



Legislation Details (With Text)

File #: 2012-0445 **Version:** 2

Type: Ordinance **Status:** Passed

File created: 11/13/2012 **In control:** Government Accountability and Oversight Committee

On agenda: **Final action:** 2/11/2013

Enactment date: 2/21/2013 **Enactment #:** 17522

Title: AN ORDINANCE relating to procurement; amending Ordinance 12138, Section 22, as amended, and K.C.C. 4.16.157, Ordinance 12138, Section 6, as amended, and K.C.C. 4.16.010, Ordinance 12138, Section 7, as amended, and K.C.C. 4.16.025, Ordinance 12138, Section 8, as amended, and K.C.C. 4.16.030, Ordinance 16927, Section 2, and K.C.C. 4.16.035, Ordinance 12138, Section 9, as amended, and K.C.C. 4.16.040, Ordinance 12138, Section 10, as amended, and K.C.C. 4.16.070, Ordinance 16651, Section 1, and K.C.C. 4.16.075, Ordinance 12138, Section 11, as amended, and K.C.C. 4.16.080, Ordinance 12138, Section 13, as amended, and K.C.C. 4.16.100, Ordinance 12138, Section 14, as amended, and K.C.C. 4.16.110, Ordinance 12138, Section 15, and K.C.C. 4.16.120, Ordinance 12138, Section 17, and K.C.C. 4.16.144, Ordinance 12138, Section 18, and K.C.C. 4.16.145, Ordinance 6231, Section 1, as amended, and K.C.C. 4.16.150 and Ordinance 12138, Section 19, as amended, K.C.C. 4.16.155, adding a new chapter to K.C.C. Title 2, recodifying K.C.C. 4.16.005, K.C.C. 4.16.157, K.C.C. 4.16.010, K.C.C. 4.16.025, K.C.C. 4.16.030, K.C.C. 4.16.035, K.C.C. 4.16.040, K.C.C. 4.16.050, K.C.C. 4.16.055, K.C.C. 4.16.070, K.C.C. 4.16.075, K.C.C. 4.16.080, K.C.C. 4.16.100, K.C.C. 4.16.110, K.C.C. 4.16.120, K.C.C. 4.16.144, K.C.C. 4.16.145, K.C.C. 4.16.150, K.C.C. 4.16.155 and K.C.C. 4.16.175 and repealing Ordinance 16854, Section 5, and K.C.C. 4.16.086, Ordinance 3441, Section 8, as amended, and K.C.C. 4.16.090, Ordinance 12138, Section 12, as amended, and K.C.C. 4.16.095 and Ordinance 12138, Section 16, as amended, and K.C.C. 4.16.142.

Sponsors: Joe McDermott

Indexes:

Code sections: 4.16.005 - , 4.16.010 - , 4.16.010 - , 4.16.025 - , 4.16.025 - , 4.16.030 - , 4.16.030 - , 4.16.035 - , 4.16.035 - , 4.16.040 - , 4.16.050 - , 4.16.055 - , 4.16.070 - , 4.16.075 - , 4.16.075 - , 4.16.080 - , 4.16.080 - , 4.16.086 - , 4.16.086 - , 4.16.090 - , 4.16.095 - , 4.16.100 - , 4.16.110 - , 4.16.120 - , 4.16.120 - , 4.16.130 - , 4.16.142 - , 4.16.144 - , 4.16.144 - , 4.16.145 - , 4.16.145 - , 4.16.150 - , 4.16.155 - , 4.16.155 - , 4.16.157 - , 4.16.157 - , 4.16.175 -

Attachments: 1. Ordinance 17522.pdf, 2. Staff Report 2012-0445.doc, 3. Attachment 2 Stirking Amendment.doc, 4. Attachment 3 Title Amendment.doc, 5. Revised Staff Report 2012-0445.doc

Date	Ver.	Action By	Action	Result
2/11/2013	2	Metropolitan King County Council	Hearing Held	
2/11/2013	2	Metropolitan King County Council	Passed	Pass
1/28/2013	1	Metropolitan King County Council	Reintroduced	
1/28/2013	1	Government Accountability and Oversight Committee	Recommended Do Pass Substitute Consent	Pass
11/13/2012	1	Metropolitan King County Council	Introduced and Referred	

