

10/29/79

Introduced by: Paul Barden
79-1182

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ORDINANCE NO. _____

AN ORDINANCE relating to bidding procedures for public contracts; stating policy regarding the solicitation and awarding of professional and/or technical service consultant contracts; amending Ordinance 3441, Section 2 through 5, 8, 9, and KCC 4.16.010 through 4.16.040, 4.16.070, and 4.16.090; adding new sections; amending Ordinance 620, Section 2 (part) and KCC 4.04.040(5), and declaring an emergency.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

NEW SECTION. SECTION 1. The terms bid, bidding, prebid, and bidder shall have their normal meaning in this ordinance; in that a potential contractor is offering to perform service, or the county is soliciting responses from potential contractors in the form of written proposals or offers to perform service.

The terms continue to have their normal meaning when applied to the purchase of tangible personal property and used within purchase processes where price is the sole criterion for award, as governed by RCW 36.32.

The terms continue to have their normal meaning when applied to the process and award of professional and/or technical service consultant contracts and within purchase processes where the award is based on a contractor offering to perform service, within a structured selection process, but require considering such offers on the basis of experience, expertise, and other qualitative factors such that cost and pricing shall not have been a criterion in the process of selection and award.

NEW SECTION. SECTION 2. Rules and regulations for the solicitation and purchase of professional and/or technical service consultant contracts.

Professional and/or technical service consultant contracts shall be construed as meaning those in which the county, following a competitive selection process, enters into a legal agreement to purchase service from a corporation, firm, agency, individual, or group of individuals who for a fee, and based on

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1 their recognized experience and knowledge within a specialized
2 area of expertise, performs a defined service for the county.
3 Examples of such service include, but are not limited to, the
4 following:

- 5 a. Financial or administrative studies;
- 6 b. Feasibility studies of a scientific or technical nature;
- 7 c. Architectural services, including landscape,
8 architectural, and engineering, as well as other design studies;
- 9 d. Special project management for a defined period of time
10 or result;
- 11 e. Management advisory services.

12 In soliciting and ultimately awarding a professional and/or
13 technical services consultant contract, having a value to the
14 contractor in excess of ten thousand dollars, the county
15 administrative officer, or his designee, the manager of the
16 comptroller/purchasing division, or in the case of architectural
17 services, the county design commission, shall have the
18 operational responsibility to:

19 a. Develop bid specifications or a project description in
20 the form of a request for proposal in concert with the
21 requesting county agency;

22 b. Develop, with the requesting agency, the written
23 criteria which will be used to determine which written proposal
24 shall be accepted as the basis for recommending contract award.

25 Such determination at a minimum shall include:

- 26 (1) Quality;
- 27 (2) Known and documented expertise of the applicant;
- 28 (3) Documentation, as required, and demonstration of the
29 financial capability of the party to perform specified work;
- 30 (4) Special consideration of the impact of affirmative
31 action, including minority business contracting.

32 c. Publicly advertise at least twice, and at least once,
33 two consecutive weeks in advance, the purpose, scheduled date,

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1 location, and time of a prebid conference, or the name of a
 2 contact person within the issuing authority from which the
 3 project specifications shall be available. The purposes of prior
 4 notification shall be to distribute and discuss the project
 5 specifications in the form of a request for proposal to
 6 interested parties, and inform applicants of the stated time
 7 frame for submission;

8 d. Recommend to the county executive which proposal,
 9 therefore party, should be awarded a contract as being in the
 10 best interests of the county; PROVIDED, that in the event the
 11 county fails to negotiate satisfactory terms with the highest
 12 ranked proposed contractor, the executive shall then begin
 13 negotiations with the next highest ranked contractor.

14 e. Be responsible to address all necessary comments to
 15 other applicants, interested parties, or the general public
 16 regarding the decision by the county to contract for services
 17 from a party to the exclusion of other applicants.

