



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

January 4, 2023

Honorable J.K. "Jess" Irby, Esq.
Clerk of the Circuit Court
Alachua County
201 East University Avenue
Post Office Box 939
Gainesville, Florida 32602

Attention: Steve Donahey

Dear Honorable J.K. "Jess" Irby,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of the Alachua County Ordinance No. 2022-19, which was filed in this office on January 4, 2023.

Sincerely,

Anya Owens
Program Administrator

ACO/rra

1 ALACHUA COUNTY
2 BOARD OF COUNTY COMMISSIONERS

3 **ORDINANCE NO. 2022 - 19**

4 AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF
5 ALACHUA COUNTY, FLORIDA, AMENDING ALACHUA COUNTY
6 CODE, PART II, TITLE 2, CHAPTER 22, REFERRED TO AS THE
7 “ALACHUA COUNTY PROCUREMENT CODE”; AMENDING A
8 DEFINITION; AMENDING ARTICLE IX, PART A, ON PROCUREMENT
9 PROTESTS; PROVIDING FOR MODIFICATION AT PUBLIC HEARING;
10 PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN
11 THE CODE; AND PROVIDING AN EFFECTIVE DATE.

12 **WHEREAS**, it is recommended that each county have a policy or procedure that addresses
13 purchases by such county to help facilitate fair competition and secure best value; and

14 **WHEREAS**, on or about January 28, 2020, the Board of County Commissioners of Alachua
15 County, Florida (“Board”) adopted Ordinance 2020-01 establishing the Alachua County Procurement Code
16 (“Procurement Code”); and

17 **WHEREAS**, the Procurement Code contains, in part, provisions allowing for protests of
18 solicitations and awards; and

19 **WHEREAS**, the Board desires to amend the provisions regarding protests of solicitations and
20 awards in, and to make other corrections and updates to, the Alachua County Procurement Code.

21 **NOW, THEREFORE, BE IT DULY ORDAINED BY THE BOARD OF COUNTY**
22 **COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, AS FOLLOWS:**

23 **SECTION 1. Amendment.** Alachua County Code of Ordinances, Part II, Title 2, Chapter 22 whose
24 short title is the “Alachua County Procurement Code”, specifically Article III, Part A, Section 22.3-101 entitled
25 “Definitions of terms used in this article” is hereby amended to correct the error in the definition of *Request for*
26 *Qualifications*, as follows. All other portions of Section 22.3-101 not referenced below remain unchanged
27 by this Ordinance.

28 * * *

29 *Request for qualifications (RFQ_{uf})* means a formal solicitation method of non-binding
30 solicitation of the county's specific needs requiring detailed proposals in response to identify the
31 most qualified providers. Generally, price or cost is not required.

1 **SECTION 2. Amendment.** Alachua County Code of Ordinances, Part II, Title 2, Chapter 22, Article

2 IX - Legal and Contractual Remedies, Part A entitled “*Procurement Protests*”, which includes Sections 22.9-101 to 102
3 is amended as follows:

4 **Part A – Procurement Protests.**

5 Unless otherwise governed by state or Federal law, this Part shall govern the protest and appeal of
6 Procurement decisions by the County. As used in Part A of Article 9, the term “Bidder” includes any
7 ~~Person that responds to any type of Solicitation issued by the County~~ one that submits a response to an
8 invitation to bid or one who makes an offer in response to a solicitation (e.g., ITB, RFP, ITN), and is
9 not limited solely to ~~a Person~~ one that submits a bid in response to an Invitation to Bid (ITB).

10 **22.9-101. - Protests and appeals of solicitations and awards.**

11 (1) *Notice of Solicitations and Awards.* The County Shall provide notice of all solicitations
12 and awards by electronic posting in accordance with the procedures and Florida law,
13 ~~unless a different method is required by the Florida Statutes, in which case the County~~
14 ~~Shall provide notice in accordance with the requirement of the Florida Statutes.~~

15 (2) *Solicitation Protest.* Any prospective Bidder may file a solicitation protest concerning
16 a solicitation.