Clerk 02/01/2013

AN ORDINANCE relating to procurement; amending Ordinance 12138, Section

22, as amended, and K.C.C. 4.16.157, Ordinance 12138, Section 6, as amended, and K.C.C. 4.16.010, Ordinance 12138, Section 7, as amended, and K.C.C. 4.16.025, Ordinance 12138, Section 8, as amended, and K.C.C. 4.16.030, Ordinance 16927, Section 2, and K.C.C. 4.16.035, Ordinance 12138, Section 9, as amended, and K.C.C. 4.16.040, Ordinance 12138, Section 10, as amended, and K.C.C. 4.16.070, Ordinance 16101351, Section 1, and K.C.C. 4.16.075, Ordinance 12138, Section 11, as amended, and K.C.C. 4.16.080, Ordinance 12138, Section 13, as amended, and K.C.C. 4.16.100, Ordinance 12138, Section 14, as amended, and K.C.C. 4.16.110, Ordinance 12138, Section 15, and K.C.C. 4.16.120, Ordinance 12138, Section 17, and K.C.C. 4.16.144, Ordinance 12138, Section 18, and K.C.C. 4.16.145, Ordinance 6231, Section 1, as amended, and K.C.C. 4.16.150 and Ordinance 12138, Section 19, as amended, K.C.C. 4.16.155, adding a new chapter to K.C.C. Title 2, recodifying K.C.C. 4.16.005, K.C.C. 4.16.157, K.C.C. 4.16.010, K.C.C. 4.16.025, K.C.C. 4.16.030, K.C.C. 4.16.035, K.C.C. 4.16.040, K.C.C. 4.16.050, K.C.C. 4.16.055, K.C.C. 4.16.070, K.C.C. 4.16.075, K.C.C. 4.16.080, K.C.C. 4.16.100, K.C.C. 4.16.110, K.C.C. 4.16.120, K.C.C. 4.16.144, K.C.C. 4.16.145, K.C.C. 4.16.150, K.C.C. 4.16.155 and K.C.C. 4.16.175 and repealing Ordinance 16854, Section 5, and K.C.C. 4.16.086, Ordinance 3441, Section 8, as amended, and K.C.C. 4.16.090, Ordinance 12138, Section 12, as amended, and K.C.C. 4.16.095 and Ordinance 12138, Section 16, as amended, and K.C.C. 4.16.142.

PREAMBLE:

The existing code on revenue and fiscal regulation, K.C.C. Title 4, was created for the most part in the 1970s and 1980s, though some provisions date back to at least the 1940s. Since the

creation of K.C.C. Title 4, the title has been subject to many amendments each year. The cumulative effect of these amendments has been to create ambiguities and conflicts within the title, which make it difficult to apply the code effectively and predictably. The council determines that a new title on revenue and fiscal regulation, K.C.C. Title 4A, should be created, and material related to revenue and fiscal matters be codified in that title, and all other material in K.C.C. Title 4 that is not appropriate to be codified K.C.C. Title 4A should be codified in the appropriate titles. In this case, the material in K.C.C. chapter 4.16 should be codified in K.C.C. Title 2.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. There is hereby established a new chapter in K.C.C. Title 2. The new chapter shall contain K.C.C. 4.16.005, as recodified by this ordinance, K.C.C. 4.16.157, as recodified by this ordinance, K.C.C. 4.16.010, as recodified by this ordinance, K.C.C. 4.16.025, as recodified by this ordinance, K.C.C. 4.16.030, as recodified by this ordinance, K.C.C. 4.16.035, as recodified by this ordinance, K.C.C. 4.16.040, as recodified by this ordinance, K.C.C. 4.16.050, as recodified by this ordinance, K.C.C. 4.16.055, as recodified by this ordinance, K.C.C. 4.16.070, as recodified by this ordinance, K.C.C. 4.16.075, as recodified by this ordinance, K.C.C. 4.16.080, as recodified by this ordinance, K.C.C. 4.16.100, as recodified by this ordinance, K.C.C. 4.16.110, as recodified by this ordinance, K.C.C. 4.16.120, as recodified by this ordinance, K.C.C. 4.16.144, as recodified by this ordinance, K.C.C. 4.16.145, as recodified by this ordinance, K.C.C. 4.16.150, as recodified by this ordinance, K.C.C. 4.16.155, as recodified by this ordinance, and K.C.C. 4.16.175, as recodified by this ordinance.

SECTION 2. K.C.C. 4.16.005, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.

SECTION 3. Ordinance 16854, Section 1, and K.C.C. 4.16.005 are each hereby amended to read as follows:

To ensure open, fair and competitive procurement processes, to establish a procurement system of quality and integrity((;)) and to maximize the purchasing value of public funds, this chapter applies to contracts for the procurement of tangible personal property, services, professional ((ø#)) services, technical services and public work entered into by county elected officials, department heads and their designees. Except where exempt by state law, county ordinance or executive policy, county procurement shall be administered through the ((purchasing)) procurement and contract services section to maximize economies of scale, consistency in county practices and accountability procedures.

