

WHATCOM COUNTY COUNCIL AGENDA BILL

NO. 2006-467

Clearances	Initial	Date	Date Received In Council Office	Agenda Date	Assigned To:
Originator:.			RECEIVED NOV 28 2006 WHATCOM COUNTY COUNCIL	12/5/06	Introduction
Division Head:				1/16/07	Finance/Council
Dept. Head:	JM	11/22/06			
Prosecutor:	DA	11/22/06			
Purchasing/Budget:					
Executive:	ON	11-27-06			

TITLE OF DOCUMENT: Amending WCC 3.08, Purchasing System. Setting requirements for council/executive approval of contracts resulting from Project Based Budget approval and small works roster.

ATTACHMENTS: Ordinance & Memorandum

SEPA review required? () Yes () NO
 SEPA review completed? () Yes () NO

Should Clerk schedule a hearing? () Yes () NO
 Requested Date: January 16, 2007

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Amending WCC 3.08, Purchasing System. Setting requirements for council/executive approval of contracts. WCC 3.08.060 Bids and Proposals Requirement – (F) setting requirements for small works roster. WCC 3.08.090 Bid Specifications, deposits, and awards – (N) contract amendments. WCC 3.08.095 Small works roster contract award process.

COMMITTEE ACTION:

1/16/2007: Forwarded to Council for approval with conditions that the administration bring forward language changes to the evening meeting.

COUNCIL ACTION:

12/5/2006: Introduced
 1/16/2007: Council Amended and Adopted 6-1, Brenner opposed Ord. 2007-004

Related County Contract #:

Related File Numbers:

Ordinance or Resolution Number: Ord. 2007-004

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.

1 INTRODUCTION BY: Finance

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3 PROPOSED BY: Public Works

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5 DATE INTRODUCED: 12/5/2006 |

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8 ORDINANCE NO. 2007-004

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10 AMENDING WCC 3.08, PURCHASING SYSTEM

11
12 WHEREAS, Whatcom County Code 3.08.060 and 3.08.095 make provisions for award
13 of contracts from a small works roster; and

14 WHEREAS, RCW 39.04.155 provides uniform small works roster provisions to award
15 contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of
16 real property that may be used by state agencies and by any local government that is expressly
17 authorized to use these provisions. These provisions may be used in lieu of other procedures to
18 award contracts for such work with an estimated cost of two hundred thousand dollars
19 (\$200,000) or less. The small works roster process includes the limited public works process
20 authorized under subsection (3) of this section and any local government authorized to award
21 contracts using the small works roster process under this section may award contracts using the
22 limited public works process under subsection (3) of this section; and

23 WHEREAS, Whatcom County Code 3.08.090 makes provisions for contract
24 amendments upon the approval of the County Council for an amount not to exceed \$10,000 or
25 10% of the original contract amount, whichever is greater; and

26 WHEREAS, Whatcom County Code 3.08.100 currently makes provisions for contract
27 award upon the approval of the County Council for contracts for professional services exceeding
28 \$15,000, bids exceeding \$35,000 and all real property leases must be submitted to the county
29 council for approval, except when made in the exercise of an option contained in a contract or
30 lease previously approved by the Council; and

31 WHEREAS, the County wishes to achieve greater administrative efficiencies through
32 implementation of project-based budgeting, with approval by the Council of project-based
33 budgets; and

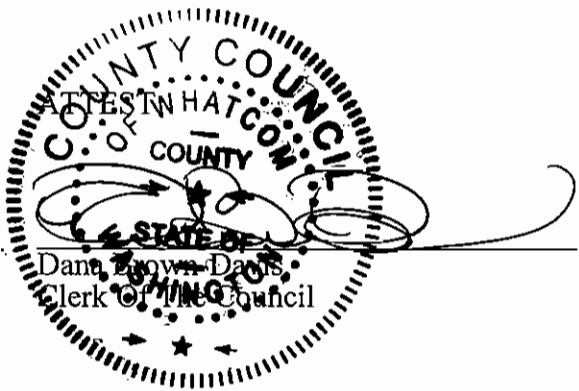
34 WHEREAS, the language attached as Exhibit A should replace the current language
35 contained in WCC 3.08 in order to address this process; and

36 NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that
37 Whatcom County Code 3.08 is amended to read, in its entirety, as set forth in the attached
38 Exhibit A.

