



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

February 11, 2013

Ordinance 17522

Proposed No. 2012-0445.2

Sponsors McDermott

1 AN ORDINANCE relating to procurement; amending
2 Ordinance 12138, Section 22, as amended, and K.C.C.
3 4.16.157, Ordinance 12138, Section 6, as amended, and
4 K.C.C. 4.16.010, Ordinance 12138, Section 7, as amended,
5 and K.C.C. 4.16.025, Ordinance 12138, Section 8, as
6 amended, and K.C.C. 4.16.030, Ordinance 16927, Section
7 2, and K.C.C. 4.16.035, Ordinance 12138, Section 9, as
8 amended, and K.C.C. 4.16.040, Ordinance 12138, Section
9 10, as amended, and K.C.C. 4.16.070, Ordinance 16651,
10 Section 1, and K.C.C. 4.16.075, Ordinance 12138, Section
11 11, as amended, and K.C.C. 4.16.080, Ordinance 12138,
12 Section 13, as amended, and K.C.C. 4.16.100, Ordinance
13 12138, Section 14, as amended, and K.C.C. 4.16.110,
14 Ordinance 12138, Section 15, and K.C.C. 4.16.120,
15 Ordinance 12138, Section 17, and K.C.C. 4.16.144,
16 Ordinance 12138, Section 18, and K.C.C. 4.16.145,
17 Ordinance 6231, Section 1, as amended, and K.C.C.
18 4.16.150 and Ordinance 12138, Section 19, as amended,
19 K.C.C. 4.16.155, adding a new chapter to K.C.C. Title 2,

20 recodifying K.C.C. 4.16.005, K.C.C. 4.16.157, K.C.C.
21 4.16.010, K.C.C. 4.16.025, K.C.C. 4.16.030, K.C.C.
22 4.16.035, K.C.C. 4.16.040, K.C.C. 4.16.050, K.C.C.
23 4.16.055, K.C.C. 4.16.070, K.C.C. 4.16.075, K.C.C.
24 4.16.080, K.C.C. 4.16.100, K.C.C. 4.16.110, K.C.C.
25 4.16.120, K.C.C. 4.16.144, K.C.C. 4.16.145, K.C.C.
26 4.16.150, K.C.C. 4.16.155 and K.C.C. 4.16.175 and
27 repealing Ordinance 16854, Section 5, and K.C.C.
28 4.16.086, Ordinance 3441, Section 8, as amended, and
29 K.C.C. 4.16.090, Ordinance 12138, Section 12, as
30 amended, and K.C.C. 4.16.095 and Ordinance 12138,
31 Section 16, as amended, and K.C.C. 4.16.142.

32 PREAMBLE:

33 The existing code on revenue and fiscal regulation, K.C.C. Title 4, was
34 created for the most part in the 1970s and 1980s, though some provisions
35 date back to at least the 1940s. Since the creation of K.C.C. Title 4, the
36 title has been subject to many amendments each year. The cumulative
37 effect of these amendments has been to create ambiguities and conflicts
38 within the title, which make it difficult to apply the code effectively and
39 predictably. The council determines that a new title on revenue and fiscal
40 regulation, K.C.C. Title 4A, should be created, and material related to
41 revenue and fiscal matters be codified in that title, and all other material in
42 K.C.C. Title 4 that is not appropriate to be codified K.C.C. Title 4A

43 should be codified in the appropriate titles. In this case, the material in
44 K.C.C. chapter 4.16 should be codified in K.C.C. Title 2.

45 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

46 SECTION 1. There is hereby established a new chapter in K.C.C. Title 2. The
47 new chapter shall contain K.C.C. 4.16.005, as recodified by this ordinance, K.C.C.
48 4.16.157, as recodified by this ordinance, K.C.C. 4.16.010, as recodified by this
49 ordinance, K.C.C. 4.16.025, as recodified by this ordinance, K.C.C. 4.16.030, as
50 recodified by this ordinance, K.C.C. 4.16.035, as recodified by this ordinance, K.C.C.
51 4.16.040, as recodified by this ordinance, K.C.C. 4.16.050, as recodified by this
52 ordinance, K.C.C. 4.16.055, as recodified by this ordinance, K.C.C. 4.16.070, as
53 recodified by this ordinance, K.C.C. 4.16.075, as recodified by this ordinance, K.C.C.
54 4.16.080, as recodified by this ordinance, K.C.C. 4.16.100, as recodified by this
55 ordinance, K.C.C. 4.16.110, as recodified by this ordinance, K.C.C. 4.16.120, as
56 recodified by this ordinance, K.C.C. 4.16.144, as recodified by this ordinance, K.C.C.
57 4.16.145, as recodified by this ordinance, K.C.C. 4.16.150, as recodified by this
58 ordinance, K.C.C. 4.16.155, as recodified by this ordinance, and K.C.C. 4.16.175, as
59 recodified by this ordinance.

60 SECTION 2. K.C.C. 4.16.005, as amended by this ordinance, is hereby
61 recodified as a new section in the new chapter established in section 1 of this ordinance.