When a procurement involves the expenditure of federal or state assistance, grants or funds, the manager shall conduct the procurement in accordance with this chapter unless the federal or state agency specifically requires otherwise. This chapter does not limit the authority of the executive to procure tangible personal property, services, professional or technical services, or public work in a manner otherwise provided for in law.

SECTION 4. K.C.C. 4.06.157, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.

SECTION 5. Ordinance 12138, Section 22, as amended, and K.C.C. 4.16.157 are each hereby amended to read as follows:

The manager is hereby authorized to take all actions necessary and appropriate to implement the policies and provisions ((set forth)) in this chapter, and to promulgate such rules, regulations and guidelines as the manager deems necessary to carry out the purposes or provisions of this chapter((; provided, that such)).
The rules, regulations and guidelines shall be promulgated in compliance with K.C.C. chapter 2.98.

SECTION 6. K.C.C. 4.16.010, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.

SECTION 7. Ordinance 12138, Section 6, as amended, and K.C.C. 4.16.010 are each hereby amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

A. "Bid" or "proposal" means an offer to provide tangible personal property, services, technical or professional services and public work in response to a solicitation for bids or proposals issued by the county.

B. "Bidder," or "proposer" means a person, firm, partnership or corporation that formally submits a bid, proposal or offer to provide tangible personal property, services, professional or technical services and public work to the county in response to a solicitation for bids or proposals or request for qualifications issued by the county.

C. "Collusion" means a willful act to defraud others of their rights or to obtain an unfair advantage in a public contracting process.

D. "Contract" means a mutually binding legal relationship or any modification thereof obligating a person, firm, corporation or partnership to provide tangible personal property, services, professional or technical services or public work to the county, and that obligates the county to pay therefor.

~~((D-))~~ E. "Day" means a calendar day.

F. "Incremental project cost" means the additional cost, if any, in design, procurement, construction and long-term maintenance, for achieving a reduction in energy usage or greenhouse gas emissions greater than the reduction that would be achieved under the applicable building code requirements.

G. "Manager" means the manager of the finance and business operations division.

~~((E. "Metropolitan function" means a function or functions authorized by RCW 35.58.050, approved by the voters, and assumed by the county in accordance with RCW 36.56.010.~~

F-)) H. "Professional ~~((or technical))~~ services" means those services provided by ~~((independent~~ contractors:

1. ~~Within the scope of architecture, accounting, engineering, landscape architecture, law, financial or administrative studies, feasibility studies of a scientific or technical nature, management advisory services and~~

~~special project management for a defined time or result or other practice that requires specialized knowledge, advanced education or professional licensing or certification; and~~

~~2. Where the primary service provided is mental or intellectual involving the consistent exercise of judgment and discretion or the provision of specialized skills))~~ licensed or certified individuals or consulting firms associated with either the development, design or construction, or any combination thereof, of a public works or real property project.

~~((G.))~~ I. "Public work" means all work, construction, alteration, enlargement, repair, demolition or improvement, other than ordinary maintenance, executed at the cost of the county or ((which)) that is by law a lien or charge on any property therein.

~~((H. "Rolling stock" as used throughout this chapter shall mean revenue producing vehicles, including buses, vans, cars, railcars, locomotives and trolley cars.~~

~~I.))~~ J. "Sealed bid" means a method for submitting a bid to provide or perform work on a contract. In general, each interested party submits a bid in a sealed envelope or electronically as specified, and all of the bids are opened at the same time.

K. "Services,"((;)) except for professional services or technical services, means the furnishing of labor, time or effort by a contractor, not involving the delivery of tangible personal property, ((other than)) such as reports that are merely incidental to the required performance.

~~((J.))~~ L. "Tangible personal property" means equipment, supplies, materials((;)) and goods, and ((rolling stock)) includes intangible personal property that is movable, subject to ownership, and has exchange value.

M. "Technical services" means those services provided by independent contractors within the scope of accounting, law, financial or administrative studies, studies of a technical nature, management advisory services and special project management, for a defined time or result or other practice that requires either specialized knowledge, advanced education or licensing or certification, or any combination thereof, and where the primary

service provided is intellectual involving the consistent exercise of judgment and discretion or the provision of specialized skills.

N. "Waiver" means a process whereby the procurement and contract services section may procure without formal solicitation procedures because of the uniqueness of circumstances related to that procurement action.

