

ORDINANCE NO. .
BOARD OF SUPERVISORS, COUNTY OF SAN MATEO,
STATE OF CALIFORNIA

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**AN ORDINANCE AMENDING CHAPTER 2.83 (PURCHASING PROCEDURES) OF
TITLE 2 (ADMINISTRATION) OF THE SAN MATEO COUNTY ORDINANCE CODE**

SECTION 1. The Board of Supervisors of the County of San Mateo hereby finds and declares as follows:

WHEREAS, consistent with its authority as a charter county and with the California Government Code, the County is authorized to adopt procedures to govern the purchase of goods and services; and

WHEREAS, the County has adopted purchasing procedures, set forth in Chapter 2.83 of the Ordinance Code; and

WHEREAS, technological advances and changes to State law, as set forth by the Legislature and interpreted by the courts, have resulted in substantial changes to best practices for purchasing by public agencies; and

WHEREAS, the Board of Supervisors wishes to amend Chapter 2.83 of the Ordinance Code to simplify purchasing procedures and maximize transparency and accountability in the County's purchasing practice.

Therefore, the Board of Supervisors of the County of San Mateo, State of California, **ORDAINS** as follows:

SECTION 2. Chapter 2.83 (Purchasing Procedures) of Title 2 (Administration) of the San Mateo County Ordinance Code is hereby amended, and shall read, in its entirety, as follows:

2.83.010 - Purchasing Agent.

(a) The County Manager shall be the County Purchasing Agent. The County Manager may designate a Purchasing Agent Manager and such deputy purchasing agents as are necessary and may delegate to such purchasing agents such duties and responsibilities as he may periodically determine appropriate.

(b) Except as otherwise authorized in this Chapter, all goods and services shall be procured through competitive solicitation.

2.83.020 - Authority to Purchase for the County

(a) Except as provided for in subsection (b), it shall be the duty of the Purchasing Agent to acquire by purchase, lease, lease-purchase, or other suitable method all supplies, materials, equipment, and services required by any County officer or head of a department of the County, when such officer or head of a department submits a requisition in a manner specified by the Purchasing Agent.

(b) The Board of Supervisors may by resolution delegate purchasing authority for goods and services as specified in the resolution to any County department head.

(c) The Controller shall periodically conduct an audit of each department to which purchasing authority has been delegated and shall submit a copy of any audit findings to the County Manager.

2.83.030 - Persons authorized to requisition.

Authority to submit requisitions to the Purchasing Agent is vested in the heads of the offices, departments, and institutions of the County. Such persons may delegate this authority to any other person in his or her office or department.

2.83.040 - Emergency purchases.

In cases of a sudden, unexpected occurrence that could not have reasonably been foreseen and that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services, purchases of supplies or services required for immediate use may be made immediately upon approval of the Purchasing Agent or department head, after which the purchases will be identified and recorded as emergency purchases. ~~In cases of emergency, purchases of articles or supplies required for immediate use, may be made upon emergency requisition forms, which shall be replaced as soon as possible by regular forms.~~

2.83.050 - Purchase procedure.

Upon receipt of a properly drawn and approved requisition, the Purchasing Agent shall determine the manner of acquisition (i.e., purchase, lease, lease-purchase, or other), the cost, and the supplier of the requested goods or services pursuant to the following provisions, unless the goods or services are complex, as defined by Section 2.83.070, in which case those procedures shall apply:

(a) If the estimated cost of acquisition does not exceed the amount established by the Government Code as the limit of the Purchasing Agent's authority to engage independent contractors, the Purchasing Agent may acquire the goods or services requisitioned in the manner he or she determines most suitable and may waive competition if there are limitations on the source or supply, if there are necessary restrictions in specifications that would not allow substitution, or if there are other valid reasons, provided that a full record of the circumstances is kept. For purposes of this

section, a lease or lease-purchase shall be deemed not to exceed the amount established by the Government Code as the limit of the Purchasing Agent's authority if no annual lease payment exceeds that amount and the lease term does not exceed three years.

(b) Whenever the estimated cost of a proposed acquisition of goods or services exceeds the amount established by the Government Code as the limit of the Purchasing Agent's authority to engage independent contractors, the Purchasing Agent will advertise for and obtain sealed written bids from vendors of such goods **and services**. A notice to bidders shall be **posted on the County's website or similar publicly accessible portal** and bids may not be opened nor may the proposed acquisition be made by the Purchasing Agent until at least one week after the posting. Bids will be opened at a time specified in the notice, and bids received after such time shall not be opened or otherwise given consideration with respect to such proposed acquisition. **Bids may be solicited, submitted, opened, and reported electronically via the County website or similar publicly accessible portal.** If articles of personal property are referred to by a specific mark or brand name, the Purchasing Agent shall give notice in the solicitation that articles of equal value, utility or merit, which, in the opinion of the County, meet the salient characteristics of the original specification will be considered. Nothing contained in this subsection will preclude the Purchasing Agent from rejecting all bids and determining not to acquire the goods and services.

(c) In the event that the Purchasing Agent receives no bids as provided for in subsection (b) of this section and the subject matter of the bid is essential to the continued operation of the County, the Purchasing Agent shall negotiate the acquisition on the best terms available.

(d) After selecting a vendor, the Purchasing Agent will create a purchase order or notice to proceed, and upon receiving the Controller's certification that sufficient funds are available, will be authorized to sign and issue an order directing the vendor to commence delivery of the goods and services acquired at the prices quoted.

