

TO ALL COUNCILMEMBERS:

**SUBSTITUTE VERSION FOR**  
**CONSIDERATION**

*for*

**July 12, 2016**

FINANCE COMMITTEE #5  
OTHER ITEMS #5

**AB2016-191**

5. Ordinance amending Whatcom County Code 3.08, Purchasing System (AB2016-191) (from 6/14 and 6/28) **Pages 22 - 30**

*DISTRIBUTED: June 14, 2016*

*TIME: 2:00 p.m.*

*Submitted by: Tyler Schroeder & Jon Hutchings*

**WHATCOM COUNTY  
EXECUTIVE'S OFFICE**  
County Courthouse  
311 Grand Ave. Suite #108  
Bellingham, WA 98225



**Jack Louws**  
County Executive

TO: Members of the Whatcom County Council

THROUGH: Jack Louws, County Executive

FROM: Tyler Schroeder, Deputy Executive and Jon Hutchings, Public Works Director

RE: Purchasing Policy Amendment

Date: July 7, 2016

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**Requested Action:**

Consider and approve proposed amendments to WCC 3.08 Purchasing System that establishes administrative procedures for advertising and approving public contracts.

**Background and Purpose:**

Whatcom County Council and Executive share responsibility under WCC 3.08 for transparent, predictable, and efficient procurement of goods and services necessary to execute authorized County work. Certain provisions in the existing Purchasing Policy expose the County to contract claims and escalating procurement costs. This amendment is intended to preserve appropriate Council oversight of expenditures, incorporate 2015 changes to State purchasing laws, improve competitive access to public contracting opportunities, streamline project delivery, and reduce financial risk associated with contract administration. The amended ordinance:

- Improves advertising of requests for proposals, requests for qualifications, and invitations to bid
- Adjusts thresholds for soliciting price quotations and bids for professional services to \$10,000 and \$50,000, respectively, pursuant to State law
- Requires Council authorization for professional services contracts and other non-capital contracts of greater than \$50,000
- Authorizes Executive approval for contracts and contract amendments identified in a Council-approved Capital Budget Authorization Ordinance, and for certain supplies.

As part of the Administration's effort to provide a more transparent and program-oriented budget approval process, the 2017-2018 budget documents will contain a separate capital program showing specific capital expenditures for the budget cycle. This coincides with online access to all contracts and quarterly project expenditure updates.

**Financial Implications:**

These amendments reduce the likelihood of cost escalation associated with project delivery delays resulting from untimely change order approvals and associated contractor claims.

Please contact Tyler Schroeder at extension 5207 or Jon Hutchings at extension 6205 for questions or concerns regarding this amendment.

Enc.: Proposed amendment to existing WCC Chapter 3.08

**EXHIBIT A**  
**Chapter 3.08**  
**PURCHASING SYSTEM**

**Sections:**

**3.08.010 Purpose.**

**3.08.020 Administration.**

**3.08.030 Authority and functions.**

**3.08.040 Price quotations.**

**3.08.050 Vendor lists.**

**3.08.060 Bids and proposals required.**

**3.08.070 Contractor's bond required for public works.**

**3.08.080 Labor and material claims.**

**3.08.090 Bid specifications, deposits and awards.**

**3.08.095 Small works roster contract award process.**

**3.08.100 Council approval required.**

**3.08.110 Unregistered or unlicensed contractors prohibited.**

**3.08.120 Joint purchasing.**

**3.08.130 Amendments to chapter.**

**3.08.140 Severability.**

**3.08.010 Purpose.**

It shall be the purpose of this chapter to establish a purchasing system to work with all county departments, agencies, boards and commissions, and other operations of the county to ensure efficiency in procurement of supplies and equipment of the necessary quality at the lowest possible cost; to ensure compliance with purchasing statutes, regulations, policies and procedures; to ensure efficient utilization of county property, new and used; and to minimize employee time devoted to purchasing functions. (Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

**3.08.020 Administration.**

The director of the administrative services department shall have full authority and responsibility for the operation of the purchasing system under the direction of the county executive. (Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

**3.08.030 Authority and functions.**

A. The authority to recommend and implement administrative policies and procedures that provide a comprehensive basis for purchasing functions shall fall under the purview of the purchasing system.

