

CHARTER RESOLUTION NO. 65

COMPETITIVE PURCHASING PROCEDURES

Effective: February 27, 2012

A CHARTER RESOLUTION OF SEDGWICK COUNTY, KANSAS PROVIDING THAT K.S.A. 19-260a AND 19-260b NOT APPLY TO SAID COUNTY AND EXEMPTING SAID COUNTY THEREFROM AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS UPON THE SAME SUBJECT; AND PROVIDING THAT SAID COUNTY PURCHASE GOODS AND SERVICES PURSUANT TO COMPETITIVE PURCHASING PROCEDURES UNDER THE DIRECTION OF THE COUNTY PURCHASING DIRECTOR; AND REPEALING CHARTER RESOLUTION NO. 57.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS that:

Section I. Charter Authority. Sedgwick County is a duly organized county within the State of Kansas and, pursuant to the home-rule authority vested in said county by K.S.A. 19-101a and K.S.A. 19-101b, hereby exempts said county from and makes inapplicable to it a non-uniform act of the legislature: K.S.A. 19-260a and 19-260b; and Sedgwick County hereby enacts the following substitute and additional provisions there for.

Section II. Repeal of Charter Resolution No. 57. Charter Resolution No. 57 is hereby repealed upon the Effective Date of this Charter Resolution.

Section III. Definitions. The following definitions shall apply for the interpretation of this Charter Resolution.

- A. *Purchase.* The acquisition of goods, equipment and services, including rentals, leases, and lease/purchases, that necessitates the expenditure of County funds or other assets, including the exchange of property, for which Sedgwick County, its governing body, or its employees have fiduciary responsibility..
- B. *Lowest and Best Bid.* The offer of a sale at the lowest cost which, in the discretion of the decision making authority pursuant to this Resolution, satisfies the established business requirements of the county and which may include but not be limited to such criteria as the skill, capacity, judgment and integrity of the bidder, warranties, length of execution of the contract, product quality and life cycle considerations.
- C. *Best Proposal.* The proposal which in the discretion of the decision making authority pursuant to this Resolution offers the most advantageous solution to the County's needs based on selection criteria identified in the request for proposal.
- D. *Contract Amendment.* Any alteration to an existing contract, including change orders, renewals or extensions of said contracts. For the purposes of this Resolution each purchase order is a contract.

Section IV. General Requirements. All purchases for Sedgwick County, its employees, for each and every office and department thereof, and for each and every elected official and judge or judges of the Eighteen Judicial District, to be paid for with money or other assets for which Sedgwick County, its governing body, or its employees have fiduciary responsibility shall be acquired in accordance with this Resolution and procedures established pursuant to it.

A. Subject only to the exceptions provided in this Resolution, each purchase in an amount reasonably expected to exceed \$50,000.00 shall be made by purchase order or contract after being offered to responsible vendors by competitive bid or proposal, and said purchase order or contract shall be awarded to the qualified vendor submitting the lowest and best bid or best proposal as determined by the Board of County Commissioners after receiving the review of all vendor proposals and recommendations by the user departments, the Purchasing Department and the Board of Bids and Contracts.

B. Subject only to the exceptions provided in this Resolution, each purchase in an amount reasonably expected to exceed \$25,000.00, but not more than \$50,000.00, shall be made by purchase order or contract after being offered to responsible vendors by competitive bid or proposal, and said purchase order or contract shall be awarded to the qualified vendor submitting the lowest and best bid or best proposal as determined by the County Manager after receiving the review of all vendor bids/proposals and recommendations by the user departments and Purchasing Department.. The County Manager may in his sole discretion direct that purchases subject to this section be considered by the Board of Bid and Contracts as either a final review or a recommendation to the Board of County Commissioners.

C. Subject only to the exceptions provided in this Resolution, each purchase in an amount reasonably expected to exceed \$10,000.00 but not more than \$25,000.00 shall be made by purchase order or contract after being offered to responsible vendors by competitive bid or proposal, and said purchase order or contract shall be awarded to the vendor submitting the lowest and best bid or best proposal as determined by the Purchasing Director after receiving the review of all vendor bids / proposals and recommendations of the user departments.

