PART A - PURPOSE AND APPLICATION

1-101 PURPOSE AND CONSTRUCTION

(1) Purpose and Policies. The purposes and policies of this ordinance are to manage the procurement process in accordance with the law; spend taxpayer money wisely and fairly; protect against fraud and favoritism while best meeting the needs of the DuPage County Election Commission (“Commission”) through continuous improvement of purchasing systems and procedures. To the extent permitted by law, the Commission will promote economic development by encouraging the participation of DuPage County businesses, by providing equal opportunity for minority- and women-owned businesses and veterans, and by applying environmentally sound practices in the procurement process.

(2) Construction. This Ordinance shall be interpreted and applied so as to promote its purpose and policies.

1-102 APPLICATION

The DuPage County Election Commission Procurement Ordinance applies to contracts for procurement of goods, services, and construction entered into by the Commission after the effective date of this Ordinance. It shall apply to every expenditure of public funds by the Commission for public purchasing, irrespective of their source, except as otherwise provided by the federal or state law, regulation, or administrative policy. Nothing in this Ordinance shall prevent the Commission from complying with the terms and conditions of any grant, gift, bequest, or co-operative purchasing agreement that is otherwise consistent with law. The Commission may adopt administrative procedures to ensure compliance with all bidding requirements, and those procedures may be more restrictive than required by statute.

1-103 REQUIREMENT OF GOOD FAITH

This Ordinance requires all parties involved in the procurement, negotiation, performance, or administration of Commission contracts to act in good faith.

1-104 SEVERABILITY

If any provision of this Ordinance or application thereof is held invalid, such invalidity shall not affect other provisions or application of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are declared to be severable.
1-105 SINGULAR – PLURAL AND GENDER RULES

(1) Singular-plural. Words in the singular number include the plural, and those in the plural include the singular.

(2) Gender. Words of a particular gender include any gender and the neuter, and when the senses indicate, words of the neuter gender may refer to any gender.

PART B - DEFINITIONS

1-201 DEFINITIONS

The word(s) defined in this section shall have the meanings set forth below whenever they appear in this Ordinance.

(1) Administrative Change Order: A form to record a change necessitated by accounting or other management procedures. It includes amendments of a vendor’s company name or address; rate adjustments specifically provided in the original contract and similar changes; processing of contract modifications described in 4-505 (1) a-b; accounting changes where there is no change to the contract total and no changes to the scope of the project or services; and allowing officials designated by bond ordinance to finalize bond costs within parameters approved by the Commission Board.

(2) Bid Level: All purchases by the Commission in an amount at or in excess of $25,000 in, as may be amended from time to time.

(3) Bid Security. Is a guarantee that the bidder will enter into a contract if it is offered within the specified period of time and that is forfeited if the bidder fails to do so.

(4) Board-Level Procurement: The purchase of goods or services in an amount at or in excess of $5,000 or as that amount may be amended.

(5) Business. Any corporation, partnership, individual, sole proprietorship, joint venture, or any other private legal entity.

(6) Change Order. Written authorization to the Contractor to make a modification to or change an existing Purchase Order or Contract that is within the scope of the contract.

(7) Confidential Information. Any information which is available to an employee only because of his or her status as an employee of the Commission and which is not a matter of public knowledge or available to the public on request.

(8) Construction. The process of building, altering, repairing, improving, or demolishing any structure or building or other improvements of any kind on any real property.

(9) Contract. All kinds of Commission agreements, regardless of what they may be called, for the procurement of goods, services, or construction, such as payment vouchers, purchase orders, maintenance contracts, service contracts, systems contract, oral agreements, etc.
(10) **Contract Renewal.** A continuation of a contract for an additional period under the original terms and conditions, where the renewal clause is included in the bid document. If the bid document does not include the terms and conditions of a renewal, any continuation of the contract is considered a new contract, which must be re-bid.

(11) **Contractor.** Any person or entity who is a party or beneficiary of a contract with the Commission.

(12) **Cooperative Purchasing.** Cooperative purchasing may include, but is not limited to, joint or multi-party contracts between public procurement units and open-ended state/national public procurement unit contracts that are made available to other public procurement units after having been bid by another public procurement unit where required. Where a bid by the County or one using County department has established a purchase price, the Commission may enter into a contract based on that bid, but only to the extent that the combined purchases are within the limits of the original bid amount or the estimate provided in the original bid.

(13) **Emergency Procurement.** A procurement where there is an emergency as a result of an actual or imminent disruption of essential operations or conditions adversely affecting the safety, health, or security of persons or property, making the use of normal competitive bidding procedures unfeasible.

(14) **Employee.** Individuals providing services for the Commission and drawing a salary from the Commission.

(15) **Goods.** All tangible maintenance, repairs, and operation supplies, physical computer software and equipment necessary to sustain day-to-day Commission operations.

