

SALT LAKE COUNTY ORDINANCE

ORDINANCE NO. _____, 2018

AN ORDINANCE OF THE LEGISLATIVE BODY OF SALT LAKE COUNTY, UTAH, AMENDING SECTIONS 3.15.010, 3.20.030, 3.24.010 AND 3.24.002 OF THE SALT LAKE COUNTY CODE OF ORDINANCES, 2001, RELATING TO SMALL COST PURCHASING AND THE LOCAL BUSINESS PREFERENCE.

The County Legislative Body of Salt Lake County ordains as follows:

SECTION I. The amendments made herein are designated by underlining the new substituted words. Words being deleted are designated by brackets and interlineations.

SECTION II. Section 3.15.010 of the Salt Lake County Code of Ordinances, 2001, is amended to read as follows:

3.15.010 - Definitions

As used in Chapters 3.16 through 3.28:

“Agency” means a separate and distinct unit of county government, which has its own budget. It may also be used to refer to an elected official, department, division or section.

“Approved as to form” means that the county may lawfully enter into the proposed contract.

“Attorney” means the county district attorney and the district attorney's office.

“Award” means the approval for final procurement by the mayor or other authority.

“Best value bid” means the selection process for goods or services based on pre-determined criteria identified by the county in which objective qualitative factors along with price are considered.

“Bidder” means any person submitting a competitive bid in response to a request for bids or request for bids and resulting contract by the county.

“Bid” means an offer submitted by a bidder in response to a request for bids or request for bids and resulting contract by the county.

“Bilateral contract” is a written agreement [~~between the county and a provider of goods or services,~~] which is signed by both parties.

“Cardholder” means the county employee issued a purchasing card or proprietary /charge card. The cardholder's name appears on the card.

“Claim” means (i) a demand presented for money or damages; or (ii) a cause of action presented for money or damages. “Claim” does not mean a routine, uncontested, or regular payment, including a bill, purchase, or payroll.

“Committee” means the RFP selection committee established by county ordinance and policy for the review of proposals.

“Contract” means a legally binding agreement [~~between the county and a supplier to buy or sell goods or services. This may be in the form of a purchase order~~].

“Cooperative agreement” means an agreement resulting from a competitive solicitation by one or more public purchasing agencies or association of public purchasing agencies that allows other public purchasing agencies, such as the county, to procure goods or services according to the agreement.

“Cooperative procurement” means procurements conducted by, or on behalf of, two or more public purchasing agencies to procure from the same supplier or multiple suppliers using a single solicitation to bid or request for proposal in order to obtain advantages of volume procurement discounts, administrative savings and other benefits.

“Council” means the Salt Lake County Council.

“County” means Salt Lake County.

“Countywide contract” means a contract available for use by all county agencies for goods or services [~~repeatedly purchased~~].

“Electronic copy” means a solicitation or document received electronically through the county's designated system.

“Emergency” means there is a threat to public health, welfare, or safety. The existence of such an emergency creates an immediate and serious need for goods or services that precludes full and open competitive procurement.

“Emergency procurement” means a situation which creates a threat to public health, welfare or safety such as may arise by reason of floods, epidemics, riots, equipment failures, earthquakes, or other reason as proclaimed by the mayor. The existence of such conditions must seriously threaten:

- (1) The functioning of county government;
- (2) The preservation or protection of property; or
- (3) The health or safety of any person.

“Equal, or equal” means a phrase used to indicate the acceptability of goods of similar or superior function, purpose, design, or performance.

“Exigency” means the need for goods or services is of such an unusual and compelling urgency that the county would be seriously injured unless the county is permitted to preclude full and open competitive procurement.

“Exigency procurement” means procurement under an exigency.

“Expedited request for proposals” means a selection pursuant to the expedited procedures in Section 3.22.100. The cost limit for an expedited request for proposals is fifty thousand dollars.

“Formal advertised solicitation” means a solicitation for bids or proposals issued by the county for procurements greater than fifty thousand dollars formally advertised to vendors, service providers, or contractors for their response.

“GRAMA” means the Utah Government Records Access and Management Act, as defined by Utah law.

“Health care preference” means the preference granted to a vendor who currently has and will maintain the following through the term of the contract with the county: a health benefit plan, as defined by Utah law, made available to the vendor's covered employees and their dependents.