D. Provided authority has been granted by the appropriate division head, department director, or elected official any purchase not exceeding \$10,000.00 may be made by a county employee using a county-issued credit or procurement card in accordance with established policies governing the use of credit cards, or by the Purchasing Department using procedures established pursuant to this Resolution. No purchase may be made pursuant to this section if the item to be purchased is included within the scope of a recurring purchase agreement established and maintained in the County's financial system at the time of purchase.

Section V. Waiver of Bid/Proposal Requirements. Any requirement that purchases be made by a competitive bid or proposal process may be waived as follows:

A. *Emergencies.* Competitive bid/proposal requirements may be waived by the Purchasing Director and the Purchasing Director may make such purchases as needed when unexpected or unforeseen events may cause serious loss to public or private property, endanger the health or lives of the citizens of Sedgwick County, or have economic impact on County business unless immediate action is taken to purchase said goods or services.

B. *Public Exigency.* Competitive bid/proposal requirements may be waived by the Purchasing Director when after advertising for bids, no bids are received, and the needs of the county warrant purchasing said goods or services without further delay.

C. *Sole Source.* Competitive bid/proposal requirements may be waived by the Purchasing Director for the procurement of items or services when:

1. Items or services are generally available only from one manufacturer, publisher, local distributor, or dealer;
2. Compatibility with existing contractual services, supplies, materials or equipment is the overriding consideration;
3. There is no reasonable basis for expecting multiple vendors to bid on said items.

D. *Joint Governmental Purchases.* Competitive bid/proposal requirements may be waived by the Purchasing Director when purchases are made in cooperation with other city, county, state, or federal agencies and it is in the best interest of the County to purchase supplies, services and equipment from contracts and agreements of other governmental agencies or consortiums of governmental agencies.

E. *Undercover Vehicles for the Sheriff's Office.* To ensure the safety of Sheriff personnel, the purchase of undercover vehicles may be made by the Purchasing Director at the request of the Sheriff in coordination with the Department of Fleet Management.

F. *Major Equipment Repair.* Competitive bid/proposal requirements may be waived by the Purchasing Director when in order to repair major items of equipment there is a necessity to teardown said equipment prior to any repair and it is not reasonable to reassemble in order to gather additional quotes.

G. *Annual Hardware and Software Maintenance and Support Agreements.* Competitive bid/proposal requirements may be waived by the Purchasing Director for computer equipment and software annual maintenance and support agreements. These agreements may be negotiated and executed by the Purchasing Director.

H. *Insurance.* Competitive bid/proposal requirements may be waived by the Purchasing Director for the purchase of insurance and indemnity.

I. *Professional Services.* Competitive bid/proposal requirements may be waived by the Purchasing Director for contracts for professional services. Professional Services are those services that may be provided and performed only by individuals or firms possessing a certification or license that is mandated by local, state or federal government and said services are generally provided by individuals who have obtained an advanced degree from an institution of higher learning. Examples of said services include but are not limited to architectural, engineering, investment consulting, accounting, and medical services.

J. *Legal Professional Services.* Competitive bid/proposal requirements may be waived by the County Counselor for contracts for Legal Professional Services. Legal Professional Services are services that may only be performed by a licensed attorney (including support staff) in representing or advising the Board of County Commissioners or any agent or employee of Sedgwick County. All purchases of Legal Professional Services shall be approved by the County Counselor or by the Board of County Commissioners.

Section VI. Purchase Order/Contract Amendments. No work shall be authorized and no payment may be made pursuant to any contract except as provided by the terms of the contract. Changes to contracts shall be made in accordance with the following procedures:

A. Changes during the performance of a contract shall be accomplished by issuance of a change order, amendment, modification, stop-work or termination notice, or by renewal or extension

of a contract. Any contract amendment shall also require a modification to the purchase order originally issued to authorize the procurement.

B. Except as may be specifically authorized by resolution of the Board of County Commissioners, the following approval limitations apply to contract amendments:

1. . The Purchasing Director may approve all amendments to any contract that involves multiple departments, so long as the cumulative value of the amendments does not exceed 10% of the original contract cost. The Purchasing Director may also approve all amendments to any contract that extends the contract time of performance, so long as the cumulative extended time authorized by the amendments does not exceed 10% of the original contract term or time of performance.
2. . The appropriate division or department director may approve amendments to any contract that is used solely by the single division or department managed by the director, provided:
 - a. the amendment does not expand the original intended result of the project;
 - b. the value of all amendments of the contract cumulatively do not exceed 6% of the original contract cost or \$75,000.00, whichever is greater;
 - c. uncommitted appropriation sufficient to pay any increased cost is available in the budget against which the contract is charged; and
 - d. all amendments to the contract cumulatively do not extend the contract time of performance, more than 10% of the original contract time of performance.
3. Any amendment that would cause the cumulative total of amendments to a contract to exceed the limitations as set forth in this section shall be submitted to the Board of County Commissioners for approval upon the recommendation of the Board of Bids and Contracts.
4. Amendments to contract language that do not have an effect on time or cost may be approved by the appropriate division or department director.

