

## Chapter 3.24

### PURCHASING PROCEDURES

Sections:

- 3.24.003 Definitions.
- 3.24.005 Types of contracts.
- 3.24.010 Service contracts.
- 3.24.020 Guidelines for service contracts.
- 3.24.030 *Repealed.*
- 3.24.040 Purchase of materials, supplies or equipment not requiring bidding procedures or use of a vendor list.
- 3.24.050 Purchase of materials, supplies or equipment in an amount between \$5,000 and \$25,000.
- 3.24.060 Purchase of materials, supplies or equipment in an amount over \$25,000.
- 3.24.070 Public works contracts – Small works roster.
- 3.24.073 Limited public works process.
- 3.24.075 Prevailing wages.
- 3.24.077 Contracts requiring bidding.
- 3.24.080 Bid procedures.
- 3.24.090 Signature authority.
- 3.24.100 Exemptions from competitive bidding process.

#### **3.24.003 Definitions.**

For the purposes of this chapter the words set out in this section shall have the following meanings:

“Award” means the formal decision by the County notifying a responsible bidder with the lowest responsive bid of the County’s acceptance of the bid and intent to enter into a contract with the bidder.

“Limited public works process” means the process used to award small works roster contracts valued at less than \$35,000.

“Public work” means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein. All public works, including maintenance when performed by contract, shall comply with Chapter 39.12 RCW (prevailing wages).

“Small works roster” is a list kept by a state agency or local government consisting of all responsible contractors who have requested to be on the list, and, where required by law, are properly licensed or registered to perform such work in this state. The County’s small works roster shall be kept by the public works department.

“Vendor list” is a list kept by the County auditor of available vendors in San Juan County or any list of available vendors kept on file in a statewide database for use by counties in Washington. (Ord. 32-2008 § 2)

#### **3.24.005 Types of contracts.**

A. This chapter governs three types of contracts:

1. Contracts for professional services, not including architects and engineers;
2. Contracts for the purchase of equipment, materials and supplies; and
3. Contracts for public works.

B. Public works contracts are of four types:

1. Contracts which do not require bids;
2. Contracts which are let under the small works roster;

3. Contracts which are let under the limited public works process; and
4. Contracts which are put out to bid.

C. Public works contracts which include the purchase of equipment, materials or supplies will be processed as a public works contracts. (Ord. 32-2008 § 3)

**3.24.010 Service contracts.**

State law does not provide guidelines for selecting most service providers. Some federal and state funding sources provide guidance; however, in general counties are left to their own discretion in hiring contractors for services. This policy establishes guidance for department personnel when these cases arise.

Services typically covered by this policy include professional services, Internet and computer network services, appraisals, consulting, planning, and wetlands evaluations, to name a few. Selected companies/individuals will typically provide advice, reports, opinions, representations, plans, etc. Service providers will be referred to as consultants.

These regulations do not apply to contracts for architects and engineering services which are governed by Chapter 39.80 RCW.

All service contracts shall be signed in accordance with the rules set out in SJCC 3.24.090. (Ord. 32-2008 § 4; Ord. 9-2004 § 1; Res. 71-1996)

**3.24.020 Guidelines for service contracts.**

A. For service contracts the County shall:

1. Prepare a brief description of the services to be provided, including the time frame, quality required, and sketches if appropriate.
2. Review the department's file for a consultant qualified to perform the work.
3. Request a proposal from the identified consultant.
4. Evaluate the proposal on the following bases:
  - a. Price;
  - b. Ability, capacity and skill to perform the work;
  - c. Character, integrity, reputation, judgment, experience and efficiency to perform the work;
  - d. Ability to perform the work within the time specified;
  - e. Quality of work under previous contracts;
  - f. Previous and existing compliance by the consultant with laws relating to those contracts;
  - g. Such other reasonable information as may be secured having a bearing on the decision to make the award.

B. The department head or elected official may accept or reject the proposal for any reason and call for a new proposal from a new consultant.

