

## **CHAPTER 22**

### **PURCHASING AND BIDDING**

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#### **ARTICLE I. GENERAL PROVISIONS**

##### **Sec. 22-10. Application of Chapter**

The provisions of this chapter shall apply to the county of Solano and to all “using agencies” as defined in this chapter.

(Ord. No. 1483, §1)

**Sec. 22-11. Purchasing agent**

Pursuant to Government Code Section 25500 et seq., there is created the office of purchasing agent. The purchasing agent in this county shall be the county administrator. The purchasing agent shall be vested with such powers, duties and responsibilities as are prescribed by state law and this chapter. The county administrator may delegate all or a portion of the duties to his/her designee.

(Ord. No. 1483, §1; Ord. No. 1650, §1)

**Sec. 22-12. Definitions**

As used in this chapter, the following terms shall be ascribed the following meanings:

- (a) **Emergency** means an unforeseen circumstance in which an immediate purchase is necessary in order to avoid a substantial hazard to life, health or property, or a serious interruption of the operation of a department of the county or the operation of a using agency.
- (b) **Patented or proprietary items** mean supplies, materials or equipment produced by one (1) manufacturer or is available from one (1) source, or services which are available from one (1) provider.
- (c) **Personal property** means materials, supplies, machinery, furnishings, equipment and any other tangible article required for the conduct of business of the county or using agency.
- (d) **Personal services** mean any labor of a specialized or short-term or intermittent nature required in the conduct of operations of the county or using agency which may lawfully be performed by contract with private parties, who have an expertise sought by the county, and which contracts exclude the following:
  - (1) The work of constructing, altering or improving buildings, roads, sewer and drainage facilities and other public works type projects; and
  - (2) Any labor pursuant to any other contracting authority or limitation.
- (e) **Purchase or purchases** mean any contractual arrangement or transaction involving payment:
  - (1) for the acquisition of title to personal property;

- (2) for the use by rental, lease, or otherwise of personal property; (3) for the provision of services by independent contract or otherwise; or
- (4) any combination of the foregoing.

(f) **Using agency** means any of the following entities which requests the services of the purchasing agent as provided in Section 22-16: any public district created under laws of the state; any municipal corporation whose territory lies in the county; or any board, commission, or joint powers agency to which the county or any such district is a party.

(Ord. No. 1483, §1)

**Sec. 22-13. Authority to purchase**

Except as otherwise provided by law or this chapter, all purchases, regardless of the source of funding or revenue, shall be made in the name of the county, by written contract approved by and executed on behalf of either the board of supervisors or the purchasing agent.

If an emergency occurs at times other than regular business hours and the services of the purchasing agent are not immediately available, emergency purchases may be made by the department heads or employees authorized by them to make such purchases. Any such purchase shall be made by written contract in the name of the county and approved by and executed on behalf of the department head or authorized employee. Each such emergency purchase shall be reported in writing to the purchasing agent as soon as possible, but in no event later than five (5) calendar days following the date on which the purchase is made, and such report shall include a detailed explanation of the nature of the emergency, as well as the reasons necessitating the purchase.

(Ord. No. 1483, §1)

**Sec. 22-14. Persons authorized to requisition**

Authority to direct requisitions to the purchasing agent for purchases is vested in the heads of the offices, departments and institutions of the county. Such head may delegate this authority to any of that person's deputies, officers or employees by filing written authorization with the purchasing agent. Each head authorizing such a requisition does so with the representation that there are sufficient funds available in that office, department or agency's budget to support that purchase, and if funds are not available, that they may be held personally liable for the budget shortage.

(Ord. No. 1483, §1)

**Sec. 22-15. Purchasing procedures**

The Purchasing Agent shall establish methods and procedures for the functioning of the purchasing division.

(a) The Purchasing Agent shall prepare a purchasing procedures manual which sets forth the rules and regulations for the administration of this chapter. Upon approval by the board of supervisors and filing a copy of the procedures

manual with the clerk to the board, by and through the Purchasing Agent, the rules and regulations contained in the manual shall have the same force and effect as the provisions of this chapter.