(16) **Invitation for Bid.** All documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.

(17) **Multi-Year Contracts.** Procurement contracts extending more than one (1) year.

(18) **Person.** Any individual or group of individuals, business, union, firm, corporation, trustee, partnership association, joint venture, committee, or other entity.

(19) **Procurement.** The buying, purchasing, renting, leasing, or other acquisition of any goods, services, or construction. The term includes all functions that pertain to the obtaining of any goods or services, or construction, including descriptions of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

(20) **Professional Services.** The service of a person(s) possessing a high degree of professional skill where the judgment, artistic, or subjective talent, ability, experiences, qualifications, and fitness of the provider(s) play an important part in the selection and primary reason for the service provided.

(21) **Professional Services (excluded):** Contracts for architectural, engineering, and land surveying services that are issued on the basis of demonstrated competence and qualifications for the type of services required and at fair and reasonable compensation as specified in 50 ILCS 510/1 and are excluded from the competitive bidding selection process and shall comply with 50ILCS 510/6, Selection procedure.
(22) **Professional Services (exempted):** Contracts for professional services, other than those defined as “Professional Services (excluded),” which are not required to be selected by competitive means, but not excluded from such selection methodology.

(23) **Purchase Order.** A contract for the purchase of goods, services, or construction.

(24) **Purchase Requisition.** An internal document by which the Commission sends to the Procurement Services Division details of goods, materials, or services to meet its needs for a specific job.

(25) **Purchasing Agent.** The Chief Procurement Officer or any staff member of the Procurement Services Division authorized by the Chief Procurement Officer to act on behalf of the Chief Procurement Officer.

(26) **Request for Proposals.** All documents, whether attached or incorporated by reference, utilized for soliciting proposals.

(27) **Responsible Bidder or Offeror.** A person who has the capability in all respects to perform fully the contract requirements and the experience, personnel, integrity, reliability, facilities capacity, equipment, acceptable past performance, and credit which will assure good faith performance.

(28) **Responsive Bidder.** A person who has submitted a bid which conforms in all material respects to the requirements set forth in the invitation to bid.

(29) **Reverse Auction.** A procurement method whereby a contract is put out for bid through an online marketplace and multiple sellers offer bids on the item, competing to offer the lowest price that meets all of the specifications of the bid. An alternate procurement method for qualified commodities.

(30) **Services.** The furnishing of labor, time, or effort by a contractor not involving the delivery of a specific end product, other than documentation this is merely incidental to the required performance. This definition shall not apply to employment agreements, collective bargaining agreements, the definition of “Professional Services” as provided in subsection (17) of this Section, and items paid by direct payment forms, payment vouchers and grant payment forms.

(31) **Sole-Source Procurement:** Procurement where there is an inability to obtain competition, such as where only one vendor or supplier possesses the unique ability to meet the particular requirements of the solicitation, which requires justification and a determination of validity by the Commission Board, or by the Chief Procurement Officer or other designee of the Commission Board.

(32) **Specifications.** Any description of the physical or functional characteristics of the nature of a good, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing goods, services, or construction projects.

(33) **String Purchasing.** For purposes of this Ordinance, the practice of issuing multiple purchase orders or requisitions for purchasing like items or services, with the willful intent to circumvent the purchasing policy. Splitting or “stringing” purchases will be dealt with as an impropriety and may result in withdrawal of delegated purchase authority. In addition, the person(s) responsible may be subject to disciplinary actions, and may be personally obligated to pay for the items or services.
(34) **Unauthorized Purchases.** An unauthorized purchase occurs when the materials, services, or any expense is charged to the Commission by a person who has not been given authority to charge such. This includes ordering materials without an approved purchase order. The individual making an unauthorized purchase may incur a personal obligation to the vendor or the Commission for the expense incurred, even though the materials or services are used for Commission business.

(35) **Used Equipment.** Equipment that:
   a) Has been in service for at least one-half its commercially reasonable life, or if that life is less than 24 months, is at least one year old; or
   b) Is a floor or demonstration model that is offered at a price at least 25% below current market price.
ARTICLE 2
PROCUREMENT SERVICES DIVISION

For the purpose of this policy, the DuPage County Procurement Services Division ("Procurement Services Division") is deemed to be the procurement agent for the Commission. All bids, RFP’s, RFQ’s and other procurement methods, as outlined in Article 4, shall be established by the Procurement Services Division.

PART A – ROLE OF PROCUREMENT SERVICES DIVISION

2-101 TERMS AND CONDITIONS

The Procurement Services Division is responsible for providing standardized contractual terms, conditions, notices, instructions, etc., for all bid and/or proposal documents. All bid/proposal documents shall include, but not be limited to:

Instruction to Bidders and/or Offerors
General Conditions
Bid and/or Proposal Forms
Affidavits or certificates required by statute
Bonds and insurance, where required

Bid/proposals will be evaluated by the Purchasing Division to determine the specific requirements.

