

BOARD OF COUNTY COMMISSIONERS

DATE: February 11, 2014

AGENDA ITEM NO. 4a.-c.

Consent Agenda ☐

Regular Agenda ☐

Public Hearing ☒

County Administrator's Signature

Subject:

Ordinance Amending Sections 2-62, 2-161, 2-162, 2-176, 2-177 and 2-189 of the Pinellas County Code Relating to Purchasing; Elimination of Board of County Commissioner Approval Process for Ranking Vendors in Competitive Procurements.

Department:

Office of County Attorney / Purchasing

Staff Member Responsible:

Dennis Long / Joe Lauro

Recommended Action:

I RECOMMEND THE BOARD OF COUNTY COMMISSIONERS (BOARD): A) CONDUCT A PUBLIC HEARING AND APPROVE ORDINANCES AMENDING SECTIONS 2-62, 2-161, 2-162, 2-176, 2-177 AND 2-189 OF THE PINELLAS COUNTY CODE RELATING TO PURCHASING; AND B) APPROVE ELIMINATING THE BOARD APPROVAL OF VENDOR RANKINGS FOR COMPETITIVE PROCUREMENTS.

Summary Explanation/Background:

On January 28, 2014, the Board approved authority to advertise for a public hearing the attached proposed ordinances amending sections 2-62, 2-161, 2-162, 2-176, 2-177 and 2-189 of the Pinellas County Code relating to the purchasing and contracting process. The recommendation to amend the County Code in an effort to improve County contracting processes is a result of the work of the Contract Administration Review Team (CART), which was established and started meeting in December 2012.

The goals of CART include improving efficiencies in the contract administration process while maintaining internal controls and accountability for both staff and parties that contract with the County. The deliverables supporting this effort include establishing enterprise contract administration guiding principles; revising ordinances, policies and procedures to increase efficiencies; creating a contract administration manual; and establishing a staff training program.

On October 29, 2013, Dennis Long and Joe Lauro provided recommendations to the Board on behalf of CART pertaining to proposed improvements to the purchasing and contract administration process. Most of the recommendations were positively received; some recommendations were modified based upon Board input and comment. The Board subsequently agreed to advertise for public hearing on January 28, 2014, the following recommended modifications to County Code to effect efficiencies in the contracting process:

1. Section 2-62 – (Approval Authority) – Enables the County Administrator to approve change orders not exceeding 10% of the amount awarded by the Board or \$250,000, whichever is less. This modification will greatly expedite contract closeouts and provide improved efficiency to many contract change orders that now require Board approval. In addition, other sub-sections of Section 2-62 have been modified to update language reflecting current business process. While Section 2-62(a)(6) has been amended to eliminate the requirement that all contracts/instruments be filed with the Clerk in anticipation of the establishment of an electronic contracts repository and automated agenda process, no changes will be made to the current process related to filings with the Clerk's office until those systems are implemented.

2. Section 2-161 – (Bidder Suspension and Debarment) – This entire section of Code has been substantially revised to allow for suspensions of vendors by the Purchasing Director so that non-performing firms may be penalized for poor performance in a more expedient and effective manner. Suspensions shall be based on documented contracting issues such as breach of contract, vendor misrepresentation, criminal offense, fraud and conviction of a public entity crime.
3. Section 2-162 – (Protest Procedure) – Clarifies sections of the current protest policy which were open to interpretation such as the window of opportunity for protest and which portions of competitive processes that can be protested.
4. Section 2-176 – (Competitive Sealed Bidding) – Clarifies the authority of the County Administrator to reject all bids or portions of bids.
5. Section 2-177 – (Competitive Sealed Proposals) – Clarifies the authority of the County Administrator to reject all proposals or portions of proposals.
6. Section 2-189 – (Lobbying) – Adds “advisory board members” to lobbying code and further updates language in this section of code.

While not required by the Purchasing Code, the Board has historically approved the rankings of firms, authorized staff to negotiate a contract and return to the Board for approval of the negotiated contract as part of the Request for Proposal (RFP) process. This process conservatively adds four to six weeks to the contracting process. CART recommends the elimination of this process for all contracts (including Consultant Competitive Negotiation Act) except for: a) operating agreements for the Waste to Energy Plant; b) Emergency Medical Services Transport; c) other contracts as necessary or required. This improvement to the contracting process will greatly expedite competitive RFP's while also maintaining essential internal controls to ensure the Board is considering the approval of contracts with firms that are qualified and responsible.