SECTION 8. K.C.C. 4.06.025, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.

SECTION 9. Ordinance 12138, Section 7, as amended, and K.C.C. 4.16.025 are each hereby amended to read as follows:

A. Sealed bids shall be received ~~((by the manager))~~ in such a manner and form, including electronically if specified, and at such locations as the manager shall designate~~((Bids shall be submitted as follows: Bids shall be sealed and shall be mailed or delivered and received at the location designated by the manager))~~ up to the time and date ~~((specified on))~~ identified in the invitation to bid, where such bids shall be time-recorded ~~((and initialed))~~ by a county representative. After the expiration of the time for the receipt of bids, the bids will be publicly opened and read. The county reserves the right to reject any bid, any portion of any bid, or all bids and to waive immaterial irregularities ~~((or any other requirement))~~ in accordance with applicable law.

B. Written ((P))proposals or statements of qualification shall be received ~~((by the manager))~~ in such a manner and form, including electronically if specified, at such locations as the manager shall designate~~((Proposals shall be submitted as follows: Proposals shall be sealed and shall be mailed or delivered and received at the location designated))~~ up to the time and date ~~((specified))~~ identified in the request for proposal s~~((, where such))~~ or request for statements of qualification. The proposals or statements shall be time recorded ~~((and initialed))~~ by a county representative~~((; provided however, that if the manager promulgates procedures by which proposals may be submitted electronically, and the request for proposal provides that proposals may be submitted in such a manner, the proposer may elect to submit its proposal either by the sealed or by the~~

electronic manner)). After expiration of the time for receipt of proposals or statements, a submittal list shall be compiled and made public.

SECTION 10. K.C.C. 4.16.030, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.

SECTION 11. Ordinance 12138, Section 8, as amended, and K.C.C. 4.16.030 are each hereby amended to read as follows:

~~((In accordance with the provisions of RCW 36.32.245 and 36.32.253 and this chapter, the executive is granted authority to let any contract, lease or purchase of tangible personal property or services, other than professional or technical services, involving less than twenty five thousand dollars, without advertisement and without formal, sealed bidding. The executive is also granted the authority to let any contract for the purchase of professional or technical services without a formal solicitation of proposal process where the value of the contract to the consultant will not exceed twenty five thousand dollars. When leasing or purchasing tangible personal property or services, other than professional or technical services, between five thousand dollars and twenty five thousand dollars, the executive shall be responsible for securing either telephone or written quotations, or both, from vendors or prospective contractors to assure establishment of a competitive price, and for awarding such contracts to the lowest responsible bidder or proposer. When awarding a professional or technical services contract having a value to the contractor of less than twenty five thousand dollars, the executive shall obtain proposals from similarly qualified proposers to ensure a competitive process, and strive to select the most qualified proposer, having given due regard to experience and expertise and other relevant factors, and after the award of any contract pursuant to this section, the bids or proposals obtained shall be recorded and open to public inspection and shall be available by telephone inquiry.))~~ In accordance with Titles 36 and 39 RCW and this chapter, the executive is granted authority to award any contract, lease or purchase of tangible personal property and technical or other services, at the informal purchase threshold, without advertisement and without formal, sealed bids or proposals. The executive shall be responsible for securing

quotations or proposals from prospective contractors where required to assure establishment of a competitive price. This section does not apply to architectural, engineering, professional, or public works contracts.

SECTION 12. K.C.C. 4.16.035, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance. SECTION 13. Ordinance 16927, Section 2, and K.C.C. 4.16.035 are each hereby amended to read as follows:

A. ~~((For the purposes of this section, "incremental project cost" means the additional cost, if any, in design, procurement, and construction and long term maintenance for achieving a reduction in energy usage or greenhouse gas emissions greater than the reduction that would be achieved under the applicable building code requirements.~~

B.))1. The executive shall require the architect, engineer or energy performance contractor to develop a written analysis to be delivered to the project manager before the completion of the project's design for all county capital improvement projects, including new construction, remodeling and energy-saving performance contracts and equipment retrofits and replacement:

- a. that include at least two hundred fifty thousand dollars of costs for powered equipment; and
- b. for which reasonable alternatives appear to be available for reducing energy usage by at least ten percent below applicable building code requirements or reducing greenhouse gas emissions.

