete performance within a specific time. For example, the county may take into account the bidder's ability to meet the specified completion date in accordance to the specifications. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for such determination. Detail shall be sent promptly to the nonresponsible bidder or offeror. The county administrator and or department head has the authority to determine whether a bidder or vendor is qualified. However, any vendor may appeal an unfavorable determination to the appropriate parent committee pursuant to section 6.5-42 of this Ordinance. The final determination shall be made part of the contract file.

- (2) Vendor information required. For any vendor to conduct business with Peoria 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 purchasing agent and the county auditor. This information may include the following: Information requested on the Federal W-9 (tax identification number) form, Peoria County vendor application form as established by the county auditor, Peoria County EEO department's CC-1 employer report, vendor's sexual harassment policy, noncollusion affidavit, legal address of vendor and list of persons that own five percent (5%) or more of the business. Any vendor who fails to submit requested information as described above may be disqualified as an approved county vendor. The county auditor is authorized to withhold payments to any vendor that fails to provide the necessary requested information. Any vendor that is a publicly traded company subject to 10K reporting may submit its 10K disclosure electronically in place of the prescribed disclosure.

(Ord. of 6-12-03, Art. 4, Pt. B)

Sec. 6.5-24. Contract administration.

- (1) Contract administration. A contract administration system is designed to insure that the contractor is performing in accordance with the terms and conditions of the contract. It is the using agency's responsibility to match contract terms and prices with invoices. The county's procedures specifying the structure of review are to be followed.
- (2) County procurement records.
 - (a) Contract file. All determinations and other written records, notes of telephone conversations, and notes for oral conversations pertaining to the solicitation, award, and performance of a contract shall be maintained for the county in the contract file in the purchasing division.

- (b) Contract audit. The county auditor shall be entitled to audit the books and records of a contractor or a subcontractor at any time under any contract or subcontract to the extent that such books, documents, papers, and records are pertinent to the performance of such contract or subcontract. The contractor or subcontractor shall maintain such books and records for a period of three (3) years from the date of final payment. Medicare record retention shall be followed when appropriate.
- (c) Retention of procurement records. All procurement records shall be retained and disposed of by the county in accordance with records retention guidelines and schedules approved by the State of Illinois Local Records Commission.

(Ord. of 6-12-03, Art. 4, Pt. C)

Sec. 6.5-25. Contract execution.

- (1) Requisitions. Prior to submission to the purchasing division, the department head shall approve all requisitions.
- (2) Fiscal responsibility. Prior to the issuance of any purchase order, contract, change order, or contract modification, the county auditor shall certify that sufficient budgeted funds are available.
- (3) Authorization to initiate bids or other solicitations. The purchasing division may initiate bids or other solicitations for any goods, services, construction, or professional services for which it has received departmentally approved purchase requisitions, specifications, or other procurement documents, except for road construction projects where the highway department shall initiate their own bids or solicitations.
- (4) Review of contracts. Prior to award, the purchasing agent or department head shall request the state's attorney review any contract that is not in a standard form. This review shall not be required when the state's attorney has previously approved the form and content of the contract documents.
- (5) Approval of contracts and bids.
 - (a) Purchases over one thousand up to and including twenty thousand dollars. When applicable, the purchase or contract of any item, combination of items, or contractual service, which price is over one thousand dollars (\$1,000.00) up to and including twenty thousand dollars (\$20,000.00) may be authorized by the using agency's department head. The using agency's department head should submit a requisition to the purchasing division for issuance of a purchase order. The purchasing division should inform the using agency if there are alternative purchasing contracts, bids and or quotes for the items requested. The appropriate procedures for obtaining quotes shall also be followed where applicable. Purchases conducted under a joint, blanket, and other authorized bid or as otherwise provided for in this Ordinance should require a purchase order or be

submitted to the purchasing division prior to the using agencies purchase agreement.