In addition to the revisions to County Code and vendor ranking recommendation, CART also recommends revising several long-standing procedures which are not codified, but have a direct impact to County Contracting processes. These procedural modifications set out in 1 and 2 below do not require action by the Board; however, this information has been provided to the Board to inform of positive internal changes which will ultimately provide goods and services more efficiently to the residents of Pinellas County:

1. Contract Review – CART updated the contract review process identifying contracts and amendments that are no longer subject to the contract review process. This modification of procedure eliminates steps in the process, eliminates redundant reviews and greatly simplifies the entire contracting process. In unison, another County team is working to develop a scope of work to purchase agenda automation software which will include automated contract review. The combination of automation and revision to the contract review procedure will affect substantial time savings in the contracting process as compared to current procedure.
2. Master Contracts – CART, in conjunction with the Office of the County Attorney, has drafted master bid/RFP boilerplates and agreements which contain standard terms and conditions eliminating redundancy and inconsistency from current agreement and bid/RFP boiler plates. This improvement will greatly reduce negotiation time, provides for a more concise contracting process and more importantly is the “driver” behind the recommendation to revise the contract review process. With consistent agreement bid/RFP boilerplates, the need for contract review has been greatly reduced and in some instances, is no longer necessary.

The recommendations reflected above are an accumulation of many hours of dedicated work by the cross organizational CART team. This is the beginning of process improvement by CART, a team which is currently active to provide future recommendations and improvements to the County contracting process.



Fiscal Impact/Cost/Revenue Summary:

N/A

Exhibits/Attachments Attached:

Proposed Ordinances (Blackline and Final)
List of CART Members
Memo Regarding Firm Ranking

TO: The Honorable Chairman and Members of the
Board of County Commissioners

FROM: Joe Lauro, Purchasing Director 
Dennis Long, Chief Assistant County Attorney 

THROUGH: Robert LaSala, County Administrator

DISTRIBUTION: Mark Woodard, Assistant County Administrator
Jim Bennett, County Attorney

DATE: October 29, 2013

SUBJECT: Board of County Commissioner Approval of Firm Ranking Relating to
Competitive Request for Proposal Processes

Historically, the Board of County Commissioners (Board) has approved the ranking of firms, and then authorized staff to negotiate a final contract requiring staff to return to the Board for final contract approval, as part of the competitive request for proposal process. Essentially, this practice requires two "visits" to the Board, one for firm ranking and one for final contract approval, with the attendant staff effort to process two different agenda items. This process extends the competitive RFP process. Each visit for Board consideration adds at a minimum three (3) weeks to an already protracted procurement process. County Code Section 2-177 which governs the competitive sealed proposals does not require Board ranking approval prior to negotiating a contract and seeking final Board contract award/approval. This procedure was initiated many years ago and has become an accepted step in the procurement process. When not performed, questions are raised as to why the firm ranking was not previously approved by the Board.

There appears to be very little value added by the BCC approved ranking process in most competitive procurements. Further, there is a disconnect between the ranking process and the procurement lobbying prohibition, in that firms that appear before the Board or senior management to argue that a different ranking should be approved would probably violate the anti-lobbying provisions. Finally, the protest process is always available to contest the ranking if a vendor is so inclined.

Therefore, we recommend changing this practice by having the staff ranking firms constitute the final ranking in accordance with the current ranking process, negotiate a final contract, then submit the final contract for Board approval, subject to the exceptions described herein. This approach eliminates the two step process and will expedite competitive RFP processes. Recommended exceptions to this approach include contracts related to the operation of the Waste to Energy plant and EMS Transport Services because of the funds involved and the community impacts.

We also recommend applying the same methodology to the Consultant Competitive Negotiation Act (CCNA) procurement processes. Currently, our Code, Sec 2-178(k), states that the Board shall approve the ranking of all firms. Therefore, providing this would not be inconsistent with state statute, modify the code to provide for the same ranking and approval process as competitive RFP's is the recommended approach.