B. The following responsibilities shall be coordinated through the purchasing system:

1. Continue to improve services to departments and agencies in the area of purchasing.
2. Develop automated requisition and reporting systems.
3. Improve purchasing productivity and control for all departments.
4. Standardize high volume purchases.
5. Develop efficient policies and procedures for acquiring goods and services.
6. Implement inventory controls and minimize costs of goods and services.
7. Prepare and make available to all departments standardized forms for requisitions, vouchers,

inventories and any other form required for county operations.

8. Assign purchase order numbers for the acquisition of supplies, materials, equipment, tools, services, rental of personal property, professional services and contracted public works exceeding \$2,500.

9. Maintain vendor list pursuant to RCW [39.04.190](#).

10. Whenever practically possible, contact at least three vendors to assure competitive pricing.

~~11. Ensure the~~ Promote a competitive procurement process environment by actively soliciting subscribers to the county's web-based purchasing notification system.

~~11.2.~~ Review and approve bid specifications and prepare invitations to bid pursuant to provisions set forth in this chapter.

~~13.2.~~ Check bids for accuracy and compliance with specifications and invitation to bid.

~~14.3.~~ Make bid recommendations on all awards to the county executive.

~~15.4.~~ Perform such other duties as may be required to further the purposes of this chapter. (Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

### **3.08.040 Price quotations.**

Whenever practically possible, price quotations from at least three vendors shall be solicited for the acquisition of materials, supplies, services, tools, equipment or rental of personal property involving amounts greater than ~~\$5,000~~[\\$10,000](#) but not exceeding ~~\$25,000~~[\\$50,000](#) in a single transaction. Three price quotations will also be obtained for all contracted work constituting a public work not exceeding \$40,000. Quotations for architects and engineers are subject to the requirements of Chapter [39.80](#) RCW. Records of all quotations obtained shall be maintained and shall be open to public inspection. Bids submitted periodically for the roster of rental equipment with operators may be used as the source of quotations for public works projects not exceeding \$40,000. (Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

### **3.08.050 Vendor lists.<sup>1</sup>**

Whatcom County will maintain a vendor list pursuant to RCW [39.04.190](#). (Ord. 2013-029 Exh. A).

### **3.08.060 Bids and proposals required.**

Awards of contracts for the acquisition of materials, supplies, services, tools, equipment or rental of personal property and professional services for a nonpublic work involving amounts exceeding ~~\$25,000~~[\\$50,000](#), or for a public work exceeding \$40,000, will be based upon bids or proposals received in response to specifications and invitations to bid, except as follows:

A. Sole source purchases shall not be required to go through competitive bidding. A purchase may be determined to be sole source by the county executive or designee when the bidding process would be futile because only one bidder could respond to the invitation.

B. In the event of an emergency when the public interest or property of the county would suffer material injury or damage by delay, upon an order of the county executive declaring the existence of such emergency and reciting the facts constituting same, the requirements governing competitive bids with reference to any purchase or contract may be waived pursuant to RCW [36.32.270](#).

C. Public works projects involving funds not exceeding the amount allowed in RCW [39.04.155](#), Small works roster contract procedures – Limited public works process, or any successor statute, may be completed utilizing the small works roster contract award process.

D. Acquisition is from another public entity.

E. Contract does not require use of county funds.

Proposals from architects and engineers are subject to the requirements of Chapter [39.80](#) RCW. (Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

### **3.08.070 Contractor's bond required for public works.**

Whatcom County shall comply with the requirements of RCW [39.08.010](#). (Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

### **3.08.080 Labor and material claims.**

Labor and material claims shall be filed pursuant to RCW [39.08.030](#). (Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

### **3.08.090 Bid specifications, deposits and awards.**

A. In developing specifications for bids or proposals, all reasonable efforts shall be made to ensure [a competitive process and](#) that a variety of vendors shall be capable of fulfilling the stated requirements of the county. Performance considerations shall be included in the specifications. However, nothing in this section shall be construed to limit the county from pursuing sole source procurement where adequate justification has been presented that such procurement is in the best interests of county operations.