- (b) Purchases over ten thousand dollars up to and including twenty thousand dollars. When applicable, the purchase or contract of any item, combination of items, or contractual service, which price is over ten thousand dollars (\$10,000.00) up to and including twenty thousand dollars (\$20,000.00) may be authorized by the purchasing agent.
 - (c) Purchases over twenty thousand dollars. Unless otherwise provided for by this Ordinance, all purchases exceeding twenty thousand dollars (\$20,000.00) shall be issued for competitive sealed bidding by the purchasing division. The purchasing division shall issue the bid documents and post on the County's website.. The requesting agency shall prepare an agenda briefing that includes their recommendation for bid award to the appropriate parent committee. After approval of the award has been granted by the full county board and the purchasing division has determined that all procedures required by this Ordinance have been fulfilled, a purchase order may be issued to the vendor by the purchasing division.
 - (d) Funds and accounting. Prior to the purchase approval or contract approval of any item, combination of items, or contractual service, the responsible using agency's budget shall conform to the chart of accounts as established by the county. The using agency department head and/or the purchasing division shall ascertain the availability of funds to make the purchase.
 - (e) Approval discretion. At the discretion of the county administrator, department head or the purchasing division, any purchase or contract of an item, notwithstanding the estimated cost, may be presented to the relevant parent committee and/or the county board for approval.
- (6) Change orders and contract modifications.
- (a) The Peoria County Administrator shall have the authority to approve and authorize change orders up to five percent (5%) of the total contract, not to exceed fifty thousand dollars (\$50,000.00) under the following circumstances:
 - 1. The county board initially has approved a contract, as required by subsection 6.5-24(5)(b) (Purchases over \$20,000.00) of this section, and:
 - a. A change order is requested by the using agency increasing the contract total;
 - b. A change order altering the scope of work to be performed is requested; or

- c. Unforeseen conditions arise but it is in the county's best financial interest to continue a project.
 2. On occasions when the dollar amount or the percentage authority granted to the county administrator by this section is inadequate to cover the cost of the change order; the Peoria County Board Chairman, or, in his absence the vice chairman, shall be granted the authority to increase the county administrator's change order authorization to ten percent (10%) of the total contract not to exceed one hundred thousand dollars (\$100,000.00).
 3. After the county administrator or county board chairman has authorized change orders, he shall report his actions to the full county board within sixty (60) days. This report shall include the reasons for the change order(s), the total dollar amount, and the percentage of the contract amount and the status of the total project. After the full county board has approved the actions taken and the dollar amounts authorized by the county administrator or the county board chairman, each shall be reauthorized to exercise his change order authority up to the dollar and or percentage of the contract total as provided in this section.
- (b) Change orders may also be authorized by the county administrator under the following additional conditions:
1. Change orders that decrease any contract by ten thousand dollars (\$10,000.00) or more;
 2. Change orders that increase or decrease the contract by sixty (60) calendar days or more; or
 3. Cancellation of contracts recommended by the department head or project consultant.
- (c) For final contract payments, a change order may be approved jointly by the county administrator and county board chairman, parent committee and county board approval not required, when there is a contract increase of up to fifty thousand dollars (\$50,000.00) of the original contract.
- (d) 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. Specifically, no change order or series of change orders which authorize or necessitate an increase or decrease in either the cost of a public contract by a total of ten thousand dollars (\$10,000.00) or more or the time of completion by a total of thirty (30) days or more, shall be approved without a determination in writing by the county administrator that the:

1. Circumstances said to necessitate the change in performance were not reasonably foreseeable at the time the contract was signed;
2. Change is germane to the original contract as signed; or
3. Change order is in the best interest of the county.

The written determination and the written change order resulting from that determination shall be preserved in the contract's file within the purchasing division and it shall be open to the public for inspection.

- (e) If a change order for any public works contract authorizes or necessitates any increase in the contract price that is fifty percent (50%) or more of the original contract or authorizes or necessitates any increase in the price of a subcontract under the contract that is fifty percent (50%) or more of the original subcontract price, then the portion of the contract that is covered by the change order shall be resubmitted for bidding in the same manner for which the original contract was bid in compliance with the Illinois Public Works Contract Change Order Act, 50 ILCS 525/1 *et seq.*

1. Bidding for the portion of the contract covered by the change order is subject to any requirements to employ females and minorities on the public works project that existed at the bidding for the original contract, together with any later requirements imposed by law.
2. Public works contracts procured in accordance with the Illinois Procurement Code, 30 ILCS 500/1 *et seq.*, and the State Finance Act, 30 ILCS 105/1 *et seq.*, shall not be subject to this subsection 6.5-24(6)(e).