C. For contracts with architects and engineers the County shall follow the requirements of Chapter 39.80 RCW. (Ord. 32-2008 § 5; Ord. 9-2004 § 2; Res. 71-1996)

**3.24.030 Guidelines for service contracts over \$10,000.**

*Repealed by Ord. 32-2008. (Ord. 9-2004 § 3; Res. 71-1996)*

**3.24.040 Purchase of materials, supplies or equipment not requiring bidding procedures or use of a vendor list.**

The County is not required to use informal or formal sealed bidding procedures or the procedures set forth in this chapter to purchase materials, supplies, or equipment under the following circumstances:

A. The purchase of any materials, supplies or equipment where the cost of the same will not exceed \$5,000. The County will attempt to obtain the lowest practical price for such goods and services; or

B. The purchase of equipment, materials and supplies through the Washington State Purchasing Cooperative. (Ord. 32-2008 § 7; Ord. 9-2004 § 6)

**3.24.050 Purchase of materials, supplies or equipment in an amount between \$5,000 and \$25,000.**

For the purchase of materials, supplies or equipment between \$5,000 and \$25,000, the County shall comply with the following:

A. Publication of Notice. A roster of available vendors shall be kept by the San Juan County auditor. At least twice a year, the auditor shall publish, in the County's official newspaper, notice of the existence of a roster(s) of vendors for materials, supplies, and equipment, and shall solicit names of vendors for the roster.

B. Electronic Rosters. In addition to paper and/or electronic vendor lists kept on file in the appropriate department, the County may also use any statewide electronic database developed and maintained for use by counties in Washington.

C. Telephone Quotations. The County shall use the following process to obtain telephone quotations from vendors for the purchase of materials, supplies, or equipment:

1. A written description shall be drafted of the specific materials, supplies, or equipment to be purchased, including the number, quantity, quality, and type desired, the proposed delivery date, and any other significant terms of purchase;

2. A County representative shall make a good faith effort to contact at least three of the vendors on the roster to obtain telephone solicitation quotations from the vendors for the required materials, supplies, or equipment;

3. If the vendor list contains fewer than three potential vendors, the representative may solicit telephone quotations from vendors listed in the telephone book. Three potential vendors should be contacted whenever possible;

4. The County representative shall not share a telephone quotation from one vendor with other vendors solicited for a quotation on the materials, supplies, or equipment until the contract is awarded;

5. A written record shall be made by the County representative of each vendor's quotation on the materials, supplies, or equipment, and of any conditions imposed on the quotation by such vendor;

6. The County representative shall present to the responsible department head or to the County council all telephone quotations and a recommendation for award of the contract to the responsible bidder with the lowest responsive bid.

D. Determining the Lowest Responsible Bidder. The County shall purchase the materials, supplies or equipment from the lowest responsible bidder after considering the elements set out in RCW 43.19.1911(9), listed in SJCC 3.24.080; provided, that whenever there is reason to believe that the lowest acceptable bid is not the best price obtainable, all bids may be rejected and the County may call for new bids. Any or all bids may be rejected for good cause.

E. Award. The County shall review quotations and recommendations by County staff and award the contract to the lowest responsible bidder. A written record of each vendor's quotations shall be made open to public inspection or telephone inquiry after the award of the contract. The contract paperwork must include evidence that the purchasing requirements were met and the reason the vendor was chosen. If the bid is not awarded to the lowest price bidder under the rules of this chapter, the department must document the specific factors which justified the selection of the

vendor. Any contract awarded under this subsection need not be advertised. A list of all contracts awarded shall be posted in accordance with SJCC 3.24.080(D).

F. Applicable Statutes. RCW 36.32.245, 39.04.190 and 36.32.270 are applicable to the purchase of materials, supplies, and equipment. (Ord. 32-2008 § 8; Ord. 9-2004 § 7)

**3.24.060 Purchase of materials, supplies or equipment in an amount over \$25,000.**

Purchases of materials, supplies or equipment in an amount over \$25,000 shall be through a formal bid process as set out in RCW 36.32.245 and SJCC 3.24.080. (Ord. 32-2008 § 9; Ord. 9-2004 § 8)

**3.24.070 Public works contracts – Small works roster.**

The small works roster shall be used to award contracts for construction, building, renovation, remodeling, alteration, repair or improvements of real property.