The purchasing procedures manual shall include such rules and regulations as are necessary to implement the provisions of this chapter, including, but not limited to the following:

1. Procedures under which purchases without competitive bidding will be considered, approved and authorized;
2. Procedures for the identification and approval, without competitive bidding, of purchases of patented or proprietary items.
3. Procedures for the competitive bidding of personal property obtained in two or more equally satisfactory and competitive makes, brands or types;
4. Procedures for the standardization of personal property common to the needs of, and required by two or more county departments or using agencies.
5. Procedures for the establishment and maintenance of lists of bidders, prequalified or otherwise.
6. Procedures for providing reasonable notice soliciting bid proposals.
7. Procedures for the award of bid.
8. Procedures for the implementation of joint purchasing policies and procedures with other agencies.

All provisions of the manual shall be subject to modification by the board of supervisors through the adoption of a resolution. Any modification to the manual by the board shall take effect immediately. Purchasing Agent may make technical corrections without Board approval.

(b) The purchasing agent shall develop and maintain standard purchasing forms, conditions of invitations to bid, purchase orders, and purchase contracts, with approval as to form and legal sufficiency by county counsel.

(Ord. No. 1483, §1; Ord. No. 1650, §2)

**Sec. 22-16. Using agencies**

The purchasing agent shall perform any or all of the services provided for in this chapter on behalf of using agencies, upon their request, and subject to the following provisions:

(a) A resolution which requests the purchasing agent to make purchases for or on behalf of the using agency shall be adopted by the governing body of the using agency and filed with the purchasing agent. The resolution shall:

- (1) set forth the competitive bidding limits, advertising requirements and any other restrictions or requirements specified by state law governing purchases by the using agency; and
- (2) provide that for the period of participation, the using agency shall:
  - (A) make all purchases in its own name, for that agency only.
  - (B) be responsible for payment directly to the vendor and for tax liability, and will hold the county harmless.
  - (C) not have and will not have in force any other contract for like purchases.
  - (D) not have obtained and does not have under consideration written bids or quotations from other vendors for like purchases.
- (b) Unless otherwise authorized by law, when making purchases on behalf of a using agency, the purchasing agent shall follow the limits and requirements set forth in state statutes, this chapter, and the purchasing procedures manual.
- (c) The board of supervisors may, in its sole discretion, terminate such participation at any time after ten (10) days advance written notice mailed to the using agency.
- (d) A charge may be made for the services performed under this section.

(Ord. No. 1295, §3; Ord. No. 1483, §1)

**Sec. 22-17. Energy conservation considerations**

Prior to the purchase of all new equipment, except in the case of an emergency, the purchasing agent or any other county officer or employee authorized to purchase such equipment shall evaluate and consider the energy consumption level and the anticipated operating costs over the useful life of the new equipment in addition to the initial cost of such equipment, whenever practical and feasible.

(Ord. No. 1310, §1; Ord. No. 1483, §1)

## **ARTICLE II. PURCHASES**

### **Sec. 22-20. Purchases of personal property**

The purchasing agent shall be authorized and is hereby required to make purchases of personal property for the county, county officers or departments and using agencies.

(Ord. No. 1483, §1)

### **Sec. 22-21. Purchases of services**

The purchasing agent is authorized to enter into agreements by which independent contractors provide services to the county, county officers or departments, and using agencies.

The purchasing agent shall let personal service contracts identified by Government Code section 31000; provided, however, that the amount of any such contract shall not exceed the amount prescribed by Government Code section 25502.5.

Any contract which is known at the time of bidding to exceed pertinent statutory limitations shall be subject to approval by the board of supervisors. Any other contract for such services let by the purchasing agent shall contain a provision that such contract terminated upon the date of provision of services or personal property or incurring of expenses, the cumulative total of which equals said statutorily prescribed amount.

