

ORDINANCE NO.: 02-23

AN ORDINANCE OF HERNANDO COUNTY, FLORIDA, AMENDING SECTIONS 2-101, 2-102, 2-103 2-104, 2-105 2-106, 2-107 and 2-108 OF THE HERNANDO COUNTY CODE OF ORDINANCES TO CREATE THE OFFICE OF THE CHIEF PROCUREMENT OFFICER AND DEFINE THE ORGANIZATION, APPOINTMENT AND QUALIFICATION, TENURE AND REMOVAL, DUTIES AND AUTHORITY OF THE CHIEF PROCUREMENT OFFICER; TO AMEND THE APPLICATIONS AND EXCLUSIONS OF THE ORDINANCE; TO ADD ADDITIONAL DEFINITIONS; AND TO AMEND THE BIDDING PROCEDURES TO REFLECT ADDITIONAL TECHNIQUES IN PUBLIC BIDDING. PROVIDING FOR SEVERABILITY, PROVIDING FOR INCLUSION IN THE CODE, PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA:

SECTION 1. AMENDMENT TO CHAPTER 2

That Chapter 2 of the Code of Ordinances of Hernando County, Florida, be amended as follows:

1. Section 2-101 Application and exclusions - Change to read:

The provisions of this article shall apply to purchases and procurements of the board of county commissioners and its various agencies, authorities, boards, bureaus, commissions, committees, councils, departments, divisions, districts, employees, institutions, legislative bodies, municipal service benefit units (msbu), officers, the county administrator, the county attorney, the county aviation authority, and the county port authority, any other ordinance or special act to the contrary notwithstanding, which are under the control of, or derive their authority from the board of county commissioners, irrespective of their funding source, including state and federal assistance monies, except as otherwise specified by law. They shall not apply to:

3. Procurement of dues and memberships in trade or professional organizations; subscriptions for periodicals; books and publications; advertisements; postage; medical and dental services; legal services; expert witnesses; abstracts of titles for real property; title insurance for real property; court reporter services; temporary labor services; accounting services; financial advisory services; insurance, including property, casualty, health and automobile coverages; water, sewer, telephone and electrical utility services; copyrighted materials (including proprietary computer software); patented materials; educational reimbursements and fees and costs of job-related seminars and training.

2002 DEC 27 11:06 AM  
CLERK OF COUNTY COMMISSIONERS  
HERNANDO COUNTY, FLORIDA

2-102. Change the definitions of the Chief Purchasing Officer as follows:

**Chief Procurement Purchasing Officer** means the person holding the position as the Director of Purchasing and Contracts ~~Central Purchasing~~ of Hernando County.

Add the following definitions:

**Bid or bids** means a formal written offer by a vendor to the county to furnish goods and/or services in response to a solicitation by the county. The term bid or bids shall include, but not be limited to, Invitations for Bids, Request for Proposals, Request for Qualifications, and Competitive Negotiations.

**Business** means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

**Competitive Award** means to award contracts based on the submission of sealed bids, proposals submitted in response to a request for proposals, proposals submitted in response to a request for qualifications, or proposals submitted for competitive negotiation.

**Competitive Negotiations** means a solicitation of responses for a good and/or service where the competitive award may be based on negotiations with competitors submitting bids under a Request for Proposals or a Request for Qualifications.

**Data** means recorded information, regardless of form or characteristic.

**Electronic** means electrical, digital, magnetic, optical, electromagnetic, or any other similar technology.

**Invitation for Bids** means all documents, whether attached or incorporated by reference, utilized for soliciting bids.

**Public Notice** means the distribution or dissemination of information to interested parties using methods that are reasonably available. Such methods will often include publication in newspapers of general circulation in the County, electronic or paper mailing lists, and web site(s) designated by the County and maintained for that purpose.

Purchasing Agency means any governmental employee or body other than the Chief Procurement Officer which is authorized by this Ordinance or its implementing regulations, or by way of delegation from the Chief Procurement Officer, to enter into contracts.

Request for Qualifications means a solicitation of responses for services for which the competitive award will be based on the qualifications of the responding bidders. Request for Qualifications shall be used in the solicitation of, but not be limited to, professional services, design build services and construction management services.

