

## CHAPTER 22. - PURCHASING<sup>(8)</sup>

Footnotes:

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**Cross reference**— Departments and offices, § 21.50 et seq.; department of administrative services, § 21.52; revenue and finance, tit. 3; appraisal required for purchase of land and improvements, § 30.01; professional services contracts, ch. 31; budgetary funds, ch. 233; capital projects, ch. 234; contracts with public facilities authority, § 235.07; budget system for sheriff's office, § 271.20 et seq.

### ARTICLE I. - GENERALLY

#### Sec. 22.01. - Short title.

This chapter shall be known as the "Alachua County Purchasing Code."

(Ord. No. 86-8, § 1, 3-11-86)

#### Sec. 22.02. - Definitions.

The following words defined in this section shall have the meanings set forth below whenever they appear in this chapter:

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

*Change order* shall mean a written order, amending the scope of, amount, or correcting errors, omissions, or discrepancies in a contract or purchase order.

*Competitive sealed proposal* shall mean a method that requires the vendor to provide a detailed proposal in response to the specifications, which may be more general in nature, and usually results in a contractual agreement. This method allows for negotiation in scope, price, and delivery; whereas the sealed bid allows no substantial changes. Proposals under this process are solicited through a request for competitive sealed proposals.

*Construction* shall mean the process of building, altering, repairing, improving, or demolishing any public structure or building, or other public improvement of any kind to any public real property. It does not include routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

*Contract* shall mean all types of Alachua County agreements, regardless of what they may be called, for the purchase or disposal of supplies, services, materials, equipment or construction.

*Contract modification* shall mean any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

*Contractor* shall mean any person having a contract with Alachua County.

*Data* shall mean recorded information, regardless of form or characteristic.

*Designee* shall mean a duly authorized representative of a person holding a superior position.

*Employee* shall mean an individual drawing a salary from Alachua County, whether elected or not, and any noncompensated individual performing personal services for Alachua County.

*Field change order* shall mean a written order for construction projects of the public works department authorizing additional weather days or modifications to the work only for changes in unit quantities and for pay factor adjustments.

*Invitation to bid* shall mean all documents, whether attached or incorporated by reference, used for soliciting sealed bids for purchases. Once bids are opened by the county, no changes in scope or price shall be allowed.

*Person* shall mean any business, individual, committee, club, other organization, or group of individuals.

*Professional services* shall mean services rendered by members of a recognized profession or possessing a special skill. Such services are generally acquired to obtain information, advice, training, or direct assistance.

*Purchase order* shall mean that contractual document whereby Alachua County requests that a contract be entered into for a specified need, and may include, but not be limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation, suggested sources of supply, and information supplied for the making of any written determination required by this chapter.

*Purchasing* shall mean buying, procuring, renting, leasing, or otherwise acquiring any materials, supplies, services, construction, or equipment. It also includes all functions that pertain to the obtaining of any material, supplies, services, construction, and equipment, including description of requirements, selection and solicitation resources, preparation and award of contract.

*Purchasing manager* shall mean any Alachua County officer or employee duly authorized to enter into and administer contracts and make written determinations with respect thereto. The term also includes an authorized representative acting within the limits of authority.

*Regulation* shall mean a statement by the board of county commissioners having general or particular applicability and future effect, designed to implement, interpret, or prescribe law or policy, or practice.

*Request for proposals* shall mean all documents, whether attached or incorporated by reference, utilized for soliciting competitive sealed proposals.

*Request for quotation* shall mean an informal solicitation or request for information, where oral or written quotes are obtained from vendors, without formal advertising or receipt of sealed bids.

*Responsible bidder or offeror* shall mean a bidder or offeror who has the capability, in all respects, to perform fully the contract requirements, and the experience, integrity, perseverance and reliability, capacity, facilities, equipment, and credit which will assure good faith performance.

*Responsive bidder* shall mean a bidder or offeror who has submitted a bid which conforms in all material respects to the invitation to bid or request for proposal.

*Small business enterprise* shall mean an independently owned and operated business currently performing a useful business function, headquartered in the small business enterprise zone, having 25 or fewer permanent, fulltime employees and having a net worth not exceeding \$1,000,000.00.

*Small business enterprise zone* shall mean the area comprised of Alachua County and neighboring counties as approved by the county manager or designee.

*Specification* shall mean any description of the physical or functional characteristics of the nature of a material, supply, service, construction, or equipment item. It may include a description of any requirement for inspection, testing, or preparing a material, supply, service, construction, or equipment item for delivery.

(Ord. No. 86-8, § 4, 3-11-86; Ord. No. 90-9, § 1, 2-20-90; Ord. No. 94-8, § 1, 5-24-94; Ord. No. 98-9, § 1, 4-14-98; Ord. No. 08-18, § 1, 8-12-08; Ord. No. 13-16, § 1, 9-10-13)

**Cross reference**— Definitions and rules of construction generally, § 10.02.

**Sec. 22.03. - Purpose of chapter.**

This chapter shall be construed and applied to promote the following purposes and policies:

- (1) To simplify, clarify, and modernize the law governing purchasing by the county;
- (2) To permit the continued development of purchasing policies and practices;
- (3) To provide for increased public confidence in the procedures followed by the county in public purchasing;
- (4) To ensure the fair and equitable treatment of all persons who deal with the purchasing and procurement system of the county.
- (5) To encourage the growth of small businesses through aggressively promoting an atmosphere conducive to the development of small business participation in the county's purchasing and procurement system;
- (6) To provide increased economy in county purchasing activities and to maximize to the fullest extent practicable the purchasing value of public funds of the county; and
- (7) To provide safeguards for the maintenance of a purchasing system of quality and integrity in the county.

(Ord. No. 86-8, § 2, 3-11-86; Ord. No. 08-18, § 2, 8-12-08)

**Sec. 22.04. - Application of chapter.**

- (a) This chapter shall apply only to contracts solicited or entered into after the effective date of Ordinance No. 86-8, unless the parties agree to its application to a contract solicited or entered into prior to that date.
- (b) This chapter shall apply to the following county purchasing activities: materials, supplies, services, construction and equipment. This chapter shall not apply to purchases from the state or other political subdivisions or purchases made pursuant to F.S. § 287.055.

(Ord. No. 86-8, § 3, 3-11-86)

**Sec. 22.05. - Purchasing division.**

There is hereby created a purchasing division, which shall be headed by the purchasing manager and which division shall be supervised by the director of administrative services.

(Ord. No. 86-8, § 5, 3-11-86; Ord. No. 90-9, § 2, 2-20-90; Ord. No. 92-1, § 1, 1-28-92)

**Sec. 22.06. - Purchasing manager—Appointment; qualifications.**

The director of administrative services responsible for the purchasing division shall appoint the purchasing manager. The purchasing manager shall be a person meeting the requirements established by the county personnel department for the position, and shall be a person with demonstrated executive and organizational ability.

