

ORDINANCE NO. 255 -2001

AN ORDINANCE REPEALING CHAPTER 4.116 OF THE KITSAP COUNTY CODE AND ORDINANCES NO. 346-1984 AND NO. 141-91 AND ESTABLISHING A NEW CHAPTER TITLED "PURCHASING PROCEDURES" TO THE KITSAP COUNTY CODE

WHEREAS, Kitsap County desires to establish a county Purchasing Office to provide procurement services to all county departments, agencies, offices and other county entities.

WHEREAS, Kitsap County desires to contract on a competitive basis for all public works, leases of personal property, and purchases of all supplies, material, and equipment, for all departments and offices of the County, as provided in RCW 36.32 and 39.04.

NOW THEREFORE, be it ordained by the Kitsap County Board of Commissioners:

Section 1. Chapter 4.116 Kitsap County Code, Ordinance No. 346-1984 effective January 1, 1985, and Ordinance No. 141-91, effective September 9, 1991, are hereby repealed.

Section 2. A new Chapter 4.116, titled "Purchasing Procedures", is added to Title 4 Kitsap County Code to read as follows:

Sections:

- 4.116.010 Administration
- 4.116.020 Authority and Responsibilities of the Purchasing Office
- 4.116.030 Price Quotations
- 4.116.040 Bids and Proposals Required
- 4.116.050 Contractor's Bond Required for Public Works
- 4.116.060 Labor and Materials Claims
- 4.116.070 Bid Specifications, Deposits, and Awards
- 4.116.080 Small Works Roster Contract Award Process
- 4.116.090 Human Services and Computer Services
- 4.116.100 Architectural and Engineering Services
- 4.116.110 Provisions Mandatory
- 4.116.120 Conflicts of Interest
- 4.116.130 Multi-Year Contracts Authorized
- 4.116.140 Subdivisions of Purchases Prohibited
- 4.116.150 Unregistered or Unlicensed Contractors Prohibited
- 4.116.160 Joint Purchasing
- 4.116.170 Amendment to Chapter
- 4.116.180 Severability
- 4.116.190 Repealer

4.116.200 Effective Date**4.116.010 Administration**

The Manager of the Information Services and Purchasing Division shall have full authority and responsibility for the operation of the Purchasing Office under the direction of the Director of Administrative Services.

4.116.020 Authority and Responsibilities of the Purchasing Office

The Purchasing Office shall have the authority to implement policies and procedures to carry out the intent of this chapter. The Purchasing Office will:

- A. Improve services to departments and offices in the area of purchasing.
- B. Develop automated requisition and reporting systems.
- C. Improve purchasing productivity and control for all departments.
- D. Standardize high volume purchases.
- E. Develop efficient policies and procedures for acquiring goods and services.
- F. Assign purchase order numbers for every transaction wherein the county acquires supplies, materials, or equipment with a cost exceeding \$500.00.
- G. Twice annually publish in a newspaper of general circulation within Kitsap County a notice of the existence of vendor lists. Solicit the names of vendors for the lists.
- H. Secure telephone and/or written quotations from enough vendors to assure establishment of a competitive price.
- I. Contact at least three vendors to assure competitive pricing when purchases exceed \$2,500.00.
- J. Review specifications and the preparation of invitations to bid pursuant to provisions set forth in this chapter
- K. Check bids for accuracy and/or compliance with specifications and invitation to bid.
- L. Make recommendations to the departments on all bid awards.
- M. Perform other duties as may be required to further the purposes of this chapter.

4.116.030 Price Quotations

- A. Whenever practical, price quotations from at least three vendors shall be solicited for purchases or leases of supplies, materials, or equipment in amounts not exceeding \$2,500.00 in a single transaction. Records of quotations obtained shall be maintained and open to public inspection.
- B. Price quotes will be solicited from at least three and up to five vendors for purchases or leases of supplies, materials, or equipment in amounts from \$2,501.00 to \$25,000.00 in a single transaction. Records of quotations obtained shall be maintained and open to public inspection.