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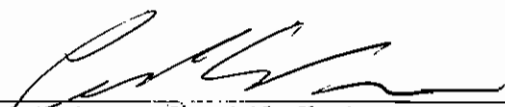
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Adopted this 16 day of January, 2007.



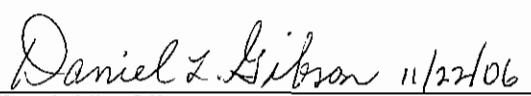
Dana Brown-Davis
Clerk of the Council

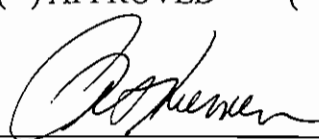
WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON


Carl Weimer, Council Chair

APPROVED AS TO FORM

APPROVED () VETOED


Daniel L. Gibson, Date
Assistant Chief Deputy Prosecuting Attorney


Pete Kremen,
County Executive
Date: 1-22-07

1
2
Chapter 3.08
PURCHASING SYSTEM

3 Sections:

4 3.08.010 Purpose.

5 3.08.020 Administration.

6 3.08.030 Authority and functions.

7 3.08.040 Price quotations.

8 3.08.050 Deleted.

9 3.08.060 Bids and proposals required.

10 3.08.070 Contractor's bond required for public works.

11 3.08.080 Labor and material claims.

12 3.08.090 Bid specifications, deposits and awards.

13 3.08.095 Small works roster contract award process.

14 3.08.100 Council approval required.

15 3.08.110 Unregistered or unlicensed contractors prohibited.

16 3.08.120 Joint purchasing.

17 3.08.130 Amendments to chapter.

18 3.08.140 Severability.

19 **3.08.010 Purpose.**

20 It shall be the purpose of this chapter to establish a purchasing system to work
21 with all county departments, agencies, boards and commissions, and other
22 operations of the county to ensure efficiency in procurement of supplies and
23 equipment of the necessary quality at the lowest possible cost; to ensure
24 compliance with purchasing statutes, regulations, policies and procedures; to
25 ensure efficient utilization of county property, new and used; and to minimize
26 employee time devoted to purchasing functions. (Ord. 97-034 Exh. A; Ord. 93-
27 042 Exh. H).

28 **3.08.020 Administration.**

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

32 **3.08.030 Authority and functions.**

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

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

38 1. Continue to improve services to departments and agencies in the area of
39 purchasing.

40 2. Develop automated requisition and reporting systems.

41 3. Improve purchasing productivity and control for all departments.

42 4. Standardize high volume purchases.

43 5. Centralize and execute printing orders from departments.

44 6. Develop efficient policies and procedures for acquiring goods and
45 services.

46 7. Implement inventory controls and minimize costs of goods and services.

1 8. Submit an annual report on the status of county-owned inventories. The
2 report may include recommendations for improved standardization and high
3 volume purchasing.

4 9. Prepare and make available to all departments standardized forms for
5 requisitions, vouchers, inventories and any other form required for county
6 operations.

7 10. Assign purchase order numbers for every transaction wherein the
8 county acquires supplies, materials, equipment or contract rights in property or
9 public works.

10 11. Annually publish in a newspaper of general circulation within Whatcom
11 County a notice of the existence of vendor lists. Solicit the names of vendors for
12 the lists.

13 12. Secure telephone and/or written quotations from enough vendors to
14 assure establishment of a competitive price.

15 13. Award contracts for the purchase of materials, equipment or services
16 involving amounts not exceeding \$10,000.

17 14. Whenever practical, contact at least three vendors to assure
18 competitive pricing.