2-102 BID SECURITY/BONDING/REQUIREMENTS

(1) Requirement for Bid Security. Bid security may be required for contracts when provided by statute or when the Chief Procurement Officer determines it is in the Commission’s best interests. Bid security shall be a bond provided by a surety company authorized to do business in the State of Illinois, a certified bank instrument, letter of credit, or other form of security supplied in a form satisfactory to the Chief Procurement Officer and the County’s Chief Financial Officer, as approved by the Commission’s Attorney. The Commission shall be named as the secured party. Amount of Bid Security. Bid security shall be in an amount not to exceed ten percent (10%) of the amount of the bid. Terms of forfeiture shall be expressed in the bid document.

(2) Contract Performance and Payment Bonds: When Required, Release. When a contract is awarded, the required bonds or security in the amount stated in the bid document shall be delivered to the Commission and shall become binding on the parties upon the execution of the contract. The bond or security shall be released upon full and satisfactory completion of the contract.
2-103 INSURANCE REQUIREMENTS

For all contracts, the contractor and all sub-contractors shall be required to maintain adequate insurance coverage for the duration of the contract. The Chief Procurement Officer shall determine, in consultation with the County’s Chief Financial Officer, the types and amounts of coverage that shall be required, as recommended by the County's insurance broker/risk consultants. The contractor shall have the Commission named as an additional insured, if such is in the interest of the Commission, and furnish the Purchasing Agent with satisfactory evidence of said insurance.

2-104 CONTRACTOR RECORD RETENTION

For all contracts, the contractor and all sub-contractors shall be required to maintain adequate records appropriate to the type of contract, to retain such records for a minimum of three (3) years from final payment, unless otherwise specified in the solicitation, and to make such records available for inspection by the Commission upon reasonable terms consistent with state law.

2-105 AUTHORIZATION FOR THE USE OF ELECTRONIC TRANSMISSIONS

(1) The use of electronic media for all procurement procedures, including acceptance of electronic signatures, is authorized consistent with Illinois law for use of such media. The Chief Procurement Officer shall determine which solicitations are suitable for electronic transmissions, giving consideration to:
   a) appropriate security to prevent unauthorized access to the bidding, approval, and award processes; and
   b) accurate retrieval or conversion of electronic forms of such information into a medium which permits inspection and copying.

PART B – BID AND/OR PROPOSALS ADDENDA AND QUESTIONS

2-201 BID AND/OR REQUEST FOR PROPOSAL DOCUMENT ADDENDA AND QUESTIONS

Once the bid/request for proposal document has been issued, all questions regarding that document shall be submitted in writing to the Procurement Services Division. Any and all addenda shall be issued by the Procurement Services Division pursuant to any alterations required in the bid document. If it is determined that a bidder/offeror received an unfair advantage from information obtained through the Commission, any Commissioner, or Commission employees, or contractors, the bid or request for proposal may be canceled.

2-202 COMMUNICATION WITH BIDDER/OFFERORS

Commissioners and employees shall take care to limit communication with bidders/offereors during the solicitation process, so that the integrity of the competitive solicitation process is maintained. All representatives of the Commission shall avoid
any vendor contact that would constitute interference with contract submission and award under the Criminal Code, 720 ILCS 5/33E-6. If it is determined that a bidder/offeror received an unfair advantage from information obtained through prohibited sources or under prohibited circumstances, the solicitation may be canceled, or the bidder/offeror disqualified from participation in that solicitation request.

PART C – PUBLIC ACCESS TO PROCUREMENT INFORMATION

2-301 PUBLIC ACCESS TO PROCUREMENT INFORMATION

Procurement information shall be a public record subject to the exceptions of disclosure to the extent provided in the Illinois Freedom of Information Act, and shall be available to the public as provided by the DuPage County Board of Election Commissioners Policy implementing said Act.
ARTICLE 3
CHIEF PROCUREMENT OFFICER

PART A-AUTHORITY AND DUTIES

3-101 AUTHORITY AND DUTIES

(1) **Principal Public Purchasing Official.** The Chief Procurement Officer for DuPage County (“Chief Procurement Officer”) shall serve as the principal purchasing officer for the Commission. He shall be responsible for the procurement of goods and service in accordance with this Ordinance. Employees of the Commission shall be empowered to execute any Change Order, Agreement, or Contract, except as authorized by this Ordinance.