17 (a) *Basis of the Solicitation Protest:* The alleged basis for a solicitation protest
18 shall be limited to the following:

19 ~~i. ——— The solicitation is inconsistent with this Code or the requirements of~~
20 ~~applicable Florida Statutes;~~

21 *i.* The terms, conditions or specifications of the solicitation are in
22 violation of, or are inconsistent with, ~~applicable laws, Regulations,~~
23 ~~this Code, Florida Statutes, County~~ procedures, ~~and~~ policies, ~~or other~~
24 ~~legal authorities governing the terms of~~ the solicitation at issue,
25 including but not limited to the method of evaluating, ranking or
26 awarding of the solicitation, reserving rights of further negotiations,
27 or modifying or amending any resulting contract; ~~and/or~~

28 *ii.* The solicitation instructions are unclear or contradictory.

29 (b) *Timing and Content of the Solicitation Protest:* The solicitation protest must
30 be in writing and must be received by the Procurement Manager by no later
31 than ~~3:00 p.m. on the forth Business day after the Solicitation was posted by~~
32 ~~the County the solicitation’s question submission deadline.~~ Failure to timely
33 file a solicitation protest shall constitute a total and complete waiver of the
34 Bidder’s right to protest or appeal any solicitation defects, and shall bar the
35 Bidder from subsequently raising such solicitation defects in any subsequent
36 Award Protest, if any, or any other administrative or legal proceeding. In the
37 event a solicitation protest is timely filed, the protesting party shall be deemed
38 to have waived any and all solicitation defects that were not timely alleged in
39 the protesting party’s solicitation protest, and the protesting party shall be
40 forever barred from subsequently raising or appealing said solicitation defects
41 in a subsequent award protest, if any, or any other administrative or legal
42 proceeding. The solicitation protest must include, at a minimum, the following

1 information:

- 2 i. The name, address, e-mail and telephone number of the protesting
3 party;
- 4 ii. The solicitation number and title;
- 5 iii. Information sufficient to establish that the protesting party has legal
6 standing to file the solicitation Protest because:
- 7 1. It has a substantial interest in and is aggrieved in connection with
8 the solicitation; and
- 9 2. That the protesting party is responsiblesive, in accordance with
10 the ~~responsibility~~ criteria set forth in the solicitation, unless the
11 basis for the Solicitation Protest alleges that the ~~responsibility~~
12 criteria set forth in the solicitation is defective, in which case the
13 protesting party must demonstrate that it is responsible in
14 accordance with the ~~responsibility~~ criteria that the protesting party
15 alleges should be used ~~to determine responsibility~~;
- 16 iv. A detailed statement of the ~~factual and legal~~ basis for the protest;
- 17 v. References to ~~rules, Regulations, section of this eCodes, ordinance,~~
18 Florida Statutes, County policies or procedure or solicitation term
19 ~~other legal authority~~ that the protesting party alleges have been
20 violated by the County or that entitles the protesting party to the relief
21 requested;
- 22 vi. All supporting evidence or documents that substantiate the protesting
23 party's alleged basis for the protest; and
- 24 vii. The form of the relief requested.
- 25 (c) *Review and Determination of Protest:* If the Solicitation Protest is not timely,
26 the ~~County~~Procurement Manager shall notify the protesting party that the
27 Solicitation Protests is untimely and, therefore, rejected. The ~~County~~
28 Procurement Manager shall consider all timely Solicitation Protests and may
29 conduct any inquiry that the ~~County-Procurement~~ Manager deems necessary
30 ~~or convenient~~ to make a determination regarding the protests. The
31 Procurement ~~County~~ Manager shall issue a written determination granting or
32 denying ~~each~~the protest. The written determination shall contain a concise
33 statement of the ~~factual and legal~~ basis for the determination.
- 34