62 SECTION 3. Ordinance 16854, Section 1, and K.C.C. 4.16.005 are each hereby
63 amended to read as follows:

64 To ensure open, fair and competitive procurement processes, to establish a
65 procurement system of quality and integrity((;)) and to maximize the purchasing value of

66 public funds, this chapter applies to contracts for the procurement of tangible personal
67 property, services, professional ~~((or))~~ services, technical services and public work entered
68 into by county elected officials, department heads and their designees. Except where
69 exempt by state law, county ordinance or executive policy, county procurement shall be
70 administered through the ~~((purchasing))~~ procurement and contract services section to
71 maximize economies of scale, consistency in county practices and accountability
72 procedures.

73 When a procurement involves the expenditure of federal or state assistance, grants
74 or funds, the manager shall conduct the procurement in accordance with this chapter
75 unless the federal or state agency specifically requires otherwise. This chapter does not
76 limit the authority of the executive to procure tangible personal property, services,
77 professional or technical services, or public work in a manner otherwise provided for in
78 law.

79 SECTION 4. K.C.C. 4.06.157, as amended by this ordinance, is hereby
80 recodified as a new section in the new chapter established in section 1 of this ordinance.

81 SECTION 5. Ordinance 12138, Section 22, as amended, and K.C.C. 4.16.157 are
82 each hereby amended to read as follows:

83 The manager is hereby authorized to take all actions necessary and appropriate to
84 implement the policies and provisions ~~((set forth))~~ in this chapter, and to promulgate such
85 rules, regulations and guidelines as the manager deems necessary to carry out the
86 purposes or provisions of this chapter~~((; provided, that such))~~. The rules, regulations and
87 guidelines shall be promulgated in compliance with K.C.C. chapter 2.98.

88 SECTION 6. K.C.C. 4.16.010, as amended by this ordinance, is hereby
89 recodified as a new section in the new chapter established in section 1 of this ordinance.

90 SECTION 7. Ordinance 12138, Section 6, as amended, and K.C.C. 4.16.010 are
91 each hereby amended to read as follows:

92 The definitions in this section apply throughout this chapter unless the context
93 clearly requires otherwise.

94 A. "Bid" or "proposal" means an offer to provide tangible personal property,
95 services, technical or professional services and public work in response to a solicitation
96 for bids or proposals issued by the county.

97 B. "Bidder," or "proposer" means a person, firm, partnership or corporation that
98 formally submits a bid, proposal or offer to provide tangible personal property, services,
99 professional or technical services and public work to the county in response to a
100 solicitation for bids or proposals or request for qualifications issued by the county.

101 C. "Collusion" means a willful act to defraud others of their rights or to obtain an
102 unfair advantage in a public contracting process.

103 D. "Contract" means a mutually binding legal relationship or any modification
104 thereof obligating a person, firm, corporation or partnership to provide tangible personal
105 property, services, professional or technical services or public work to the county, and
106 that obligates the county to pay therefor.

107 ~~(D-)~~ E. "Day" means a calendar day.

108 F. "Incremental project cost" means the additional cost, if any, in design,
109 procurement, construction and long-term maintenance, for achieving a reduction in

110 energy usage or greenhouse gas emissions greater than the reduction that would be
111 achieved under the applicable building code requirements.

112 G. "Manager" means the manager of the finance and business operations
113 division.

114 ~~((E. "Metropolitan function" means a function or functions authorized by RCW~~
115 ~~35.58.050, approved by the voters, and assumed by the county in accordance with RCW~~
116 ~~36.56.010.~~

117 ~~F.))~~H. "Professional ~~((or technical))~~ services" means those services provided by
118 ~~((independent contractors:~~

119 ~~1. Within the scope of architecture, accounting, engineering, landscape~~
120 ~~architecture, law, financial or administrative studies, feasibility studies of a scientific or~~
121 ~~technical nature, management advisory services and special project management for a~~
122 ~~defined time or result or other practice that requires specialized knowledge, advanced~~
123 ~~education or professional licensing or certification; and~~

124 ~~2. Where the primary service provided is mental or intellectual involving the~~
125 ~~consistent exercise of judgment and discretion or the provision of specialized skills))~~
126 licensed or certified individuals or consulting firms associated with either the
127 development, design or construction, or any combination thereof, of a public works or
128 real property project.

129 ~~((G.))~~ I. "Public work" means all work, construction, alteration, enlargement,
130 repair, demolition or improvement, other than ordinary maintenance, executed at the cost
131 of the county or ~~((which))~~ that is by law a lien or charge on any property therein.

132 ~~((H. "Rolling stock" as used throughout this chapter shall mean revenue~~
133 ~~producing vehicles, including buses, vans, cars, railcars, locomotives and trolley cars.~~

134 I.) J. "Sealed bid" means a method for submitting a bid to provide or perform
135 work on a contract. In general, each interested party submits a bid in a sealed envelope
136 or electronically as specified, and all of the bids are opened at the same time.

