

ORDINANCE NO. 2008- 26 -CM
AMENDING TIPPECANOE COUNTY CODE
REPEALING CHAPTER 34, SECTIONS .01 THROUGH .19
AND ADDING NEW CHAPTER 34 SECTIONS .01 THROUGH .19
PUBLIC PURCHASING RULES AND POLICIES

WHEREAS, Indiana Code 5-22 (the “Act”) applies to every expenditure of public funds by a governmental body; and

WHEREAS, Tippecanoe County (“the County”) is a governmental body under the Act; and

WHEREAS, the Board of Commissioners of Tippecanoe County have adopted certain purchasing rules and policies for the County pursuant to Ordinance 98-33-CM, Ordinance 98-39-CM and Ordinance 99-06-CM, now codified as Tippecanoe County Code, Chapter 34, Sections .01 through.13; (the “Purchasing Rules and Policies”); and

WHEREAS, the Board of Commissioners has determined that the Purchasing Rules and Policies should be amended to conform with changes in current law and practice.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Tippecanoe County, Indiana, that the Tippecanoe County Code be amended to repeal current Chapter 34, Sections .01 Through .13 and add thereto a new Chapter 34 Sections 34.01 through 34.19 entitled “Public Purchasing Rules and Policies”, and reading as follows:

PURCHASING RULES AND

POLICIES

§ 34.01 PURCHASING AGENCY.

(A) The Board of Commissioners of Tippecanoe County hereby determines that it is the purchasing agency for Tippecanoe County, and for the Tippecanoe County Drainage Board.

(B) The Board of Commissioners hereby designates itself and its officers and members to serve as purchasing agents for the county.

(C) The Board of Commissioners designates the following persons to serve as purchasing agents for the county:

- (1) Each elected county official;
- (2) Each circuit, superior and county court judge;
- (3) The Executive Director of the County Highway Department; and

- (4) The Tippecanoe County Sheriff
- (5) Such county employees as are designated from time to time in writing.

§ 34.02 DEFINITIONS

The definitions contained in Indiana Code 5-22-2 are incorporated herein and made a part hereof by reference, including the following:

“Purchase” includes buy, procure, rent, lease, or otherwise acquire. The term includes the following activities:

- (a) Description of requirements.
- (b) Solicitation or selection of sources.
- (c) Preparation and award of contract.
- (d) All phases of contract administration.
- (e) All functions that pertain to purchasing.

“Supplies” means any property. The term includes equipment, goods, and materials. The term does not include an interest in real property.

"Services" means the furnishing of labor, time, or effort by a person, not involving the delivery of specific supplies other than printed documents or other items that are merely incidental to the required performance.

§ 34.03 RESTRICTIONS ON AUTHORITY OF PURCHASING AGENTS.

(A) Any purchase of supplies or services with an estimated cost of \$50,000 or more must be approved by the Board of Commissioners.

(B) Any purchasing agent may make purchases of supplies and services with an estimated cost of less than \$50,000 without the prior approval of the Board of Commissioners, provided however, that those purchases must otherwise comply with these rules and applicable state law, and provided further that no department may make a purchase which, together with other expenditures, exceeds the budget for that department.

(C) The cost of a single purchase may not be divided into two (2) or more purchases for the purpose of avoiding this restriction on the purchasing agent’s authority.

§ 34.04 SERVICES.

A purchasing agent may purchase services without inviting or receiving competitive bids or requests for proposals if the purchasing agent and Board of Commissioners make a written determination that the use of competitive sealed bidding or request for proposals is either not practicable or not advantageous to the county. In that event, the purchasing agent may purchase services using any

procedure the Board of Commissioners considers appropriate.

§ 34.05 SMALL PURCHASES.

(A) Purchasing agents may purchase supplies with an estimated cost of less than \$50,000 on the open market without inviting or receiving quotes.

(B) County purchasing agents are authorized to make small purchases by means of credit cards.

(C) In consideration of the county's purchasing policy defining small purchases as those costing less than \$50,000, the maximum credit limit authorized for any such credit card shall be \$50,000.

§ 34.06 SPECIFICATIONS

(A) A purchasing agent shall prepare, issue, revise, maintain, and monitor the use of specifications as required by IC 5-22-5-2.

(B) A specification must promote overall economy for the purposes intended and encourage competition in satisfying the County's needs.

(C) Each purchasing agent shall provide the Board of Commissioners with a copy of the specifications prepared for each purchase of supplies or services.

(D) The Board of Commissioners shall maintain an indexed file of specifications prepared by its purchasing agents in accordance with IC 5-22-5-4.

§ 34.07 REQUEST FOR SPECIFICATIONS

If a purchasing agent determines that development of specifications by the purchasing agent for a purchase of supplies or services is not feasible, the purchasing agent may issue a request for specifications in accordance with IC 5-22-5-5.

§ 34.08 INVITATIONS FOR BIDS

Each purchasing agent shall issue an invitation for bids in accordance with IC 5-22-7 for the purchase of all supplies unless another purchasing method is required or authorized by this ordinance.