B. When the acquisition of materials, supplies, purchased services, tools, equipment, rental of personal property or professional services involves amounts greater than ~~\$25,000~~[\\$50,000](#) in a single transaction for a nonpublic work award or exceeding \$40,000 for a public work award, the administrative services department shall be responsible for the review and approval of specifications and the preparation of invitations to bid pursuant to provisions set forth in this chapter.

C. All bid specifications shall be in writing and placed on file for public inspection.

D. [All invitations for bids, requests for proposals, and requests for qualifications will be posted on the county's website. Project announcements and bid solicitations or proposals that written specifications are on file and available for public inspection shall be published in the official county newspaper, and when in the county's best interest, other regional publications. Additionally, the county will offer complementary bid packets to multiple northwest and national plan centers.](#) Advertisements shall be published at least once in each week for two consecutive weeks prior to the last date upon which bids will be received ~~and may be published for as many additional publications as shall be considered in the county's interest.~~ Such advertisement shall state:

1. The date after which bids will not be received;
2. The character of the work to be done, or the materials, equipment or service to be purchased; and
3. [Where the specifications may be seen. Instruction on how to obtain additional information, including the complete bid packet.](#)

E. No bid shall be considered for public works unless it is accompanied by a bid deposit in the form of a surety bond, postal money order, cash, cashier's check, or certified check in an amount equal to five percent of the amount of the bid proposed.

F. Should the bidder to whom the contract is awarded fail to enter into the contract or fail to furnish the contractor's bond within 10 days (exclusive of the date of notice) after notice of the award, the amount of the bid deposit shall be forfeited to the county. Thereafter, the award shall be made to the next lowest responsive bidder. The bid deposit of an unsuccessful bidder (if his bid deposit has not been forfeited) shall be returned after the required contractor's bond of the successful bidder has been accepted.

G. Bids received shall be opened and read in public on the date named in the advertisement for bids, or on a subsequent date established in a bid addendum.

H. After opening, all bids shall be reviewed and referred to the requisitioning department for recommendation of award. Bids will be forwarded by the director of the administrative services department or designee with a recommendation to the county executive for award.

I. After opening and award, all bids shall be filed for public inspection, and available by telephone inquiry.

J. Any or all bids may be rejected for good cause. If all bids are not rejected, the award shall be to the lowest responsive bidder. In determining which is the lowest responsive bidder, the county may take into consideration the bidder's responsiveness to the county's requirements, the quality of the articles to be purchased or leased, availability of parts and service, delivery time, the tax revenue the county would receive from purchasing from a supplier located within its boundaries and prior dealings with the bidder.

K. The county may issue requests for proposals for services, or for technologically complex equipment including but not limited to computers, software, or telephone systems. If all proposals are not rejected, the award shall be to the highest rated proposal, taking into account the selection criteria published in the request for proposals.

L. The county may award to multiple bidders for the same commodity or service when the bid specifications provide for special circumstances in the determination of which vendor is truly the lowest price to the county. Special circumstances may include differences in ability to deliver, delivery time, availability of material, special loading or unloading conditions, total cost including transport or labor if not included with bid item, performance of the delivered material, location of the source, and proximity to the delivery point.