4.116.040 Bids and Proposals Required

Bids or proposals must be submitted in response to specifications and invitations to bid for purchases or leases of supplies, materials, or equipment in amounts of \$25,000.00 or more, except as follows:

- A. Professional consulting services, unless the acquisition of such services is from another public entity, in which case the Purchasing Office will assist the department with the necessary documents. "Professional Consulting Services" includes, but is not limited to, services from lawyers, architects, engineers, and computer specialists (RCW 39.35A).
- B. In regard to contracts for architectural and engineering services, this section shall supplement the provisions of Chapter 39.80 RCW. The Purchasing Office shall maintain and keep current a list of engineers and architects for use by all departments and offices.
- C. Competitive bidding shall not be required for sole source purchases. The Information Services and Purchasing Manager, or designee, may determine when sole source purchasing is appropriate. Generally, sole source purchasing shall be appropriate when the bidding process would be futile because only one bidder could respond to the invitation.
- D. In the event of an emergency when the public interest or property of the County would suffer material injury or damage by delay, the requirements governing competitive bids with reference to any purchase or contract may be waived pursuant to RCW 36.32.270.
- E. Public works projects involving funds less than \$200,000 may be completed utilizing the informal bid and small works roster contract award process.

4.116.050 Contractor's Bond Required for Public Works

- A. The County shall require from a successful bidder a contractor's bond in the amount and with the conditions imposed by law.
- B. On contracts of \$25,000.00 or less, Kitsap County may dispense with the requirement of a contractor's bond, as permitted by state law. In cases where a contractor's bond is not required, 50 percent of the contract amount will be retained for a period of 30 days after date of final acceptance (providing all necessary releases from the tax commission and the Department of Labor and Industries have been received)
- C. When required, the contractor's bond shall be a good and sufficient bond, with two or more sureties or with a surety company duly and currently licensed to engage in the surety bonding business in the State of Washington. Such bond shall conform to RCW 39.08.010.
- D. The contractor's bond shall be payable to the County of Kitsap, State of Washington. The conditions of the contractor's bond shall include:
 - 1. The faithful performance of the contract; and
 - 2. The faithful payment of all laborers, mechanics, subcontractors, and material providers, and persons who supply such laborers, mechanics, subcontractors, and material providers with provisions and supplies for carrying on such work.

- E. The contractor's bond is to be approved and filed with the original contract document within ten (10) days after notice of award.

4.116.060 Labor and Material Claims

- A. **Notice Required to Create Lien Against Retainage.** Every person performing labor or furnishing supplies toward the completion of a contract for public improvements or work by the County other than for professional services shall have a lien upon the retainage reserved; provided, such notice of the lien of such claimant has been given in the manner and within the time provided in RCW 39.08.030 through 39.08.060 as now existing and in accordance with any amendments that may be made.
- B. **Special Notice Required for Suppliers to Bind Retainage.** Every laborer, mechanic, subcontractor, material provider and person who supplies such persons with provisions and supplies for carrying on contract work for the County shall have a right of action against the contractor's bond; provided, that within 45 days from and after the completion of the contract with an acceptance of the work by an officer of the County, the lien claimant, or person claiming to be entitled to a lien, presents to and files with the County a notice of claim of lien in compliance with the requirements of RCW 39.08.030 and 60.28.011.
- C. **Special Provision When Claims Not Timely Filed.** Whenever the County has entered into a contract for the construction of a public improvement for the benefit of the County, and the contractor agreed to furnish all labor, material and supplies necessary for the improvement, and the contractor has proceeded with such improvement and procured from other persons labor, material, or supplies and used the same in the construction of the improvement, but has failed to pay such persons therefore, and such persons have filed claims therefore against the County, and the claims have been audited in the manner provided by law and found to be just and valid obligations of the County except for the fact that they were not filed within the time provided by law, the County may provide funds for the payment of such claims.

4.116.070 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 amount of any contract purchase or lease exceeds \$25,000.00, the Purchasing Office shall be responsible for the review and preparation of invitations to bid pursuant to provisions in this chapter.

- C. All bid specifications for public works, leases, or purchases prepared under the provisions of this chapter 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 thirteen days 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 best 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 services 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, cashier's check, or certified check in an amount equal to five percent 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 bid date notice) after notice of the award, the amount of the bid deposit shall be forfeited to the County. If there is a forfeit the award shall be made to next lowest responsive responsible bidder. The bid deposit of an unsuccessful bidder (if their 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 such adjourned time as may then be publicly announced.
- H. After opening, all bids shall be reviewed and referred to the requisitioning department for recommendation of award by the Purchasing Office.
- 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 responsible bidder. In determining which is the lowest responsive responsible 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, and prior dealings with the vendor.
- 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 entered into by the County may be administratively amended to a cumulative amount not to exceed \$25,000 or 10% with the approval of the County Administrator without Commissioner approval.