137 K. "Services,"~~((;))~~ except for professional services or technical services, means
138 the furnishing of labor, time or effort by a contractor, not involving the delivery of
139 tangible personal property, ~~((other than))~~ such as reports that are merely incidental to the
140 required performance.

141 ~~((;))~~ L. "Tangible personal property" means equipment, supplies, materials~~((;))~~
142 and goods, and ~~((rolling stock))~~ includes intangible personal property that is movable,
143 subject to ownership, and has exchange value.

144 M. "Technical services" means those services provided by independent
145 contractors within the scope of accounting, law, financial or administrative studies,
146 studies of a technical nature, management advisory services and special project
147 management, for a defined time or result or other practice that requires either specialized
148 knowledge, advanced education or licensing or certification, or any combination thereof,
149 and where the primary service provided is intellectual involving the consistent exercise of
150 judgment and discretion or the provision of specialized skills.

151 N. "Waiver" means a process whereby the procurement and contract services
152 section may procure without formal solicitation procedures because of the uniqueness of
153 circumstances related to that procurement action.

154 SECTION 8. K.C.C. 4.06.025, as amended by this ordinance, is hereby
155 recodified as a new section in the new chapter established in section 1 of this ordinance.

156 SECTION 9. Ordinance 12138, Section 7, as amended, and K.C.C. 4.16.025 are
157 each hereby amended to read as follows:

158 A. Sealed bids shall be received ~~((by the manager))~~ in such a manner and form,
159 including electronically if specified, and at such locations as the manager shall
160 designate~~((Bids shall be submitted as follows: Bids shall be sealed and shall be mailed~~
161 ~~or delivered and received at the location designated by the manager))~~ up to the time and
162 date ~~((specified on))~~ identified in the invitation to bid, where such bids shall be time-
163 recorded ~~((and initialed))~~ by a county representative. After the expiration of the time for
164 the receipt of bids, the bids will be publicly opened and read. The county reserves the
165 right to reject any bid, any portion of any bid, or all bids and to waive immaterial
166 irregularities ~~((or any other requirement))~~ in accordance with applicable law.

167 B. Written ~~((P))~~ proposals or statements of qualification shall be received ~~((by the~~
168 ~~manager))~~ in such a manner and form, including electronically if specified, at such
169 locations as the manager shall designate~~((Proposals shall be submitted as follows:~~
170 ~~Proposals shall be sealed and shall be mailed or delivered and received at the location~~
171 ~~designated))~~ up to the time and date ~~((specified))~~ identified in the request for proposals~~((;~~
172 ~~where such))~~ or request for statements of qualification. The proposals or statements shall
173 be time recorded ~~((and initialed))~~ by a county representative~~((; provided however, that if~~
174 ~~the manager promulgates procedures by which proposals may be submitted~~
175 ~~electronically, and the request for proposal provides that proposals may be submitted in~~
176 ~~such a manner, the proposer may elect to submit its proposal either by the sealed or by~~

177 ~~the electronic manner~~). After expiration of the time for receipt of proposals or
178 statements, a submittal list shall be compiled and made public.

179 SECTION 10. K.C.C. 4.16.030, as amended by this ordinance, is hereby
180 recodified as a new section in the new chapter established in section 1 of this ordinance.

181 SECTION 11. Ordinance 12138, Section 8, as amended, and K.C.C. 4.16.030 are
182 each hereby amended to read as follows:

183 ~~((In accordance with the provisions of RCW 36.32.245 and 36.32.253 and this~~
184 ~~chapter, the executive is granted authority to let any contract, lease or purchase of~~
185 ~~tangible personal property or services, other than professional or technical services,~~
186 ~~involving less than twenty-five thousand dollars, without advertisement and without~~
187 ~~formal, sealed bidding. The executive is also granted the authority to let any contract for~~
188 ~~the purchase of professional or technical services without a formal solicitation of~~
189 ~~proposal process where the value of the contract to the consultant will not exceed twenty-~~
190 ~~five thousand dollars. When leasing or purchasing tangible personal property or services,~~
191 ~~other than professional or technical services, between five thousand dollars and twenty-~~
192 ~~five thousand dollars, the executive shall be responsible for securing either telephone or~~
193 ~~written quotations, or both, from vendors or prospective contractors to assure~~
194 ~~establishment of a competitive price, and for awarding such contracts to the lowest~~
195 ~~responsible bidder or proposer. When awarding a professional or technical services~~
196 ~~contract having a value to the contractor of less than twenty five thousand dollars, the~~
197 ~~executive shall obtain proposals from similarly qualified proposers to ensure a~~
198 ~~competitive process, and strive to select the most qualified proposer, having given due~~
199 ~~regard to experience and expertise and other relevant factors, and after the award of any~~

200 ~~contract pursuant to this section, the bids or proposals obtained shall be recorded and~~
201 ~~open to public inspection and shall be available by telephone inquiry:))~~ In accordance
202 with Titles 36 and 39 RCW and this chapter, the executive is granted authority to award
203 any contract, lease or purchase of tangible personal property and technical or other
204 services, at the informal purchase threshold, without advertisement and without formal,
205 sealed bids or proposals. The executive shall be responsible for securing quotations or
206 proposals from prospective contractors where required to assure establishment of a
207 competitive price. This section does not apply to architectural, engineering, professional,
208 or public works contracts.

