



## **Sec. 2-261. - Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Bid, proposal and quotation* mean any offer specifically given to the county in response to a solicitation.

*Bidder* means any business submitting an offer to the county.

*Business* means any corporation, partnership, individual, sole proprietorship, joint venture, joint stock company or any other legal entity.

*Contract* means all types of county agreements, regardless of what they may be called, for the purchase of materials, supplies and equipment and professional and contractual services.

*Contract management* means the negotiations to arrive at an agreement, preparation of contract documents and the servicing of that agreement during its performance as applicable to the services of architects, engineers, land surveyors, construction contractors, construction managers, design-build contractors, maintenance contractors, other technically related service providers and the acquisition of right-of-way or other real property directly related to capital improvement projects.

*Contractor* means any business having a contract with the county.

*Contractual services* means and includes all utilities (gas, water, electric, etc.), construction and services which include labor, time or effort.

*County manager* means the chief administrative officer of the county.

*Dollar value* means the maximum amount for a purchase that is authorized to be made by designated county officials and the initial dollar value shall be annually adjusted on October 1 of each year if the weighted five-year average increases.

*Employment cost index, total benefits, for state and local government workers, all workers (ECI)* means a report published by the United States Bureau of Labor Statistics (BLS), which measures the change in the cost of labor, free from the influence of employment shifts among occupations and industries.

*Invitation to bid* means and includes all documents, whether attached or incorporated by reference, used for soliciting sealed bids.

*Local business* means a prime contractor or subcontractor duly licensed and authorized to engage in the particular business at issue that maintains a permanent physical place of business in Brevard, Flagler, Lake, Orange, Osceola, Seminole or Volusia County, Florida, and holds a valid local business tax receipt for that place of business, for a minimum of six months prior to the date of submittal of the bid or quote to the county.

*Preference* means the method of the reducing the proposed bid or quote price by a designated percentage for the sole purpose of determining the lowest price when compared to other prices submitted during a competitive solicitation subject to [section 2-269.5](#).

*Prime contractor* means the person, firm, corporation or other business entity submitting a bid or quote to the county in response to a competitive solicitation governed by this division.

*Producer price index, finished goods (PPI)* means a report published by the United States Department of Labor, Bureau of Labor Statistics (BLS), which measures the average change over time in the selling prices received by domestic producers for their output.

*Professional services* means services as provided by architects, engineers, surveyors and other professionals as designated by the purchasing director, excluding attorneys and expert witnesses.

*Purchasing* means buying, renting, leasing or otherwise acquiring any supplies, materials and equipment and professional or contractual services, or construction. It also includes all functions that pertain to obtaining any supplies, materials and equipment, and professional or contractual services, or construction, including description of requirements, in conjunction with the using agency, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration, but not including contract management.

*Purchasing director and director* mean the purchasing director of the county.

*Responsible* means having the capability in all respects to perform fully the contract requirements and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment and credit which will ensure good-faith performance.

*Responsive* means conforming in all material respects to the requirements and criteria set forth in the invitation to bid.

*Subcontractor* means the person, firm, corporation or other business entity included in the bid or quote of a prime contractor for utilization by that prime contractor.

*Supplies* means and includes all supplies, materials and equipment.

*Using agency* means any department, division, agency, commission, board, committee, authority or other unit in the county government procuring supplies, materials or equipment or contractual, professional or construction services as provided for in this division.

*Vendor* means any business that will be or has been awarded a contract by the county.

*Weighted five-year average* means the average calculated by: i) using a 60/40 weighting to represent budget expenditures primarily associated with labor and goods/capital (nonlabor), respectively; ii) using ECI and PPI five-year averages last reported by BLS; iii) multiplying the labor weight to the ECI five-year average change; iv) multiplying the nonlabor weight to the PPI five-year average change; and v) totaling the weighted values. Example:

Budget Area	Wt.	BLS 5yr Avg.	Wtd. 5yr Avg.
Labor	60%	x3.0%(ECI)	=1.8%
Nonlabor	40	x2.0%(PPI)	=0.8%
Total	100.0%		2.6%

(Ord. No. 90-20, § 3, 5-17-90; Ord. No. 2009-07, § 1, 3-5-09; Ord. No. 2011-27, § 1, 12-1-11)

**Cross reference**— Definitions and rules of construction generally, § 1-2.

**Sec. 2-269.5. - Local bid and quote preference.**

(a) *Applicability.* This section shall apply to purchasing subject to the formal bidding requirements of section 2-271, or that require multiple competitive quotes subject to the requirements of subsection 2-270(b), and result from an invitation to bid or request for quote by the county where price is the sole determining factor for the award of contract to the lowest responsible and responsive bidder.

(b) *Preference.* Preference afforded under this section shall be calculated as follows:

(1) A prime contractor qualifying as a local business shall be granted a preference of three percent of the total bid price or quote.

(2) A prime contractor meeting the requirements of subsection (b)(1) proposing the utilization of a subcontractor shall be granted a preference of two percent of the bid price or quote if the work to be performed by all subcontractors, that qualify as local businesses, constitutes 51 percent or greater of the total work to be performed by all subcontractors. This subsection shall not apply if the invitation to bid or request for quote does not authorize utilization of subcontractors.

(3) In the event that a prime contractor qualifies for a preference under subsections (b)(1) and (b)(2), total preference shall not exceed five percent.

(4) Preference shall not be given to that amount of the total bid price or quote of a prime contractor exceeding \$25,000.00 from the nearest competing bid price or quote for that solicitation.

Preference shall be calculated based on the total bid or quote price, including any alternate or optional service or product in the bid or quote selected by the county.

(c) *Exemptions.* Notwithstanding subsection (a), this section shall not apply to any of the following purchasing activities:

(1) Purchasing funded, in whole or in part, by an entity prohibiting application of the preferences provided by this section by grant agreement, contract or applicable federal, state or local law; or

(2) Emergency purchasing subject to section 2-275 of the Code.

(d) *Certification.* A prime contractor claiming to qualify as a local business for purposes of this section shall so certify in writing on a form prescribed by the purchasing director as part of the competitive solicitation process.

(e) *Verification.* Any prime contractor or subcontractor subject to a bid or quote subject under this section shall provide all documentation required by the purchasing director that demonstrates its qualification as a local business prior to time of purchase or recommendation of award of contract.

(f) *Maintenance of status.* A prime contractor granted a preference under this section resulting in a written contract shall stipulate to maintaining its status as a local business throughout the term of the contract, including subcontractors for which preference is granted. This requirement shall be included in the contract between the prime contractor and subcontractor.

(g) *Subcontractors.* A prime contractor seeking preference under this section shall be required to disclose all subcontractors in its bid or quote and stipulate to continued utilization of subcontractors for which preference is granted under this section in any resulting contract unless approved in writing by the county and without change in price.

(h) *Employment vacancies.* A prime contractor, and its subcontractors, granted preference under this section stipulates to posting employment vacancies generated from a resulting contract with agencies or organizations that may be identified by the purchasing director.

(i) *Compliance.* Noncompliance with this section shall be deemed a material breach of the resulting contract, grounds for termination by the county and may subject the prime contractor to disqualification in accordance with subsection 2-267(9).

(j) *Reciprocity.* Effective July 1, 2012, no county, or municipality within a county, listed in the definition of local business in section 2-261 shall serve as a basis for preference under this section if that county or municipality authorizes preference in its procurement process to a business based on a physical location that does not include Volusia County.

(k) *Review.* This section shall be reviewed by the county council by December 31, 2013.

(Ord. No. 2011-27, § II, 12-1-11)