(Ord. No. 86-8, § 6, 3-11-86; Ord. No. 90-9, § 3, 2-20-90; Ord. No. 92-1, § 2, 1-28-92)

**Sec. 22.07. - Same—Tenure; compensation.**

- (a) The purchasing manager shall be a division head and full-time employee of the county. The purchasing manager shall report to and be supervised by the director of the department of administrative services.

- (b) The purchasing manager's compensation shall be as provided by the pay plan approved by the board of county commissioners.

(Ord. No. 86-8, § 7, 3-11-86)

**Sec. 22.08. - Authority.**

- (a) The purchasing manager shall serve as the central purchasing officer of the county.
- (b) Consistent with the provisions of this chapter and subject to supervision by the director of administrative services responsible for the purchasing division, the purchasing manager may prescribe and maintain operational procedures governing the internal functions of the division of purchasing and all using agencies.
- (c) Except as otherwise specifically provided in this chapter, the purchasing manager, or designee, shall, in accordance with regulations promulgated by the board of county commissioners:
  - (1) Purchase or supervise the purchasing of all supplies, services, materials, equipment, and construction needed by the county; and
  - (2) May sell, trade, or otherwise dispose of surplus supplies belonging to the county.
- (d) Subject to regulations adopted by the board of county commissioners and under supervision of the director of administrative services responsible for the purchasing division, the purchasing manager may delegate authority to designee.
- (e) In conjunction with the equal opportunity manager, the purchasing manager shall implement, monitor, and enforce the county's small business enterprise program.

(Ord. No. 86-8, § 8, 3-11-86; Ord. No. 90-9, § 4, 2-20-90; Ord. No. 92-1, § 3, 1-28-92; Ord. No. 94-8, § 2, 5-24-94; Ord. No. 08-18, § 3, 8-12-08)

**Sec. 22.09. - Competitive sealed bidding.**

- (a) *When required.* All contracts for purchases in excess of \$50,000.00 shall be awarded on the basis of sealed competitive bidding except as otherwise provided in this code.
- (b) *Invitation to bid—Generally.* An invitation to bid shall be issued and shall include a purchase description and all contractual terms and conditions applicable to the procurement.
- (c) *Same—Notice.* Adequate public notice of the invitation to bid shall be given a reasonable time prior to the date set forth therein for the opening of bids in accordance with regulations promulgated by the board of county commissioners. Such notice shall involve publication in a newspaper of general circulation a reasonable time prior to bid opening.
- (d) *Opening bids.* Bids shall be opened publicly in the presence of a deputy clerk, a representative from the division of purchasing, and one or more witnesses at the time and place designated in the invitation to bid. The amount of each bid, and such other relevant information as may be specified by regulation, together with the name of each bidder, shall be recorded; the record and each bid shall be open to public inspection.
- (e) *Evaluation of bids.* Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Code. Bids shall be evaluated based on the requirements set forth in the invitation to bid, which may involve criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measured, such as discounts, transportation costs, and total or life cycle costs. No criteria may be used in bid evaluation that are not set forth in the invitation to bid.
- (f) *Bid award.* Bids will be awarded to the lowest responsive and responsible bidder.

- (g) *Tie bids.* In the evaluation of the bids, all factors in the bidding process being equal, both as to dollar amount and ability to perform, priority will be given first to those vendors certifying a drug-free workplace; secondly, to small businesses enterprises as certified by Alachua County.

(Ord. No. 86-8, § 9, 3-11-86; Ord. No. 88-7, § 1, 2-9-88; Ord. No. 90-9, § 5, 2-20-90; Ord. No. 92-1, § 4, 1-28-92; Ord. No. 94-8, § 3, 5-24-94; Ord. No. 96-24, § 1, 9-24-96; Ord. No. 98-9, § 2, 4-14-98; Ord. No. 00-19, §§ 2, 3, 10-24-00; Ord. No. 08-18, § 4, 8-12-08)

#### **Sec. 22.09.5. - Capital improvements.**

- (a) *Bid changes, withdrawals, etc.* Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, shall be permitted in accordance with regulations promulgated by the board of county commissioners. After bid opening, no changes shall be permitted in bid price or other provisions of bids prejudicial to the interest of the county or fair competition. In implementing this requirement, the purchasing manager shall be guided by the standards set forth in section 3-202(6) of the Model Procurement Code. Except as otherwise provided by regulation, all decisions to permit the correction or withdrawal of bids or to cancel awards or contracts based on bid mistakes shall be made with reasonable promptness after bid opening and shall be supported by a written determination made by the purchasing manager and concurred with by the director of administrative services.
- (b) *Award of contract.* The bid report, in the case of bids that would contain a price not to exceed \$25,000.00 shall be presented to the purchasing manager or designee for approval and authorization to make such a purchase. The bid report, in the case of bids that would contain a price greater than \$25,000.00 and up to and including \$50,000.00, shall be presented to the director of administrative services or designee for approval and authorization to make such a purchase. The bid report, in the case of bids that would contain a price in excess of \$50,000.00, shall be placed before the board of county commissioners for final approval. Following final approval by the board of county commissioners, the contract shall be awarded with reasonable promptness to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation to bid.
- (c) *Change in contract price of capital improvements—Generally.* In the case of capital improvement projects where there is a change in the size of the original project and where such change increases the original contract price by 20 percent or more, but in any case not less than \$5,000.00, then it shall be necessary to utilize the bidding procedure described above for such change.
- (d) *Approval of change order and field change order.* The following procedure shall apply for approval of change orders and field change orders for capital improvement projects:
- (1) The county manager may approve change orders and field change orders that, either cumulatively or individually, increase the contract price up to ten percent of the original contract price or \$500,000.00, whichever is less. The board shall approve change orders that, either individually or cumulatively, increase the contract price by more than ten percent of the original contract price or \$500,000.00, whichever is less.
  - (2) The administrative services director or public works director may approve change orders of up to \$100,000.00 each when immediate approval is required to avoid delay or prevent an increase in cost, provided that the cumulative total of these change orders does not exceed ten percent of the original contract price or \$500,000.00, whichever is less.
  - (3) The county manager, administrative services director or public works director may approve all change orders and field change orders that do not increase the cost to the county.
  - (4) The public works director may approve field change orders, provided that the cumulative total of all change orders and field change orders does not exceed ten percent of the original contract price or \$500,000.00, whichever is less.
  - (5) Only the board may approve a change order or field change order that expands the size, function, or intended use of the project from that stated in the contract documents, regardless of cost.

- (6) Contract time may be adjusted in any change order.
- (7) All change orders and field change orders approved by the county manager, administrative services director, or public works director shall be reported to the board as information items to be included in its consent agenda.

(Ord. No. 08-18, § 5, 8-12-08; Ord. No. 13-16, § 2, 9-10-13)

#### **Sec. 22.10. - Informal bids.**

The following procedure shall govern in all purchases up to and including \$50,000.00.