(2) **Duties.** The Chief Procurement Officer shall administer the procurement of all goods and services equal to or greater than $5,000. His or her duties in accordance with this Ordinance are subject to the supervision of the Commission Board.
ARTICLE 4  
SOURCE SELECTION AND CONTRACT FORMATION

PART A – METHODS OF SOURCE SELECTION

4-101 SMALL PROCUREMENTS ($5,000 AND UNDER)

(1) **Condition of Use.** These purchases are limited in frequency and related to individual commodities and services. Contract requirements shall not be artificially divided so as to constitute a small procurement or evade the competitive procurement requirements for amounts in excess of $5,000 under this section. The Commission Board shall determine when market or operational factors require the combining or dividing of procurements.

(2) **Minimum Requirements:**
Procurements of $5,000 and under may be obtained in a way that is in the best interest of the Commission as determined by the Executive Director. The payment of these purchases will be made on payment voucher forms. Certain circumstances may require the use of a purchase order (e.g. vendor-required expenditures from certain accounts, etc.)

4-102 BOARD LEVEL PROCUREMENTS ($5,000.00 TO $24,999.99)

(1) **Condition of Use.** Any Board level procurement shall be made in accordance with procedures authorized in this herein. These purchases are related to individual commodities and services. Purchases shall not be artificially divided so as to constitute a small procurement or evade the competitive bidding requirements herein. The Chief Procurement Officer and Chief Financial Officer shall determine when market or operational factors require the combining or dividing requirements. String Purchasing is forbidden and purchases shall not be artificially divided for purposes of evading the competitive sealed bidding requirement.

(2) **Minimum Quotation Requirements:** The requesting department shall work with the Procurement Services Division to validate the specifications for quotations and shall utilize e-quoting or a method determined to be appropriate for quote solicitation. The Procurement Services Division shall obtain quotations/proposals (these may be in written form, fax or e-mail) from at least three (3) vendors. Where it is not feasible to obtain 3 quotes, a Decision Memo must be submitted. Purchase documentation not in compliance with this ordinance and all applicable statutes shall not be processed and shall be returned to the using department. The Procurement Services Division reserves the right to change suggested vendor if a contract exists for the requested goods or services or if better prices are obtained.

(3) **Evaluation Factors.** Evaluation factors which may justify an award to a vendor who has not provided the lowest quotation include; but are not limited to, delivery requirements, quantity requirements, quality and past vendor
performance. Whenever it is determined that it is in the best interest to award a purchase contract to a vendor who did not submit the lowest acceptable quotation, the reason for the determination shall be indicated in a Decision Memo and retained with the contract. The Decision Memo documents and determines the appropriateness of the requested procurement process and approvals.

(4) Award. Except as provided herein award shall be made to the vendor offering the lowest responsive and responsible quote who meets the specifications. Adequate records to document the competition solicited and award determination made shall be retained with the contract.

(5) Sole Source. Circumstances may exist where the Chief Procurement Officer determines that it is not feasible to secure three (3) quotations. In other situations, the Chief Procurement Officer may determine that it is in the best interests of the County to consider only one supplier who has previous expertise relative to procurement. Whenever the Chief Procurement Officer determines that it is not feasible, or is not in the County’s best interest to satisfy the minimum quotation requirements of subsection (2) the reason for this determination shall be indicated in writing on a Decision Memo and retained with the contract.

4-103 BOARD-LEVEL PROCUREMENTS - COMPETITIVE SEALED BIDDING

(1) Conditions of Use. Any Board-level procurement shall be awarded by competitively sealed bidding, except as otherwise provided in section 4-104 (Request for Proposals), 4-105 (Emergency Procurements), 4-106 (Cooperative Purchases), or as provided by State Statue. String purchasing is forbidden and purchases shall not be artificially divided for purposes of evading the competitive sealed bidding requirement.

(2) Invitation for Bids. An invitation for bids shall be issued and include specifications, general descriptions, and material non-negotiable contractual terms and conditions applicable to the procurement.

(3) Public Notice. Procurement Services Division shall give public notice of the invitation for bids a reasonable time before, but not less than fourteen (14) calendar days prior to, the date set forth therein for the submittal and opening of bids. For bids with a mandatory pre-bid meeting, the public notice must be published at least seven (7) calendar days prior to the meeting date. Such notice may be given in a newspaper of general circulation within the County, or through an electronic bid posting service, or as statutorily required. The public notice shall state the project, submittal date, any statutory requirements, time and location the of bid opening.

(4) Bid Opening. Bids shall be opened publicly, in the presence of one or more witnesses, at the time and place designated in the invitation for bids. The amount of each bid and such other relevant information as the Purchasing Agent deems appropriate, together with the name of each bidder, shall be recorded. The record and each bid shall be open to public inspection in
accordance with section 2-401 (Public Access to Procurement Information), subject to exemptions from disclosure under the Freedom of Information Act.

