

ORDINANCE NO. 18-13

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County Ordinance, Section 2-26-61, Protest

AN ORDINANCE OF MANATEE COUNTY, FLORIDA REGARDING PROCUREMENT; AMENDING AND RESTATING CHAPTER 2-26, SECTION 2-26-61 ON PROTESTS; ESTABLISHING THE RIGHT TO PROTEST; PROVIDING THE PROCEDURE AND REQUIREMENTS FOR FILING A PROTEST; PROVIDING AUTHORITY TO THE PROCUREMENT OFFICIAL TO RESOLVE PROTESTS; PROVIDING AN APPELLATE REMEDY AND PROCEDURE FOR PROTEST DECISIONS BY THE PROCUREMENT OFFICIAL; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Manatee County Board of County Commissioners (Board) has determined that it is appropriate to amend and revise the protests procedures provided for in Article VI of Chapter 2-26, Section 2-26-61 of the Manatee County Purchasing Code (Code); and

WHEREAS, the Board has determined that it is appropriate to amend and revise the protest procedures in order to address certain legal issues, eliminate certain procedures that are outdated, and bring Manatee County's protest procedures into conformance with the majority of Florida counties; and

WHEREAS, the Board finds these amendments to the protest procedures provided for in Section 2-26-61 of the Code to be in the best interests of the County and the entities with whom the County does business.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:

Section 1. Article VI of Chapter 2-26, Section 2-26-61 of the Code is hereby restated as follows:

Section 2-26-61. Protests.

(a) Right to Protest. Any actual bidder, proposer, or contractor who is aggrieved in connection with the notice of intent to award a contract (Protestor), where such grievance is asserted to be the result of a violation of the requirements of this purchasing code or any applicable provision of law by the officers, agents, or employees of the County, may file a protest to the Procurement Official.

Commented [AM1]: If you intend to restrict the protest to a certain dollar amount (as you did in the policy) that needs to be included in the ordinance.

(b) Protest Procedure and Requirements.

(1) The protest shall be made in writing and filed with the Procurement Division by 5:00 p.m. on the fifth business day following the date of the posting of the Notice of Intent to Award on the County website. A protest is considered filed upon receipt by the Procurement Division. Failure to file a written protest within the time period specified shall constitute a waiver of the right to protest.

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(2) The written protest shall identify the protesting party and the solicitation involved, including a statement of the grounds on which the protest is based and the applicable statutes, laws, ordinances or other legal authorities which the Protestor deems applicable to the grounds for the protest.

(3) The Protest shall not include challenges to the solicitation requirements, chosen procurement method, the evaluation criteria, the relative weight of the evaluation criteria, or the formula specified for assigning points to the evaluation criteria in its Protest.

(4) The procurement process shall not be stayed during the protest process unless the Procurement Official, in his or her discretion, deems it to be in the best interests of the County to stay the proceeding.

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(c) Authority to Resolve Protests. The Procurement Official shall have the authority to settle and resolve a protest concerning the intended award of a contract. The Procurement Official shall promptly investigate the protest and issue a written decision within thirty (30) days of the date the protest is received.

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(d) Review of a Protest Decision by the Procurement Official.

(1) Following the Procurement Official's written decision on the protest, Protestor may file a request for a review of the Procurement Official's decision with the County Administrator. The request for review shall be made in writing and filed with the Procurement Division by 5:00 p.m. on the fifth business day following notification of the Procurement Official's decision. The request for review must be accompanied by security in the form of a bond (in a form and with such terms as approved by the Procurement Official or designee) or cash in the amount of \$10,000.

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(2) The County Administrator shall issue a written decision within thirty (30) days of the date the request for review is received.

(e) Final Decision. The decision of the County Administrator shall be final and conclusive as to the protest.

Section 2. The publisher of this County's Code, the Municipal Code Corporation, is directed to incorporate the amendments in Section 1 into the Code.

Section 3. If any clause, phrase, provision, section or sentence of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

Section 4. This Ordinance shall take effect immediately upon filing with the Department of State.

DULY ADOPTED, with a quorum present and voting, this _____ day of _____, 2018.

**BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA**

By: _____
Chairperson

ATTEST: ANGELINA COLONNESO
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

By: _____
Deputy Clerk

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