2. The analysis shall include, at a minimum:

- a. options to achieve a reduction in energy usage of at least ten percent below levels that would be achieved under applicable building code requirements;
- b. any reasonable options to achieve greenhouse gas emissions reductions;
- c. identification of all available financial incentives from utility companies or other parties for achieving a reduction in energy usage or greenhouse gas emissions;
- d. a financial analysis of the incremental project cost for achieving the reductions in energy usage based on a life-cycle cost analysis that calculates net present value of the incremental cost, net of any financial

incentives from utilities or other outside sources, and the operational and utility savings for a period of not more than fifteen years, unless specifically justified by the attributes of the project; and

e. a financial analysis of the incremental project cost for implementing any reasonable options for achieving the reductions in greenhouse gas emissions based on a life-cycle cost analysis that calculates net present value of the incremental cost, net of any financial incentives from utilities or other outside sources, and the operational and utility savings for a period of not more than fifteen years, unless specifically justified by the attributes of the project.

3. The written analysis required in subsection ~~((B-))~~ A.1. of this section shall apply to county capital improvement projects for which design work is commenced after October 3, 2010.

~~((C-))~~ B. The project manager shall consider the financial analysis and life-cycle cost analysis in the selection of the alternative under subsection ~~((B-))~~ A. of this section, with a goal of selecting the alternative that meets the county's operational needs and that will result in a reduction of energy usage and greenhouse gas emissions and for which the life-cycle cost analysis of the incremental project cost demonstrates that there would not be an additional cost to the county. Documentation of the decision must be provided if an alternative is selected that does not reduce energy consumption or greenhouse gas emissions, or if an alternative is selected for which the financial analysis in subsection B. of this section determines that there will be an incremental cost.

~~((D-))~~ C. For a project under subsection ~~((B-))~~ A. of this section, where a financial incentive from a utility is available and the county has decided to pursue the incentive, the project manager shall be responsible for ensuring completion of all requirements of the utility's incentive.

~~((E-))~~ D.1. For a project under subsection ~~((B-))~~ A. of this section, upon the expiration of the project's construction warranty period, the department shall report the energy reduction and greenhouse gas emissions achieved as a result of the project and the total rebates and grants received from utilities or other parties as compared to the projected outcomes in energy usage and greenhouse gas emissions, and any financial

incentives identified in the financial analysis required in subsection ((B-)) A.3. of this section. After the initial report, the project's actual versus projected energy usage and greenhouse gas emissions shall be monitored for at least three years, using the county's energy accounting software or other measurement tools as appropriate based on the size and complexity of the project.

2. The executive shall adopt written procedures outlining the methodology and process by which a project manager reports on the energy and greenhouse gas emissions reductions achieved as a result of the project and the annual monitoring of energy and greenhouse gas emissions reduction. The procedures shall include a process for identifying those projects that include at least two hundred fifty thousand dollars of costs for powered equipment, but for which reasonable alternatives were unavailable for reducing energy consumption by at least ten percent below applicable building code requirements. The procedures shall include a reporting mechanism by which the data in subsection ((E-)) D.1. of this section is compiled, summarized and transmitted to the council.

SECTION 14. K.C.C. 4.16.040, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinances.

SECTION 15. Ordinance 12138, Section 9, as amended, and K.C.C. 4.16.040 are each hereby amended to read as follows:

A. The competitive procurement provisions of this chapter shall not apply to the lease or purchase of tangible personal property or to services of any kind that are clearly and legitimately limited to a single source of supply or that involve special facilities or special market conditions in which instances the lease or purchase price shall be established by direct negotiations by the manager. Executive approval is required for such leases or purchases (~~((in excess of twenty five thousand dollars))~~) below the formal purchasing threshold as described in RCW 36.32.245.

B. Notwithstanding subsection A. of this section, the competitive bidding requirements for public works may not be waived on the basis of a single source of supply, special facilities or special market

conditions.

SECTION 16. K.C.C. 4.16.050 and K.C.C. 4.16.055 are each hereby recodified as new sections in the new chapter established in section 1 of this ordinance.

SECTION 17. K.C.C. 4.16.070, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.

SECTION 18. Ordinance 12138, Section 10, as amended, and K.C.C. 4.16.070 are each hereby amended to read as follows:

Various departments or agencies of the county regularly have requirements for minimal cost purchases, and the cost of competitive purchasing to the county in these instances is greater than the benefits. The standard method for making these purchases is a county-issued credit card. In those instances when a county-issued credit card cannot be reasonably used, the manager shall establish a petty cash fund for open market purchases of miscellaneous items, total purchase price not to exceed one hundred dollars. Individual departments or agencies may effect these minimal cost purchases directly. The manager will authorize the reimbursement to each department, office or employee authorized to make such petty cash expenditures upon delivery of vendor's sales receipt. The authorized designee of the department or office will certify the vendor's paid sales receipt and deliver same for reimbursement.