(5) **Bid Acceptance and Bid Evaluation.** Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Ordinance. The Procurement Services Division, based on the requirements set forth in the invitation for bids, shall evaluate bids for responsiveness. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The invitation for bid shall set forth the evaluation criteria to be used. No criteria may be used in the evaluations that are not set forth in the invitation for bid. Alternative bids may be considered and accepted only if they are specifically provided for in the invitation for bids and meet the evaluation criteria set forth.

(6) **Correction or Withdrawal of Bids, Cancellation of Award**
   a) Bids Withdrawn Prior to Opening – Bids may be withdrawn prior to the bid opening upon written request of the bidder and in accordance with the terms and conditions contained in the bid document.
   b) Correcting Bid Totals – After the bid opening, no changes in prices or other provisions shall be permitted, except to correct calculations, as stated in the terms and conditions contained in the bid document. The Procurement Services Division is responsible for reviewing all bid forms.
   c) Clarifications – The Chief Procurement Officer may obtain clarification from any bidder deemed necessary to fully evaluate the bid after the opening.
   d) Bid Withdrawal after Bid Opening – If the bidder alleges a material error or mistake of fact, they may be permitted to withdraw the bid if the bidder submits evidence which clearly and convincingly demonstrates that an error was made. The request for withdrawal of the bid and written documentation shall be submitted to the Chief Procurement Officer.

(7) **Tie Bids.** Should tie bids between equally responsive responsible bidders be received, the award will be made by a coin toss or otherwise by random selection in the Purchasing Division by the Purchasing Agent. If a tie bidder fails to send a representative to the selection, that bidder shall waive the right to protest the selection.

(8) **Right of Rejection.** The Commission Board reserves the right to accept or reject any or all bids/proposals and to waive any technicalities in the document.

(9) **Award.** The contract shall be awarded with reasonable promptness by appropriate written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Bids. After the bid is awarded, in accordance to Section 4-402 “Procurement Process” the Procurement Services Division shall issue all notices of awards and notices to proceed. All contractually required documentation will be required prior to any notice to proceed.

(10) **Cancellation of Contracts –** All contract cancellations recommended by the Chief Procurement Officer will be presented to the Commission Board for consideration.
4-104 BOARD-LEVEL PROCUREMENTS - REQUEST FOR PROPOSAL

(1) Condition for Use. In cases where the Commission seeks to contract for a project or service whose goals, tasks, or results are known, but for which the procedure or method of accomplishing same either may not be specified or are otherwise undetermined, a contract may be entered into by use of the request for proposal procedure.

(2) Request for Proposal. Proposals shall be solicited through the Procurement Services Division and shall include specifications or general descriptions of goals, tasks, or results and material, non-negotiable contractual terms and conditions applicable to the procurement.

(3) Public Notice. Adequate public notice of the request for proposal shall be given in the same manner as Public Notice for Invitation for Bids, section 4-102 subsection (2) (Invitation for Bids) and subsection (3) (Public Notice).

(4) Evaluation Criteria. Criteria, including the weight to be given to each factor, must be developed for evaluation of the proposal prior to notice and included in the request. The completed evaluations must be attached to the Commission recommendation.

(5) Receipt of Proposals. Names of offerors will be acknowledged in the presence of one or more witnesses at the time and place designated in the public notice. Contents of the proposals shall not be disclosed to any of the competition or offerors during the selection process. A register of the proposals shall be prepared containing the name of each offeror, and a description sufficient to identify the item offered. The register of proposals shall be open for public inspection only after the contract is awarded subject to exemptions from disclosure under the Freedom of Information Act.

(6) Discussions with Responsible Offeror and Revisions to Proposals. As provided in the request for proposals, discussions may be conducted with responsible offerors who submitted proposals determined to be reasonably susceptible of being selected for award for the purpose of clarifying their understanding of and conformance 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 revision may be permitted after submission 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.

(7) Award. The Commission’s Board shall make the award to the responsible offeror whose proposal conforms to the solicitation and is determined, in writing, to be the most advantageous to the Commission, taking into consideration price and the evaluation factors set forth in the request for proposals. The contract file shall contain the basis on which the award is made.

4-105 SOLE-SOURCE PROCUREMENT
A contract may be awarded where the Chief Procurement Officer determines that it is not feasible to secure bids or where there is only one source for the required goods or services. In other situations, the Chief Procurement Officer may determine that it is in the best interests of the Commission to consider only one supplier who has previous expertise relative to procurement. The Commission shall prepare supporting documentation for review and approval by the Chief Procurement Officer. Whenever the Chief Procurement Officer determines that it is not feasible, or is not in the Commission's best interest to satisfy the minimum bid requirements, the reason for this determination shall be indicated in writing on a decision memo and retained with the contract.

4-106 EMERGENCY PROCUREMENTS

(1) The reason for the determination of the emergency shall be indicated in a decision memo.