18 SECTION 3. Ordinance 3441, Section 2, and KCC 4.16.010 are
 19 amended to read as follows:

20 Bid board established. There is established the King
 21 County bid board which shall consist of the county executive or
 22 his designee and the chairman of the county council or his
 23 designee. The purpose of this board is to be present and
 24 function at the opening of all bids relating to the county's
 25 purchase of tangible personal property that have been advertised
 26 by publication in the official county newspaper and to exercise
 27 surveillance over the bid opening. Sealed bid proposals shall be
 28 received by the Comptroller/Purchasing Division in such locations
 29 as shall be designated by the manager of said office, at the
 30 advertised time and date, to be opened by the King County bid
 31 board. The ((~~manager-of-the-Comptroller/Purchasing-Division~~))
 32 county administrative officer or his designee shall award the
 33 lowest acceptable bid proposal by entering into a lawful

1 agreement with the awardee. Bid proposals shall be submitted as
 2 follows: Proposals shall be sealed and shall be mailed or
 3 delivered to the location designated by the ~~((manager-of-the~~
 4 ~~Comptroller/Purchasing-Division))~~ county administrative officer
 5 or his designee up to the time and date specified on the
 6 invitation to bid, where such bids shall be time-stamped and
 7 initialed by the King County employee. No bids shall be accepted
 8 after the time and date specified on the invitation to bid, and
 9 there shall be no exceptions to this requirement. After the
 10 expiration of the time for the receipt of bid proposals, the
 11 proposals will be delivered by an employee of the Comptroller/
 12 Purchasing Division to the King County bid board for opening
 13 thereafter.

14 SECTION 4. Ordinance 3441, Section 3, and KCC 4.16.020 are
 15 amended to read as follows:

16 Exceptions to ~~((competitive))~~ bidding for the purchase
 17 of tangible personal property or the solicitation of bids and
 18 subsequent purchase of professional and/or technical consultant
 19 service. In accordance with the provisions of RCW 36.32.250, the
 20 ~~((manager-of-the-Comptroller/Purchasing-Division))~~ county
 21 administrative officer or his designee is granted authority to
 22 let any contract, lease or purchase of tangible personal property
 23 involving less than three thousand five hundred dollars, without
 24 advertisement and without competitive bidding. The county
 25 administrative officer or his designee is granted the authority
 26 to let any contract for the purchase of professional and/or
 27 technical service consultants without a formal solicitation of
 28 proposal process where the value of the contract to the
 29 contractor will not exceed ten thousand dollars. The county
 30 administrative officer, or his designee, is authorized to
 31 dispense with ~~((For))~~ advertisement, ~~((and))~~ competitive bidding,
 32 and solicitation of proposal processes ~~((to-be-dispensed-with-as~~
 33 ~~to-purchases))~~ when purchasing tangible personal property between

1 one thousand dollars and three thousand five hundred dollars, or
 2 the awarding of a professional and/or technical service contracts
 3 having a value to the contractor of less than ten thousand
 4 dollars. The manager of the Comptroller/Purchasing Division or
 5 his designee shall be responsible for securing telephone and/or
 6 written quotations from enough vendors or prospective
 7 contractors, to assure establishment of a competitive price and
 8 for awarding such contracts for purchase of materials, equipment,
 9 or services to the lowest responsible bidder; PROVIDED, that in
 10 awarding professional and/or technical service contracts the
 11 manager of the Comptroller/Purchasing Division or his designee
 12 shall strive to select the most qualified bidder, having given
 13 due regard to experience and expertise. Immediately after the
 14 award is made, the bid quotations or proposals obtained shall be
 15 recorded and open to public inspection and shall be available by
 16 telephone inquiry.

17 SECTION 5. Ordinance 3441, Section 4, and KCC 4.16.030 are
 18 amended to read as follows:

19 Proprietary purchases. The sealed competitive bidding
 20 provisions of this chapter shall not apply to tangible personal
 21 property which are clearly and legitimately limited to a single
 22 source of supply and purchases involving special facilities,
 23 ((services)) or market conditions, in which instances the
 24 purchase price ((may)) shall be established by direct
 25 negotiations with the Comptroller/Purchasing Division. The
 26 county executive or his designee shall approve such purchase in
 27 excess of the three thousand five hundred dollars.