1 (d) *Appeal*: If the protesting party is not satisfied with the County Procurement
2 Manager's determination, the protesting party may appeal the determination
3 to the ~~board of county commissioners ("board")~~ County Manager by filing a
4 written appeal, which sets forth the ~~factual and legal~~ basis upon which the
5 appeal is based, including all supporting documentation. The scope of the
6 appeal shall be limited to the ~~factual and legal~~ basis alleged in the Solicitation
7 Protest. The appeal must be filed with the Procurement Manager within
8 ~~seven~~ five business days of the date on which the County Procurement
9 Manager's written determination was sent to the protesting party. Failure to
10 timely file an appeal shall constitute a waiver of the protesting party's rights
11 to an appeal of the County Procurement Manager's determination, and the
12 protesting party shall be forever barred from subsequently raising or appealing
13 said Solicitation defects in a subsequent award protest, if any, or any other
14 administrative or legal proceeding. ~~The Procurement Manager shall prepare an~~
15 ~~agenda item and shall schedule the matter for consideration by the board as~~
16 ~~soon as practicable. At the board meeting, the protesting party shall be~~
17 ~~permitted 15 minutes to present its appeal directly to the board, and then the~~
18 ~~county manager shall be permitted 15 minutes to present its response. The~~
19 ~~board, in its discretion, may allocate an equal amount of additional time to~~
20 ~~both the protesting party and the county manager. The board, after~~
21 ~~considering the appeal and presentation of the parties, shall render a decision~~
22 ~~written determination. After considering the appeal, the County Manager~~
23 ~~must determine whether the solicitation should stand, be revised, or be~~
24 ~~cancelled, and issue a written determination and provide copies of the~~
25 ~~determination to the protesting party.~~ The ~~decision~~ determination of the
26 County Manager shall be final and not subject to further appeal under this
27 code.

28 (3) *Award Protest*. Any Bidder who is not the intended awardee and who claims to be the
29 rightful awardee may file an award protest. However, an award protest is not valid and
30 shall be rejected for lack of standing if it does not demonstrate that the protesting party
31 would be awarded the Solicitation if its protest is upheld.

32 (a) *Basis of the Award Protest*: The alleged basis for an Award Protest shall be
33 limited to the following:

- 34 i. The protesting party was incorrectly deemed non-responsive due to an
35 incorrect assessment of fact or law;
- 36 ii. The County failed to substantively follow the procedures or
37 requirements specified in the solicitation documents, except for minor
38 irregularities that were waived by the County in accordance with this
39 Code, which resulted in a competitive disadvantage to the protesting
40 party; and
- 41 iii. The County made ~~an identifiable~~ mathematical ~~or other~~ errors in
42 evaluating the responses to the solicitation, resulting in an incorrect
43 score and not protesting party not being selected for award.

1 (b) *Timing and Content of the Award Protest:* The Award Protest must be in
2 writing and must be received by the Procurement Manager by no later than
3 3:00 PM on the ~~fourth~~third business day after the County’s proposed Award
4 decision was posted by the County. Failure to timely file an Award Protest
5 shall constitute a total and complete waiver of the Bidder’s right to protest or
6 appeal the County’s proposed Award decision in any administrative or legal
7 proceeding. In the event an Award Protest is timely filed, the protesting party
8 shall be deemed to have waived any and all proposed Award defects that were
9 not timely alleged in the protesting party’s Award Protest, and the protesting
10 party shall be forever barred from subsequently raising or appealing said
11 Award defects in any administrative or legal proceeding. The Award Protest
12 must include, at a minimum, the following information:

- 13 i. The name, address, e-mail and telephone number of the protesting
14 party;
- 15 ii. The Solicitation number and title;
- 16 iii. Information sufficient to establish that the protesting party’s response
17 was responsive to the Solicitation;
- 18 iv. Information sufficient to establish that the protesting party has legal
19 standing to file the Solicitation Protest because:
 - 20 1. The protesting party submitted a response to the Solicitation or
21 other ~~factual and legal~~ basis for establishing legal standing;
 - 22 2. The protesting party has a substantial interest in and is aggrieved
23 in connection with the proposed Award decision; and
 - 24 3. The protesting party, and not any other bidder, should be awarded
25 the Solicitation if the protesting party’s Award Protest is upheld.
- 26 v. A detailed statement of the ~~factual and legal~~ basis for the protest;
- 27 vi. References to ~~rules, Regulations, section of this eCodes, ordinance,~~
28 Florida Statutes, County policies or procedure or solicitation term
29 ~~other legal authority~~ that the protesting party alleges have been
30 violated by the County or that entitles the protesting party to the relief
31 requested;
- 32 vii. All supporting evidence or documents that substantiate the protesting
33 party’s alleged basis for the protest; and
- 34 viii. The form of the relief requested.

35 (c) *Review and Determination of Protest:* If the Award Protest is not timely, the
36 Procurement Manager shall notify the protesting party that the Award Protest
37 is untimely and, therefore, rejected. The ~~county manager~~Procurement Manager
38 shall consider all timely Award Protests and may conduct any inquiry that the
39 ~~county manager~~Procurement Manager deems necessary ~~or convenient~~ to
40 resolve the protest by mutual agreement or to make a determination regarding
41 the protests. The ~~county manager~~Procurement Manager shall issue a written
42 determination granting or denying each protest. The written determination
43 shall contain a concise statement of the ~~factual and legal~~ basis for the
44 determination.

45 (d) *Appeal:*

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i. If the protesting party is not satisfied with the ~~county manager's~~Procurement Manager's determination, the protesting party may appeal the determination to the ~~board of county commissioners ("board")~~County Manager by filing a written appeal, which sets forth the ~~factual and legal~~ basis upon which the appeal is based, ~~including all supporting documentation~~. The scope of the appeal shall be limited to the ~~factual and legal~~ basis alleged in the award protest. The appeal must be filed with the Procurement Manager within ~~seven~~five business days of the date on which the ~~county manager~~Procurement Manager's written determination was mailed to the protesting party. Failure to timely file an appeal shall constitute a waiver of the protesting party's rights to an appeal of the ~~county manager's~~Procurement Manager's determination, and the protesting party shall be forever barred from subsequently raising or appealing said award defects in any administrative or legal proceeding. ~~The procurement manager shall prepare an agenda item and shall schedule the matter for consideration by the board as soon as practicable. At the board meeting, the protesting party shall be permitted fifteen minutes to present its appeal directly to the board, and then the county manager shall be permitted 15 minutes to present its response. The board, in its discretion, may allocate an equal amount of additional time to both the protesting party and the county manager. The board, after considering the appeal and the presentation of the parties, shall render its decision.~~

ii. ~~After reviewing the appeal, the County Manager will issue a written final determination and provide copies of the determination to the protesting party. Prior to issuing a final determination, the County Manager, in his or her discretion, may direct a hearing officer, or magistrate, to conduct an administrative hearing in connection with the protest and issue findings and recommendations to the County Manager. Prior to a hearing, if held, the Procurement Manager must file with the hearing officer the protest, any background information, and his or her written determination. The protesting party and the County shall equally share the cost of conducting any hearing, including the services of the hearing officer. If applicable, the County Manager may wait to issue a written final determination until after receipt of the findings and recommendations of the hearing officer. The ~~decision~~determination of the ~~board~~County Manager shall be final and not subject to further appeal under this code.~~

(4) *Burden of Proof:* Unless otherwise provide by Florida law, the burden of proof shall rest with the protesting party.