4.116.080 Small Works Roster Contract Award Process

This section may be utilized in the acquisition of contractual services necessary to complete public works projects with an estimated value of less than \$200,000.00. 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 (informal bid) 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 and vendors that are qualified for the requested categories of work.
- B. In every case when a certain category of work is to be accomplished under this section, all contractors and vendors responding to the above notice and indicating their qualification to perform the category of work proposed shall be contacted and provided an opportunity 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, the location where the detailed plans and specifications may be seen and obtained.

4.116.090 Human Services and Computer Services.

Human services and computer services may be procured using the competitive bidding process or the request for proposal process. When procuring computer services, the agency shall specify in the request for proposal that cost shall be a significant, but not necessarily the major, evaluation factor. The Information Services and Purchasing Division shall review all proposed procurement of data processing hardware, software, data telecommunications, and automated records storage systems, and all contracts for computer services.

4.116.100 Architectural and Engineering Services

Whenever an agency seeks to procure architectural or engineering services, the agency shall make certain that the following procedures are followed.

- A. **Announcement and Publications.** On each occasion when architectural/engineering services are needed, the Purchasing Office may publish an announcement of the category and type of architectural/engineering services needed. Twice annually the Purchasing Office will advertise for architectural/engineering services to develop and

update the list of firms interested in providing these services to the County.

- B. **Submission of Statement of qualifications.** Firms interested in performing specific architectural/engineering services or being placed on the list, shall submit a statement of qualifications and performance data.
- C. **Selection of Qualified Firm.** When an agency determines architectural/engineering services are needed, the agency shall evaluate the statements of qualification and performance data on file together with those that may be submitted by other firms regarding the specific project and conduct discussions with such firms. Thereafter the agency shall, based on agency criteria, select the most highly qualified firm to provide the architectural/engineering services.
- D. **Contract Negotiations.** After selecting the most qualified firm, the agency shall negotiate a contract with the firm at a price which the agency determines is fair and reasonable.

4.116.110 Provisions Mandatory

Except as herein provided, it shall be unlawful for any County official or employee to make any procurement or award any contract within the scope of this Chapter contrary to the provisions hereof and any such procurement or award shall not be approved by the Board and in any event, whether approved or not, the County shall not be bound thereby.

4.116.120 Conflicts of Interest

All persons involved in County purchasing are required to follow the rules regarding conflicts of interest as set forth in RCW 42.23 as now or hereafter amended and, in addition thereto, are expressly prohibited from accepting, directly or indirectly, from any person, company, firm, or corporation to which any procurement contract is or might be awarded, any rebate, gift, money or anything of value whatsoever, except where given for the use and benefit of the County.

4.116.130 Multi-Year Contracts Authorized

Contracts for certain supplies or services, as identified by the Board by resolution, may exceed one year in length and be paid for with funds from subsequent annual budgets. In no event, however, shall the contracts authorized by this section be for more than five (5) years in length.

4.116.140 Subdivision of Purchases Prohibited

No contract or purchase shall be subdivided to avoid the requirements of this chapter. Dollar limits will be determined, not per item, but per purchase event. To determine the full cost of an item(s), the following criteria are applicable: (a) cost is determined before any trade-in allowance; (b) cost includes shipping; (c) cost does not include sales taxes, if any.

Simultaneous purchases of supplies or services which are unrelated or otherwise not constituent parts of a larger item or service do not constitute "subdivisions" or "purchase events" for purposes of this section.

4.116.150 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.)

4.116.160 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 corporations in Kitsap 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 Kitsap County. Bids and quotes may be obtained jointly based on volume if it is in the County's best interest to do so.

4.116.170 Amendment to Chapter

The Board 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 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.

4.116.180 Severability

If any provision of this chapter is held to be invalid, the remainder of the chapter shall remain in effect.

4.116.190 Repealer

All prior resolutions and ordinances establishing the requirements for letting of County contracts are hereby repealed.

4.116.200 Effective Date

This chapter shall become effective twenty (20) days after being signed by the Board.

DATED this 9th day of April, 2001.

KITSAP COUNTY BOARD OF
COMMISSIONERS


Chris Endresen, Chair


Jan Angel, Commissioner

NOT PRESENT
Tim Botkin, Commissioner