- (1) In the case of purchases of a value not greater than \$2,500.00 the purchasing manager, or designee, shall be authorized to make such purchases on the basis of one telephone quotation.
- (2) In the case of purchases of a value greater than \$2,500.00, but not more than \$10,000.00, the purchasing manager, or designee shall be authorized to make such purchases on the basis of two telephone quotations.
- (3) In the case of purchases of a value greater than \$10,000.00, but not more than \$25,000.00, the purchasing manager, or designee shall be authorized to make such purchases on the basis of three telephone quotations; however, in cases where time permits and written quotations can be obtained, then such purchases shall be made on the basis of three written quotations.
- (4) In the case of purchases of a value greater than \$25,000.00, but not more than \$50,000.00, the purchasing manager, or designee shall be authorized to make such purchases on the basis of three written quotations, whenever possible.
- (5) For purchases of \$25,000.00 or less the purchasing manager, or designee shall have signature authority to make the purchase. Where the value of the purchase is greater than \$25,000.00 and up to and including \$50,000.00, the director of administrative services, or designee responsible for purchasing shall have signature authority to make the purchase.

(Ord. No. 86-8, § 10, 3-11-86; Ord. No. 88-7, § 2, 2-9-88; Ord. No. 90-9, § 6, 2-20-90; Ord. No. 92-1, § 5, 1-28-92; Ord. No. 94-8, § 4, 5-24-94; Ord. No. 96-24, § 2, 9-24-96; Ord. No. 98-9, § 3, 4-14-98; Ord. No. 08-18, § 6, 8-12-08)

#### **Sec. 22.11. - Exemption from bidding process.**

The following types of purchasing activities shall be exempt from any bidding requirements. The purchasing manager may, in the best interest of the county, require a competitive procurement process for any exempt item. Contractual agreements or purchase orders signed in accordance with guidelines established in this code may be required for exempt items.

- (1) All purchases of services from a utility whose rates are determined and controlled by the public service commission of the state or other governmental authority; this includes routine overhead costs such as natural gas, electricity, water, phone and recurring garbage collection;
- (2) All supplies, materials, equipment, or services purchased at a price established by the State of Florida purchasing agency, or at a price equal to or less than the price established by the state agency;
- (3) All supplies, materials, equipment, construction, or services purchased from another unit of government;
- (4) Emergency purchases as provided in section 22.13;
- (5) Sole source purchases as provided in section 22.12;
- (6) All purchases of perishable items such as fresh vegetables, fruit, fish, meat, eggs, and milk;

- (7) All purchases of real property having a value of \$20,000.00 or less; however, each such purchase shall be supported by an opinion of value from the property appraiser's office;
- (8) All purchases of real property having a value greater than \$20,000.00 and up to and including \$500,000.00; however, each such purchase shall be supported by an independent appraisal report prepared by a state certified general real property appraiser and an opinion of value from the property appraiser's office;
- (9) All purchases of real property having a value greater than \$500,000.00; however, each such purchase shall be supported by two independent appraisal reports prepared by different state certified general real property appraisers within eight months of the proposed purchase;
- (10) All purchases of used equipment having a value of \$2,500.00 or less;
- (11) All purchases of used equipment having a value greater than \$2,500.00; however, each such purchase shall be supported by one independent equipment appraisal reports;
- (12) Supplies, materials, or services purchased under an annual or other time contract awarded by the board of county commissioners;
- (13) Services of a professional nature, including engineering, architectural, land surveying, and landscape architectural services which are controlled by F.S. § 287.055, and medical and legal services. Other services of a professional nature whose estimated cost does not exceed \$50,000.00 are also exempt. For landscape architects, plans may only be submitted by persons registered as landscape architects in Florida under F.S. ch. 481, pt. II (F.S. § 481.201 et seq.);
- (14) Direct purchases by the county as part of a construction manager agreement;
- (15) Purchases of supplies, materials, equipment and services under contract with federal, state, or municipal governments or any other governmental agency or political subdivision providing the vendor extends the same terms and conditions of the contract to the county, based on the determination by the purchasing manager and director of administrative services of such purchases off these contracts being in the best interest of the county;
- (16) Administrative hearing officer services;
- (17) Advertisements;
- (18) Airline tickets;
- (19) Ambulance billing;
- (20) Appraisals up to \$5000.00;
- (21) Artistic services and works of art;
- (22) Brokerage and actuarial services;
- (23) Cable TV and internet services;
- (24) Cellular telephone services in accordance with the county's cellular telephone policy;
- (25) College tuition, educational fees and materials;
- (26) Court orders and other court ordered disbursements;
- (27) Court reporter services;
- (28) Expert witness fees and/or services; also includes travel in accordance with Florida statutes;
- (29) Instructors, lecturers, presenters and trainers fees and materials;
- (30) Interpreter services;
- (31) Lobbying services;
- (32) Membership dues;

- (33) Maintenance and service agreements of \$5,000.00 or less;
- (34) Notary public applications;
- (35) Odd-lots and closeout materials;
- (36) On-going payments and fees for maintenance and support of existing software technology which has been purchased in accordance with existing procurement requirements;
- (37) Petty cash purchases in accordance with established county procedures;
- (38) Postage and postage meter rentals and maintenance, does not include mailing or stuffing services;
- (39) Purchases of \$2,500.00 or less;
- (40) Purchases made with a county issued credit card in accordance with the purchasing card program policies and procedures;
- (41) Purchases covered by board approved public purpose statements;
- (42) Purchase of good or services from non-profit organizations (organized under chapter 501c of the IRS code);
- (43) Social services indigent care;
- (44) Software packages for personal computers approved by the county's ITS department;
- (45) Subscriptions, subscription renewals, audio, audio disk, audio tape, video, video disk, video tape, film, books, e-books periodicals or similar materials;
- (46) Test items when it is probable that such purchases will result in formulating future bid specifications for such items;
- (47) Title searches/title insurance;
- (48) Travel expenses in accordance with the county's travel policy and procedures;
- (49) Veterinarian services;

(Ord. No. 86-8, § 11, 3-11-86; Ord. No. 86-17, § 1, 7-15-86; Ord. No. 90-9, § 7, 2-20-90; Ord. No. 90-12, § 1, 4-10-90; Ord. No. 92-1, § 6, 1-28-92; Ord. No. 94-8, § 5, 5-24-94; Ord. No. 95-4, § 1, 4-18-95; Ord. No. 98-9, § 4, 4-14-98; Ord. No. 05-01, § 1, 1-25-01; Ord. No. 08-18, § 7, 8-12-08; Ord. No. 13-16, § 3, 9-10-13)

#### **Sec. 22.12. - Sole source purchases.**

A contract may be awarded for a supply, service, material, equipment, or construction item without competition when the purchasing manager, with the concurrence of the director of administrative services, certifies in writing that there is only one source for the required material, supply, service, equipment, or construction item. When over \$50,000.00, such contract shall not be awarded until the same has been approved by the board of county commissioners. Contracts awarded pursuant to this section with a value in excess of \$50,000.00 shall be executed by the chairman of the board of county commissioners. Approval of a sole source certification by the board of county commissioners shall be considered final.