The following small works roster procedures are established for use by the County pursuant to Chapter 39.04 RCW. RCW 36.32.250 is also applicable to contracts awarded for public works.

A. Cost. The County need not comply with formal sealed bidding procedures for the construction, building, renovation, remodeling, alteration, repair, or improvement of real property where the estimated cost does not exceed \$300,000, which includes the costs of labor, material, equipment and sales and/or use taxes as applicable. Instead, the County may use the small works roster procedures for public works projects as set forth herein. The breaking of any project into units or accomplishing any projects by phases is prohibited if it is done for the purpose of avoiding the maximum dollar amount of a contract that may be let using the small works roster process.

B. Number of Rosters. The public works director shall create a single general small works roster, or may create a small works roster for different specialties or categories of anticipated work. Said small works rosters may make distinctions between contractors based upon different geographic areas served by the contractor. The public works director may create a shared small works roster with other government agencies. Alternatively, the public works director may utilize any statewide electronic database developed and maintained for use by counties in Washington.

C. Contractors on Small Works Roster(s). The small works roster(s) shall consist of all responsible contractors who have requested to be on the roster(s), and where required by law are properly licensed or registered to perform such work in this state. Contractors desiring to be placed on a roster or rosters must keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with the County as a condition of being placed on a roster or rosters. The County may create a shared small works roster with other government agencies in San Juan County through interlocal agreements.

D. Publication. At least once a year, the County shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters. Responsible contractors shall be added to an appropriate roster or rosters at any time that they submit a written request and necessary records. The County may require master contracts to be signed that become effective when a specific award is made using a small works roster. An interlocal contract or agreement between the County and other local governments establishing a small works roster or rosters to be used by the parties to the agreement or contract must clearly identify the lead entity that is responsible for implementing the small works roster provisions.

E. Telephone or Written Quotations. The County shall obtain telephone, written or electronic quotations for public works contracts from contractors on the appropriate small works roster to assure that a competitive price is established and to award contracts to the responsible bidder with the lowest responsive bid as follows:

1. A contract awarded from a small works roster need not be advertised. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation. This subsection does not eliminate other requirements for architectural or engineering approvals as to quality and compliance with state regulations and building codes.

2. Quotations may be invited from all appropriate contractors on the appropriate small works roster. As an alternative, quotations may be invited from at least five contractors on the appropriate small works roster who

have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. If the estimated cost of the work is from \$150,000 to \$300,000, the County may choose to solicit bids from less than all the appropriate contractors on the appropriate small works roster but must also notify the remaining contractors on the appropriate small works roster that quotations on the work are being sought. The County has the sole option of determining whether this notice to the remaining contractors is made by:

- a. Publishing notice in a legal newspaper in general circulation in the area where the work is to be done;
- b. Mailing a notice to these contractors; or
- c. Sending a notice to these contractors by facsimile or other electronic means.

3. For purposes of this resolution, “equitably distribute” means that the County may not favor certain contractors on the appropriate small works roster over other contractors on the appropriate small works roster who perform similar services. At the time bids are solicited, the County representative shall not inform a contractor of the terms or amount of any other contractor’s bid for the same project.

4. A written record shall be made by the County representative of each contractor’s bid on the project and of any conditions imposed on the bid. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry. (Ord. 13-2009 § 1; Ord. 32-2008 § 10; Ord. 9-2004 § 9)

### **3.24.073 Limited public works process.**

If a work, construction, alteration, repair, or improvement project is estimated to cost less than \$35,000, the County may award such a contract using the limited public works process provided under RCW 39.04.155(3).