(2) For purchasing emergencies in equal to or greater than $5,000, the Executive Director shall inform the Commission Board Chairman in a timely manner.

(3) A Purchase Order, along with all written documentation, shall be submitted to the Commission Board for ratification.

4-107 COOPERATIVE JOINT PURCHASING AUTHORIZED

Subject to applicable State statutes, the Commission may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of goods, services, or construction with one or more public procurement units in accordance with an agreement between the participants. Such cooperative purchasing may include, but is not limited to, joint or multi-party contracts between public procurement units and open-ended state public procurement unit contracts that are made available to other public procurement units after having been bid by another public procurement unit where required.

4-108 PROFESSIONAL SERVICES SELECTION PROCESS

(1) It is the intention of Commission to employ consultants on the basis of their perceived competence and expertise relative to the services to be rendered, the cost of their services, their ability to complete work within a required time frame, their past record in performing similar type work, and their ability to work with Commission staff.

(2) Performance Criteria. Upon completion of each professional services contract over $25,000, the Commission shall prepare a written evaluation of the consultant’s performance. The details of the evaluation shall be consistent with the cost and complexity of such assignments. For contracts over $25,000, the Commission will maintain a record of such evaluations for the use when selecting future professional service/consultants. No consultant shall be awarded subsequent contracts unless they have a satisfactory evaluation.
PART B – QUALIFICATIONS AND DUTIES

4-201 RESPONSIBILITY OF BIDDERS AND OFFERORS

If a bidder, designee, or offeror, who otherwise would have been awarded a contract, is found to be non-responsible, a written determination of non-responsibility, setting forth the basis of the findings, shall be prepared by the Commission. In determining responsibility of any bidder, the Commission may take into account, in addition to financial responsibility, past records of transactions with the bidder, experience, adequacy of equipment, and ability to complete performance within a specific time (for example, the ability to meet the specified completion dates in accordance to the specifications). A detailed explanation shall be sent promptly to the non-responsible bidder or offeror, who shall then have three (3) days to provide evidence to counter the determination. The final determination shall be made part of the contract file. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination affirming non-responsibility.

PART C - CONTRACT ADMINISTRATION

4-301 CONTRACT ADMINISTRATION

A contract administration system is designed to insure that the contractor is performing in accordance with the terms and conditions of the contract. Contract administration results may be utilized by the Chief Procurement Officer for vendor evaluation.

(1) It is the Commission’s responsibility to match contract terms and prices with invoices, and to otherwise monitor compliance with the contract terms. The Commission is also responsible to determine the imminent need for and to begin processing a change order where appropriate.

(2) Payment must be identified to an existing contract or purchase order.

4-302 ELECTION COMMISSION PROCUREMENT RECORDS

(1) Procurement Records. All determinations and other written records and notes of telephone conversations and oral conversations pertaining to the solicitation, award, and performance of a contract shall be maintained for the Commission in the procurement records in the Procurement Services Division.

(2) Contract Audit. The Commission shall be entitled to have audited the books and records of a contractor or a subcontractor at any tier under any contract or subcontract to the extent that such books, documents, papers, and records are pertinent to the performance of such contract or subcontract. The contractor or subcontractor shall maintain such books and records for a period of three years from the date of final payment.
(3) **Retention of Procurement Records.** All procurement records shall be retained and disposed of in accordance with records retention guidelines and schedules approved by the State of Illinois Local Records Commission.

**PART D – AUTHORIZATION, REVIEW AND APPROVAL PROCESS**

**4-401 AUTHORIZATION TO INITIATE BIDS OR OTHER SOLICITATIONS**

The Procurement Services Division may initiate bids or other solicitations for any goods, services, or construction which they have received from the Commission.

**4-402 PROCUREMENT PROCESS**

1. **SMALL PROCUREMENTS – Procurements less than $5,000.**
   Procurements less than $5,000 may be obtained in a way that is in the best interest of the Commission as determined by the Executive Director. Contract requirements shall not be artificially divided so as to constitute a small procurement or evade the competitive procurement requirements for amounts equal to or greater than $5,000 under this section.

2. **BOARD-LEVEL PROCUREMENTS–Procurements equal to or greater than $5,000.**
   Prior to submission to the Procurement Services Division, all requisitions equal to or greater than $5,000 shall be submitted to the Commission Board for approval.

**4-403 FISCAL RESPONSIBILITY**

Prior to the issuance of any purchase order, contract, change order or contract modification, the Finance Department shall certify that sufficient budgeted funds are available.

**4-404 LEGAL REVIEW OF CONTRACTS**

Prior to award, the Chief Procurement Officer may request the Commission’s Attorney to review a contract that is not in a standard form. This review shall not be required when the form and content of the contract documents has previously been approved by the Commission’s Attorney.