(Ord. No. 86-8, § 12, 3-11-86; Ord. No. 88-7, § 3, 2-9-88; Ord. No. 90-9, § 8, 2-20-90; Ord. No. 94-8, § 6, 5-24-94; Ord. No. 00-19, § 4, 10-24-00)

#### **Sec. 22.13. - Emergency purchases.**

- (a) During a state of emergency, the requirements of this chapter shall be waived for purchases made pursuant to authority provided by section 27.10 of this Code.



- (b) Notwithstanding any other provision of this chapter, the purchasing manager or a department head may make or authorize others to make emergency purchases when there exists a threat to public health, welfare, or safety under emergency conditions, as specified in regulations developed by the board of county commissioners, which shall be considered to mean those situations where the operation of a division or department would be seriously impaired if immediate action were not taken. The following procedures shall govern:
- (1) The division or department head shall contact the purchasing manager and relate the emergency condition.
  - (2) The purchasing division shall obtain the best possible purchase price for the item or service to be purchased by the quickest possible means. Where feasible, an attempt shall be made to obtain three telephone quotes.
  - (3) The division or department head shall prepare a requisition and forward to the purchasing division. The purchasing division will then transmit a purchase order to the vendor.
  - (4) Where the emergency occurs after normal working hours, on weekends or holidays, and any delay would be detrimental to the county, then the division or department head shall initiate the emergency purchase, and notify the purchasing division by 5:00 p.m. on the next work day for issuance of a confirming purchase order.
  - (5) All emergency purchases shall be accompanied by a written determination of the basis for the emergency which shall be signed by the division or department head and shall be included in the purchase file.
  - (6) In addition to the above requirements any division or department head seeking an emergency purchase shall also have the following approvals, which apply to all contracts and purchase orders, emergency or otherwise:
    - a. In the case of purchases \$25,000.00 or less, either the county manager, or the director of administrative services, or the purchasing manager or their designee;
    - b. In the case of purchases greater than \$25,000.00 up to and including \$50,000.00, the county manager, the director of administrative services or their designee; and
    - c. In the case of all purchases over \$50,000.00, the chairman of the board of county commissioners.

(Ord. No. 86-8, § 13, 3-11-86; Ord. No. 88-7, § 4, 2-9-88; Ord. No. 90-9, § 9, 2-20-90; Ord. No. 94-8, § 7, 5-24-94; Ord. No. 98-9, § 5, 4-14-98; Ord. No. 00-19, § 5, 10-24-00; Ord. No. 08-18, § 8, 8-12-08)

#### **Sec. 22.14. - Small purchases.**

Purchases under this section shall be considered as purchases from any petty cash fund and shall be allowed and governed by the following:

- (1) No purchase of any single item from any petty cash fund shall exceed \$100.00, unless authorized by finance and accounting.
- (2) No single total purchase from any petty cash fund shall exceed \$150.00, except where authorized by the purchasing manager.
- (3) Reimbursement for employee travel expenses from a petty cash fund shall not exceed \$50.00.
- (4) Funds contained within a petty cash fund shall not be expended for the purchase of equipment or the payment of salaries.
- (5) Expenditures from a petty cash fund shall be reimbursed, provided:
  - a. They are supported by itemized, signed vouchers, signed by the division or department head or designee.

- b. They qualify as a proper public purpose.
  - c. They are included within the approved annual budget of the division or department.
- (6) Petty cash funds shall be subject to a full accounting requirement, which report shall be made to a representative of the auditor general's office or to finance and accounting in the course of periodic reviews of accounts and records of the county commission.
  - (7) Petty cash funds established in bank accounts are to be in a name other than the county, since such funds are not county deposits within the meaning of F.S. chs. 280 and 136.

(Ord. No. 86-8, § 14, 3-11-86; Ord. No. 90-9, § 10, 2-20-90; Ord. No. 94-8, § 8, 5-24-94)

**Sec. 22.15. - Prequalification of suppliers and bidders.**

Prospective suppliers or bidders may be prequalified for particular types of materials, supplies, services, construction, and equipment. Solicitation mailing lists of potential contractors shall include, but shall not be limited to, such prequalified suppliers or bidders.

(Ord. No. 86-8, § 15, 3-11-86)

**Sec. 22.15.5. - Denial or revocation of qualification to bid of persons convicted of contract crime.**

The county reserves the right to deny or revoke the qualification to bid to persons convicted of contract crime in accordance with F.S. 287.133;

(Ord. No. 87-15, § 1, 6-30-87; Ord. No. 90-9, § 11, 2-20-90; Ord. No. 92-1, § 7, 1-28-92; Ord. No. 08-18, § 9, 8-12-08)

**Sec. 22.16. - Right of county to inspect place of business of contractors.**

The county may, at reasonable times, inspect the part of the plant or place of business of a contractor or any subcontractor which is related to the performance of any contract awarded, or to be awarded, by the county. The right expressed in the preceding sentence shall be included in all contracts or subcontracts that involve the performance of any work or service involving the county.

(Ord. No. 86-8, § 16, 3-11-86)

**Sec. 22.17. - Right of county to audit records of contractors.**

The county shall be entitled to audit the books and records of a contractor or any subcontractor under any county contract or subcontract. Such books and records shall be maintained by the contractor for a period of three years from the date of final payment under the prime contract and by the subcontractor for a period of three years from the date of final payment under the subcontract, unless a shorter period is otherwise authorized in writing. The requirements of this section shall be included in all contracts or subcontracts where materials, supplies, services, construction, and equipment are being provided to the county.

(Ord. No. 86-8, § 17, 3-11-86)

**Sec. 22.18. - Competitive sealed proposals.**

- (a) *Conditions for use.* When the purchasing manager determines that the use of competitive sealed bidding is either not practicable or not advantageous to the county, a contract for materials, supplies, services, construction, and equipment may be entered into by the use of competitive sealed proposals.

