



**GENERAL SERVICES AGENCY
PURCHASING
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

KUYLER CROCKER
District One

PETE VANDER POEL
District Two

AMY SHUKLIAN
District Three

J. STEVEN WORTHLEY
District Four

MIKE ENNIS
District Five

AGENDA DATE: August 14, 2018

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
County Counsel Sign-Off	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
CONTACT PERSON: Maria Benavides PHONE: (559) 624-7223				

SUBJECT: Update of Purchasing Ordinance

REQUEST(S):

That the Board of Supervisors:

1. Introduce and waive the first reading of an ordinance amending the heading of, and amending or repealing various sections of, Article 7 of Chapter 3 of Part I of the Ordinance Code, pertaining to Purchasing.
2. Set the second reading for August 28, 2018.
3. Direct the Clerk to publish a summary of the ordinance before the second reading as required by law.

SUMMARY:

In December 2017, the Board of Supervisors integrated Purchasing into the newly established General Services Agency (GSA), an action that consolidated many of the County's internal service functions into one Agency and provides additional support resources to the County's purchasing functions. As stated in that presentation, one of the primary objectives of the integration was to implement process improvements and business reforms in support of a new business paradigm referred to as the Customer Service Model. One facet of this model includes creating reasonable business flexibilities to optimize service delivery.

GSA Purchasing and Administration have worked closely with County Counsel to identify opportunities in County Ordinance to allow the Purchasing division reasonable business flexibilities that will alleviate workflow congestion, provide coverage of routine approvals, and ensure customers have the ability to procure

SUBJECT: Update of Purchasing Ordinance

DATE: August 14, 2018

goods and services in emergency situations. A draft of the proposed ordinance change is included as **Attachment B**.

The principal changes are:

- The section allowing contracts for services will be updated to match the current statutory authority to enter into such contracts for multiple years rather than a single year, with a policy decision to limit this to three fiscal years.
- The rules for emergency purchases will be updated to add authority to make emergency purchases in situations which do not necessarily qualify as an emergency for purposes of civil defense and disaster.

Minor changes will also be made. The amendments will correct some statutory references, update language to be gender neutral, and make other updates, such as broadening the delegation authority, changing references to the "County Administrative Officer" to the "General Services Agency Director," and deleting obsolete provisions.

Additional detail regarding the integration of Purchasing into GSA is provided in a separate Board Agenda Item also before the Board on this date.

FISCAL IMPACT/FINANCING:

The requested action has no Net County Cost to the General Fund

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

In accordance with the County's Strategic Business Plan Organizational Development Initiative, this action supports the continued internal growth and development of County departments and services.

ADMINISTRATIVE SIGN-OFF:



John Hess
General Services Agency Director

cc: County Administrative Office

Attachment(s)

A – Summary of ordinance for publication

B – Ordinance

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF _____)
UPDATE OF PURCHASING ORDINANCE) Resolution No. _____
)
)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD _____
_____, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: MICHAEL C. SPATA
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

1. Introduced and waived the first reading of an ordinance amending the heading of, and amending or repealing various sections of, Article 7 of Chapter 3 of Part I of the Ordinance Code, pertaining to Purchasing.
2. Set the second reading for August 28, 2018.
3. Directed the Clerk to publish a summary of the ordinance before the second reading as required by law.

First publication

ORDINANCE NO. _____

PURSUANT TO GOVERNMENT CODE SECTION 25124, THE FOLLOWING IS A SUMMARY OF AN ORDINANCE AMENDING THE HEADING OF, AND AMENDING OR REPEALING VARIOUS SECTIONS OF, ARTICLE 7 OF CHAPTER 3 OF PART I OF THE ORDINANCE CODE OF TULARE COUNTY, PERTAINING TO PURCHASING.

SUMMARY OF PROPOSED ORDINANCE

The ordinance will update the Purchasing ordinance in various minor ways. The principal changes are:

- The section allowing contracts for services will be updated to match the current statutory authority to enter into such contracts for multiple years rather than a single year, with a policy decision to limit this to three fiscal years.
- The rules for emergency purchases will be updated to add authority to make emergency purchases in situations which do not necessarily qualify as an emergency for purposes of civil defense and disaster.

Minor changes will also be made. The amendments will correct some statutory references, update language to be gender neutral, and make other updates, such as broadening the delegation authority, changing references to the “County Administrative Officer” to the “General Services Agency Director,” and deleting obsolete provisions.

The effective date of these changes will be thirty (30) days after adoption by the Board of Supervisors.

The ordinance herein summarized will be considered for second reading by the Tulare County Board of Supervisors on August 14, 2018, at a regular meeting of said Board. At least five (5) days prior to that date, a certified copy of the full text of the proposed ordinance shall be posted in the office of the Clerk of the Board of Supervisors and shall be available for public inspection at that location.

ATTEST: MICHAEL C. SPATA
County Administrative Officer/
Clerk of the Board of Supervisors
of the County of Tulare

By: _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE HEADING OF AND AMENDING OR REPEALING VARIOUS SECTIONS IN ARTICLE 7 OF CHAPTER 3 OF PART I OF THE ORDINANCE CODE OF TULARE COUNTY, PERTAINING TO PURCHASING.