Regulation means a government body's statement, having general or particular applicability and future effect, designed to implement, interpret, or prescribe law or policy, or describing organization, procedure, or practice requirements, which has been promulgated in accordance with applicable law.

Written or In Writing means the product of any method of forming characters on paper, other materials, or viewable screen, which can be read, retrieved, and reproduced, including information that is electronically transmitted and stored.

6. Replace Section 2-103 CENTRAL PURCHASING DEPARTMENT with the following:

SECTION 2-103. ORGANIZATION

(A) CENTRALIZATION OF PROCUREMENT AUTHORITY  
~~CENTRAL PURCHASING DEPARTMENT~~

Except as otherwise provided in this Ordinance, all rights, powers, duties, and authority relating to the procurement and contracting for supplies, materials, equipment, contractual services, professional and consultant services, construction and/or combinations of goods and services governed by this ordinance shall reside with the Office of the Chief Procurement Officer.

Replace SECTION 2-104 Director of central purchasing-Service as chief Purchasing Officer,:

Section 2-104 CHIEF PROCUREMENT OFFICER

1. Creation of the Office of the Chief Procurement Officer.

There is hereby created the Office of the Chief Procurement Officer. Subject to the provisions of this Ordinance, the Director of Purchasing and Contracts shall serve as the Chief Procurement Officer for Hernando County.

2. Appointment and Qualifications

- a. Appointment - Pursuant to a recommendation by the County Administrator, the Chief Procurement Officer shall be appointed by an affirmative vote of a majority of the members of the Board of County Commissioners.
- b. Qualifications - The Chief Procurement Officer shall have relevant, recent experience in public procurement and the large-scale procurement of supplies, services, or construction, and shall be a person with demonstrated executive and organizational ability.

3. Tenure and Removal

The Chief Procurement Officer shall be a full time official of the County. The Chief Procurement Officer may be removed from office by the County Administrator pursuant to Human Resources policy relating to the removal of Department Heads.

Section 2-105 Same-Duties, change to read

Section 2-105 DUTIES OF THE CHIEF PROCUREMENT OFFICER

The ~~Director of Purchasing and Contracts~~ Chief Procurement Officer shall:

1. administer the central purchasing and contracting system for the County;
2. upon request of any constitutional officer of the County, make available to such officer the services provided herein subject to the terms of this Ordinance and any administrative policies and internal procedures of the Purchasing and Contracts Department;
3. provide for the establishment/promulgation of administrative policies and procedures of Purchasing and Contracts which shall be forwarded through the County Administrator for review and approval prior to adoption by the Board of County Commissioners;
4. provide the County Administrator and/or the Board of County Commissioners, with data or information concerning county purchasing and contracting;

5. report to the County Administrator and/or County Attorney any violation or suspected violation of any federal, state, or local law, rule or regulation, as related to the procurement of goods and/or service subject to the Hernando County Purchasing Ordinance, committed by an employee or agent of the county or an independent contractor which creates or presents a substantial or specific threat to the integrity of the county purchasing and contracting practices;
6. standardize, to the extent possible, contract clauses, terms, conditions and documents; and,
7. perform other duties as directed by the Administrator of the County.

Section 2-106 Same-Authority Change to read:

Section 2-106 AUTHORITY OF THE CHIEF PROCUREMENT OFFICER

All rights, powers, duties and authority relating to the procurement and contracting of goods and/or services for the Board of County Commissioners, including the authority to approve purchases and sign those Agreements, Contracts, and Purchase Orders for the purchase of goods and/or services in accordance with the provisions of Section 2-109. of this article, provided they are in conformance with the law and applicable rules and regulations, are vested in the ~~Director of Purchasing and Contracts~~ Chief Procurement Officer.

Section 2-107 Same-Delegation of Authority by change to read:

Section 2-107 DELEGATION OF AUTHORITY BY THE CHIEF PROCUREMENT OFFICER

The ~~Director of Central Purchasing~~ Chief Procurement Officer may delegate rights, powers, and authority vested in him/her to subordinate ~~Central Purchasing and Contracts~~ staff, or other County staff, when deemed necessary and prudent, provided such staff shall comply with all applicable laws, regulations, rules and procedures established by the County.