“Interlocal agreement” means those agreements authorized by the Interlocal Cooperation Act, as defined by Utah law.

~~“Local business preference” means the preference granted to a vendor who currently has and will maintain all of the following through the term of the contract with the county:~~

- ~~(1) — A completed and signed local certification form, which includes a street address within the county that is not a post office box; and~~
- ~~(2) — A copy of a current business license issued by the county or any city within the boundaries of the county.]~~

“Master agreement” means a procurement agreement established to permit county agencies to utilize the same underlying state contract or cooperative agreement for repetitive purchases. There is no maximum cost per transaction.

“Mayor” means the elected chief executive officer of the county or designee, unless a designation is prohibited by ordinance or statute.

“Mayor's financial administration (MFA)” means the office of financial administration

under the mayor's office, including the divisions within the office of accounting, fixed and controlled assets, and budget.

“Multiple-award contract” means a contract awarded to more than one vendor for similar goods or services.

“Non-capitalized item” means a single asset with a unit cost less than the established capitalized limit.

“Official copy” means the copy of the contract kept in accordance with GRAMA.

“Preference system” means a system that encourages responsible business practices and benefits local businesses by granting preferences in procurement.

“Procurement” means the buying, purchasing, or acquisition of goods or services and all related acquisition processes.

“Professional service” means labor, effort, or work that requires an elevated degree of specialized knowledge and discretion, including but not limited to labor, effort, or work in the field of:

- (1) Accounting;
- (2) Architecture;
- (3) Construction design and management;
- (4) Engineering;
- (5) Financial services;
- (6) Information technology;
- (7) The law;
- (8) Medicine;
- (9) Psychiatry; or

(10) Underwriting.

“Proposal” means a response to a request for proposals.

“Proposer” means any person submitting a proposal in response to a request for proposals by the county.

“Purchase orders (PO)” means a binding contract, which is used to accept the offer of a vendor to provide goods or services. The division of contracts and procurement is authorized to issue purchase orders.

“Purchasing agent” means the director of the division of contracts and procurement. The mayor, by executive order, will designate the purchasing agent's signing authority.

“Purchasing card” means a charge card issued to an employee of the county for the purpose of making authorized purchases on behalf of the county.

“Purchasing card program administrator” means the employee assigned to oversee the purchasing card program for the county.

“Quote” means pricing for goods or services informally solicited from a vendor, provider or contractor.

“Request for bids (RFB)” means a solicitation for goods or services where price is the primary consideration.

“Request for bids and resulting contract (RFC)” means a RFB that includes a written description of goods or services required by the county to be purchased repetitively during a specified contract term. This document, with all supporting terms, conditions, and specifications, and signed by the authorized county agent, becomes a written contract.

“Request for proposals (RFP)” means a solicitation for proposals when price is just one of several criteria necessary to make a decision and thus awarding the contract to the lowest

responsive and responsible bidder is not necessarily advantageous to the county.

“Request for qualifications (RFQ)” means a solicitation to receive a statement of qualifications.

“Responsible proposer or bidder” means a person or company who has the ability to perform in full the contract requirements, as well as the integrity and reliability that will assure good faith performance.

“Responsive proposer or bidder” means a person or company whose bid or proposal conforms in all material respects to the terms and conditions required by the county in the formal advertised solicitation.

“Sealed bid” means paper bids in sealed envelopes or bids received electronically through the county's designated system.

“Sealed proposal” means paper proposals in sealed envelopes or proposals received electronically through the county's designated system.

“Service contract” means any contract entered into by the county with a vendor for the furnishing of services to or for the county utilizing the vendor's employees to provide the services. A “service contract” may include the purchase of goods along with the providing of services.

“Signing authority” means the authority to sign contracts on behalf of the county as designated by the mayor or set forth in ordinance.

“Small cost blanket” means a purchase order that is issued in response to ongoing purchases made during a specific period of time to a single vendor under which a county agency may release payments for small cost purchases. Without the use of a small cost blanket, those ongoing goods and services would require the issuance of a purchase order for each and every

invoice received.

“Small cost purchases” means purchases of goods or services having a cost up to [~~five thousand dollars~~] and including the micro-purchase threshold set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions).

“Sole source procurement” means a procurement where the purchasing agent has justified in writing why a good or service is only reasonably available from a single supplier.