28 SECTION 6. Ordinance 3441, Section 5, and KCC 4.16.040 are
 29 amended to read as follows:

30 Emergency purchases. In the event of an emergency when
 31 the public interest or property of the county would suffer
 32 material injury or damage by delay, upon declaring the existence
 33 of such emergency and reciting the facts constituting the same,

1 the (~~manager-of-the-Comptroller/Purchasing-Division~~) county
 2 administrative officer or his designee may waive the requirements
 3 of Section 4.16.010 with reference to any purchase or contract
 4 relating to the county's purchase of tangible personal property
 5 and the requirements for the selection and award of professional
 6 and/or technical service consultant contracts, PROVIDED, that
 7 such exemption shall only apply to those contracts having a value
 8 of less than fifty thousand dollars to the consultant contractor.
 9 The executive shall report, in detail, such emergency
 10 expenditures to the council within thirty days of declaring an
 11 emergency. Should an emergency require the expenditure of funds
 12 in excess of fifty thousand dollars, any such additional
 13 expenditure shall be approved by motion of the council,
 14 accompanied, if necessary, by an appropriations ordinance,
 15 déclaring an emergency, following the executive's recommendation.
 16 The executive's recommendation shall include such statements as
 17 are necessary to fully explain the emergency. Purchases/
 18 contracts involving an emergency circumstance shall be approved
 19 by the county executive or his designee when the cost exceeds
 20 three thousand five hundred dollars; PROVIDED, that no contract
 21 or purchase shall be consummated to expend any money or incur any
 22 liability in excess of amounts appropriated by ordinance.

23 SECTION 7. Ordinance 3441, Section 8, and KCC 4.16.070 are
 24 amended to read as follows:

25 Rules and regulations for the purchase of tangible
 26 personal property. The manager of the Comptroller/Purchasing
 27 Division or his designee shall have prepared and shall approve
 28 and advertise for bids of all county solicitations for the
 29 purchase of tangible personal property in excess of three
 30 thousand five hundred dollars, and such solicitations shall be
 31 consistent with applicable state of Washington statutes. All
 32 orders or contracts made by the Comptroller/Purchasing Division
 33 shall be awarded to the lowest qualified bidder, taking into

1 consideration the quality of the material or services to be
 2 supplied, their conformity with the specifications, their
 3 suitability to the requirements of the county government and the
 4 delivery terms. Any or all bids may be rejected for good cause.

5 SECTION 8. Ordinance 3441, Section 9, and KCC 4.16.080 are
 6 amended to read as follows:

7 Unlawful purchases. Regardless of whether bids have
 8 been solicited by the county for the purchase of tangible
 9 personal property or professional and/or technical service
 10 consultant contracts, ((it)) it shall be the duty of the
 11 comptroller/Purchasing Division to report to the county
 12 administrative officer any suspected ((evasive-bids)) collusion
 13 and may order such ((bids)) suspected collusion reported to the
 14 proper federal authorities charged with enforcement of the
 15 federal anti-trust laws and to the Anti-Trust Division of the
 16 Office of the Attorney General of the state of Washington.

17 SECTION 9. Ordinance 620, Section 2 and KCC 4.04.040 are
 18 amended to read as follows:

19 Preparation and administration of budget. (a)
 20 PREPARATION AND DISTRIBUTION. The county council and county
 21 executive or his designee shall execute the responsibilities
 22 outlined below in order to accomplish the preparation and
 23 distribution of the county budget and budget document.