209 SECTION 12. K.C.C. 4.16.035, as amended by this ordinance, is hereby
210 recodified as a new section in the new chapter established in section 1 of this ordinance. SECTION 13.

211 A. ~~((For the purposes of this section, "incremental project cost" means the~~
212 ~~additional cost, if any, in design, procurement, and construction and long term~~
213 ~~maintenance for achieving a reduction in energy usage or greenhouse gas emissions~~
214 ~~greater than the reduction that would be achieved under the applicable building code~~
215 ~~requirements.~~

216 B-))1. The executive shall require the architect, engineer or energy performance
217 contractor to develop a written analysis to be delivered to the project manager before the
218 completion of the project's design for all county capital improvement projects, including
219 new construction, remodeling and energy-saving performance contracts and equipment
220 retrofits and replacement:

221 a. that include at least two hundred fifty thousand dollars of costs for powered
222 equipment; and

223 b. for which reasonable alternatives appear to be available for reducing energy
224 usage by at least ten percent below applicable building code requirements or reducing
225 greenhouse gas emissions.

226 2. The analysis shall include, at a minimum:

227 a. options to achieve a reduction in energy usage of at least ten percent below
228 levels that would be achieved under applicable building code requirements;

229 b. any reasonable options to achieve greenhouse gas emissions reductions;

230 c. identification of all available financial incentives from utility companies or
231 other parties for achieving a reduction in energy usage or greenhouse gas emissions;

232 d. a financial analysis of the incremental project cost for achieving the
233 reductions in energy usage based on a life-cycle cost analysis that calculates net present
234 value of the incremental cost, net of any financial incentives from utilities or other
235 outside sources, and the operational and utility savings for a period of not more than
236 fifteen years, unless specifically justified by the attributes of the project; and

237 e. a financial analysis of the incremental project cost for implementing any
238 reasonable options for achieving the reductions in greenhouse gas emissions based on a
239 life-cycle cost analysis that calculates net present value of the incremental cost, net of any
240 financial incentives from utilities or other outside sources, and the operational and utility
241 savings for a period of not more than fifteen years, unless specifically justified by the
242 attributes of the project.

243 3. The written analysis required in subsection ~~((B-))~~ A.1. of this section shall
244 apply to county capital improvement projects for which design work is commenced after
245 October 3, 2010.

246 ~~((C.))~~ B. The project manager shall consider the financial analysis and life-cycle
247 cost analysis in the selection of the alternative under subsection ~~((B.))~~ A. of this section,
248 with a goal of selecting the alternative that meets the county's operational needs and that
249 will result in a reduction of energy usage and greenhouse gas emissions and for which the
250 life-cycle cost analysis of the incremental project cost demonstrates that there would not
251 be an additional cost to the county. Documentation of the decision must be provided if
252 an alternative is selected that does not reduce energy consumption or greenhouse gas
253 emissions, or if an alternative is selected for which the financial analysis in subsection B.
254 of this section determines that there will be an incremental cost.

255 ~~((D.))~~ C. For a project under subsection ~~((B.))~~ A. of this section, where a
256 financial incentive from a utility is available and the county has decided to pursue the
257 incentive, the project manager shall be responsible for ensuring completion of all
258 requirements of the utility's incentive.

259 ~~((E.))~~ D.1. For a project under subsection ~~((B.))~~ A. of this section, upon the
260 expiration of the project's construction warranty period, the department shall report the
261 energy reduction and greenhouse gas emissions achieved as a result of the project and the
262 total rebates and grants received from utilities or other parties as compared to the
263 projected outcomes in energy usage and greenhouse gas emissions, and any financial
264 incentives identified in the financial analysis required in subsection ~~((B.))~~ A.3. of this
265 section. After the initial report, the project's actual versus projected energy usage and
266 greenhouse gas emissions shall be monitored for at least three years, using the county's
267 energy accounting software or other measurement tools as appropriate based on the size
268 and complexity of the project.

269 2. The executive shall adopt written procedures outlining the methodology and
270 process by which a project manager reports on the energy and greenhouse gas emissions
271 reductions achieved as a result of the project and the annual monitoring of energy and
272 greenhouse gas emissions reduction. The procedures shall include a process for
273 identifying those projects that include at least two hundred fifty thousand dollars of costs
274 for powered equipment, but for which reasonable alternatives were unavailable for
275 reducing energy consumption by at least ten percent below applicable building code
276 requirements. The procedures shall include a reporting mechanism by which the data in
277 subsection ~~((E.))~~ D.1. of this section is compiled, summarized and transmitted to the
278 council.