**4-405 CHANGE ORDERS AND CONTRACT MODIFICATIONS**

1. **All change orders and contract modifications, for Board-level procurements, will be presented in advance to the Procurement Services Division.** If no further approval is required, as described below, the Procurement Services Division will continue the processing of necessary documentation.
   a) For interim (non-final) change orders and contract modifications where the total purchase amount, including any changes, does not exceed the
small-procurement level, processing may continue without further approval.

b) For final change orders processing may continue without further approval where:
   (i) there is a price increase of up to $2,500 or
   (ii) there is a price increase of no more than ten percent (10%) of the initial price.

c) Processing may continue, subject to Commission Board ratification, for change orders that:
   (i) decrease a contract by $10,000 or more;
   (ii) increase or decrease the term by thirty (30) or more calendar days
   (iii) cancel any contract

(2) Further approval by the Commission Board is required before further processing occurs in the following cases:
   a) where Executive Director approval was required for the initial contract, and the change order increases the contract to an amount in excess of the Small Procurement level,
   b) where Commission Board approval was required for the initial contract, and the change order materially alters the scope of work to be performed.

4-406 MULTI-YEAR CONTRACTS

(1) The Commission’s policy on multi-year contracts includes the following:
   a) All multi-year contracts presented for approval shall contain the total value of the award for the multi-year period.
   b) Only the current fiscal year portion shall be encumbered.

4-407 CONTRACT RENEWALS

All renewals shall be for the time period specified in the original contract document.
ARTICLE 5
SPECIFICATIONS

PART A – RESPONSIBILITY AND COMPETITION

5-101 RESPONSIBILITY FOR SPECIFICATIONS

The Chief Procurement Officer and/or the Commission shall prepare, revise, maintain, and monitor specifications for goods, services, and construction required by the Commission.

Specifications for grant-funded contracts shall include all terms and conditions required by the grant, and it shall be the responsibility of the Commission to furnish such terms and conditions for inclusion by the Purchasing Agent.

5-102 ADVICE FROM COMMISSION

The Chief Procurement Officer shall obtain expert advice and assistance from the Executive Director, the Assistant Executive Director, and other staff members in the development of specifications and may delegate in writing the authority to submit the Commission’s own specifications which shall be accepted by the Purchasing Agent.

5-103 MAXIMUM PRACTICABLE COMPETITION

All specifications shall be drafted so as to promote overall economy for the purposes intended and encourage competition in satisfying the Commission’s needs, and shall not be unduly restrictive.
ARTICLE 6
DECLARATION OF NON-RESPONSIBILITY

PART A – DECLARATION PROCESS

6-101 AUTHORITY TO ISSUE A DECLARATION OF NON-RESPONSIBILITY

After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Chief Procurement Officer is authorized to declare the person non-responsible for purposes of supplying goods, services, and construction to the Commission. The declaration shall be in effect for a period of not more than two (2) years for all solicitations.

The causes for such a declaration include:
(1) Conviction of commission of a criminal offense incidental to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
(2) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offences indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a Commission Contractor;
(3) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;
(4) Violation of contract provisions, as set forth below, of a character which is regarded by the Chief Procurement Officer to be so serious as to evidence non-responsibility;
   a) Deliberate failure, without good cause, to perform in accordance with the specifications or within the time limit provided in the contract; or
   b) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided that such is not caused by acts beyond the control of the contractor.

6-102 DECISION TO DECLARE NON RESPONSIBLE

The Chief Procurement Officer shall issue a written determination which shall state the reasons for the action taken and inform the affected person of his rights concerning administrative review.

6-103 NOTICE OF DECISION

A copy of the decision required by Section 6-102 shall be delivered by certified, return-receipt U.S. mail.
6-104 FINALITY OF DECISION

A decision under Section 6-102 shall be final or conclusive, unless fraudulent, or the affected person, within ten (10) business days after receipt date of the decision, as stated on the certified mailing return receipt, makes an appeal to the Commission Chairman.

PART B – APPEALS AND REMEDIES

6-201 AUTHORITY OF THE CHIEF PROCUREMENT OFFICER TO SETTLE BID PROTESTS AND CONTRACT CLAIMS, SUBJECT TO STATUTORY PROVISIONS

(1) Authority. The Chief Procurement Officer is authorized to resolve any procedural protest regarding the solicitation or award of any bid under his purview.

(2) Right to Protest. Any actual or prospective bidder, offeror, or contractor who believes he or she has been adversely affected in connection with the solicitation or award of a contract may, within seven (7) calendar days of the solicitation or bid opening or award, serve by mail or facsimile a letter of protest to the Chief Procurement Officer. The Chief Procurement Officer must submit a response in writing to the protesting entity within five (5) business days from receipt of the protest.