24 (1) Role of the County Executive

25 (A) Submission of agency requests. At least one
 26 hundred thirty-five days prior to the end of the fiscal year, all
 27 agencies of county government shall submit to the county
 28 executive information necessary to prepare the budget. The
 29 county executive shall prepare a procedure by which the county
 30 auditor may have access to or can obtain copies of agency
 31 submitted requests.

32 (B) Executive budget hearings. Prior to presentation
 33 to the county council, the county executive may provide for

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1 hearings on all agency requests for expenditures and revenues to
 2 enable him to make determinations as to the need, value or
 3 usefulness of activities or programs requested by agencies. The
 4 county executive may require the attendance of proper agency
 5 officials at his hearings, and it shall be their duty to disclose
 6 such information as may be required to enable the county
 7 executive to arrive at his final determination.

8 (C) Submission of executive budget. The county
 9 executive shall prepare and present an annual budget and budget
 10 message to the council no later than seventy-five days prior to
 11 the end of the fiscal year. Copies of the budget and budget
 12 message shall be delivered to the clerk and each councilman.

13 (D) Submission of proposed appropriation ordinance.
 14 The county executive shall prepare and present a proposed
 15 appropriation ordinance not later than seventy-five days prior to
 16 end of the fiscal year. The proposed appropriation ordinance
 17 shall specify by fund, program, project and/or agency the
 18 expenditures levels for the ensuing budget year.

19 (E) Availability to the public. Prior to the public
 20 hearing on the budget, the budget message and supporting tables
 21 shall be furnished to any interested person upon request, and
 22 copies of the budget shall be furnished for a reasonable fee as
 23 established by ordinance and shall be available for public
 24 inspection.

25 (2) Role of the County Council. (A) Review of the
 26 executive budget. The council shall review the proposed
 27 appropriation ordinance and shall make any changes or additions
 28 it deems necessary except the council shall not change the form
 29 of the proposed appropriation ordinance submitted by the county
 30 executive.

31 (B) Legislative budget hearings. The county council
 32 shall then announce and subsequently hold a public hearing or
 33 hearings as it deems necessary.

1 (C) Appropriation. Upon completion of the budget
2 hearings the county council shall by ordinance adopt an
3 appropriation granting authority to make expenditures and to
4 incur obligations, and the council may attach an accompanying
5 statement specifying legislative intent.

6 (3) Printing and Distribution of the Budget. The
7 office of budgets and accounts shall be responsible for the
8 printing and distribution of the executive and final adopted
9 budget.

10 (b) ADMINISTRATION OF THE BUDGET. (1) Allotment and
11 Work Program.

12 (A) Establishment of allotments. Within thirty days
13 after adoption of the appropriation ordinance, all agencies shall
14 submit to the county executive a statement of proposed agency
15 expenditures at such times and in such form as may be required by
16 him, provided that the county council is not required to submit
17 an allotment. The statement of proposed expenditures shall
18 include requested allotments of appropriations for the ensuing
19 fiscal period for the department concerned by either program,
20 project, object of expenditure or combination thereof and for
21 such periods as may be specified by the county executive or his
22 designee. The county executive shall review the requested
23 allotments in light of the agency's plan of work, and he may
24 revise or alter agency allotments. The aggregate of the
25 allotments for any agency shall not exceed the total of
26 appropriations available to the agency concerned for the fiscal
27 period.

28 (B) Revision of allotments. If at any time during the
29 fiscal period the county executive ascertains that available
30 revenues for the applicable period will be less than the
31 respective appropriations, he shall revise the allotments of
32 agencies funded from such revenue sources to prevent the making
33 of expenditures in excess of revenues. To the same end, the

1 county executive is authorized to assign to, and to remove from a
2 reserve status any portion of an agency appropriation which in
3 the county executive's discretion is not needed for the
4 allotment. No expenditure shall be made from any portion of an
5 appropriation which has been assigned to a reserve status except
6 as provided in this section.