Some of the considerations as to where this method may be utilized include, but are not limited to, the following:

- (1) Whether or not to utilize a fixed-price or cost-type contract under the circumstances.
  - (2) Whether quality, availability, or capability is overriding in relation to price in procurement of services, technical goods, research and development, or testing services.
  - (3) Whether the initial installation needs to be evaluated, together with subsequent maintenance and service capabilities and what priority should be given these requirements in terms of the best interest of the county.
  - (4) Whether the market place will respond more favorably to a solicitation permitting not only a range of alternate proposals, but also permitting evaluation and discussion by the county with responders before making the award.
  - (5) Whether a performance specification is deemed more appropriate than a technical specification, thus taking advantage of vendor expertise and allowing the purchase of standard items available in the market place as opposed to custom-designed.
- (b) *Request for proposals.* Proposals shall be solicited through a request for proposals.
- (c) *Public notice.* Adequate public notice of the request for proposals shall be given in the same manner as provided in section 22.09(c) for competitive sealed bidding.
- (d) *Evaluation factors.* The request for proposals shall state the relative importance of price and other evaluation factors.
- (e) *Discussions with responsible offerors and revisions.* As provided in the request for proposals, and under regulations promulgated by the board of county commissioners, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness 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 revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.
- (f) *Award.* The award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the county, taking into consideration price (where applicable) and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation.

(Ord. No. 86-8, § 18, 3-11-86; Ord. No. 90-9, § 12, 2-20-90; Ord. No. 94-8, § 9, 5-24-94; Ord. No. 08-18, § 10, 8-12-08)

#### **Sec. 22.19. - Cancellation of invitations to bid or requests for proposals.**

An invitation to bid, a request for proposals, or other solicitation may be cancelled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interest of the county in accordance with regulations promulgated by the board of county commissioners. The substance of this section shall be restated in all invitations to bid, requests for proposals, or other solicitations.

(Ord. No. 86-8, § 19, 3-11-86)

#### **Sec. 22.19.5. - Suspension and debarment of nonresponsible bidders and responders.**

Nonresponsible bidders and responders may be suspended or debarred from participating in the county's competitive sealed bidding and competitive sealed proposal processes in accordance with the operating policies and procedures set forth by the purchasing manager.

(Ord. No. 00-19, § 6, 10-24-00)

**Sec. 22.20. - Specifications.**

- (a) The purchasing manager, with advice and assistance from using departments and divisions, shall promulgate regulations governing the preparation, maintenance, and control of specifications for materials, supplies, services, construction, and equipment by the county.
- (b) The purchasing manager shall prepare, issue, revise, maintain, and monitor the use of specifications for materials, supplies, services, construction, and equipment required by the county.
- (c) The purchasing manager shall obtain expert advice and assistance from personnel of the various departments in the development of specifications and may delegate in writing to a department the authority to prepare and utilize its own specifications; provided that such specifications shall be reviewed by the purchasing division prior to implementation.
- (d) All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the county's needs, and shall not be unduly restrictive.
- (e) The requirements of this section regarding the purposes and nonrestrictiveness of specifications shall apply to all specifications, including, but not limited to, those prepared by architects, engineers, designers, draftsmen and others retained or working for and on behalf of the county.

(Ord. No. 86-8, § 20, 3-11-86)

**Sec. 22.21. - Unauthorized purchases and special pay requests.**

- (a) All requests for approval for payment of purchases in excess of \$2,500.00 acquired without prior purchase order approval shall be processed as follows:
  - (1) The department head of the department involved shall submit a detailed memorandum of explanation to the board of county commissioners explaining and justifying the after-the-fact purchase.
  - (2) The department head shall be responsible for scheduling the item on the board of county commissioners meeting agenda and shall be present at the board of county commissioners meeting to provide any explanation or clarification needed.
  - (3) The board of county commissioners may: (i) approve the item for payment; (ii) disapprove the item for payment; or (iii) hold the item for further information.
  - (4) The county manager and the county attorney shall have the sole authority to approve any after-the-fact travel request. If such travel is not approved, it shall be the responsibility of the department head to make restitution to the employee for the expense incurred.
- (b) All requests for payment of purchases \$2,500.00 or less acquired without prior purchase order approval shall be processed as follows:
  - (1) The request shall be reviewed for propriety by the director or assistant director of finance.
  - (2) The request shall be audited for correctness, proper signatures, and receiving report.
  - (3) If the request is appropriate, it shall be paid and the county manager notified in writing of its payment.
- (c) All requests for payments for which a purchase order exists, but the request for payment contains differences in terms, quantities, or price which are not of a material nature; the maximum amount of such differences must be \$2,500.00 or less, and shall be processed as follows:
  - (1) The request shall be reviewed for propriety by the director or assistant director of finance.
  - (2) The request shall be audited for correctness, proper signatures, and receiving report.

- (3) If the request is appropriate, it shall be paid and the administrative services director notified in writing of its payment.

(Ord. No. 86-8, § 21, 3-11-86; Ord. No. 88-7, § 5, 2-9-88; Ord. No. 90-9, § 13, 2-20-90; Ord. No. 94-8, § 10, 5-24-94; Ord. No. 00-19, § 7, 10-24-00; Ord. No. 08-18, § 11, 8-12-08)

#### **Sec. 22.22. - Reserved.**

**Editor's note**— Ord. No. 08-18, § 14, adopted Aug. 12, 2008, repealed former § 22.22 in its entirety which pertained to conflicts with provisions relating to small and minority businesses and derived from Ord. No. 86-8, § 31, adopted March 11, 1986.

#### **Sec. 22.23. - Chapter to be liberally construed.**

This chapter shall be liberally construed in order to effectively carry out the purposes hereof, which are deemed to be in the best interest of the public health, safety, and welfare of the citizens and residents of the county.

(Ord. No. 86-8, § 32, 3-11-86)

#### **Sec. 22.24. - Vendor complaints or grievances.**

Any vendor complaints or grievances shall first be submitted in writing to the purchasing manager. The purchasing manager will investigate the validity of the complaint and present the findings in writing to the vendor. If the vendor is dissatisfied with the purchasing manager's remedies, he may make an appeal to the county manager. The county manager will render a written response to the vendor. All decisions by the county manager shall be considered final, and no further appeal will be allowed.

(Ord. No. 90-9, § 14, 2-20-90)

**Editor's note**— Ord. No. 90-9, § 14, adopted Feb. 20, 1990, amended the Code by the addition of § 22.39. At the discretion of the editors, for purposes of classification, said provisions have been included herein as § 22.24.

#### **Sec. 22.25. - Design-build contracts.**

- (a) *Definitions.* For the purpose of this section, the following terms have the following meanings:

*County* means the Board of County Commissioners of Alachua County, Florida, or its authorized representative.

*Design-build contract* means a single contract with a design-build firm for the design and construction of a public construction project.

*Design-build firm* means a partnership, corporation, or other legal entity which:

- (1) Is certified under F.S. § 489.119 to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; and
- (2) Is certified under F.S. § 471.023 to practice or to offer to practice engineering, certified under F.S. § 481.219 to practice or to offer to practice architecture, or certified under F.S. § 481.319 to practice or to offer to practice landscape architecture.

*Design criteria package* means concise, performance-oriented drawings or specifications of the public construction project. The purpose of the design criteria package is to furnish sufficient information so as to permit design-build firms to prepare a bid or a response to a request for proposal, or to permit the county to enter into a negotiated design-build contract. The design criteria package shall specify such

performance-based criteria for the public construction project, including, but not limited to, the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, and parking requirements, as may be applicable to the project.