SECTION 19. K.C.C. 4.16.075, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.

SECTION 20. Ordinance 16651, Section 1, and K.C.C. 4.16.075 are each hereby amended to read as follows:

A. The manager shall implement the following system for the authorization, distribution, control, implementation and administration of credit cards by officers and employees:

1. Credit cards may be distributed to those county officers and employees who, in the opinion of the manager, have job responsibilities that would benefit from, or otherwise be facilitated by, the use of a credit

card;

2. Credit cards may only be used for purchases or acquisitions the user would be authorized to make with county cash, purchase order, or voucher;

3. Credit cards may not be used for cash advances;

4. ~~((The manager shall develop and implement p))~~Policies and procedures and accounting controls shall be developed and implemented to ensure the proper usage of credit cards and credit card funds including compliance with county code and county purchasing policies and procedures;

5. Credit cards may be required to be immediately surrendered if used in a manner inconsistent with county code or county policies or procedures;

6. ~~((The manager shall set e))~~Credit limits shall be set on each credit card issued; and

7. ~~((The manager shall establish and implement a))~~A written procedure for the payment of all credit card bills shall be established and implemented.

B. The manager may adopt any additional policies and procedures the manager determines are necessary to implement, and are not inconsistent with, this chapter.

SECTION 21. K.C.C. 4.16.080, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.

SECTION 22. Ordinance 12138, Section 11, as amended, and K.C.C. 4.16.080 are each hereby amended to read as follows:

~~((A. The rules and regulations stipulated in this section shall apply only to professional or technical service contracts.~~

~~B. Consultant contracts for preparation of environmental documents prepared as required by the state Environmental Policy Act, chapter 43.21C RCW, are exempt from the requirements of this chapter.~~

~~C. Contracts for architect and engineering services shall be let in accordance with the requirements of chapter 39.80 RCW.~~

~~D. In soliciting and recommending award of a professional or technical services contract having a value to the contractor in excess of twenty-five thousand dollars, the manager shall have the operational authority and responsibility to:~~

~~1. Determine when it is in the best interest of the county to designate a contract for procurement under the small business accelerator authorized in K.C.C. chapter 4.19;~~

~~2. Develop proposal specifications or a project description in the form of a request for proposal in concert with the requesting department or office;~~

~~3. Develop, with the requesting department or office, the written criteria that will be used to determine which a written proposal or proposals shall be accepted as the basis for recommending contract award. The determination at a minimum shall include:~~

~~a. quality;~~

~~b. known and documented expertise of the applicant;~~

~~c. documentation, as required, and demonstration of the financial capability of the party to perform specified work;~~

~~d. special consideration of the impact of equal employment opportunity efforts, including certified small contractors and suppliers and minority and women's business enterprise participation;~~

~~4. Publicly advertise at least once the purpose, scheduled date, location and time of a preproposal conference if applicable, or the name of a contact person from whom the project specifications shall be available. The purposes of prior notification shall be to distribute and discuss the project specifications in the form of a request for proposal to interested parties, and inform applicants of the stated time frame for submission;~~

~~5. Recommend to the executive which proposal or proposals should be awarded a contract or contracts as being in the best interests of the county;~~

~~6. Be responsible to address all necessary comments to other proposers, interested parties or the~~

~~general public regarding the decision by the county to contract for services from a party to the exclusion of other proposers; and~~

~~7. Include in contracts that provide for reimbursement of contractor travel and meal expenses a provision that limits such reimbursements to eligible costs based on the rates and criteria established in K.C.C. chapter 3.24.)~~ A. Contracts for architect and engineering services shall be solicited in accordance with chapter 39.80 RCW.

B. Contracts for professional services, other than architectural or engineering, shall be solicited using the procedures in chapter 39.80 RCW, with price as an additional element of consideration.

C. Public works contracts shall be solicited and awarded in accordance with the authority granted by state law, as in Titles 36 and 39 RCW and any additional requirements prescribed by county ordinance or executive policy.

D. Contracts for the lease or purchase of tangible personal property and the purchase of services and technical services shall be awarded in accordance with RCW 36.32.245, 36.32.253 and 39.04.190. If the manager determines that soliciting bids is not in the best interest of the county, the contract shall be awarded under a competitive proposal process.

E. Prequalification of tangible personal property and services may occur before procurement of the items. Under those circumstances, only tangible personal property and services that are determined to meet the qualifying criteria will be acceptable in the subsequent procurement.