(Ord. No. 1483, §1)

### **Sec. 22-22. Term of contracts**

The purchasing agent shall not, absent prior approval by the board of supervisors, let any contract which exceeds a term of three years for the rental or lease of personal property, or for the acquisition of services by independent contract. No such contract shall exceed one (1) year unless the purchasing agent finds, and such findings are recited in the body of the contract, that a term longer than one (1) year is required in order to promote efficiency and economy, or for other reasons that a term of one (1) year is otherwise impractical.

(Ord. No. 1483, §1)

### **Sec. 22-23. Competitive bidding required**

Except as authorized by section 22-26, all purchases by the purchasing agent shall be made pursuant to competitive proposals, and shall be let to the party who makes the best responsible proposal as defined in section 22-25.

(a) The solicitation of bid proposals by newspaper publication shall not be required. The purchasing agent shall utilize such processes to advertise intended purchases as are reasonably calculated to provide adequate competition among vendors within the county, including, but not limited to, the direct solicitation of proposals from bidder lists.

(b) The purchasing manual may contain procedures under which notice is given exclusively to pre-qualified vendors, and identify other forms and procedures for the issuance of notice.

(Ord. No. 1483, §1)

**Sec. 22-24. Local business preference**

(a) For purposes of this section, a "local business" means a business enterprise, including but not limited to a sole proprietorship, partnership, or corporation, which has the following:

(1) A valid business license issued from the County or a political subdivision within the County; and

(2) Its principal business office, or a satellite office with at least one full-time employee, located in the County.

(b) Where competitive bidding is utilized pursuant to section 22-23, and the lowest responsible bidder is not a local business, the purchasing agent shall provide the lowest responsible local business bidder, should one exist and its bid is within five percent (5%) of the lowest responsible bidder, with notice and an opportunity to reduce its bid to match that of the lowest responsible bidder. Notice shall be by telephone and either facsimile or electronic mail. The local business shall have five (5) business days after the date of such notice to match the lowest bid, in writing. Should the local business so match, it shall be deemed the lowest responsible bidder for purposes of sections 22-23 and 22-25 and receive the award.

(c) Should the lowest responsible local business bidder decline to match as set forth in subdivision (b), the purchasing agent shall provide the next lowest responsible local business bidder, should one exist and its bid is within five percent (5%) of the lowest responsible bidder, with the same notice and opportunity to match the bid of the lowest responsible bidder as in subdivision (b). This process shall continue as necessary, until an award is made under section 22-25 either to a responsible local business bidder within five percent (5%) of the lowest responsible bidder, or the lowest responsible bidder itself.



(d) In instances where a local business and a non-local business submit equivalent, lowest responsible bids, the purchasing agent shall give preference to the local business.

(e) No contract awarded to a local business under this section shall be assigned or subcontracted in any manner that permits more than fifty (50) percent or more of the dollar value of the contract to be performed by an entity that is not a local business.

(f) In submitting a bid subject to this section, a local business shall affirm its compliance with subdivision (a) on a form to be provided by the purchasing agent.

(g) The purchasing agent shall provide adequate notice of the provisions of this section to prospective bidders.

(h) This section is made expressly inapplicable to public works or other projects to the extent the application would be prohibited by state or federal law.

(Ord. No. 1483, §1; Ord. No. 1650, §3; Ord. No. 1698, §2)

**Sec. 22-25. Award of bids**

Awards shall be determined by and be based upon the best proposal which, in the discretion of the purchasing agent, is the proposal which most adequately meets the needs of the county, officer, department, or using agency at the lowest price.

(a) In determining the best proposal, in addition to price, the purchasing agent may consider the quality, availability, and functional or other suitability of the personal property or contractual services to the particular use intended. The purchasing agent may also consider other factors, including, but not limited to, the following:

- (1) The ability, capacity and skill of the bidder to perform the contract or provide the service required;
- (2) Whether the bidder can perform the contract or provide the service promptly or within the time specified, without delay or interference;
- (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- (4) The quality of performance of previous contracts or services;
- (5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;

- (6) The sufficiency of the financial resources, and ability of the bidder to perform the contract or provide the service;
- (7) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract; and

(8) The number and scope of conditions attached to the bid;

(b) With respect to acquisitions of title to personal property or of the personal property by rental, lease, or otherwise, the best proposal shall, as to products

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which equally satisfy intended uses, be the one submitted by a responsible bidder at the lowest price.