19 15. When the amount of any transaction exceeds \$10,000, the division,
20 unless otherwise provided by law, shall be responsible for the review and
21 approval of specifications and the preparation of invitations to bid pursuant to
22 provisions set forth in this chapter.

23 16. Bids shall be checked for accuracy and/or compliance with
24 specifications and invitation to bid.

25 17. Make bid recommendations on all bid awards to the county executive.

26 18. Perform such other duties as may be required to further the purposes of
27 this chapter. (Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

28 **3.08.040 Price quotations.**

29 Whenever practical, price quotations from at least three vendors shall be
30 solicited for contracts and purchases or leases of supplies, materials or
31 equipment involving amounts not exceeding \$10,000 in a single transaction.
32 Records of all quotations obtained shall be maintained and shall be open to
33 public inspection. (Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

34 **3.08.050 Vendor lists.**

35 *Deleted by Ord. 97-034. (Ord. 93-042 Exh. H).*

36 **3.08.060 Bids and proposals required.**

37 Bids or proposals must be submitted in response to specifications and
38 invitations to bid for all contracts and purchases or leases of supplies, materials
39 or equipment involving funds of \$10,000 or more except as follows:

40 A. Professional consulting services of \$10,000 or more shall be made upon a
41 call for bids, proposals, or statements of qualification, except in the case of an
42 emergency declared by the county executive, or when the acquisition of such
43 services is from another public entity, or when the county council, upon
44 recommendation of the county executive, finds that a waiver of the bid
45 requirement will be in the best interest of Whatcom County. "Professional
46 consulting services" includes, but is not limited to, services from lawyers,
47 architects, engineers, labor relations consultants, and computer specialists.

48 B. In regard to contracts with architectural and engineering services, this
49 section shall supplement the provisions of Chapter 39.80 RCW and not be in lieu
50 thereof.

1 C. Repairs for less than \$20,000 on equipment necessary to complete a
2 project and intergovernmental transfers of property shall not be required to go
3 through competitive bidding. However, should either the repair or the property
4 transfer be for \$25,000 or more, it shall require council approval.

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

9 E. In the event of an emergency when the public interest or property of the
10 county would suffer material injury or damage by delay, upon an order of the
11 county executive declaring the existence of such emergency and reciting the
12 facts constituting same, the requirements governing competitive bids with
13 reference to any purchase or contract may be waived pursuant to RCW
14 36.32.270.

15 F. Public works projects involving funds not exceeding the amount allowed in
16 RCW 39.04.155, Small Works Roster Contract procedures, or any successor
17 statute, less than \$100,000 may be completed utilizing the small works roster
18 contract award process. (Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

19 **3.08.070 Contractor's bond required for public works.**

20 A. The county shall require from a successful bidder a contractor's bond in the
21 amount and with the conditions imposed by law.

22 B. On contracts of \$25,000 or less, Whatcom County may, where 50 percent of
23 the contract amount is retained for a period of 30 days after date of final
24 acceptance (providing all necessary releases from the tax commission and the
25 Department of Labor and Industries have been received) dispense with the
26 requirement of a contractor's bond, as permitted by state law.

27 C. When required, the contractor's bond shall be a good and sufficient bond,
28 with two or more sureties, or with a surety company duly and currently licensed
29 to engage in surety bonding business in the state of Washington. Such bond
30 shall conform to RCW 39.08.010.

31 D. The contractor's bond shall be payable to the county of Whatcom, state of
32 Washington. The conditions of the contractor's bond shall include:

33 1. The faithful performance of the contract; and

34 2. The faithful payment of all laborers, mechanics, subcontractors,
35 materialmen, and persons who supply such laborers, mechanics, subcontractors,
36 or materialmen with provisions and supplies for carrying on such work.