(5) *Stay of Procurements during Protests.* In the event of a timely protest, the County shall not proceed further with the solicitation or with the award of the contract until the Procurement Manager, after consultation with the head of the using ~~agency~~department, makes a written determination that the award of the solicitation without delay is:

- 1 (a) Necessary to avoid an immediate and serious danger to the public health,
2 safety, or welfare;
- 3 (b) Necessary to avoid or substantial reduce significant damage to County
4 property;
- 5 (c) Necessary to avoid or substantially reduce interruption of essential County
6 Services; or;
- 7 (d) Otherwise in the best interest of the public.
8

9 **22.9-102 Authority to Suspend.**

10 *Authority.* After reasonable notice to the Person involved and reasonable opportunity for that
11 Person to be heard, the Procurement Manager after consultation with the Using Agencydepartment
12 and County legal staff shall have authority to suspend a Person for cause from consideration for
13 award of Contracts. The debarment shall not be for a period of more than three (3) years. The
14 authority to suspend and to approve such suspension shall be exercised in accordance with
15 Procedures as set forth in the Procurement Procedures Manual.

16 **SECTION 3. Modification.** It is the intent of the Board of County Commissioners that the
17 provisions of this ordinance may be modified as a result of considerations that may arise during public
18 hearings. Such modifications shall be incorporated into the final version of the ordinance adopted by the
19 Board and filed by the Clerk to the Board.

20 **SECTION 4. Severability.** If any word, phrase, clause, paragraph, section or provision of this
21 ordinance or the application hereof to any person or circumstance is held invalid or unconstitutional, such
22 finding shall not affect the other provisions or applications of the ordinance which can be given effect
23 without the invalid or unconstitutional provisions or application, and to this end the provisions of this
24 ordinance are declared severable.

25 **SECTION 5. Inclusion in the Code.** It is the intent of the Board of County Commissioners of
26 Alachua County, Florida, and it is hereby provided that the provisions of this ordinance shall become and
27 be made a part of the Code of Ordinances of Alachua County, Florida; that the section of this ordinance
28 may be renumbered or re-lettered to accomplish such intent and that the word “ordinance” may be changed
29 to “section”, “article”, or other appropriate designation.

30 **SECTION 6. Effective Date.** A certified copy of this ordinance shall be filed with the
31 Department of State by the Clerk of the Board within ten (10) days after enactment by the Board and shall
32 take effect upon filing with the Department of State.

1 **DULY ADOPTED** in regular session, this 13th day of December, 2022.
2

3 **BOARD OF COUNTY COMMISSIONERS OF**
4 **ALACHUA COUNTY, FLORIDA**

5
6 ATTEST:

7 BY: Anna Prizzia
8 Anna Prizzia, Chair
9 Board of County Commissioners

10 J.K. Irby
11 J.K. "Jess" Irby, Esq.
12 Clerk

APPROVED AS TO FORM

13 Sylvia C. Torres
14 County Attorney












Item #12 , 22-0880, 12132022

Final Audit Report

2022-12-20

Created:	2022-12-14
By:	Steve Donahey (asd@alachuaclerk.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAY9mwwDwDFEI79pWVuEVYRYAPMu9Q-ir

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-  Document created by Steve Donahey (asd@alachuaclerk.org)
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-  Document emailed to Sylvia Torres (storres@alachuacounty.us) for signature
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-  Document e-signed by Sylvia Torres (storres@alachuacounty.us)
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-  Signer bocchairsignature@alachuacounty.us entered name at signing as Anna Prizzia
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-  Document e-signed by Anna Prizzia (bocchairsignature@alachuacounty.us)
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-  Document emailed to jki@alachuaclerk.org for signature
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-  Signer jki@alachuaclerk.org entered name at signing as J.K. "Jess" Irby, Esq.
2022-12-20 - 4:17:20 PM GMT- IP address: 216.194.145.253

 Document e-signed by J.K. "Jess" Irby, Esq. (jki@alachuaclerk.org)

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 Agreement completed.

2022-12-20 - 4:17:22 PM GMT