F. All contracts that provide for reimbursement of contractor travel and meal expenses shall have a provision that limits such reimbursements to eligible costs based on the rates and criteria established in K.C.C. chapter 3.24 and federal travel rate regulations.

SECTION 23. Ordinance 16854, Section 5, and K.C.C. 4.16.086 are each hereby repealed.

SECTION 24. Ordinance 3441, Section 8, as amended, and K.C.C. 4.16.090 are each hereby repealed.

SECTION 25. Ordinance 12138, Section 12, as amended, and K.C.C. 4.16.095 are each hereby

repealed.

SECTION 26. K.C.C. 4.16.100, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.

SECTION 27. Ordinance 12138, Section 13, as amended, and K.C.C. 4.16.100 are each hereby amended to read as follows:

Regardless of whether bids or proposals have been solicited by the county for the purchase of tangible personal property or the performance of a service~~((s))~~ or services, ~~((it shall be the duty of))~~ the manager ~~((to))~~ shall report to the executive any suspected collusion~~((and))~~. The executive may order the suspected collusion to be reported to the appropriate authorities. If the suspected collusion appears to violate federal antitrust laws, then the executive may order ~~((such))~~ the suspected collusion reported to the ~~((proper))~~ appropriate federal authorities charged with enforcement ~~((of the federal antitrust laws and to the Antitrust Division of the Office of the Attorney General of the state of Washington))~~.

SECTION 28. K.C.C. 4.16.110, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.

SECTION 29. Ordinance 12138, Section 14, as amended, and K.C.C. 4.16.110 are each hereby amended to read as follows:

The manager shall have authority to join with other units of government in cooperative purchasing when the best interests of the county would be served thereby~~((; provided, that))~~, but each of the participating units shall be separately invoiced by the vendors for ~~((such))~~ the purchases and the county shall not be obligated for purchases other than those required for its own use. ~~((Whenever supplies, materials, equipment and services are purchased for the county by federal, state or local governments, such purchases may be accomplished in the manner prescribed by the provisions of applicable law, charter or chapter of such federal, state or local governments,))~~ The county may utilize federal, state or local governments' contracts that have followed their respective public agencies' competitive procurement processes rather than ~~((the provisions of))~~

this chapter. The manager may establish a purchasing administrative fee to recover costs from the contractor associated with other public agencies' use of these contracts.

SECTION 30. K.C.C. 4.16.120, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.

SECTION 31. Ordinance 12138, Section 15, and K.C.C. 4.16.120 are each hereby amended to read as follows:

Except in an emergency, no ~~((order for delivery on a contract or open market order for supplies, materials, equipment or contractual services))~~ purchase for any department or office shall be awarded until the department director or ~~((chief))~~ responsible officer has certified that the encumbered balance in appropriation or appropriations concerned, in excess of all unpaid obligations, is sufficient to defray the cost of ~~((such))~~ the order.

SECTION 32. Ordinance 12138, Section 16, as amended, and K.C.C. 4.16.142 are each hereby repealed.

SECTION 33. K.C.C. 4.16.144, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.

SECTION 34. Ordinance 12138, Section 17, and K.C.C. 4.16.144 are each hereby amended to read as follows:

The executive shall establish procedures for considering and determining bid and proposal protests and appeals. The executive shall render the final administrative determination on all such protests and appeals.

SECTION 35. K.C.C. 4.16.145, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.

SECTION 36. Ordinance 12138, Section 18, and K.C.C. 4.16.145 are each hereby amended to read as follows:

The executive shall comply with the following procedures in contract debarment and suspension actions

((-));

A. After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the executive shall have authority to debar a person, firm or other legal entity for cause from consideration for award of contracts with the county. The debarment shall be for ~~((a period of))~~ not more than two years~~((-))~~;

B. The executive shall have the authority to suspend a person, firm or other legal entity from consideration for award of contracts if there is probable cause for debarment. The suspension shall be for ~~((a period of))~~ not more than six months~~((-))~~;

C. The authority to debar or suspend shall be exercised in accordance with procedures established by the executive~~((-))~~;

D. The causes for debarment or suspension include the following:

1. Conviction for commission of a criminal offense as an incident 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 offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a contractor to the county;

3. Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;

4. Violation of contract provisions, such as the following, of a character which is regarded by the executive to be so serious as to justify debarment action:

a. deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract, or

b. substantial failure to comply with commitments to and contractual requirements for participation by minority and women's business enterprises and equal employment opportunity, or

c. a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;

5. Violation of ethical standards set forth in contracts with the county; or

6. Any other cause the executive determines so serious and compelling as to affect responsibility as a contractor to the county, including debarment by another governmental entity for any cause similar to those ((set forth herein.)) in this subsection D;

E. The executive shall issue a written decision stating the reasons for the debarment or suspension. ((Such)) The decision shall be promptly mailed or otherwise furnished to the debarred or suspended person and any other party intervening.