279 SECTION 14. K.C.C. 4.16.040, as amended by this ordinance, is hereby
280 recodified as a new section in the new chapter established in section 1 of this ordinances.

281 SECTION 15. Ordinance 12138, Section 9, as amended, and K.C.C. 4.16.040 are
282 each hereby amended to read as follows:

283 A. The competitive procurement provisions of this chapter shall not apply to the
284 lease or purchase of tangible personal property or to services of any kind that are clearly
285 and legitimately limited to a single source of supply or that involve special facilities or
286 special market conditions in which instances the lease or purchase price shall be
287 established by direct negotiations by the manager. Executive approval is required for
288 such leases or purchases ~~((in excess of twenty five thousand dollars))~~ below the formal
289 purchasing threshold as described in RCW 36.32.245.

290 B. Notwithstanding subsection A. of this section, the competitive bidding
291 requirements for public works may not be waived on the basis of a single source of
292 supply, special facilities or special market conditions.

293 SECTION 16. K.C.C. 4.16.050 and K.C.C. 4.16.055 are each hereby recodified
294 as new sections in the new chapter established in section 1 of this ordinance.

295 SECTION 17. K.C.C. 4.16.070, as amended by this ordinance, is hereby
296 recodified as a new section in the new chapter established in section 1 of this ordinance.

297 SECTION 18. Ordinance 12138, Section 10, as amended, and K.C.C. 4.16.070
298 are each hereby amended to read as follows:

299 Various departments or agencies of the county regularly have requirements for
300 minimal cost purchases, and the cost of competitive purchasing to the county in these
301 instances is greater than the benefits. The standard method for making these purchases is
302 a county-issued credit card. In those instances when a county-issued credit card cannot
303 be reasonably used, the manager shall establish a petty cash fund for open market
304 purchases of miscellaneous items, total purchase price not to exceed one hundred dollars.
305 Individual departments or agencies may effect these minimal cost purchases directly.
306 The manager will authorize the reimbursement to each department, office or employee
307 authorized to make such petty cash expenditures upon delivery of vendor's sales receipt.
308 The authorized designee of the department or office will certify the vendor's paid sales
309 receipt and deliver same for reimbursement.

310 SECTION 19. K.C.C. 4.16.075, as amended by this ordinance, is hereby
311 recodified as a new section in the new chapter established in section 1 of this ordinance.

312 SECTION 20. Ordinance 16651, Section 1, and K.C.C. 4.16.075 are each hereby
313 amended to read as follows:

314 A. The manager shall implement the following system for the authorization,
315 distribution, control, implementation and administration of credit cards by officers and
316 employees:

317 1. Credit cards may be distributed to those county officers and employees who,
318 in the opinion of the manager, have job responsibilities that would benefit from, or
319 otherwise be facilitated by, the use of a credit card;

320 2. Credit cards may only be used for purchases or acquisitions the user would be
321 authorized to make with county cash, purchase order, or voucher;

322 3. Credit cards may not be used for cash advances;

323 4. ~~((The manager shall develop and implement p))~~Policies and procedures and
324 accounting controls shall be developed and implemented to ensure the proper usage of
325 credit cards and credit card funds including compliance with county code and county
326 purchasing policies and procedures;

327 5. Credit cards may be required to be immediately surrendered if used in a
328 manner inconsistent with county code or county policies or procedures;

329 6. ~~((The manager shall set e))~~Credit limits shall be set on each credit card
330 issued; and

331 7. ~~((The manager shall establish and implement a))~~A written procedure for the
332 payment of all credit card bills shall be established and implemented.

333 B. The manager may adopt any additional policies and procedures the manager
334 determines are necessary to implement, and are not inconsistent with, this chapter.

335 SECTION 21. K.C.C. 4.16.080, as amended by this ordinance, is hereby
336 recodified as a new section in the new chapter established in section 1 of this ordinance.

337 SECTION 22. Ordinance 12138, Section 11, as amended, and K.C.C. 4.16.080
338 are each hereby amended to read as follows:

339 ~~((A. The rules and regulations stipulated in this section shall apply only to
340 professional or technical service contracts.~~

341 ~~B. Consultant contracts for preparation of environmental documents prepared as
342 required by the state Environmental Policy Act, chapter 43.21C RCW, are exempt from
343 the requirements of this chapter.~~

344 ~~C. Contracts for architect and engineering services shall be let in accordance with
345 the requirements of chapter 39.80 RCW.~~

346 ~~D. In soliciting and recommending award of a professional or technical services
347 contract having a value to the contractor in excess of twenty five thousand dollars, the
348 manager shall have the operational authority and responsibility to:~~

349 ~~1. Determine when it is in the best interest of the county to designate a contract
350 for procurement under the small business accelerator authorized in K.C.C. chapter 4.19;~~

351 ~~2. Develop proposal specifications or a project description in the form of a
352 request for proposal in concert with the requesting department or office;~~

353 ~~3. Develop, with the requesting department or office, the written criteria that
354 will be used to determine which a written proposal or proposals shall be accepted as the
355 basis for recommending contract award. The determination at a minimum shall include:~~