*Design criteria professional* means a firm who holds a current certificate of registration under F.S. ch. 481 to practice architecture or landscape architecture, or a firm who holds a current certificate as a registered engineer under F.S. ch. 471 to practice engineering and who is employed by or under contract to the county for the providing of professional architect services, landscape architect services, or engineering services in connection with the preparation of the design criteria package.

(b) *Evaluation team.* For each separate project, a design-build evaluation committee shall be established to review design-build proposals, to determine the best qualified design-build firms for specific projects, to analyze bids for design-build projects, and to recommend to the board of county commissioners the award of design-build contracts. The members of the design-build evaluation team shall be selected by the head of the department or agency for which the project is to be constructed and should include, but not be limited to, the following individuals, or their designees:

- (1) The county manager;
- (2) The director of finance and accounting;
- (3) The county attorney;
- (4) The facilities manager;
- (5) The county engineer; and
- (6) The head of the department or agency for which the project is to be constructed, who shall serve as chairman of the evaluation team.

The board may appoint technical advisors. Such technical advisors shall be subject to the conflict provisions of F.S. ch. 112. Operational and administrative support for the design-build evaluation team shall be provided by the purchasing manager.

(c) *Preparation of design criteria package.* A design criteria package shall be prepared and sealed by a design criteria professional employed by or retained by the county. If the county elects to enter into a professional services contract for the preparation of a design criteria package, then the design criteria professional shall be selected and contracted with in accordance with the requirements of F.S. § 287.055, the Consultants Competitive Negotiations Act. A design criteria professional who has been selected to prepare the design criteria package shall not be eligible to render services under a design-build contract executed pursuant to the design criteria package.

(d) *Rules and procedures.* The purchasing manager shall promulgate rules and procedures for the implementation of this chapter, subject to the approval of the county manager. The purchasing manager shall also recommend necessary revisions to the rules and procedures from time to time, subject to the approval of the county manager. The rules and procedures shall, as a minimum, provide for the following:

- (1) The preparation of a design criteria package for the design and construction of the public construction project.
- (2) The qualification and selection of no fewer than three design-build firms as the most qualified, based on the qualifications, availability, and past work of the firms, including the partners or members thereof.
- (3) The criteria, procedures, and standards for the evaluation of design-build contract proposals or bids, based on price, technical, and design aspects of the public construction project, weighted for the project.
- (4) The solicitation of competitive proposals, pursuant to a design criteria package, from those qualified design-build firms and the evaluation of the responses or bids submitted by those firms

based on the evaluation criteria and procedures established prior to the solicitation of competitive proposals.

- (5) Consultation with the employed or retained design criteria professional concerning the evaluation of the responses or bids submitted by the design-build firms, the supervision or approval by the county of the detailed working drawing of the project; and for evaluation of the compliance of the project construction with the design criteria package by the design criteria professional.
- (6) In the case of public emergencies, for the board of county commissioners to declare an emergency and authorize negotiations with the best qualified design-build firm available at that time. The failure of at least three qualified design-build firms to submit bids shall constitute a public emergency.

(Ord. No. 90-9, § 15, 2-20-90)

**Editor's note**— Ord. No. 90-9, § 15, adopted Feb. 20, 1990, amended the Code by the addition of § 22.40. At the discretion of the editors, for purposes of classification, said provisions have been included herein as § 22.25.

## **ARTICLE II. - SMALL BUSINESS ENTERPRISE PROGRAM**

### **Sec. 22.30. - Purpose and intent of article.**

The lack of small business participation in the national economy is reflected in state and local contracting for the purchasing of commodities, services, and capital improvement contracts. Therefore, the purpose and intent of this article is to provide the maximum opportunity for increased participation of small businesses in the county's procurement system.

(Ord. No. 86-8, § 22, 3-11-86; Ord. No. 94-8, § 11, 5-24-94; Ord. No. 06-28, § 1, 9-12-06)

### **Sec. 22.31. - Certification.**

For the purposes of this chapter, the following certification requirements shall govern:

- (1) The equal opportunity division (EO division) shall certify small business enterprises (SBE) for use by the county in its purchasing and procurement process. The EO division will maintain an up-to-date electronic list of SBE.
  - a. To become certified, a small business must be currently performing a useful business function, located in the SBE zone, have 25 or fewer permanent, full-time employees and have a net worth not exceeding \$1,000,000.
  - b. A "useful business function" is one which results in the provision of materials, supplies, equipment, or services to customers. For this reason, merely acting as a financial conduit to transfer funds to a non-SBE will not constitute a useful business function, unless it is done as a part of normal industry practices.
  - c. The county manager or designee will approve a list of neighboring counties to comprise the SBE zone.
  - d. Certifications for SBE are valid for one year from certification date.
- (2) The purchasing division shall secure a list of SBE from the EO division for use in the bid solicitation process, and encourage the use of this list by all departments in their procurement activities.
- (3) The county's purchasing and EO divisions shall continually endeavor to identify small businesses which are eligible for certification in all areas of county procurement.

- (4) Any change of ownership or circumstances that may affect certification eligibility of an SBE must be reported to the EO division, within 14 days of the change taking place. In the event of a change, the current owner is responsible for fulfilling this reporting requirement prior to seeking business with the county.

(Ord. No. 86-8, § 23, 3-11-86; Ord. No. 06-28, § 2, 9-12-06; Ord. No. 08-18, § 14, 8-12-08)

**Sec. 22.32. - False representation.**

- (a) It is unlawful for any individual or entity to knowingly submit false information in order to qualify for SBE certification.
- (b) Any contractor that falsely represents to the county that it is an SBE, or knowingly submits false information or represents that it will use the services or commodities of an SBE and subsequently does not, shall be deemed in breach of contract. Upon a determination that a breach has occurred, all payments under the contract or any other arrangement shall be immediately suspended. The contractor may show that it attempted in good faith to comply with the terms of the contract but was unable to comply. If the county determines that the contractor did not act in good faith, all amounts paid to the contractor under the county contract or agreement intended for expenditure with the SBE shall be forfeited and recoverable by the county. In addition, the contract or agreement may be rescinded and the department or division may return all unused goods received and recover all amounts paid under the contract.
- (c) Any contractor or affiliate determined to have falsely represented that it or a subcontractor is an SBE, or determined to have not acted in good faith to fulfill the terms of a contract calling for it to use the services or commodities of an SBE, will be considered under the county's suspension and debarment policy.

(Ord. No. 86-8, § 24, 3-11-86; Ord. No. 06-28, § 3, 9-12-06)

**Sec. 22.33. - Acquisition of professional services.**

When procuring professional services, the county shall endeavor to include SBE. The county's administrative procedures for the formal evaluation of professional services shall include but not be limited to, capabilities, adequacy of personnel, past record, experience, SBE status, and such other relevant factors.