37 E. The contractor's bond is to be approved and filed with the original contract
38 document within 10 days (exclusive of the date of notice) after notice of award.
39 (Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

40 **3.08.080 Labor and material claims.**

41 A. Notice Required to Create Lien Against Retainage. Every person performing
42 labor or furnishing supplies toward the completion of a contract for public
43 improvements or work by the county other than for professional services shall
44 have a lien upon the retainage reserved; provided, such notice of the lien of such
45 claimant has been given in the manner and within the time provided in RCW
46 39.08.030 through 39.08.060 as now existing and in accordance with any
47 amendments that may be made thereto.

48 B. Special Notice Required for Suppliers to Bind Retainage. Every laborer,
49 mechanic, subcontractor, materialman and person who supplies such persons
50 with provisions and supplies for carrying on contract work for the county shall
51 have a right of action against the contractor's bond; provided, that within 45 days
52 from and after the completion of the contract with an acceptance of the work by

1 the affirmative action of the county council, county executive, county engineer, or
2 other officer acting for the county, the lien claimant, or person claiming to be
3 entitled to a lien, present to and file with the county a notice of claim of lien in
4 compliance with the requirements of RCW 39.08.030 and 60.28.011.

5 C. Special Provision of Claims Not Timely Filed. Whenever the county has
6 entered into a contract for the construction of any public improvement for the
7 benefit of the county, whereby the contractor agreed to furnish all labor, material
8 and supplies necessary for the improvement, and the contractor has proceeded
9 with such improvement and procured from other persons labor, material, or
10 supplies and used the same in the construction of the improvement, but has
11 failed to pay such persons therefor, and such persons have filed claims therefor
12 against the county, and the claims have been audited in the manner provided by
13 law and found to be just claims against the county, and valid obligations of the
14 county except for the fact that they were not filed within the time provided by law,
15 the county council may provide funds sufficient therefor, and cause the payment
16 of such claims in the manner provided by law for the payment of valid claims
17 against the county. (Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

18 **3.08.090 Bid specifications, deposits and awards.**

19 A. In developing specifications for bids or proposals, all reasonable efforts
20 shall be made to ensure that a variety of vendors shall be capable of fulfilling the
21 stated requirements of the county. Performance considerations shall be included
22 in the specifications. However, nothing in this section shall be construed to limit
23 the county from pursuing sole source procurement where adequate justification
24 has been presented that such procurement is in the best interests of county
25 operations.

26 B. When the amount of any contract, purchase or lease exceeds \$10,000, the
27 administrative services department shall be responsible for the review and
28 approval of specifications and the preparation of invitations to bid pursuant to
29 provisions set forth in this chapter.

30 C. No warrants shall be issued for the purchase or lease of capital outlay
31 equipment (nor a lease period extended or purchase-option exercised) unless
32 authorized by the director of the administrative services department or designee.

33 D. All bid specifications for public works, leases, or purchases prepared under
34 the provisions of this chapter shall be in writing and placed on file for public
35 inspection.

36 E. An advertisement that written specifications are on file and available for
37 public inspection shall be published in the official county newspaper.
38 Advertisements shall be published at least once in each week for two
39 consecutive weeks prior to the last date upon which bids will be received and
40 may be published for as many additional publications as shall be considered in
41 the county's interest. Such advertisement shall state:

42 1. The date after which bids will not be received;

43 2. The character of the work to be done, or the materials, equipment or
44 service to be purchased; and

45 3. Where the specifications may be seen.

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

50 G. Should the bidder to whom the contract is awarded fail to enter into the
51 contract or fail to furnish the contractor's bond within 10 days (exclusive of the
52 date of notice) after notice of the award, the amount of the bid deposit shall be
53 forfeited to the county. Thereafter, the award shall be made to the next lowest

1 responsive bidder. The bid deposit of an unsuccessful bidder (if his bid deposit
2 has not been forfeited) shall be returned after the required contractor's bond of
3 the successful bidder has been accepted.

4 H. Bids received shall be opened and read in public on the date named in the
5 advertisement for bids, or to such an adjourned time as may then be publicly
6 announced.