356 ~~a. quality;~~

357 ~~b. known and documented expertise of the applicant;~~

358 e. ~~documentation, as required, and demonstration of the financial capability of~~
359 ~~the party to perform specified work;~~

360 d. ~~special consideration of the impact of equal employment opportunity efforts,~~
361 ~~including certified small contractors and suppliers and minority and women's business~~
362 ~~enterprise participation;~~

363 4. ~~Publicly advertise at least once the purpose, scheduled date, location and time~~
364 ~~of a preproposal conference if applicable, or the name of a contact person from whom the~~
365 ~~project specifications shall be available. The purposes of prior notification shall be to~~
366 ~~distribute and discuss the project specifications in the form of a request for proposal to~~
367 ~~interested parties, and inform applicants of the stated time frame for submission;~~

368 5. ~~Recommend to the executive which proposal or proposals should be awarded~~
369 ~~a contract or contracts as being in the best interests of the county;~~

370 6. ~~Be responsible to address all necessary comments to other proposers,~~
371 ~~interested parties or the general public regarding the decision by the county to contract~~
372 ~~for services from a party to the exclusion of other proposers; and~~

373 7. ~~Include in contracts that provide for reimbursement of contractor travel and~~
374 ~~meal expenses a provision that limits such reimbursements to eligible costs based on the~~
375 ~~rates and criteria established in K.C.C. chapter 3.24.)) A. Contracts for architect and~~
376 ~~engineering services shall be solicited in accordance with chapter 39.80 RCW.~~

377 B. Contracts for professional services, other than architectural or engineering,
378 shall be solicited using the procedures in chapter 39.80 RCW, with price as an additional
379 element of consideration.

380 C. Public works contracts shall be solicited and awarded in accordance with the
381 authority granted by state law, as in Titles 36 and 39 RCW and any additional
382 requirements prescribed by county ordinance or executive policy.

383 D. Contracts for the lease or purchase of tangible personal property and the
384 purchase of services and technical services shall be awarded in accordance with RCW
385 36.32.245, 36.32.253 and 39.04.190. If the manager determines that soliciting bids is not
386 in the best interest of the county, the contract shall be awarded under a competitive
387 proposal process.

388 E. Prequalification of tangible personal property and services may occur before
389 procurement of the items. Under those circumstances, only tangible personal property
390 and services that are determined to meet the qualifying criteria will be acceptable in the
391 subsequent procurement.

392 F. All contracts that provide for reimbursement of contractor travel and meal
393 expenses shall have a provision that limits such reimbursements to eligible costs based on
394 the rates and criteria established in K.C.C. chapter 3.24 and federal travel rate
395 regulations.

396 SECTION 23. Ordinance 16854, Section 5, and K.C.C. 4.16.086 are each hereby
397 repealed.

398 SECTION 24. Ordinance 3441, Section 8, as amended, and K.C.C. 4.16.090 are
399 each hereby repealed.

400 SECTION 25. Ordinance 12138, Section 12, as amended, and K.C.C. 4.16.095
401 are each hereby repealed.

402 SECTION 26. K.C.C. 4.16.100, as amended by this ordinance, is hereby
403 recodified as a new section in the new chapter established in section 1 of this ordinance.

404 SECTION 27. Ordinance 12138, Section 13, as amended, and K.C.C. 4.16.100
405 are each hereby amended to read as follows:

406 Regardless of whether bids or proposals have been solicited by the county for the
407 purchase of tangible personal property or the performance of a service((s)) or services,
408 ~~((it shall be the duty of))~~ the manager ~~((tø))~~ shall report to the executive any suspected
409 collusion~~((and))~~. The executive may order the suspected collusion to be reported to the
410 appropriate authorities. If the suspected collusion appears to violate federal antitrust
411 laws, then the executive may order ((sueh)) the suspected collusion reported to the
412 ~~((proper))~~ appropriate federal authorities charged with enforcement ~~((of the federal~~
413 ~~antitrust laws and to the Antitrust Division of the Office of the Attorney General of the~~
414 ~~state of Washington))~~.

415 SECTION 28. K.C.C. 4.16.110, as amended by this ordinance, is hereby
416 recodified as a new section in the new chapter established in section 1 of this ordinance.

417 SECTION 29. Ordinance 12138, Section 14, as amended, and K.C.C. 4.16.110
418 are each hereby amended to read as follows:

419 The manager shall have authority to join with other units of government in
420 cooperative purchasing when the best interests of the county would be served thereby~~((;~~
421 ~~provided, that))~~, but each of the participating units shall be separately invoiced by the
422 vendors for ~~((sueh))~~ the purchases and the county shall not be obligated for purchases
423 other than those required for its own use. ~~((Whenever supplies, materials, equipment and~~
424 ~~services are purchased for the county by federal, state or local governments, such~~

425 purchases may be accomplished in the manner prescribed by the provisions of applicable
426 law, charter or chapter of such federal, state or local governments;)) The county may
427 utilize federal, state or local governments' contracts that have followed their respective
428 public agencies' competitive procurement processes rather than ((the provisions of)) this
429 chapter. The manager may establish a purchasing administrative fee to recover costs from
430 the contractor associated with other public agencies' use of these contracts.