(e) The Board of Supervisors may waive any of the provisions of this Chapter which require competitive bidding in any situation where the Board of Supervisors determines that the best interests of the County would be served without the necessity of competitive bidding.

2.83.060 - Independent contractors.

The Purchasing Agent shall have the duty to engage independent contractors to perform services for the County, with or without the furnishing of materials, when the aggregate cost does not exceed that amount established by the Government Code as the limit of the Purchasing Agent's authority. The Purchasing Agent may waive competition where there is an insufficient number of providers available within the necessary time, geographic region, or otherwise, or for other valid reasons, provided that a full record of the circumstances is kept. The independent contractors shall file with the Purchasing Agent a certificate that they are insured pursuant to the Workers' Compensation provisions of the Labor Code.

~~Notwithstanding the provisions of subsection (a) of this section, the Board of Supervisors shall select a travel agent on the basis of and after issuance of a Request for Proposal. The contract with the travel agency shall be in effect for a term of no more than three years.~~

2.83.070 - ~~Requests for Proposals~~ Acquisition of complex goods and services.

(a) Before the County contracts for **complex or unique systems and goods**, or for ~~similar one-time professional assistance to accomplish specific projects~~ services such as engineering, architectural, and other complex professional services that are **not sufficiently uniform or generic to be evaluated on price alone**, requests for proposals **may** be issued if the expense of the contract is estimated to exceed the amount established by the Government Code as the limit of the Purchasing Agent's authority to engage independent contractors. Requests for proposals shall be conducted in accordance with Administrative Memoranda promulgated by the County Manager.

(b) The Board of Supervisors may waive any of the provisions of this Chapter which require requests for proposals in any situation where the Board of Supervisors determines that the best interest of the County could be served without the necessity of requests for proposals.

2.83.080 - Purchase procedure for groceries, meats, fruits, vegetables or other perishable commodities.

Notwithstanding the provisions of Section 2.83.050, whenever it is necessary and desirable to purchase groceries, meats, fruits, vegetables, or other perishable commodities, the Purchasing Agent may purchase the same without advertising for and obtaining sealed, written bids from vendors of such commodities, irrespective of the estimated cost thereof.

2.83.090 - Cooperative procurement agreements.

(a) The Purchasing Agent may enter into agreements pursuant to Government Code Section 6502 with other public agencies ~~within the state of California~~ for the purpose of obtaining goods and services required by County officers and departments, provided

that the procurement has been or will be conducted in compliance with local law governing one of the public agencies who are parties to the agreement, and the local law requires competitive procurement and publication of notice of the procurement. (§6502 says “even though one or more of the contracting agencies may be located outside this state”)

(b) The Purchasing Agent is authorized to execute and deliver all necessary documents in connection with such agreements and to award contracts to the selected responsible and responsive providers for and on behalf of the County of San Mateo.

2.83.100 - Election supplies.

It shall be the duty of the County Clerk to purchase all election supplies. Such supplies shall be purchased by the County Clerk in the manner provided by the Elections Code, and the Purchasing Agent shall have no duty or authority relating thereto.

2.83.110 - Receipt for Supplies.

Upon receipt of goods delivered by vendors ~~or the Purchasing Agent~~ in response to requisition, the department to whom delivery is made shall report the receipt thereof to the Controller in the manner specified by the Purchasing Agent, subject to the approval of the Controller.

2.83.120 - Transfer of personal property no longer needed by department.

Whenever any items of personal property are no longer needed by the department, office, or institution having possession thereof, such fact shall be reported to the County Surplus Property Manager and a transfer of said property shall be made to the Purchasing Agent's stock of salvage materials and supplies. Whenever any department, office, or institution has need for any such salvage materials or supplies, it may requisition them without cost. A careful account of such property transfers shall be kept.

2.83.130 - Disposal of unneeded personal property.

Whenever any item of personal property is, in the opinion of the Purchasing Agent, surplus and no longer needed by the County, he or she may sell, by sealed bid or public auction, or otherwise dispose of such property and pay the proceeds into the County Treasury. However, if the estimated value of such surplus property exceeds, in the opinion of the Purchasing Agent, the sum of \$10,000, he or she shall first report such fact to the Board of Supervisors and obtain the Board of Supervisors' approval prior to any disposition of such property.

2.83.140 - Standards Committee.

Upon the determination by the Purchasing Agent that a Standards Committee is needed to establish standards with respect to the type, design, quality, or brand of materials, equipment, or supplies to be purchased for the County, the Purchasing Agent shall forthwith appoint such a committee. The Purchasing Agent, or Purchasing Agent's designee, shall be the chairperson.

2.83.150 - Contracts for County services.

The Purchasing Agent shall have the authority to enter into contracts under which the County receives financial compensation or other consideration for the County's provision of services, provided the aggregate amount paid to the County does not exceed that amount established by the Government Code as the limit of the Purchasing Agent's authority.

2.83.160 - Publication of legal notices.

In the publication of legal notices regarding any County procurement of goods or services, whether required by law or otherwise made, the Purchasing Agent shall cause such notices to be published on the County's website.

2.83.170 - Conflict of Interest.

No person, firm, affiliate, or subsidiary may submit a bid or proposal for, nor be awarded a contract for the provision of goods, equipment, or services, if that party has assisted in the development and management of procurement documents, or has provided plans, specifications, designs, evaluation criteria, or has otherwise influenced factors that may affect the County's award of that contract.

SECTION 3. If any provision of this Ordinance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be invalidated.

SECTION 4. This Ordinance shall be effective thirty (30) days from the passage date thereof.

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