(3) Delay of Procurement During Protest. In the event of a timely protest under subsection (2) of this section, the Commission shall determine whether it is in its best interest to proceed with the solicitation of the bid, bid opening, or award of the contract.

(4) Notice to the Protestor of the Chief Procurement Officer’s Decision. If the protest or claim is not resolved by mutual agreement, the Chief Procurement Officer shall promptly issue a decision in writing, and it shall be immediately mailed or otherwise furnished to the protestor. The decision shall state the reasons for the decision reached, and shall inform the protestor of their option to appeal under subsection (5) of this section.

(5) Protestor Right to Appeal. The Chief Procurement Officer’s decision shall be final and conclusive unless, within five (5) business days from the date of receipt of the decision, the Commission Chairman receives a written appeal regarding the Chief Procurement Officer’s decision. The Commission Board Chairman shall, in writing, render a decision within ten (10) business days.

(6) Failure to Render Timely Decision. In the event the Chief Procurement Officer does not issue a written decision within the time period specified under subsection two (2) of this section, or within such longer period as may be agreed upon between the parties, the protestor may proceed as if an adverse decision had been received.
6-202 REMEDIES FOR SOLICITATIONS OR AWARDS IN VIOLATION OF LAW

(1) Prior to Bid Opening or Closing Date for Receipt of Proposals. If, prior to the bid opening or the closing date for receipt of proposals, the Purchasing Manager, after consultation with the Commission’s Attorney, determines that a solicitation is in violation of federal, state or local law, then the solicitation shall be canceled or revised to comply with applicable law.

(2) Prior to Award. If, after bid opening or the closing date for receipt of proposals, the Purchasing Manager determines that a solicitation or a proposed award of a contract is in violation of federal, state, or local law, then the solicitation or proposal award shall be canceled in accordance with this Ordinance.

(3) After Award. If, after an award, the Purchasing Manager determines that a solicitation or award of a contract was in violation of applicable law, then:
   a) If the person awarded the contract has not acted fraudulently or in bad faith, the contract may be terminated in accordance with the terms and conditions of the contract.
   b) If the person awarded the contract has acted fraudulently or in bad faith, the contract may be declared null and void.
PART A – ETHICS AND CONFORMANCE

7-101 ETHICS

Any or all actions related to this Procurement Ordinance shall comply with approved Commission Ethics and Personnel Ordinances. In the event of a conflict, the Ethics Ordinance will control.

7-102 VIOLATIONS

Non-conformance with this Ordinance may violate Commission rules and/or State of Illinois civil and criminal laws, and may result in legal actions and sanctions to the violator.

7-103 REPORTING OF ANTI-COMPETITIVE PRACTICES

When for any reason collusion or other anti-competitive practices are suspected among any bidders or offerors, or by any Commission employees or officers, the person with knowledge of such reason shall follow the reporting requirements of the Commission Ethic's Ordinance. Facts may also be presented to the State's Attorney for appropriate investigation. Any employee making a good faith report under this section shall have all protections afforded to a whistleblower under the Commission Ethic's Ordinance and State statute.
ARTICLE 8
CHANGES

8-100 AMENDMENTS

8-101 REVIEW OF ORDINANCE

The Commission Board shall review this Ordinance as appropriate, but at least every (5) five years, to insure conformance with current statutes and best procurement practices, and to further the interests of the Commission.

8-102 RECOMMENDATIONS

Any individual using this ordinance is encouraged to recommend changes. Proposed changes should be addressed in writing to the following:

  Executive Director  
  DuPage County Election Commission  
  County of DuPage  
  421 N. County Farm Road  
  Wheaton, IL 60187

and

Chief Procurement Officer  
Procurement Services Division  
County of DuPage  
421 N. County Farm Road  
Wheaton, IL 60187

8-103 EFFECTIVE

This Ordinance shall be effective upon adoption, as provided by law. No change to this Ordinance shall be effective until approved as an amendment by the Commission Board.

PASSED AND APPROVED by the Board of Election Commissioners of the DuPage County Election Commission this 29th day of June 2012, in accordance with law.
APPROVED

BY:

/s/ Cathy Ficker Terrill
Cathy Ficker Terrill, Chairman

/s/ Arthur Ludwig
Arthur Ludwig, Secretary

ATTEST:

BY:

/s/ Arthur Ludwig
Arthur Ludwig, Secretary

AYES: 2
NAYS: 0
ABSENT: 0

Adopted June 29, 2012
CERTIFICATION

I, the undersigned, do hereby certify that I am the Secretary of the DuPage County Election Commission, Wheaton, Illinois, and that the foregoing is a true, complete and exact copy of Ordinance No. 2012-2, passed and approved on June 29, 2012, as the same appears from the official records of the DuPage County Election Commission.

____________________________
Arthur Ludwig, Secretary