(Ord. No. 86-8, § 25, 3-11-86; Ord. No. 06-28, § 4, 9-12-06; Ord. No. 08-18, § 15, 8-12-08)

**State Law reference**— Florida Small and Minority Business Assistance Act of 1985, F.S. § 288.702 et seq.

**Sec. 22.34. - Reservation of contracts.**

- (a) The county may reserve contracts to be awarded only to SBE. The county shall review all of its needs and requirements in each fiscal year, and shall determine which contracts may be reserved for bidding only by SBE. This reservation may only be used when it is determined, before dissemination of the request for proposals or invitation to bid, that there are capable, qualified, SBE available within the SBE zone who are interested and willing to bid on these contracts in order to provide for effective competition. Once a decision has been made to reserve a contract the county shall estimate what it expects the dollar amount of the contract to be, based on the nature of the contract and its value under prevailing market conditions. If all the bids received are over this estimate, the county may reject the bids and open the bidding to all vendors and contractors. Before contracts can be reserved for bidding only by SBE, the county manager, in conjunction with the equal opportunity manager and purchasing manager, must determine that such a reservation is in the best interest of the county.



- (b) The county may reserve any construction contract for competitive bidding only among contractors who agree to utilize SBE as subcontractors or subvendors. The percentage of funds which must be expended with SBE subcontractors and subvendors shall be determined by the county before the contract is reserved. In order to bid on a construction contract so reserved, the contractor shall identify those SBE which will be utilized as subcontractors or subvendors. Once a decision has been made to reserve a contract, but before bids are requested, the county shall estimate what it expects the amount of the contract to be, based on the nature of the contract involved and its value under prevailing market conditions. If all the bids received are over this estimate, the county may reject the bids and open the bidding to all vendors and contractors. It is the express responsibility of the contractor to verify that all SBE which will be utilized as subcontractors or subvendors are currently certified by the county.

(Ord. No. 86-8, § 26, 3-11-86; Ord. No. 90-9, § 16, 2-20-90; Ord. No. 94-8, § 12, 5-24-94; Ord. No. 06-28, § 5, 9-12-06)

**Sec. 22.35. - SBE preference.**

- (a) The county will award a five-percent bid price preference, not to exceed \$50,000.00 on any single bid, to any SBE that submits a bid to the county.
- (b) The county will award a three-percent bid price preference, not to exceed \$50,000.00 on any single bid, to any contractor that agrees to use SBE for at least 15 percent of the dollar value of the bid.
- (c) The monetary value of the bid price preference given to a certified SBE in any particular procurement shall not exceed \$50,000.00.
- (d) If the adjusted bid price of the SBE vendor is equal to or lower than the original lowest responsive bid, the SBE will be awarded the contract.
- (e) The county will award a preference in evaluation points to SBE or contractors that meet the SBE participation goal in its RFP response.
- (f) The EO and purchasing divisions will formulate and present for adoption any rules necessary to implement the SBE preference in order to guide the county toward having a certain percentage of its expenditures for materials, supplies, equipment, services or construction placed with SBE.
- (g) SBE preference does not apply to contracts that are reserved in accordance with section 22.34 above. SBE bid preferences will not be combined.

(Ord. No. 86-8, § 27, 3-11-86; Ord. No. 90-9, § 16, 2-20-90; Ord. No. 06-28, § 6, 9-12-06)

**Sec. 22.36. - Responsiveness of bids—Good faith efforts.**

- (a) Every competitive bid or proposal, if not submitted by a SBE, must demonstrate good faith efforts to utilize SBE as subcontractors or subvendors.
- (b) The county may consider written documentation submitted with the bid package or proposal in determining whether a contractor has made one or more good faith efforts including, but not limited to:
  - (1) Whether the contractor attended any presolicitation or prebid meeting that was scheduled by the county to inform SBE of contracting and subcontracting opportunities;
  - (2) Whether the contractor advertised in a general circulation, trade association, and/or SBE focus media concerning the subcontracting opportunities;
  - (3) Whether the contractor provided written notice to a reasonable number of SBE that their interest in the contract was being solicited in sufficient time to allow the SBE to participate effectively;
  - (4) Whether the contractor followed up initial solicitations of interest by contacting SBE to determine whether a SBE is interested;

- (5) Whether the contractor selected portions of the work to be performed by SBE in order to increase the likelihood of meeting the SBE goals of the county, including, where possible, breaking down contracts into economically feasible units to facilitate SBE participation;
  - (6) Whether the contractor negotiated in good faith with interested SBE, not rejecting SBE as unqualified without sound reasons based on investigation of their capabilities;
  - (7) Whether the contractor made efforts to assist interested SBE in obtaining bonding, lines of credit, or insurance required by the county and/or the contractor; and
  - (8) Whether the contractor effectively used the services of available small business community organizations; small business contractors' groups; local, state, and federal business assistance offices; and other organizations that provide assistance in the recruitment and placement of small businesses.
- (c) The county may waive the good faith requirement for procurement where sub-contracting is not applicable or in order to ensure adequate competition.

(Ord. No. 86-8, § 28, 3-11-86; Ord. No. 90-9, § 16, 2-20-90; Ord. No. 06-28, § 7, 9-12-06)

#### **Sec. 22.37. - Assistance program.**

The SBE assistance program is established within the department of administrative services under the EO division and will report all recommendations and activities associated with the SBE program directly to the county manager. This program will assist, encourage, and serve as a liaison for a SBE to become a supplier of materials, supplies, equipment, or services to the county government. In addition, the EO and purchasing divisions shall:

- (1) Review and comment on any changes to a county policy, rule or regulation relating to SBE procurement;
- (2) Receive, compile and disseminate information on procurement opportunities, availability of SBE and available technical assistance;
- (3) Refer all information on any business suspected of misrepresenting its SBE status to the county manager's office;
- (4) Maintain a central list of certified SBE, provide it upon request, and maintain a process for timely and independent verification of the status of businesses currently certified and seeking certification from the County as an SBE; and
- (5) Host, not less than annually, a workshop to assist small businesses located in the SBE zone to obtain SBE certification and to do business with the county.
- (6) Present a written report to the board of county commissioners quarterly on the SBE Program.

(Ord. No. 86-8, § 29, 3-11-86; Ord. No. 90-9, § 16, 2-20-90; Ord. No. 94-8, § 13, 5-24-94; Ord. No. 06-28, § 8, 9-12-06)

#### **Sec. 22.38. - Implementation of policy; monitoring of compliance.**

In order to systematically augment a viable SBE component within the county's purchasing and procurement system, the EO manager and the purchasing manager shall be delegated the following powers and duties to fulfill their responsibilities and functions:

- (1) Establish and compile a system of coordinated, uniform procurement policies, procedures, and practices to implement the SBE program.
- (2) Establish and strongly encourage the expenditure of 15 percent of the total competitive procurement monies with SBE for materials, supplies, equipment, services and construction.