431 SECTION 30. K.C.C. 4.16.120, as amended by this ordinance, is hereby
432 recodified as a new section in the new chapter established in section 1 of this ordinance.

433 SECTION 31. Ordinance 12138, Section 15, and K.C.C. 4.16.120 are each
434 hereby amended to read as follows:

435 Except in an emergency, no ~~((order for delivery on a contract or open market~~
436 ~~order for supplies, materials, equipment or contractual services))~~ purchase for any
437 department or office shall be awarded until the department director or ~~((chief))~~
438 responsible officer has certified that the encumbered balance in appropriation or
439 appropriations concerned, in excess of all unpaid obligations, is sufficient to defray the
440 cost of ~~((such))~~ the order.

441 SECTION 32. Ordinance 12138, Section 16, as amended, and K.C.C. 4.16.142
442 are each hereby repealed.

443 SECTION 33. K.C.C. 4.16.144, as amended by this ordinance, is hereby
444 recodified as a new section in the new chapter established in section 1 of this ordinance.

445 SECTION 34. Ordinance 12138, Section 17, and K.C.C. 4.16.144 are each
446 hereby amended to read as follows:

447 The executive shall establish procedures for considering and determining bid and
448 proposal protests and appeals. The executive shall render the final administrative
449 determination on all such protests and appeals.

450 SECTION 35. K.C.C. 4.16.145, as amended by this ordinance, is hereby
451 recodified as a new section in the new chapter established in section 1 of this ordinance.

452 SECTION 36. Ordinance 12138, Section 18, and K.C.C. 4.16.145 are each
453 hereby amended to read as follows:

454 The executive shall comply with the following procedures in contract debarment
455 and suspension actions~~((:))~~:

456 A. After reasonable notice to the person involved and reasonable opportunity for
457 that person to be heard, the executive shall have authority to debar a person, firm or other
458 legal entity for cause from consideration for award of contracts with the county. The
459 debarment shall be for ~~((a period of))~~ not more than two years~~((:))~~;

460 B. The executive shall have the authority to suspend a person, firm or other legal
461 entity from consideration for award of contracts if there is probable cause for debarment.
462 The suspension shall be for ~~((a period of))~~ not more than six months~~((:))~~;

463 C. The authority to debar or suspend shall be exercised in accordance with
464 procedures established by the executive~~((:))~~;

465 D. The causes for debarment or suspension include the following:

466 1. Conviction for commission of a criminal offense as an incident to obtaining
467 or attempting to obtain a public or private contract or subcontract, or in the performance
468 of such contract or subcontract;

469 2. Conviction under state or federal statutes of embezzlement, theft, forgery,
470 bribery, falsification or destruction of records, receiving stolen property, or any other
471 offense indicating a lack of business integrity or business honesty which currently,
472 seriously, and directly affects responsibility as a contractor to the county;

473 3. Conviction under state or federal antitrust statutes arising out of the
474 submission of bids or proposals;

475 4. Violation of contract provisions, such as the following, of a character which
476 is regarded by the executive to be so serious as to justify debarment action:

477 a. deliberate failure without good cause to perform in accordance with the
478 specifications or within the time limit provided in the contract, or

479 b. substantial failure to comply with commitments to and contractual
480 requirements for participation by minority and women's business enterprises and equal
481 employment opportunity, or

482 c. a recent record of failure to perform or of unsatisfactory performance in
483 accordance with the terms of one or more contracts; provided that failure to perform or
484 unsatisfactory performance caused by acts beyond the control of the contractor shall not
485 be considered to be a basis for debarment;

486 5. Violation of ethical standards set forth in contracts with the county; or

487 6. Any other cause the executive determines so serious and compelling as to
488 affect responsibility as a contractor to the county, including debarment by another
489 governmental entity for any cause similar to those ~~((set forth herein.))~~ in this subsection

490 D:

491 E. The executive shall issue a written decision stating the reasons for the
492 debarment or suspension. ~~((Such))~~ The decision shall be promptly mailed or otherwise
493 furnished to the debarred or suspended person and any other party intervening.

494 F. The executive's decision of debarment or suspension, unless fraudulent, shall
495 constitute the final and conclusive decision on behalf of the county. After a final decision
496 has been made, the executive shall submit a report to the council giving the name of the
497 person, firm or other legal entity suspended or debarred and the reason~~((s))~~ or reasons
498 for ((such)) the suspension or debarment. The report shall be filed in the form of a paper
499 original and an electronic copy with the clerk of the council, who shall forward an
500 electronic copy to each councilmember.

501 SECTION 37. K.C.C. 4.16.150, as amended by this ordinance, is hereby
502 recodified as a new section in the new chapter established in section 1 of this ordinance.