A. For limited public works projects, the County will solicit electronic or written quotations from a minimum of three contractors from the appropriate small works roster and shall award the contract to the lowest responsible bidder as defined under RCW 39.04.350. After an award is made, the quotations shall be open to public inspection and available by electronic request. For limited public works projects, the County may waive the payment and performance bond requirements of Chapter 39.08 RCW and the retainage requirements of Chapter 60.28 RCW, thereby assuming the liability for the contractor’s nonpayment of laborers, mechanics, subcontractors, materialmen, suppliers, and taxes imposed under RCW Title 82 that may be due from the contractor for the limited public works project. However, the County shall have the right of recovery against the contractor for any payments made on the contractor’s behalf. The County shall maintain a list of the contractors contacted and the contracts awarded during the previous 24 months under the limited public works process including the name of the contractor, the contractor’s registration number, the amount of the contract, a brief description of the type of work performed, and the date the contract was awarded. (Ord. 32-2008 § 11)

### **3.24.075 Prevailing wages.**

A. Hourly wages paid to laborers, workers, or mechanics upon all public works and under all public building service maintenance contracts shall not be less than the prevailing rate of wage as defined in RCW 39.12.020 and determined by the State Department of Labor and Industries. All contractors and subcontractors must comply with the provisions of RCW 39.12.040(1).

B. As an alternative, for public works projects of \$2,500 or less, the County may authorize the contractor or subcontractor to submit the statement of intent to pay prevailing wages directly to the department head or elected official responsible for the contract without approval by the Department of Labor and Industries. The County shall retain such statement of intent to pay prevailing wages for a period of not less than three years.

1. Upon final acceptance of the public works project, the County shall require the contractor or subcontractor to submit an affidavit of wages paid. Upon receipt of the affidavit of wages paid, the awarding agency may pay the contractor or subcontractor in full, including funds that would otherwise be retained according to RCW 60.28.010. Within 30 days of receipt the County shall submit the affidavit of wages paid to the industrial statistician of the Department of Labor and Industries for approval.

2. In the event of a wage claim and a finding for the claimant by the Department of Labor and Industries where the County has used this alternative process, the County shall pay the wages due directly to the claimant. If the contractor or subcontractor did not pay the wages stated in the affidavit of wages paid, the County may take legal action to seek reimbursement from the contractor or subcontractor of wages paid to the claimant and may prohibit the contractor from bidding on any public works projects of the County for up to one year. RCW 3.12.040(2). (Ord. 32-2008 § 12)

**3.24.077 Contracts requiring bidding.**

The following contracts must be advertised and put out to bid:

A. All public works projects that are not exempt under state statute or County ordinance or do not qualify for the small works roster or limited public works process;

B. All purchases of equipment, materials and supplies over \$25,000, or not purchased at an auction pursuant to RCW 39.30.045, or not purchased in connection with a declared emergency under RCW 36.32.270 or 36.32.235(12).

All competitively bid contracts must comply with the applicable provisions of Chapter 36.32 RCW. (Ord. 32-2008 § 13)

**3.24.080 Bid procedures.**

The following process shall be used in the awarding of contracts through the bidding process. This section applies to any contract, regardless of type, when the bidding process is used to procure a contract.

A. Bid specifications shall be in writing and shall be filed with the office of the County administrator for public inspection. An advertisement shall be published in the official newspaper of the County stating the time and place where bids will be opened, the time after which bids will not be received; the materials, equipment, supplies or services to be purchased, or the character of the work to be done and the materials and equipment to be furnished; and that the specifications may be seen at the office of the County administrator. The advertisement shall be published at least once; at least 13 days prior to the last date upon which bids will be received.

B. The bids shall be in writing, sealed and filed with the office of the County administrator. Bids by fax or e-mail will not be accepted. The bids shall be opened and read in public at the time and place named in the advertisement. Bids for public works shall be opened and awarded by the County administrator. Bids for equipment, materials and supplies shall be opened and awarded by the County administrator. The County administrator may delegate the responsibility of determining the responsible bidder with the lowest responsive bid to an elected official or department head. Immediately after the award is made, the bid quotations shall be recorded and open to public inspection and shall be available by telephone inquiries.