- (7) Multiyear contracts. Multiple-year bids/contracts may include more than one item or service and each item or service may have separate awarded vendors. In general these items listed on the bid shall contain estimated usage amounts for a period of time. The county need not guarantee minimum awards to any vendor. It is also recognized that departments may be required to use other vendors, not responding to the bid, for purchases less than twenty thousand dollars (\$20,000.00), in order to fill current needs of the department. The county's policy on multiyear contracts, when the county is the sponsor or host bidder, includes the following:

- (a) All multiyear contracts presented for approval shall contain the total or estimated value of the award for the multiyear period when feasible. These contracts that are expected to exceed twenty thousand dollars (\$20,000.00) shall meet the sealed bidding requirements in subsection 6.5-21(2) of this Ordinance or as otherwise provided for in this Ordinance;
- (b) Only the current fiscal year or portion thereof shall be encumbered;

- (c) Unless otherwise provided by law, a contract for supplies or services 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 renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting;
 - (d) The contract conditions and terms are firm and continuing throughout the contract period;
 - (f) The contract will serve the best interest of the county by encouraging competitive or otherwise promoting economies in county procurement; and
 - (e) When funds are not appropriated or otherwise made unavailable to support continuation in a subsequent fiscal period, the contract shall be canceled for that period or purchases reduced by those fiscal limitations.
- (8) Contract renewals. The following governs contract renewals:
- (a) All contracts that contain an optional renewal clause shall be presented for approval to the county board with the total dollar value for the initial period of award.
 - (b) All requests for contract renewals shall originate from the using agency in the form of a requisition and agenda briefing indicating the desire for the renewal, the subsequent renewal term and the total dollar value for the renewal period.
 - (c) All requests shall be submitted to the parent committee at least sixty (60) days prior to the expiration date of the current period.
 - (d) The purchasing division shall obtain contractor approval and process the necessary correspondence for approval.
 - (e) All renewals shall be for the time period specified, with the same terms and conditions provided for in the original contract or bid document.
 - (f) 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.

(Ord. of 6-12-03, Art. 4, Pt. D; Ord. of 2-10-05; Ord. of 1-12-06)

Secs. 6.5-26--6.5-30. Reserved.

ARTICLE IV. SPECIFICATIONS--RESPONSIBILITY, USING AGENCY, COMPETITION

Sec. 6.5-31. Responsibility for specifications.

The using agency 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.

(Ord. of 6-12-03, Art. 5, Pt. A, 5-101)

Sec. 6.5-32. Relationship with using agencies.

The purchasing agent shall provide advice and assistance to the using agencies in the development of specifications. The purchasing agent shall accept using agency specifications before issuing bids. Using agencies may use established bid specifications issued by named brand vendors. However, when doing so the purchasing division 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.

(Ord. of 6-12-03, Art. 5, Pt. A, 5-102)

Sec. 6.5-33. 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.

(Ord. of 6-12-03, Art. 5, Pt. A, 5-103)

Secs. 6.5-34--6.5-40. Reserved.

ARTICLE V. DECLARATION OF NONRESPONSIBILITY

Sec. 6.5-41. Declaration process.

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

- (a) 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;
 - (b) 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;
 - (c) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;
 - (d) Violation of contract provisions, as set forth below, of a character regarded by the purchasing agent or using agency 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;
 - (e) Any other cause the county administrator 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.
- (2) Decision to declare non-responsible. The county administrator 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 county administrator's decision to the Peoria County Board pursuant to section 6.5-42 of this Ordinance.
 - (3) Notice of decision. A copy of the decision required by subsection (2) of this section shall be mailed by certified return receipt.
 - (4) Finality of decision. A decision under subsection (2) of this section shall be final or conclusive, unless properly appealed under section 6.5-42 of this Ordinance.

(Ord. of 6-12-03, Art. 6, Pt. A)

Sec. 6.5-42. Appeals and remedies.

- (1) Authority of the county administrator to settle bid protests and contract claims, subject to statutory provisions.

- (a) Authority. The county administrator 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 county administrator. The county administrator 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 county 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 county administrator's decision. If the protest or claim is not resolved by mutual agreement, the county administrator 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 county administrator'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 county administrator'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 county administrator 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 purchasing agent, after consultation with the state's attorney, determines that a solicitation is 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 purchasing agent, 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*.
 - 1. If the person awarded the contract has not acted fraudulently or in bad faith, the purchasing agent, 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.
 - 2. 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 using agency department head, county administrator, and county board chairman shall be transferred to the elected official.

(Ord. of 6-12-03, Art. 6, Pt. B)

Secs. 6.5-43--6.5-45. Reserved.

ARTICLE VI. ETHICS AND CONFORMANCE

Sec. 6.5-46. Ethics.