F. The executive's decision of debarment or suspension, unless fraudulent, shall constitute the final and conclusive decision on behalf of the county. After a final decision has been made, the executive shall submit a report to the council giving the name of the person, firm or other legal entity suspended or debarred and the reason(((s))) or reasons for ((such)) the suspension or debarment. The report shall be filed in the form of a paper original and an electronic copy with the clerk of the council, who shall forward an electronic copy to each councilmember.

SECTION 37. K.C.C. 4.16.150, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.

SECTION 38. Ordinance 6231, Section 1, as amended, and K.C.C. 4.16.150 are each hereby amended to read as follows:

Contracts with the following organizations shall be entered into without regard to this chapter:

- A. Youth Service Bureaus, including Center for Human Services;
- B. Puget Sound ((Council of Governments)) Regional Council;
- C. King County Soil Conservation Service;

- D. Air Pollution Control Service;
- E. Seattle/King County Visitors Bureaus;
- F. The Central Puget Sound Economic Development District;
- G. Pacific Science Center;
- H. Seattle/King County Economic Development Council;
- I. Eastside Visitors Bureau;
- J. United Way;
- K. United States Office of Personnel Management; and
- L. ~~((Cultural development authority of King County))~~ 4Culture.

SECTION 39. K.C.C. 4.16.155, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.

SECTION 40. Ordinance 12138, Section 19, as amended, and K.C.C. 4.16.155 are each hereby amended to read as follows:

A. This section applies to contracts or procurements for tangible personal property and services ~~((and professional or))~~ including technical services for departments and offices. ~~((In addition, this section applies to contracts or procurements for tangible personal property acquired in furtherance of metropolitan functions. Unless otherwise provided in this section, all other ordinances relating to procurement, bidding or contract procedures shall apply to contracts or procurements which are in furtherance of metropolitan functions. In the event there are inconsistencies between this section and any other ordinance, this section shall control.))~~

B. ~~((For tangible personal property in furtherance of metropolitan functions, the estimated cost of which is twenty five thousand dollars or more, the manager may use the small business accelerator established in K.C.C. chapter 4.19 to solicit and obtain competitive sealed bids or proposals from only certified small contractors and suppliers.~~

C. ~~For tangible personal property and services other than public works, the estimated cost of which is~~

~~twenty five thousand dollars or more, if the manager determines that soliciting competitive sealed bids is not in the best interest of the county, the contract shall be let under the following competitive sealed proposals procedures))~~ Contracts shall be solicited under the following competitive process:

1. The manager shall ~~((cause a notice inviting statements of))~~ advertise solicitations for qualifications or ((statements of)) proposals ((to be published in a newspaper of general circulation throughout King County)). The notice shall state ~~((generally the tangible personal property or services to be purchased and shall call for statements of qualifications or statements of proposals to be submitted to the county on or before the day and hour named in the notice. The notice may be published in such additional newspapers or magazines and for such additional period of time as the manager shall deem to be in the best interest of the county))~~ the date and time for submissions. The ~~((request))~~ solicitation for ~~((statements of))~~ qualifications or ~~((statements of))~~ proposals shall state the relative importance of price and all other evaluation factors;

2. Discussions may be conducted with responsible offerors to determine which proposals should be evaluated in more detail or which offerors should be requested to enter into negotiations, or both. Negotiations may be conducted concurrently or sequentially. The county may request clarifications and consider minor adjustments in the proposals in order to better understand the proposals and to qualify them for further consideration, though information discussed or obtained from one offeror shall not be disclosed to competing offerors during the discussions and negotiations. Except to the extent protected by either or both state and federal laws and regulations, proposals shall be considered public documents and available for review and copying by the public after a decision to award the contract is made; and

3. Award shall be made, if at all, to a responsible offeror or offerors whose proposal or proposals are determined to be the most advantageous to the county, taking into consideration price and the other established evaluation factors.

C. The manager may use the small business accelerator established in K.C.C. chapter 4.19 to solicit and obtain competitive sealed bids or proposals from only certified small contractors and suppliers.

SECTION 41. K.C.C. 4.16.175 is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.