C. Determining Lowest Responsive Bid.

1. Equipment, Materials and Supplies. The County, acting through the County administrator, shall award the contract to the lowest responsible bidder as defined in RCW 43.19.1911; provided, that whenever there is a reason to believe that the lowest acceptable bid is not the best price obtainable, all bids may be rejected and the County may call for new bids. RCW 43.19.1911(9) states:

In determining "lowest responsible bidder," in addition to price, the following elements shall be given consideration:

- a. The ability, capacity, and skill of the bidder to perform the contract or provide the service required;
- b. The character, integrity, reputation, judgment, experience, and efficiency of the bidder;
- c. Whether the bidder can perform the contract within the time specified;
- d. The quality of performance of previous contracts or services;

- e. The previous and existing compliance by the bidder with laws relating to the contract or services;
- f. Such other information as may be secured having a bearing on the decision to award the contract.

If the bid is not awarded to the lowest price bidder, the department must document the specific factors which justified the selection of the vendor.

2. Public Works Contracts. In order to be considered a responsible bidder for a public works contract, a contractor must meet the criteria set out in RCW 39.04.350. The County may adopt relevant criteria for determining bidder responsibility for a particular project. Supplemental criteria for determining bidder responsibility, including the basis for evaluation and the deadlines for appealing a determination that a bidder is not responsible, must be provided in the invitation to bid or bidding documents. If the County determines a bidder to be not responsible, it shall provide in writing the reasons for the determination. The bidder may appeal the determination within the time period specified in the bidding documents by presenting additional information to the County. The County must consider the additional information before issuing its final determination. If the final determination affirms that the bidder is not responsible, the County may not execute a contract with any other bidder until two business days after the bidder who has been determined to be not responsible has received the final determination.

D. Posting. The County shall make available a list of the contracts awarded under the public works roster process established in RCW 39.04.155 at least once every year. A list of all contracts awarded to vendors under SJCC 3.24.050 shall be posted on the County's website at least once every two months. The list shall contain the name of the contractor or vendor awarded the contract, the amount of the contract, a brief description of the items purchased or the type of work performed, and the date it was awarded. The list shall also state the location where the bid quotations for the contracts are available for public inspection. (Ord. 3-2011 § 1; Ord. 32-2008 § 14; Ord. 9-2004 § 10)

**3.24.090 Signature authority.**

- A. All contracts for any purpose up to the amount of \$10,000, and part of the County budget, may be signed by department heads and elected officials. This includes projects awarded under the limited small works roster.
- B. Contracts of more than \$10,000, including public works contracts over \$10,000 that are part of the County budget and obtained through the formal bidding process, may be signed by the County administrator.
- C. The County administrator is authorized to open bid proposals, accept bids, execute construction contract documents and change orders and accept completed work for public works projects within the County budget.
- D. Contracts that are not part of the current County budget shall be signed by the County council. (Ord. 3-2011 § 2; Ord. 38-2008 § 1; Ord. 32-2008 § 15; Ord. 9-2004 § 11)

**3.24.100 Exemptions from competitive bidding process.**

State law provides exemptions in certain circumstances from competitive bidding requirements. These exemptions include, but are not limited to:

- A. Purchases made pursuant to RCW 39.04.270 (electronic data processing and telecommunications by competitive negotiation);
- B. RCW 39.04.280 (sole source suppliers, public works during emergencies, purchase of insurance or bonds, purchases involving special facilities or market conditions);
- C. RCW 36.32.245 (public defender services);
- D. RCW 39.30.045 (purchases at auctions).

Nothing in this chapter shall impose requirements for competitive bidding where none exist under state law. Nothing in this chapter shall prevent a department head or elected official from soliciting requests for proposals or competitive bids when none are required by this chapter or state law. (Ord. 32-2008 § 16; Ord. 9-2004 § 12)