- (3) Formulate and establish a system to record and measure the use of SBE in county contracting. This system shall maintain information and statistics on SBE participation, in order to analyze the progress of the SBE program.
- (4) The purchasing manager shall annually report the contractual or procurement disbursements made to SBE to the county manager. This information shall be made available to the board of county commissioners as well as the public at large. The purchasing division shall be responsible for the accuracy of information provided.

(Ord. No. 86-8, § 30, 3-11-86; Ord. No. 90-9, § 16, 2-20-90; Ord. No. 06-28, § 9, 9-12-06)

## **ARTICLE III. - ALACHUA COUNTY GOVERNMENT MINIMUM WAGE**

### **Sec. 22.45. - Definitions.**

*County* means the Alachua County Board of County Commission, its departments and divisions.

*Cooperative purchasing agreement* means services purchased under the terms and conditions of another local, state, federal, or other public agency's bid or cooperative bids put together by agencies.

*Covered employee* is a person paid by a contractor or subcontractor directly involved in providing covered services pursuant to the contractor or subcontractor's contract with the county, during the period of time he or she is providing the services. Covered employee does not include an inmate, a student enrolled in a degree program who is employed under the auspices of the educational institution, a person who is employed through an ongoing written job training program, or a worker with a disability as defined in 29 CFR 525.3.

*Covered services:*

- (a) Are defined as the following services purchased by the county under a single contract that is over the current bid threshold as defined in section 22.09(a) of this Code, and are any of the following:
  - (1) Agriculture and forestry.
  - (2) Clerical or other non-supervisory office work, including secretarial, typing, data entry, filing, transcription, specialized billing, sorting or completing forms, and word, data, and information processing.
  - (3) Construction.
  - (4) Food preparation and distribution.
  - (5) Janitorial and custodial.
  - (6) Landscaping and grounds maintenance.
  - (7) Facilities maintenance.
  - (8) Refuse removal and recycling.
  - (9) Printing and reproduction.
  - (10) Security.
- (b) However, covered services are excluded from the article when:
  - (1) The funds used to pay for the services do not allow for increased cost due to local procurement requirements;
  - (2) Non-profit organizations established under a 501(c) offering services to the community and citizens; or
  - (3) Exempt from bidding under section 22.11 (2), (3), (4), (5), (15) of this Code.

*Health benefits* are any plan, fund, or program established or maintained by the service contractor or subcontractor for the purpose of providing for its participants or beneficiaries, through the purchase of insurance or otherwise, medical, surgical, or hospital care or benefits.

*Health benefit wage* is equivalent to the wage of the lowest paid classified employee of the county.

*Non-health benefit wage* is the health benefit wage plus the average premium under the Affordable Care Act (Gold Plan) for Alachua County based on a non-smoking individual 40 years of age with allowed subsidies.

*Inmate* is a person who is providing services while under the supervision of state or county probation or corrections.

*Payroll records* are the name, address, employee classification, rate of pay, daily and weekly number of hours worked, deductions made and actual wages paid and, if applicable, those records necessary to determine whether health benefits, as described herein, are being provided or offered to covered employees.

*Service contractor or subcontractor* is an individual, business entity, corporation, partnership, limited liability company, joint venture, or similar business, providing a covered service to the county, but not including employees of any subsidiaries, affiliates or parent businesses. The calculation of number of employees is made as of the date of execution of the contract for covered services.

(Ord. No. 2016-05, § 1, 4-12-16)

#### **Sec. 22.46. - Alachua County Government Minimum Wage.**

- (a) A contractor or subcontractor of the county providing a covered service to the county shall pay to all of its covered employees an Alachua County Government Minimum Wage of either the health benefit wage and provide health benefits or pay a non-health benefit wage.
- (b) If the health benefit program of a contractor or subcontractor requires an eligibility period of employment for a new employee to be eligible for health benefits, then such contractor or subcontractor, in order to comply, may pay the non-health benefit wage until such time as the new employee is offered or provided health benefits.
- (c) The health benefit wage and non-health benefit wage shall be recalculated on October 1st of each year.
- (d) The contractor shall certify to the county that it will pay each of its covered employees the Alachua County Government Minimum Wage, and ensure that it will require that of its subcontractors. Upon execution, the certification shall become an obligation under the contract. The certification must also include, at a minimum, the following:
  - (1) The name, address, and phone number of the service contractor or subcontractor and a local contact person;
  - (2) The specific project for which the service contract is sought;
  - (3) An agreement to comply with the terms of this article as part of its contractual obligations.
- (e) A copy of the Alachua County Government Minimum Wage rate shall be posted by the contractor in a prominent place where it can easily be seen by the covered employees and shall be supplied to any covered employee upon request. In addition, it is the responsibility of the contractor to make any person submitting a bid for a subcontract providing covered services aware of the requirements of this article.

(Ord. No. 2016-05, § 1, 4-12-16)

**Sec. 22.47. - Application and enforcement.**

- (a) The Alachua County Government Minimum Wage shall be a requirement in all solicitations of covered services.
- (b) If such solicitation results in no responsive bids, the purchasing manager may solicit the covered services after notification is provided to the county manager and the board a second time without requiring compliance with the Alachua County Government Minimum Wage requirement.
- (c) The requirements of this article shall apply to contracts for covered services that are amended or solicited after the effective date of this ordinance. However, regarding amendments, contracts that have been awarded via a request for proposals shall be adjusted after negotiation, and contracts that have been awarded by bid will not be adjusted until after they are rebid.
- (d) The county shall include in its contracts for covered services the requirements that:
  - (1) The contractor comply with the provisions of the Alachua County Government Minimum Wage requirements, and that failure to do so shall be deemed a breach of contract and shall authorize the county to withhold payment of funds in accordance with Chapter 218, FS.
  - (2) The contractor will include necessary provisions in each of its subcontracts for covered services to ensure compliance with this article. However, the county shall not be deemed a necessary or indispensable party in any litigation between the contractor and a subcontractor.
- (e) A person who claims that he or she is a covered employee and that the employer is not complying with the requirements of this article may file a written complaint with the Alachua County Equal Opportunity Office. A covered employer may be required to produce payroll and other records deemed relevant to the investigation of a complaint. This remedy is not exclusive or in any way meant to prohibit any relief afforded by a court of law, or otherwise prohibit the county from terminating a contract or taking other action as allowed by law.
- (f) A contractor or subcontractor shall not discharge, reduce the compensation of, or otherwise discriminate against any covered employee for filing a written complaint or otherwise asserting his or her rights under this article, participating in any of its proceedings or using any available remedies to enforce his or her rights under this article. A person who claims that he or she has been a victim of a violation of this subsection may file a written complaint with the Alachua County Equal Opportunity Office

(Ord. No. 2016-05, § 1, 4-12-16)