M. Contracts ~~that require county council approval per 3.08.100 entered into by the county, including those which involve externally funded pass-through moneys,~~ may be administratively amended to a cumulative amount not to exceed ~~\$20,000~~\$25,000 ~~or 15%~~10% of contract amount, whichever is greater~~for professional services and \$50,000 for bids;~~ larger amounts require council approval. No administrative contract amendment may exceed authorized expenditure authority. (Ord. 2015-011 Exh. A; Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

### **3.08.095 Small works roster contract award process.**

This section may be utilized in the acquisition of contractual services necessary to complete public works projects as allowed under RCW [36.32.250](#), and consistent with RCW [39.04.155](#), in order to use a small works roster contract award process in lieu of formal sealed bidding, the county shall:

A. Publish at least twice each year in the official county newspaper a notice of the existence of the roster and solicit the names of contractors that are qualified for the requested categories of work. Notice shall be published at least once in each week for two consecutive weeks prior to the last date upon which response to the notice will be received, and may be published for as many additional publications as shall be considered in the county's interest.

B. In every case a certain category of work is to be accomplished under this section, all contractors responding to the above notice and indicating their qualification to perform the category of work proposed shall be contacted and provided an invitation to bid.

C. Include in the invitation to bid the date on which bids will be received, the scope and nature of work to be performed, the materials and equipment to be furnished, and, if not provided otherwise in the invitation to bid, where the detailed plans and specifications may be seen and obtained.

D. Otherwise apply the provisions of WCC [3.08.090](#)(B), (E), (F), (G), (H), (I), (J), and (M).

E. Forgo the advertisement of a contract awarded through use of the small works roster. (Ord. 2013-029

Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A).

### **3.08.100 Council approval required.**

Contracts ~~for professional services exceeding \$20,000, and or bid awards exceeding \$250,000, and professional service contracts exceeding \$50,000 and~~ all real property leases must be submitted to the county council for approval, except when ~~pursuant to:~~

A. Exercising an option contained in a contract or lease previously approved by the council.

B. ~~Contract is for the design, construction, right-of-way acquisition, professional services, or other capital costs approved by the county council in a capital budget appropriation ordinance.~~

~~B-C. Contract or bid award for supplies and for equipment approved in a capital budget appropriation ordinance.~~

~~BD. Contract is for technical support and software maintenance from the developer of proprietary software which is currently being used by Whatcom County.~~

~~CE. Contract is for manufacturer's technical support and hardware maintenance of electronic systems.~~

~~DE. Pursuant to and within the scope of a declaration of emergency made by the county executive under WCC [3.08.060\(B\)](#). The county executive, pursuant to a declaration of emergency, shall submit the contract to the county council for informational purposes at the council's next regular or special meeting. (Ord. 2015-011 Exh. A; Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 2000-025; Ord. 97-034 Exh. A; Ord. 96-034; Ord. 93-042 Exh. H).~~

### **3.08.110 Unregistered or unlicensed contractors prohibited.**

No contract shall be entered into or executed with any contractor who is not registered or licensed as required by the laws of this state (except only as permitted under RCW [39.06.010](#) for highway projects for contractors who have been prequalified as required under RCW [47.28.070](#)). (Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

### **3.08.120 Joint purchasing.**

The county may enter into agreements with the state or with any agency, political subdivision, or unit of local government to purchase goods or services cooperatively. Joint purchasing services are hereby authorized and encouraged with any other municipal corporation in Whatcom County. Assistance to the participating municipal corporation may be given in any way except that a sale or contract shall be between the vendor and the participating municipal corporation and not Whatcom County. Bids and quotes may be obtained jointly based on volume if it is in the county's best interest to do so. (Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

### **3.08.130 Amendments to chapter.**

The county council reserves the exclusive right to alter, amend, rescind, abrogate, delete, supersede or replace the provisions of this chapter, or any part thereof, in any manner not inconsistent with state law. Whether or not the county council takes action, the provisions of this chapter shall be deemed automatically altered, amended, or superseded to conform to any mandatory state administrative ruling or statute, as of the effective date of any such enactment appertaining to the matters covered in this chapter, to the effect that the provisions of this chapter shall at all times conform to, and never conflict with, said state laws and regulations. (Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

**3.08.140 Severability.**

If any provision of this chapter is held to be invalid, the remainder of the chapter shall remain in effect. (Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

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Prior legislative history: Ord. 97-034 repealed WCC 3.08.050. Ord. 93-042 was formerly codified in the section.