C. Each amendment shall be executed in writing. Prior to approval, each amendment shall be reviewed by the Finance Division, an official of which shall affirm by signature that the amendment does not cause the project to exceed its project authorization amount; and by the County Counselor's Office for approval as to proper legal form.. The amendment shall be signed by the County official authorized to give approval and the authorized official of the vendor. All approved amendments shall be executed in three original copies, one of which shall be filed with the County Clerk, one with the Purchasing Director, and one with the vendor.

Section VII. Requirements for Competition. Whenever a purchase must be offered to responsible vendors, the Purchasing Director shall determine the procedure for compliance. All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the County's needs, without being unduly restrictive.

- A. Purchases of \$10,000.00 to \$25,000.00 shall be offered by means of an informal bid/proposal process.
- B. Purchases of more than \$25,000.00 shall be offered by means of a sealed bid/proposal process.
- C. All requests for bids/proposals shall be advertised at the discretion of the Purchasing Director.

- D. Competitive sealed bids/proposals shall be opened at a time and place as specified in the bid/proposal documents.
- E. The Purchasing Director shall make the determination as to whether purchases subject to this Resolution will be made by requests for bids or requests for proposals. The following guidelines shall apply for purposes of evaluating requests for bids or requests for proposal:
 - 1. Competitive bids shall be evaluated based on the requirements set forth in the request for bids/quotations, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, past performance and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs and total or life cycle costs, and be specifically set forth in the request for bids/quotations. Contracts shall be awarded to a qualified vendor submitting the lowest and best bid. No criteria may be used in bid evaluation that has not been set forth in the request for bids/quotations.
 - 2. Competitive proposals shall be evaluated based upon criteria formulated around the most important features of a product or service, of which quality, availability or capability may be overriding factors and price may not be determinative in the issuance of a contract or award. The proposal evaluation criteria should be viewed as standards that measure how well a vendor's approach meets the desired requirements and needs of the County. Those criteria that will be used and considered in evaluation for award shall be specifically set forth in the request for proposal. Contracts shall be awarded to a qualified vendor submitting the best proposal.

Section VIII. Board of Bids and Contracts; Creation, Membership, Responsibility.

A. There shall hereby be established pursuant to this Resolution a Sedgwick County Board of Bids and Contracts, which Board shall be responsible for recommending the purchase of materials, supplies, equipment and services in excess of \$50,000.00 to the Board of County Commissioners and for recommending or reviewing such other purchases as may be requested by the Purchasing Director or County Manager from time to time.

B. The Board of Bids and Contracts shall be composed of five members. The chairperson of said Board shall be the Director of Accounting and the Director of the Division of Public Works shall serve as vice-chairperson. In addition there shall be one representative from an office of a Sedgwick County elected official (not including the County Commission) to be appointed by the County Manager, one representative from the Eighteenth Judicial District to be determined by the Chief Judge; and one member to be appointed by the County Manager from a roster listing all division and department directors. Members appointed by the County Manager shall serve at the pleasure of the Manager. Duties of a member of the Board of Bids and Contracts may not be delegated. The County Counselor, or an assistant designated by the County Counselor, shall serve in an advisory capacity to the Board. The Board of Bids and Contracts shall meet and follow procedures as promulgated by the Purchasing Director.

Section IX. Purchasing Director's Authority and Responsibilities.

A. *Adoption of Procedures.* Pursuant to and in conjunction with this Charter Resolution, the Purchasing Director may adopt procedures governing the purchase of all goods and services for

Sedgwick County and for the Board of Bids and Contracts. Any procedures promulgated by the Purchasing Director shall be consistent with this Resolution.

