

TO ALL COUNCILMEMBERS:

SUBSTITUTE VERSION

for

April 14, 2015

OTHER ITEMS #3

AB2015-042

3. Ordinance amending Whatcom County Code 3.08, Purchasing System (AB2015-042)
(Councilmember proposal)

Pages 11 - 14

DISTRIBUTED: April 14, 2015

TIME: 2:00 p.m.

Submitted by: Councilmembers Brenner & Weimer

PROPOSED BY: Brenner & Weimer
SPONSORED BY: Brenner & Weimer
INTRODUCTION DATE: January 27, 2015

ORDINANCE NO. _____

AMENDING WHATCOM COUNTY CODE 3.08, PURCHASING SYSTEM

WHEREAS, the Whatcom County Council believes that open transparent government leads to the best decisions for the people of Whatcom County; and

WHEREAS, Whatcom County's purchasing code is intended to provide the public with transparency and checks and balances regarding county expenditures; and

WHEREAS, Whatcom County Code 3.08.090 and 3.08.100 have numerous exceptions to the requirement of council approval; and

WHEREAS, parts of Whatcom County Code 3.08.090 and 3.08.100 reduce the public's ability to be provided with transparency and adequate checks and balances regarding county expenditures;

NOW THEREFORE BE IT ORDAINED, by the Whatcom County Council that Whatcom County Code Chapter 3.08.090 and 3.08.100, are hereby amended as outlined in Exhibit A to this ordinance.

APPROVED this ____ day of _____, 2015.

ATTEST:

**WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON**

Dana Brown Davis, Clerk of the Council

Carl Weimer, Council Chair

APPROVED AS TO FORM:

**WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON**

Civil Deputy Prosecutor

Jack Louws, County Executive

() Approved () Denied
Date Signed: _____

EXHIBIT A

3.08.090 Bid specifications, deposits and awards.

A. In developing specifications for bids or proposals, all reasonable efforts shall be made to ensure 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 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. An advertisement that written specifications are on file and available for public inspection shall be published in the official county newspaper. 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.

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. The county executive may administratively amend and execute capital improvement project contracts within the approved capital budget appropriation.~~

~~NM. Contracts 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 \$10,000 or 10 percent of the original contract, whichever is greater \$20,000 for professional services and \$50,000 for bids; larger amounts require council approval.~~

~~O. Amendments to existing contracts which involve externally funded pass-through moneys may be approved by the county executive without council approval in any amount. (Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).~~

3.08.100 Council approval required.

Contracts for professional services exceeding \$20,000, bids exceeding \$50,000 and all real property leases must be submitted to the county council for approval, except when:

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 or other capital costs for capital projects which are within the appropriation approved by the county council in a capital budget appropriation ordinance.~~

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

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

~~ED. 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.~~

~~Contracts and interlocal agreements which do not require the use of county funds may be approved administratively by the county executive. (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).~~