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

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

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

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

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

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

34 NO. Contracts other than capital improvement project contracts entered into by
35 the county may be administratively amended to a cumulative amount not to
36 exceed \$10,000 or 10 percent of the original contract, whichever is greater;
37 larger amounts require council approval. ~~unless a project budget has been~~
38 ~~approved by council for which a contract was enacted in which case the contract~~
39 ~~amendment may be approved by the county executive.~~

40 P. Amendments to existing contracts which involve externally funded pass-
41 through moneys may be approved by the county executive without council
42 approval in any amount. (Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

43 **3.08.095 Small works roster contract award process.**

44 This section may be utilized in the acquisition of contractual services
45 necessary to complete public works projects ~~with an estimated value of less than~~
46 ~~\$100,000. As~~ allowed under RCW 36.32.250, and consistent with RCW
47 39.04.155, in order to use a small works roster contract award process in lieu of
48 formal sealed bidding, the county shall:

49 A. Publish at least twice each year in the official county newspaper a notice of
50 the existence of the roster and solicit the names of contractors that are qualified
51 for the requested categories of work. Notice shall be published at least once in
52 each week for two consecutive weeks prior to the last date upon which response

1 to the notice will be received, and may be published for as many additional
2 publications as shall be considered in the county's interest.

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

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

11 D. Otherwise apply the provisions of WCC 3.08.090, subsections B, D, F, G,
12 H, I, J, K, and N.

13 E. Forgo the advertisement of a contract awarded through use of the small
14 works roster. (Ord. 97-034 Exh. A).

15 **3.08.100 Council approval required.**

16 Contracts for professional services exceeding \$15,000, bids exceeding
17 \$35,000 and all real property leases must be submitted to the county council for
18 approval, except when made:

19 ~~A. In the exercise of~~ Exercising an option contained in a contract or lease
20 previously approved by the council;

21 ~~B. Or a project budget approved by council; or~~ Contract is for the design,
22 construction, right of way acquisition or other capital costs for capital
23 projects which are within the appropriation approved by the county
24 council in a project budget; or

25 ~~BC.~~ Pursuant to, and within the scope of a declaration of emergency made by
26 the county executive under either WCC 3.08.060(A) or (E). The county executive,
27 pursuant to a declaration of emergency, shall submit the contract to the county
28 council for informational purposes at the council's next regular or special meeting.
29 (Ord. 2000-025; Ord. 97-034 Exh. A; Ord. 96-034; Ord. 93-042 Exh. H).

30 **3.08.110 Unregistered or unlicensed contractors prohibited.**

31 No contract shall be entered into or executed with any contractor who is not
32 registered or licensed as required by the laws of this state (except only as
33 permitted under RCW 39.06.010 for highway projects for contractors who have
34 been prequalified as required under RCW 47.28.070). (Ord. 97-034 Exh. A; Ord.
35 93-042 Exh. H).

36 **3.08.120 Joint purchasing.**

37 The county may enter into agreements with the state or with any agency,
38 political subdivision, or unit of local government to purchase goods or services
39 cooperatively. Joint purchasing services are hereby authorized and encouraged
40 with any other municipal corporation in Whatcom County. Assistance to the
41 participating municipal corporation may be given in any way except that a sale or
42 contract shall be between the vendor and the participating municipal corporation
43 and not Whatcom County. Bids and quotes may be obtained jointly based on
44 volume if it is in the county's best interest to do so. (Ord. 97-034 Exh. A; Ord. 93-
45 042 Exh. H).

46 **3.08.130 Amendments to chapter.**

47 The county council reserves the exclusive right to alter, amend, rescind,
48 abrogate, delete, supersede or replace the provisions of this chapter or any part
49 thereof, in any manner not inconsistent with state law. Whether or not the county

1 council takes action, the provisions of this chapter shall be deemed automatically
2 altered, amended, or superseded to conform to any mandatory state
3 administrative ruling or statute, as of the effective date of any such enactment
4 appertaining to the matters covered in this chapter, to the effect that the
5 provisions of this chapter shall at all times conform to, and never conflict with,
6 said state laws and regulations. (Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

7 **3.08.140 Severability.**

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

10