7. Section 2-108, BIDDING PROCEDURES, change to read:

Section 2-108 SOLICITING BIDS FOR CONSTRUCTION, PURCHASE AND LEASING

By advertisement at least once in some newspaper of general circulation in the county no later than two (2) weeks prior to opening of bids, or as stipulated by law, the board of county commissioners shall solicit competitive bids for the construction by non-county personnel of any road, street, sidewalk, drainage facility, water distribution system, sewer collection system, water or sewer treatment plant, or building, or the purchase and/or leasing of goods, supplies, materials or nonprofessional services for county use, when the amount to be paid for such construction, purchase or lease is reasonably expected to exceed the threshold amount provided in section 287.017, Florida Statutes, for Category Two, as it may be amended from time to time, exclusive of freight or other delivery charges.

**(B) ACCEPTANCE, REJECTION AND COMPETITIVE AWARD OF BIDS AND PROPOSALS**  
~~ACCEPTANCE AND REJECTION OF BIDS AND PROPOSALS~~

The board shall accept the best and lowest responsible and responsive bid for the award of a competitive bid contract but the board may, at its discretion, reject all bids or accept ~~bids~~ bid item(s) covering less than the entire solicitation if the items bid upon are reasonably severable from the remainder of the contract. The board may reject any bidder found by the board not to be responsible or otherwise unable to perform satisfactorily all provisions of the contract. Where the board rejects any bidder, such finding is presumed to have been made by the board prior to the rejection.

**(C) Exceptions to bidding requirements. Solicitation of bids is not required in the following instances:**

(1) Where the board declares by a majority vote of the board of county commissioners that an emergency exists.

(2) The purchase and/or leasing of goods, supplies, materials or services for county use from a valid current continuing state contract or from other valid current continuing ~~state governmental entity~~ contracts with the State of Florida or other local governments or similar entities, including but not limited to associations acting on behalf of state, county or municipal officials.



(3) Where the board finds that there is a reasonable certainty that bids for the contemplated construction or purchase will be offered by only one (1) bidder. The board may use as a basis for this finding a recommendation of the county administrator through the consent agenda, or otherwise as may be determined, that the particular contract is expected to draw bids from only one (1) bidder.

(4) Where, in the business judgment of the board as declared by majority vote plus one (1) of the board of county commissioners, the particular circumstances or time constraints surrounding the construction or purchase make it impractical or inadvisable to solicit bids.

(5) Where the contract to be bid upon is one for the purposes authorized by section 336.41, Florida Statutes, as amended from time to time. Such contracts to be bid upon shall be subject to any bidding requirements imposed by general law.

(6) Where the board by majority vote plus one of the board of county commissioners has by resolution waived competitive bidding when it finds this to be in the best interest of the county.

(7) Where there has previously been a request for bids and no responsive, responsible bids have been received.

## **SECTION 2. SEVERABILITY**

It is declared to be the intent of the Board of County Commissioners of Hernando County, Florida, that if any section, subsection, clause, sentence phrase or provision of this Ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the remaining portions of this Ordinance.

## **SECTION 3. INCLUSION IN THE CODE**

It is the intention of the Board of County Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, the sections of this Ordinance may be renumbered or relettered to accomplish such intention, and that the word "ordinance" may be changed to "section", "article", or other appropriate designation.

**SECTION 4. EFFECTIVE DATE**

This Ordinance shall become effective upon receipt of official acknowledgment from the Secretary of State that said Ordinance has been filed.

**ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS** in Regular  
Session this 17<sup>th</sup> day of December, 2002 A.D.

**BOARD OF COUNTY COMMISSIONERS  
HERNANDO COUNTY, FLORIDA.**

Attest: Jenine E. Werner, Deputy  
KAREN NICOLAI  
Clerk

By: Mary E. Whitehouse  
MARY E. WHITEHOUSE  
Vice Chairperson

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY  
BY [Signature] 12/26/02  
County Attorney's Office

I hereby certify that the foregoing is a true and  
correct copy of the original.  
Karen Nicolai, Clerk Circuit Court, Hernando  
County, Florida.  
By Jenine E. Werner D.C.