503 SECTION 38. Ordinance 6231, Section 1, as amended, and K.C.C. 4.16.150 are
504 each hereby amended to read as follows:

505 Contracts with the following organizations shall be entered into without regard to
506 this chapter:

- 507 A. Youth Service Bureaus, including Center for Human Services;
- 508 B. Puget Sound ~~((Council of Governments))~~ Regional Council;
- 509 C. King County Soil Conservation Service;
- 510 D. Air Pollution Control Service;
- 511 E. Seattle/King County Visitors Bureaus;
- 512 F. The Central Puget Sound Economic Development District;
- 513 G. Pacific Science Center;

514 H. Seattle/King County Economic Development Council;

515 I. Eastside Visitors Bureau;

516 J. United Way;

517 K. United States Office of Personnel Management; and

518 L. ~~((Cultural development authority of King County))~~ 4Culture.

519 SECTION 39. K.C.C. 4.16.155, as amended by this ordinance, is hereby
520 recodified as a new section in the new chapter established in section 1 of this ordinance.

521 SECTION 40. Ordinance 12138, Section 19, as amended, and K.C.C. 4.16.155
522 are each hereby amended to read as follows:

523 A. This section applies to contracts or procurements for tangible personal
524 property and services ~~((and professional or))~~ including technical services for departments
525 and offices. ~~((In addition, this section applies to contracts or procurements for tangible~~
526 ~~personal property acquired in furtherance of metropolitan functions. Unless otherwise~~
527 ~~provided in this section, all other ordinances relating to procurement, bidding or contract~~
528 ~~procedures shall apply to contracts or procurements which are in furtherance of~~
529 ~~metropolitan functions. In the event there are inconsistencies between this section and~~
530 ~~any other ordinance, this section shall control.))~~

531 B. ~~((For tangible personal property in furtherance of metropolitan functions, the~~
532 ~~estimated cost of which is twenty five thousand dollars or more, the manager may use the~~
533 ~~small business accelerator established in K.C.C. chapter 4.19 to solicit and obtain~~
534 ~~competitive sealed bids or proposals from only certified small contractors and suppliers.~~

535 C. ~~For tangible personal property and services other than public works, the~~
536 ~~estimated cost of which is twenty five thousand dollars or more, if the manager~~

537 ~~determines that soliciting competitive sealed bids is not in the best interest of the county,~~
538 ~~the contract shall be let under the following competitive sealed proposals procedures))~~

539 Contracts shall be solicited under the following competitive process:

540 1. The manager shall ~~((cause a notice inviting statements of))~~ advertise
541 solicitations for qualifications or ~~((statements of))~~ proposals ~~((to be published in a~~
542 ~~newspaper of general circulation throughout King County))~~. The notice shall state
543 ~~((generally the tangible personal property or services to be purchased and shall call for~~
544 ~~statements of qualifications or statements of proposals to be submitted to the county on or~~
545 ~~before the day and hour named in the notice. The notice may be published in such~~
546 ~~additional newspapers or magazines and for such additional period of time as the~~
547 ~~manager shall deem to be in the best interest of the county))~~ the date and time for
548 submissions. The ~~((request))~~ solicitation for ~~((statements of))~~ qualifications or
549 ~~((statements of))~~ proposals shall state the relative importance of price and all other
550 evaluation factors;

551 2. Discussions may be conducted with responsible offerors to determine which
552 proposals should be evaluated in more detail or which offerors should be requested to
553 enter into negotiations, or both. Negotiations may be conducted concurrently or
554 sequentially. The county may request clarifications and consider minor adjustments in
555 the proposals in order to better understand the proposals and to qualify them for further
556 consideration, though information discussed or obtained from one offeror shall not be
557 disclosed to competing offerors during the discussions and negotiations. Except to the
558 extent protected by either or both state and federal laws and regulations, proposals shall

559 be considered public documents and available for review and copying by the public after
560 a decision to award the contract is made; and

561 3. Award shall be made, if at all, to a responsible offeror or offerors whose
562 proposal or proposals are determined to be the most advantageous to the county, taking
563 into consideration price and the other established evaluation factors.

564 C. The manager may use the small business accelerator established in K.C.C.
565 chapter 4.19 to solicit and obtain competitive sealed bids or proposals from only certified
566 small contractors and suppliers.

567 SECTION 41. K.C.C. 4.16.175 is hereby recodified as a new section in the new
568 chapter established in section 1 of this ordinance.
569

Ordinance 17522 was introduced on 11/13/2012 and passed by the Metropolitan King
County Council on 2/11/2013, by the following vote:

Yes: 8 - Mr. Phillips, Mr. von Reichbauer, Mr. Gossett, Ms. Hague,
Ms. Patterson, Ms. Lambert, Mr. Dunn and Mr. McDermott
No: 0
Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON


Larry Gossett, Chair

ATTEST:


Anne Noris, Clerk of the Council

APPROVED this 21 day of FEBRUARY, 2013.


Dow Constantine, County Executive

Attachments: None

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KING COUNTY COUNCIL