“Solicitation” means any request by the county for vendors to offer bids, quotes, or proposals.

“Specification” means a description of what the purchaser seeks to buy and, consequently, what a bidder or proposer must be responsive to in order to be considered for the award of a contract.

“Standard form contract” means a contract approved by the attorney pursuant to 3.28.020(D).

“Standardization” means the procurement of goods or services by the county to assure consistency of equipment and interchangeability or integration of goods or services which may require procurement without competition pursuant to Section 3.20.030(A)(5).

“State contract” means [~~term~~] contracts established by the state of Utah[~~, for goods or services procured by~~] and made available for use by state agencies and other political subdivisions of the state.

“Tie bids” means the low responsive bids from responsible bidders that are identical in price, delivery, and payment terms.

“Transitional costs” mean the costs of changing from an existing provider of, or type of, a procurement item to another provider of, or type of, procurement item. “Transitional costs”

include: training costs; conversion costs; compatibility costs; system downtime; disruption of service; staff time necessary to put the transition into effect; installation costs; and ancillary software, hardware, equipment, or construction costs. “Transitional costs” do not include: the costs of preparing for or engaging in a procurement process; or contract negotiation or contract drafting costs.

“Vendor” means a person or company selling goods or services.

“Veteran” means a current or former member of the United States Armed Forces who is currently in good standing or has been honorably discharged and meets one of the following criteria:

- (1) Active duty service for at least one hundred eighty (180) consecutive days;
- (2) Reserve service in a campaign or expedition for which a campaign medal has been authorized; or
- (3) Service-related injury or disability incurred in the line of duty.

“Veterans hiring preference” means the preference granted to a vendor who currently has and will maintain all of the following through the term of the contract with the county:

- (1) A completed and signed certificate explaining its program to actively recruit and employ veterans that includes the success rate of its program by listing the percentage of its workforce that qualifies as veterans under this policy;
- (2) A completed and signed certificate verifying that a vendor has employed, and is currently employing, at least one veteran under its recruitment program;
- (3) A drug and alcohol testing policy that applies to all covered individuals employed or hired by the vendor and requires covered individuals to submit to random testing;

- (4) A job training program recognized by a federal, state, or local governmental entity; and
- (5) Job safety program that complies with job safety and health standards of the Occupation and Safety Health Administration (OSHA) or the state standards which are at least as effective as the federal standards.

SECTION III. Section 3.20.030 of the Salt Lake County Code of Ordinances, 2001, is amended to read as follows:

3.20.030 - Procurements not requiring competitive procurement.

A. All procurements shall be made by a request for bids, quotes or proposals, as provided in these ordinances, except the following circumstances do not require competitive procurement:

1. For purchases of goods and services under current contracts made available by governmental entities including federal, state, and local governmental entities, or by associations of governmental entities, where the goods or services were competitively procured by the governmental entity or the association in a manner substantially compliant with the provision of these ordinances, and the vendor is willing to extend the county the same or more favorable prices, terms, or conditions as established in, and within the scope of, the underlying agreement;
2. For real property, goods, or services related to construction of a public improvement project; which have been solicited via a formal advertised request for bids, but which the Purchasing Agent determines the bid prices are not reasonable and exceed the estimated construction cost by an

unacceptable amount.

3. Exigency or emergency will not tolerate the delay incident to the formal advertising for a request for bids;
4. The aggregate amount involved does not exceed the small cost limit;
5. For a sole source procurement.
 - a. The determination as to whether a procurement shall be made as a sole source shall be made by the Purchasing Agent. Any agency request for a procurement to be restricted to one vendor shall be made in writing and accompanied by a sole source justification. The Purchasing Agent may specify the application of the determination and its duration. In cases of reasonable doubt, competition shall be solicited. Examples of circumstances which may necessitate sole source procurement are:
 - i. Where the most important consideration in obtaining a procurement item is the standardization or compatibility of equipment, materials, technology, software, accessories, replacement parts, or service;
 - ii. Where transitional costs are unreasonable or cost prohibitive;
 - iii. Where a procurement item is needed for trial use or testing;
 - b. Public notice for sole source procurements exceeding the formal advertised solicitation limit shall be given by the Purchasing Agent. The notice shall be published at least seven calendar days in

advance of when responses must be received. The notice shall contain a brief statement of the proposed procurement, the proposed sole source supplier and the sole source justification. The notice shall invite comments regarding the proposed sole source and provide for a closing date for comments. The Purchasing Agent shall consider the comments received before proceeding with the sole source procurement.