B. *Execution of Contracts.* Once any purchase has been approved pursuant to this Resolution, the Purchasing Director shall have the authority to execute any contracts or other similar documents necessary to facilitate the purchase, subject to approval as to form by the County Counselor.

C. *Authority to Reject Bids.* The Purchasing Director shall have the authority at any time to reject any and all bids/proposals when it is deemed to be in the best interest of Sedgwick County. In those instances where after receiving bids/proposals, those bids/proposals exceed the budgeted amount, the Purchasing Director is authorized to negotiate with the vendor submitting the lowest and best bid or best proposal to bring such bids/proposals within the budgeted amounts without changing the scope of the original request for bid or request for proposal.

D. *Authority to Negotiate Contracts.* The Purchasing Director is authorized to negotiate all contracts, other than legal professional services, subject to the approval requirements set forth in this Resolution which include the following limitations:

1. If approved by the Board of County Commissioners, contracts for purchases in excess of 50,000.00;
2. If approved by the County Manager, contracts for purchases in excess of \$25,000.00 but not exceeding \$50,000.00;
3. Contracts for purchases not exceeding \$25,000.00.

E. *Authority to Debar Vendors.* The Purchasing Director shall have the authority to establish procedures for limiting vendors from participating in the competitive bid/proposal process as outlined in this resolution and to make determinations as to whether a vendor is qualified to submit a bid.. .

Section X. County Manager's Authority. Notwithstanding any other provisions to the contrary, the County Manager is authorized to make purchases and execute contracts for services other than legal professional services in amounts not exceeding \$25,000, subject to approval of the contracts as to form by the County Counselor. All such contracts shall be executed in three original copies, one of which shall be filed with the County Clerk, one with the Purchasing Director, and one with the vendor.

Section XI. Notifications to the Board of County Commissioners.

A. The Purchasing Director shall, within one week of the date of purchase, notify the Board of County Commissioners of each purchase in excess of \$25,000.00 but not more than \$50,000.00. The notification shall include the good or service purchased, amount of purchase, name of user department, number of bids/proposals received, and if competitive bids/proposals were waived pursuant to Section V of this Resolution, an explanation of the condition resulting in the waiver.

B. The Purchasing Director shall, within one week of any Emergency purchase, notify the Board of County Commissioners in writing of such purchase and the nature of the emergency.

C. The Purchasing Director shall periodically deliver to the Board of County Commissioners a report of all annual maintenance and support contracts executed since the prior report, identifying the user department, vendor name, a description of the maintenance and support, the time term of the agreement and the value of the expenditure.

D. The Purchasing Director shall notify the Board of County Commissioners of any purchases of undercover vehicles for the Sheriff's Office within one week of the acquisition.

E.

The Purchasing Director shall periodically deliver to the Board of County Commissioners a report of all contract amendments approved since the prior report, showing the purpose of the amendment, financial impact of the amendment, cumulative total of amendments for the project, and percentage of the original contract total represented by the cumulative amendments.

Section XII. Delegation of Authority. Whenever pursuant to this Resolution duties or responsibilities are assigned to the Purchasing Director, County Manager, or County Counselor, that official may delegate the duties or responsibilities to a subordinate.

Section XIII. Publication. This Charter Resolution shall be published once each week for two consecutive weeks in the official County newspaper.

Section XIV. Effective Date. This Charter Resolution shall take effect 60 days after final publication unless a sufficient petition for referendum is filed and a referendum held on the resolution pursuant to provisions of K.S.A. 19-101b(c) in which case this Charter Resolution shall become effective when approved by a majority of the electors voting thereon.

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Commissioners present and voting were:

DAVID M. UNRUH	__Aye_____
TIM R. NORTON	__Aye_____
KARL PETERJOHN	__Aye_____
RICHARD RANZAU	__No_____
JAMES B. SKELTON	__Aye_____

Dated this 14th day of December, 2011.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

ATTEST:

/s/
KELLY B. ARNOLD, County Clerk

/s/
DAVID M. UNRUH, Chairman
Commissioner, First District

/s/
TIM R. NORTON, Chair Pro Tem
Commissioner, Second District

APPROVED AS TO FORM:

/s/
MICHAEL D. PEPOON
Assistant County Counselor

/s/
KARL PETERJOHN
Commissioner, Third District

/s/
RICHARD RANZAU
Commissioner, Fourth District

/s/
JAMES B. SKELTON
Commissioner, Fifth District