§ 34.09 REQUEST FOR PROPOSALS

(A) Subject to the restrictions on authority of purchasing agents set forth in this ordinance, a purchasing agent may award a contract using the procedure for solicitation of proposals set forth in IC 5-22-9.

(B) Each purchasing agent shall prepare and file with the Tippecanoe County Auditor, a register of proposals in accordance with IC 5-22-9-4 whenever a request for proposals is issued by the purchasing agent.

§ 34.10 PUBLICATION OF NOTICES.

(A) *Invitation for bids.* All notices of invitation for bids shall be published in accordance with I.C. 5-3-1 in the *Lafayette Journal & Courier* and the *Lafayette Leader*. The purchasing agent shall schedule the publication of notice to provide a reasonable amount of time for preparation and submission of bids. The notice will be published two times, at least one week apart. The second publication must occur at least ten days prior to the date the bids will be opened.

(B) *Request for proposals.* All notices of request for proposals shall be published in accordance with I.C. 5-3-1 in the *Lafayette Journal & Courier* and the *Lafayette Leader*. The purchasing agent shall schedule the publication of notice to provide a reasonable amount of time for preparation and submission of proposals. The notice will be published two times, at least one week apart. The second publication must occur at least seven days prior to the date the proposals will be opened.

(C) *Request for specifications.* All notices of request for specifications shall be published in accordance with I.C. 5-3-1 in the *Lafayette Journal & Courier* and the *Lafayette Leader*. The purchasing agent shall schedule the publication of notice to provide a reasonable amount of time for preparation and submission of proposals. The notice will be published two times, at least one week apart. The second publication must occur at least seven days prior to the date the proposals will be opened.

(D) *Electronic notices.* Whenever a notice or other material, including specifications, an invitation for bids, request for proposals or request for specifications, is sent by mail, the purchasing agent may also send the notice or other material by electronic means, provided that the transmission of the information is at least as efficient as mailing the information.
(Ord. 98-33-CM, passed 6-15-98)

§ 34.11 RECEIVING OFFERS.

(A) *Opening of offers.* Bids received in response to an invitation for bids must be opened publicly in the presence of at least one or more witnesses at the time and place designated in the invitation for bids. Proposals received in response to a request for proposals must be opened so as to avoid disclosure of the contents to competing offerors during the process of negotiation. Proposals received in response to a request for specifications may be opened as specified in the request for specifications.

(B) *Correction and withdrawal of bids.* An offeror may correct inadvertent errors in a bid up to the time at which bids will be opened by supplementing the erroneous bid and submitting a revised bid. A bidder may not supplement an inadvertently erroneous bid after the time at which the bids were opened.

(C) *Cancellation of solicitation.* When the purchasing agent makes a written determination that it is in the county's best interests, the purchasing agent may cancel a solicitation or reject all offers, provided that the solicitation included information concerning the procedure for cancellation.
(Ord. 98-33-CM, passed 6-15-98)

§ 34.12 OFFERS, BIDS, PROPOSALS.

(A) *Protection of offers prior to opening.* The purchasing agent shall retain all offers received in a secure location prior to the date and time at which offers will be opened in order to prevent disclosure of the contents prior to the opening of the offers.

(B) *Unobstructed evaluation of offers.* After offers have been opened, the purchasing agent shall be responsible for maintaining the offers in such a manner as to permit evaluation of the offers by the persons responsible for evaluating the offers.

(C) *Public records status of bids.* Bids submitted in response to an invitation for bids must be available for public inspection and copying after the time of the bid opening.

(D) *Register of proposals.* The purchasing agent shall prepare a register of proposals for each request for proposals issued which shall contain information concerning the proposals available for public inspection and copying. Proposals may not be disclosed.
(Ord. 98-33-CM, passed 6-15-98)

§ 34.13 DISCUSSIONS WITH OFFERORS RESPONDING TO A REQUEST FOR PROPOSALS.

The purchasing agent may conduct discussions with, and best and final offers may be obtained from responsible offerors who submit proposals determined to be reasonably susceptible of being selected for a contract award.

§ 34.14 DELAY OF OPENING OF OFFERS.

When the Board of Commissioners makes a written determination that it is in the county's best interests, offers may be opened after the time stated in the solicitation. The date, time and place of the rescheduled opening must be announced at the time and place of the originally scheduled opening.

§ 34.15 EVIDENCE OF FINANCIAL RESPONSIBILITY.

(A) *Purchases less than \$50,000.* The purchasing agent may not require evidence of financial responsibility when the estimated cost of a purchase is less than \$50,000.

(B) *Purchases between \$50,000 and \$150,000.* The solicitation may include a requirement that an offeror provide evidence of financial responsibility. If evidence of financial responsibility is required, the solicitation must indicate the kind of evidence that will be acceptable. If a bond or certified check is required, it may not exceed 10% of the estimated cost of the purchase.

(C) *Purchases over \$150,000.* The solicitation shall include a requirement that an offeror provide evidence of financial responsibility and must indicate the kind of evidence that will be acceptable. If a bond or certified check is required, it may not exceed 10% of the estimated cost of the purchase.