Any or all actions related to this Ordinance shall comply with approved state statutes, county ethics policies, county gift ban policy, and personnel policies. Public employment is a public trust. Therefore, public employees and elected officials shall discharge their duties impartially so as to assure fair competitive access to government procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the county purchasing process. As defined in this Ordinance, no employee shall have a financial interest in any contract or contractor doing business or seeking to do business with the county, in which he is involved in the decision making process, by making contract awards or recommending the same.

(Ord. of 6-12-03, Art. 7, Pt. A, 7-101)

Sec. 6.5-47. Violations.

Nonconformance with this Ordinance may violate federal, state, and local laws, and may result in legal actions and sanctions.

(Ord. of 6-12-03, Art. 7, Pt. A, 7-102)

Sec. 6.5-48. Reporting of anticompetitive practices.

When, for any reason, collusion or other anticompetitive practices are suspected among any bidders or offerors, notice of the relevant facts shall be transmitted to the Peoria County State's Attorney by any county employee having knowledge of relevant facts.

(Ord. of 6-12-03, Art. 7, Pt. A, 7-103)

Secs. 6.5-49, 6.5-50. Reserved.

ARTICLE VII. AFFIRMATIVE ACTION

Sec. 6.5-51. Affirmative action requirements for conducting business with the county.

- (1) Unlawful employment practices. The county shall not contract with any contractor, purchase goods or services from any vendor, maintain any financial relations with any financial institution, use the services of any labor organization or member thereof, or provide any grant monies to any grant recipient which the county affirmative action committee finds to be practicing any of the following unlawful employment practices:
 - (a) For an employer, labor organization, employment agency, joint labor management committee, or grant recipient to fail or refuse to hire any person, or otherwise discriminate against any person or employee, with respect to job opening advertisement, application, referral, hiring, job classification, training, apprenticeship, tenure, promotion, upgrading, compensation, layoff, discharge, or any term or condition of employment on the basis of race, color, religion, gender, sexual orientation, ancestry, national origin, place of birth, age (as defined by 775 ILCS 5/1-103(a), now in effect or as hereafter amended), disability unrelated to the bona fide occupational qualification of the position, or past or present military service.
 - (b) For any employer, employment agency, labor organization or grant recipient to establish, announce or follow a policy of denying or limiting, through a quota system or otherwise, the employment or membership opportunities of any person or group of persons because of race, color, religion, gender, sexual orientation, ancestry, national origin, place of birth, age (as defined by 775 ILCS 5/1-103(a), now in effect or as hereafter amended), disability unrelated to the bona fide occupational qualification of the position, or past or present military status.

- (c) For any employer, employment agency, labor organization or grant recipient to require of any applicant for employment or membership any information concerning race, color, religion, gender, ancestry, national origin, place of birth, age, past or present military status; provided that this section shall not be construed to prohibit the keeping of such records as are necessary to implement an affirmative action program approved by the county affirmative action committee, or as required by law.
 - (d) For any employer or grant recipient to confine or substantially limit recruitment or the hiring of employees with an intent to circumvent the spirit and purpose of this Ordinance, to any employment agency, employment service, labor organization, training school, training center, grant recipient, or any other employee-referring source which serves persons who are predominately of the same race, color, religion, gender, ancestry, national origin, place of birth, age (as defined by 775 ILCS 5/1-103(a), now in effect or as hereafter amended), disability unrelated to the bona fide occupational qualification of the position, or past or present military status.
 - (e) For any employer, employment agency, labor organization, or grant recipient to discriminate or retaliate against any person because he has opposed any practice forbidden by this Ordinance or by law or because he has made a good faith complaint or testified or assisted in any manner in any investigation or proceeding under this Ordinance or other laws.
 - (f) For any person, whether an employer, employment agency, labor organization, or grant recipient, to aid, incite, compel, coerce, or participate in any employment practice prohibited by this Ordinance, or to obstruct or prevent any person from enforcing or complying with the provisions of this Ordinance, or attempt directly or indirectly to commit any act declared by this Ordinance to be an unauthorized employment practice.
 - (g) For any employer, employment agency, labor organization, or grant recipient to inquire on written application whether a job applicant has ever been arrested, provided that this section shall not be construed to inhibit the obtaining of public information or records concerning the conviction of any individual.
 - (h) For any employer, employment agency, labor organization or grant recipient who fails to have a written sexual harassment policy that incorporates the minimum requirements set forth in section 2-105(A)(4) of the Illinois Human Rights Act, 775 ILCS 5/2-105(A)(4).
- (2) Written commitment to equal employment opportunity. The county shall not contract for goods or services in excess of one thousand dollars (\$1,000.00), enter into contracts for the construction, renovation, or repair of public works in excess of three thousand five hundred dollars (\$3,500.00) in a calendar year with any contractor or vendor employing five (5) or more persons, maintain any financial relation with any financial institution

employing five (5) or more persons, use the services of any labor organization having five (5) or more members thereof, or provide a grant monies to any grant recipient, without first submitting to the county a written commitment to provide equal employment opportunity. Such commitment shall:

- (a) Set out and agree to maintain specific employment or membership practices and policies sufficient to achieve equal opportunity;
 - (b) Set out specific goals for participation by minority group and female persons qualified by training, or qualified for training, or qualified through previous work experience. This provision shall not infringe upon the right of the employer to determine the need for or qualifications of employees;
 - (c) Agree to submit to the county upon request, written evidence of the effectiveness of the above required practices, policies, and goals;
 - (d) Agree to submit to the county upon request, statistical data concerning employee composition or membership composition based upon race, color, gender, and job description;
 - (e) Agree to distribute copies of the above commitment to all persons who participate in the recruitment, screening, referral and selection of job applicants, respective job applicants or members;
 - (f) Agree to provide to the county a copy of its written sexual harassment policy as described in section 2-105(A)(4) of the Illinois Human Rights Act, 775 ILCS 5/2-105(A)(4); and
 - (g) Agree to require any subcontractor to submit to the county a written commitment which contains the above provisions specified by paragraphs (1) through (6).
- (3) Minority participation in public works projects.
- (a) A public works project for purposes of this section shall mean the demolition, construction, alteration, repair, renovation, or maintenance of a county street, road, alley, highway, bridge, culvert, building, land fill, and all similar projects.
 - (b) The county shall annually determine, through the adoption of an appropriate resolution, the percentage minorities present in the county workforce from the statistics available from the Illinois Department of Labor. The county board shall annually determine the goal of minority participation (man hours worked) to be achieved by contractors and subcontractors on public works projects in which the county is a contracting party or on whose behalf a contract is let. The goal of minority participation established by the county board shall remain in effect until changed by the county board. The county's EEO officer shall determine on a case-

by-case basis whether a contractor has made a good faith effort to achieve the level of minority participation established as the county's goal.

(c) Each contract and each subcontract let shall contain the following clause:

"The County of Peoria has established a goal that minority participation (man hours worked) in the various trades involved in its public works contracts shall not be less than the percentage such minorities who are present in the work force in Peoria County.

In the event minorities are not available in a particular trade, the contractor shall make a good faith effort to make up the difference between the man hours actually worked in a particular trade by minorities and the man hours of minority participation established by the goal set by Peoria County in the other trades.

The goal established by Peoria County for _____ is _____."
(year) (goal established)

(4) Obligatory clauses. All contracts, purchase orders, agreements or grants approved by or entered into between the county and contractors and vendors for the purchase by the county of goods and/or services or for providing grant funds to a grant recipient shall contain the following clauses:

"(1) Contractors, vendors, and grant recipients not to discriminate. The contractor/subcontractor/vendor/grant recipient shall not discriminate against any employer or applicant for employment because of race, color, religion, gender, sexual orientation, ancestry, national origin, place of birth, age (as defined by 775 ILCS 5/1-103(a), now in effect or as hereafter amended), disability unrelated to bona fide occupational qualifications, or past or present military service. The contractor, vendor, or grant recipient shall take affirmative action to comply with the provisions of section 6.5-51 of the Peoria County Purchasing Ordinance and shall require any subcontractor to submit to the County of Peoria a written commitment to comply with these provisions. The contractor, vendor, or grant recipient shall distribute copies of this commitment to all persons participating in recruitment, screening, referral, and selection of job applicants, prospective job applicants, members, or prospective subcontractors.

"The contractor/vendor/grant recipient agrees that the provisions of section 6.5-51 of the Peoria County Purchasing Ordinance are hereby incorporated by reference, as if it were set out verbatim.

"The provisions of the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.*, now in effect or as hereafter amended, are incorporated into the Peoria County Purchasing Ordinance by reference and made a part.