6. Procurements that by their nature are not adapted to award by competitive procurement, such as:
 - a. Legal services or expert witnesses requested by the mayor, the council or the attorney or when the services of a medical doctor or dentist are requested by the attorney in conjunction with criminal or civil litigation, or requested by the sheriff or the human services department director, but the acquisition of legal services shall be governed by Chapter 2.09 of these ordinances;
 - b. The publication of legal notices, ordinances, resolutions, and other legal advertising;
 - c. The private placement of bonds, tax anticipation notes, or other instruments of indebtedness;
 - d. Utility services such as water, electricity, heat, and telephone, except when alternative supplies or services are available;
 - e. ~~[The purchase of]~~ Dues and membership fees, non-software subscriptions, media ~~[advertisement]~~ advertising, magazines,

books, trade journals, reference works, periodicals, examination or testing materials, and similar articles of an educational, informational or instructional nature. This subsection does not apply to right to use software and right to use licenses that some providers may describe as a software subscription;

- f. Goods, materials, supplies and services utilized by the County clerk for purposes of performing the duties of the County clerk with regards to elections;
 - g. Medicines or medical supplies, which are not generic in nature;
 - h. Goods and supplies purchased for authorized resale;
 - i. Perishable or nonperishable subsistence supplies;
 - j. ~~[The purchase of law]~~ Law enforcement service animals specially trained to assist law enforcement officers in the performance of law enforcement duties;
 - k. ~~[The procurement of a]~~ A person or entity to provide a speech, lecture, or performance;
 - l. ~~[Engaging the services of recreational]~~ Recreational program instructors resulting in recreational program agreements executed pursuant to County Ordinance Sec. 3.28.020(E) provided that the Division of Parks and Recreation adopt and follow a policy and procedure by which the recreational program instructors are selected.
7. Personal property or services, other than those outlined in subsection

(A)(6), as the mayor may, upon the recommendation of the purchasing agent, determine to be, by their nature, not adapted to competitive procurement provided that these procurements be publically noticed as set forth in 3.20.030(A)(5)(b).

8. Otherwise procurements authorized or prescribed by law.

B. In negotiating purchase orders and other contracts for the above-referenced categories of personal property or services, the Purchasing Agent, using agencies or such other person or committee as may be designated by the Mayor, shall ensure that:

1. All aspects of the business transaction are fully resolved, to include price, delivery date, delivery terms, acceptance period, warranties, funding terms, and such other terms and conditions as are appropriate;
2. The file reflects price or cost analysis or such other evidence of reasonable pricing and other information concerning contract or award matters as will reasonably support entering into a contract with a vendor;
3. All files relating to the award of a contract based upon public exigency reflect that the need was compelling and of unusual urgency, as when the County would be seriously injured, financially or otherwise, if the personal property or services to be purchased or contracted for were not furnished by a certain time, and when they could not be procured by that time by means of formal advertising. This applies irrespective of whether that urgency could or should have been foreseen;
4. The purchasing agent must justify in writing why the award of a contract based upon sole source is appropriate; and

5. Prior to submission of a bilateral contract to the Mayor or designee for execution, the contract shall be reviewed and approved by the agency acquiring the personal property or services and by such other agencies as may be specified by ordinance, and approved as to form by the Attorney.

C. Negotiated procurement shall be on a competitive basis to the maximum practical extent. When a proposed procurement appears to be noncompetitive, the Purchasing Agent is responsible not only for ensuring that competitive procurement is not feasible, but also for acting whenever possible to avoid the need for subsequent noncompetitive procurement.

D. In the event bids for a construction project exceed available funds and the low responsive and responsible bid does not exceed such funds by more than twenty-five percent, the Purchasing Agent or agent's designee is authorized in situations where time or economic considerations preclude re-solicitation of work of a reduced scope, to negotiate an adjustment of the bid price, including changes in the bid requirements, with the low responsive and responsible bidder, in order to bring the bid within the amount of available funds, not to exceed a final contract amount of two hundred thousand dollars.