§ 34.16 USE OF REQUEST FOR PROPOSALS FOR PURCHASES OF DESIGNATED TYPES OF SUPPLIES.

The county determines that:

(A) It is either not practicable or not advantageous to purchase certain types of supplies by sealed competitive bidding; and

(B) Receiving proposals is the preferred method of purchasing the following types of supplies: A list of supplies designated for RFP purchase shall be developed and inserted by subsequent amendments.

§ 34.17 MODIFICATION AND TERMINATION OF CONTRACTS.

(A) *Price adjustments.* The purchasing agent may include provisions to permit price adjustments in a purchase contract. The following provisions for price adjustments may be included:

(1) Price adjustments must be computed by agreement of a fixed price adjustment before the beginning of the pertinent performance or as soon after the beginning of performance as possible;

(2) Price adjustment must be computed by unit prices specified in the contract or subsequently agreed upon;

(3) Price adjustments must be computed by costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;

(4) Price adjustments must be computed in such other manner as the contracting parties may mutually agree upon; or

(5) In the absence of agreement by the parties, price adjustments must be computed by a unilateral determination by the governmental body of the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as computed by the governmental body in accordance with applicable rules adopted by the governmental body.

(B) *Adjustments in time of performance.* The purchasing agent may include provisions in a purchase contract concerning adjustments for time of performance under the contract. (C)

Unilateral rights of county. The purchasing agent may include in a purchase contract provisions dealing with the unilateral right of the county to order changes in the work within the scope of the contract or to order temporary work stoppage or delays in time of performance.

(D) *Quantity variations.* The purchasing agent may include in a purchase contract provisions dealing with variations between the estimated quantities of work in a contract and the actual quantity delivered.

(Ord. 98-33-CM, passed 6-15-98)

§ 34.19 PURCHASE OF SUPPLIES MANUFACTURED IN THE UNITED STATES.

Supplies manufactured in the United States shall be specified for all county purchases and shall be purchased unless the county determines that:

- (A) The supplies are not manufactured in the United States in reasonably available quantities;
- (B) The prices of the supplies manufactured in the United States exceeds by an unreasonable amount the price of available and comparable supplies manufactured elsewhere;
- (C) The quality of the supplies manufactured in the United States is substantially less than the quality of comparably priced available supplies manufactured elsewhere; or
- (D) The purchase of supplies manufactured in the United States is not in the public interest.

§ 34.20 MINORITY BUSINESS/WOMEN’S BUSINESS (MBE/WBE) PARTICIPATION.

With respect to purchases made with state or federal funds requiring MBE/MWE participation solicitation pursuant to 40 CFR 31.36, the following six affirmative steps shall be taken:

- (A) Qualified small and minority businesses and women’s businesses will be placed on solicitation lists;
- (B) Small and minority businesses and women’s businesses will be solicited whenever they are potential sources;
- (C) Total requirements shall be divided, when economically feasible and permitted by law, into smaller tasks or quantities to permit maximum participation by small and minority and women’s business enterprises;
- (D) Delivery schedules will be established, where the requirements permit, so as to encourage participation by small and minority business and women’s businesses;
- (E) Services and assistance of the Small Business Administration, and the Minority Business Development of Commerce, will be used to the extent they may be available to facilitate compliance with this Section 34.20; and
- (F) The Prime Contractor, if subcontracts are to be let, will be required to take the affirmative steps listed in subsections (A) through (E).

This Ordinance shall be in full force and effect immediately upon its passage and signing.

Presented to the Board of Commissioners of Tippecanoe County, Indiana, and approved on first reading this 1st day of December, 2007, by the following vote:

BOARD OF COMMISSIONERS OF
TIPPECANOE COUNTY

VOTE

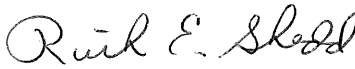
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KD Benson, President

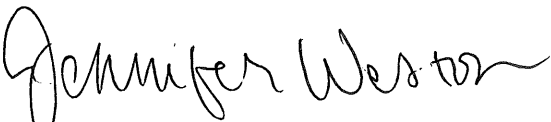
yes


John Knochel, Vice President

yes


Ruth Shedd, Member

ATTEST:



Jennifer Weston, Auditor of Tippecanoe County

Presented to the Board of Commissioners of Tippecanoe County, Indiana, and approved on second reading this 1st day of December, 200~~8~~, by the following vote:


BOARD OF COMMISSIONERS OF
TIPPECANOE COUNTY

VOTE

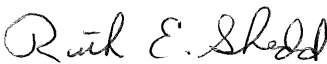
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KD Benson, President

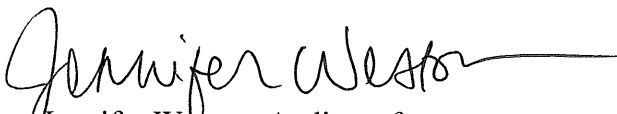
yes


John Knochel, Vice President

yes


Ruth Shedd, Member

ATTEST:


Jennifer Weston, Auditor of
Tippecanoe County