- "(2) Liquidated damages. In addition to remedies and notwithstanding any other remedies the parties may have under this contract, grant or at law, the county may recover from the contractor or grant recipient by setoff against the unpaid portion of the contract price or the grant amount the sum of _____ (not to exceed \$500.00 per day) as liquidated damages and not as penalty, for each day that the contractor, vendor or grant recipient fails to comply with the affirmative action provisions of this contract or grant as determined by the director and the Peoria County Affirmative Action Committee. The said sum being fixed and agreed upon by and between the contractor or the grant recipient and the county because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages which the county would sustain in the event of such a breach of contract, and said amount is agreed to be the amount of damages which the county would sustain."
- (5) Written requests for information. Any contractor, vendor, financial institution, labor organization, or grant recipient contracting or receiving grant monies with or from the county shall submit to the county, on written request by the county, compliance reports containing such information as to the practices, policies, programs, and statistics of employee or membership composition on race, color, gender, age, and job description as may be prescribed by the county, and shall require any subcontractor to submit a compliance report upon written request by the county.
- (6) Exceptions. The affirmative action requirements of this section shall not apply in the following instances:
- (a) The purchase is an emergency purchase, as described in subsection 6.5-21(5) (Emergency procurement) of this Ordinance; or
 - (b) The item or service purchased is a proprietary item for which there is a sole source vendor and no suitable alternative is available as a substitute, as described in subsection 6.5-21(1)(c) of this Ordinance.
- (7) Illinois Human Rights Act incorporated. The provisions of the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.*, now in effect or as hereafter amended, are incorporated into this Ordinance by reference and made a part.

(Ord. of 6-12-03)

Sec. 6.5-52. Default/enforcement provisions.

- (1) Sanctions. In the event that any contractor, subcontractor, vendor, financial institution, labor organization, or grant recipient contracting or receiving grant monies with or from the county fails to comply with the equal employment opportunity, the affirmative action, or any other provision of this Ordinance, the county, at its option, may do any or all of the following:

- (a) Declare the contracting party or the grant recipient to be in default of the terms of the contract or the grant;
 - (b) Permit the offending party a reasonable time to come into compliance with the terms of the contract, ordinance, grant; however, such reasonable time shall not extend more than thirty (30) days beyond the date the offending party receives notice of the declaration of default;
 - (c) Cancel, terminate, or suspend the contract or the grant in whole or in part;
 - (d) Declare the contractor, vendor, financial institution, labor organization, or grant recipient ineligible for further contracts or grants for any appropriate period of time;
 - (e) Impose such other sanctions as may be imposed by the county board pursuant to this Ordinance or other ordinances; and/or
 - (f) Take any other remedy authorized by law.
- (2) Declaration of a bidder as being non-responsive.
- (a) If after a review conducted by the equal opportunity officer of the City of Peoria in conformance with the rules and regulations promulgated by the city in its efforts to determine whether a bidder is in compliance with the city's equal employment opportunity and affirmative action requirements, the city's equal opportunity officer recommends to the Peoria County Administrator that the subject bidder is not in compliance with the above requirements, the administrator is authorized to declare the bidder as being a non-responsive bidder for the purpose of an individual bid letting.
 - (b) This finding of non-responsiveness shall be based on the bidder's refusal to comply or the bidder's history of poor compliance with the city's and/or the county's equal employment opportunity and affirmative action requirements.
 - (c) Once the administrator declares a bidder to be non-responsive, the administrator shall notify the bidder and the appropriate Peoria County Board Committee of his written declaration. The administrator shall also advise the bidder of the meeting place, date and time when the committee shall consider the award of the subject bid. At that time, the bidder may appear before the committee and be given an opportunity to rebut the declaration of non-responsiveness made by the administrator.
- (3) Impositions of sanctions.
- (a) Only the management services committee of the county board may declare a contractor, vendor, financial institution, labor organization, or grant recipient

ineligible for further contracts or grants. Decisions of this committee may be appealed to the full board.

- (b) All other sanctions may be imposed by the purchasing agent. Decisions of the purchasing agent may be appealed to the county board.
- (c) The management services committee and the purchasing agent shall follow procedures for declaring a contractor, vendor, financial institution, labor organization or grant recipient ineligible for further contracts or grants, reprimand, default, or other disciplinary actions which include providing:
 - 1. Written notification in advance of the disciplinary action;
 - 2. An opportunity to rebut the charges;
 - 3. An opportunity to confront the accusers; and
 - 4. An opportunity to present evidence on its own behalf.

(Ord. of 6-12-03)

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