E. This chapter shall not apply to the acquisition of personnel pursuant to the provisions of the County Personnel Management Act, as defined by Utah law, nor shall this chapter be applicable to the granting or issuance, pursuant to powers conferred by laws, ordinances or resolutions, of franchises, licenses, permits or other authorizations by the council, or by other agencies of the County. This chapter shall not be construed as authorizing the waiver of competitive bidding when such bidding is required by the provisions of any federal or state grant or relevant federal or state statute or regulation.

F. No purchase order or other contract greater than the Purchasing Agent's limit may

be awarded pursuant to this section except by the Mayor or designee, unless it arises pursuant to the provisions of subsection (A)(7) of this section, in which event the Purchasing Agent may award the purchase order or other contract subject to the ratification of the Mayor. The Purchasing Agent will maintain in a file a document explaining in detail why a purchase order or contract has not been bid and identifying the specific provision of this section which exempts the purchase order or other contract from the bidding requirement. Any procurement without competitive acquisition shall also include a statement from the acquiring agency explaining the recommendation for acquisition.

SECTION IV. Section 3.24.010 of the Salt Lake County Code of Ordinances, 2001, is amended to read as follows:

3.24.010 - Policy of the county.

It is the policy of the county to award contracts for goods or services based upon a preference system that encourages responsible business practices [~~and that benefits local businesses~~].

SECTION V. Section 3.24.020 of the Salt Lake County Code of Ordinances, 2001, is amended to read as follows:

3.24.020 - Preference system.

A. The county shall grant the following preferences as provided by this chapter and by countywide policies and procedures:

1. The health care preference; and
- ~~[2. The local business preference; and]~~
- ~~[3.]~~ 2. The veterans hiring preference.

B. The purchasing agent shall determine if the vendor qualifies for the preference(s).

The burden is on the vendor to demonstrate that it qualifies for the preference(s).

SECTION VI. This ordinance shall become effective fifteen (15) days after its passage and upon at least one publication of the ordinance or a summary thereof in a newspaper published and having general circulation in Salt Lake County.

APPROVED and ADOPTED this ____ day of _____, 2018.

SALT LAKE COUNTY COUNCIL:

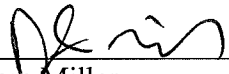
By: _____
Aimee Winder Newton, Chair

Date: _____

ATTEST:

Sherrie Swensen
Salt Lake County Clerk

APPROVED AS TO FORM:



Adam Miller
Deputy District Attorney
Date: 17 Jan 2018

Council Member Bradley voting	_____
Council Member Bradshaw voting	_____
Council Member Burdick voting	_____
Council Member DeBry voting	_____
Council Member Granato voting	_____
Council Member Jensen voting	_____
Council Member Newton voting	_____
Council Member Snelgrove voting	_____
Council Member Wilson voting	_____

VETOED and DATED this ____ day of _____, 2018.

By: _____
Ben McAdams, Mayor

(Complete As Applicable)

Veto override: Yes _____ No _____ Date _____

Ordinance published in newspaper: Date _____

Effective date of ordinance: _____

SUMMARY OF

SALT LAKE COUNTY ORDINANCE NO. _____

On the _____ day of _____, 2018, the County Council of Salt Lake County adopted Ordinance No. _____, which amends sections 3.15.010, 3.20.030, 3.24.010 and 3.24.020 of the Salt Lake County Code of Ordinances, 2001. The amendment modifies provisions related to small cost purchasing and the local business preference, and makes technical changes.

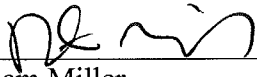
SALT LAKE COUNTY COUNCIL:

By: _____
Aimee Winder Newton, Chair
Date: _____

ATTEST:

Sherrie Swensen
Salt Lake County Clerk

APPROVED AS TO FORM:



Adam Miller
Deputy District Attorney
Date: 17 Jan 2018

Council Member Bradley voting	_____
Council Member Bradshaw voting	_____
Council Member Burdick voting	_____
Council Member DeBry voting	_____
Council Member Granato voting	_____
Council Member Jensen voting	_____
Council Member Newton voting	_____
Council Member Snelgrove voting	_____
Council Member Wilson voting	_____

A complete copy of Ordinance No. _____ is available in the office of the Salt Lake County Clerk, 2001 South State Street, N2-100A, Salt Lake City, Utah.