7 (2) Review of Pay and Classification Plans. The
8 county executive or his designee shall periodically review any
9 pay and classification plans, and changes thereunder, for fiscal
10 impact, and shall recommend to the council any changes to such
11 plans; provided, that none of the provisions of this subsection
12 shall affect merit systems of personnel management now existing
13 or hereafter established by ordinance relating to the fixing of
14 qualification requirements for recruitment, appointment,
15 promotion or reclassification of employees of any agency.

16 (3) Transfer of Appropriations between Agencies.
17 During the last quarter of the fiscal year, the county council
18 when requested by the county executive may adopt an ordinance to
19 transfer appropriations between agencies of county government;
20 but a capital project shall not be abandoned thereby unless its
21 abandonment is recommended by the executive department
22 responsible for planning.

23 (4) Lapsing of Appropriation. Unless otherwise
24 provided by the appropriation ordinances, all unexpended and
25 unencumbered appropriations in the current expense appropriation
26 ordinances shall lapse at the end of the fiscal year. An
27 appropriation in the capital budget appropriations authorization
28 shall be canceled at the end of the fiscal year, unless the
29 executive submits to the council the report of the final year end
30 reconciliation of expenditures for all capital projects on or
31 before March 1st of the year following the year of the
32 appropriation, and each year thereafter in which the
33 appropriation remains open.

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(5) When Contracts and Expenditures Prohibited. No agency shall expend or contract to expend any money or incur any liability in excess of the amounts appropriated. Any contract made in violation of this section shall be null and void; any officer, agent or employee of the county knowingly responsible under such a contract shall be personally liable to anyone damaged by this action. The county council when requested to do so by the county executive may adopt an ordinance permitting the county to enter into contracts requiring the payment of funds from appropriations of subsequent fiscal years, except that the county executive may enter into lease ((~~7~~)) or rental ((~~er purchase~~)) contracts for real or personal property for a period not to exceed ((~~twenty-four~~)) thirty-six months in which cancellation clauses are provided to terminate the contract prior to the end of the current budget year. Real property shall not be leased to the county for more than one year unless it is included in a capital appropriation ordinance; provided, that nothing in this section shall prevent the making of contracts or the spending of money for capital improvements, nor the making of contracts of lease or for service for a period exceeding the fiscal period in which such contract is made, when such contract is permitted by law.

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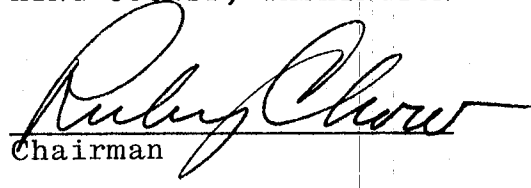
1 NEW SECTION. SECTION 10. Authorization to implement
 2 procedures. The county executive is authorized to implement such
 3 forms, administrative processes, and operational procedures as
 4 are necessary to comply with the provisions of this ordinance;
 5 PROVIDED, that such forms, processes, and procedures shall be
 6 promulgated in compliance with KCC 2.98, Rules of County
 7 Agencies.

8 SECTION 11. The county council finds as a fact and declares
 9 that an emergency exists and that this ordinance is necessary for
 10 the immediate preservation of public peace, health or safety or
 11 for the support of county government and its existing public
 12 institutions.

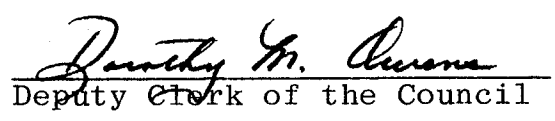
13 INTRODUCED READ for the final time this 10th day of
 14 September, 19 79.

15 PASSED this 29th day of October, 19 79.

16 KING COUNTY COUNCIL
 17 KING COUNTY, WASHINGTON

18 
 19 Chairman

20 ATTEST:

21 
 22 Deputy Clerk of the Council

23 APPROVED this _____ day of _____, 19 ____.

24 _____
 25 King County Executive

26 DEEMED ENACTED WITHOUT
 27 COUNTY EXECUTIVE'S SIGNATURE.
 28 DATED: 11/8/79