(Ord. No. 1483, §1; Ord. No. 1698, §3, 4)

**Sec. 22-26. Exceptions to bidding**

Purchases may, but need not be let pursuant to competitive proposals under the following circumstances:

- (a) When the aggregate or cumulative price to be paid under the purchase contract is ten thousand dollars (\$10,000.00) or less, unless otherwise required by state law; or
- (b) When a patented or proprietary item is being purchased; or
- (c) In the event of an emergency; or

- (d) When the following types of personal property or services are being acquired, obtained, rented or leased: (1) advertising; (2) books, recordings, motion picture films, subscriptions; (3) election supplies; (4) insurance; (5) public utility services; (6) travel services; (7) property or services provided by or through other governmental agencies; or (8) property or services, the price of which is fixed by law.

(Ord. No. 1483, §1)

**Sec. 22-27. Splitting prohibited**

It is unlawful, for bidding purposes, to split or separate into smaller units of purchase any purchase covered by this chapter in order to evade bidding requirements.

(Ord. No. 1483, §1)

**ARTICLE III. INFORMAL BIDDING**

**Sec. 22-30. Informal bid procedures**

Public projects, as defined by the Uniform Public Construction Cost Accounting Act and in accordance with the limits listed in Section 22032 of the Public Contract Code, may be let to contract by informal procedures as set forth in Public Contract Code Section 22030 et seq.

(Ord. No. 1741, §3)

**Sec. 22-31. Lists of contractors**

A list of contractors shall be developed and maintained in accordance with the provisions of Public Contract Code Section 22034 and criteria promulgated from

time to time by the California Uniform Construction Cost Accounting Commission. Where it is appropriate to provide for pre-qualification, the county may develop and maintain appropriate pre-qualification packets for different levels and/or categories of work.

(Ord. No. 1741, §3)

**Sec. 22-32. Notice inviting informal bids**

Where a public project is to be performed which is subject to the provisions of this article, a notice inviting informal bids shall be mailed to all contractors for the category of work to be bid, as shown on the list developed in accordance with Section 22-31, and/or to all construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Public Contract Code Section 22036. Additional contractors and/or construction trade journals may be notified at the discretion of the department soliciting bids; provided, however:

(a) If there is no list of qualified contractors maintained by the county for the particular category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the California Uniform Construction Cost Accounting Commission.

(b) If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent exclusively to such contractor or contractors.

(Ord. No. 1741, §3)

**Sec. 22-33. Award of contracts**

The county purchasing agent and the county transportation director are each authorized to award informal contracts pursuant to this section.

(Ord. No. 1741, §3)

**ARTICLE IV. SALE OF SURPLUS PROPERTY**

**Sec. 22-40. Surplus property**

The purchasing agent or an authorized representative thereof shall sell, lease, exchange, trade in, or otherwise dispose of unneeded or surplus personal property of the county or any using agency which has an estimated value of more than five hundred dollars (\$500.00) to the highest responsible bidder in accordance with procedures set forth in state law. Bids may be received in writing in the form of

competitive proposals, by auction conducted by the purchasing agent or authorized representative thereof, or both.

Surplus property having a value of less than five hundred dollars (\$500.00) shall be disposed of by the purchasing agent or an authorized representative thereof, pursuant to the policy established and contained in the purchasing policy manual.

(Ord. No. 1741, §4)

**Sec. 22-41. Purchase prohibited**

No officer, agent or employee of the county assigned to the purchasing function or responsible for surplus property declarations shall either directly or indirectly submit a bid for or purchase unneeded surplus personal property.

(Ord. No. 1741, §4)

(Ord. No. 1201, §§1, 2; Ord. No. 1295, §1; Ord. No. 1344, §3; Ord. No. 1370, §1, 2)