THE BOARD OF SUPERVISORS OF THE COUNTY OF TULARE ORDAINS AS FOLLOWS:

Section 1. The heading of Article 7 of Chapter 3 of Part I is amended to read as follows:

PURCHASING AGENT.

Section 2. Section 1-03-1275 of the Tulare County Ordinance Code is amended to read as follows:

§ 1-03-1275. PURCHASING AGENT:

Pursuant to the provisions of section 25500 et seq. of the Government Code, the Board of Supervisors may employ a Purchasing Agent and such assistants as are necessary for him or her properly to fulfill his or her duties.

Section 3. Section 1-03-1280 of the Tulare County Ordinance Code is amended to read as follows:

§ 1-03-1280. SAME: GENERAL DUTIES:

The Purchasing Agent shall have such duties and powers as are prescribed by the laws of the State of California relating to County purchasing agents, by this Article, and by resolutions of the Board of Supervisors. He or she shall be provided such staff support as is deemed necessary by the Board of Supervisors. He or she shall furnish the Board of Supervisors with such reports and information as the Board may from time to time require, and shall establish methods and procedures necessary to carry out the Purchasing Agent's powers and duties in an efficient and economical manner.

Section 4. Section 1-03-1285 of the Tulare County Ordinance Code is amended to read as follows:

§ 1-03-1285. SAME: SPECIFIC DUTIES:

The Purchasing Agent or his or her designees shall perform the following duties:

(a) Negotiate for and purchase all supplies, materials, furnishings, equipment, livestock, and other personal property required by each and every department, officer, or employee of the County.

(b) Let informal contracts for public projects, as defined in Public Contract Code section 22002, of not more than the maximum amount specified in Public Contract Code sections 22032 or 22034, or by the State Controller acting pursuant to Public Contract Code section 22020, as such statutes or directives may be amended from time to time (\$175,000 as of the date of the ordinance amending this provision).

(c) When specifically authorized by law, purchase personal property for the Superintendent of Schools or any other public officer or agency, and sell, lease, exchange, trade, or otherwise dispose of personal property belonging to these agencies which is no longer needed for public use.

(d) Rent for the County and its officers, furnishings, equipment, and livestock. However, County employees traveling outside the County on County business may enter into short-term rentals of automobiles.

(e) Negotiate and execute in the name of the County all lease-purchase agreements of personal property as authorized by the General Services Agency Director.

(f) Sell, lease, exchange, trade, or otherwise dispose of all personal property belonging to the County no longer needed for public use, in accordance with section 25503 et seq. of the Government Code of the State of California.

(g) Make application for and receive all license plates necessary for County equipment, and receive and file all certificates of ownership of said equipment.

(h) Perform such other services as the Board of Supervisors may require from time to time by resolution.

Section 5. Section 1-03-1290 of the Tulare County Ordinance Code is amended to read as follows:

§ 1-03-1290. INDEPENDENT CONTRACTORS: SERVICE TO COUNTY AND DEPARTMENTS:

(a) Except as otherwise provided below, the Purchasing Agent may engage independent contractors to perform services for the County and the offices thereof, with or without the furnishing of material, where the annual aggregate cost does not exceed the maximum amount for each project authorized by section 25502.5 of the Government Code (\$100,000 as of the date of the ordinance codified in this section), as such section is amended from time to time. If the Board of Supervisors has by resolution directed that the General Services Agency Director also approve said contracts, the contract must first be approved by the General Services Agency Director unless the General Services Agency Director has delegated such authority to the Purchasing Agent. For purposes of this section, “project” shall be defined to mean a specific, identifiable work of limited duration and scope, which may or may not extend beyond one fiscal year. Notwithstanding the foregoing, the Purchasing Agent may engage independent contractors to perform services which are not limited to a specific project, but which are to be provided on an on-call/as-needed basis pursuant to an agreement which does not commit the County to pay for such services beyond three fiscal years.

(b) This section shall have no application either to work upon the public roads of the County or to projects under section 20121 et seq. or section 20150 et seq. of the Public Contract Code.

(c) Regardless of the provisions of subsection (a) of this section, certain departments shall have the right to engage contractors directly:

(1) The District Attorney, Public Defender, and County Counsel shall have the right to engage contractors directly, within the limits of their respective budgets, to print legal briefs, provide reporter’s services and transcripts, and to provide other expert services related to specific cases or matters as are required by such departments.

(2) Pursuant to Elections Code section 13001, the Registrar of Voters shall have the right to engage contractors directly in providing the materials required by Elections Code Division 13, entitled “Ballots, Sample Ballots, and Voter Pamphlets.”

(3) The Sheriff shall have the right to engage contractors directly, within the limits of his or her respective budgets, to provide coroner services, air support, fingerprinting services, search and rescue, interpreter services, and training. The Sheriff shall also have the right to enter into contracts with the California Department of Corrections for State correctional services as authorized by Section 4007 of the Penal Code, within the limits of that department’s budget.

(4) In addition, if some state law authorizes an officer or body to obtain services directly from independent contractors, this section is not intended to supersede such authority under state law.

Section 6. Section 1-03-1295 of the Tulare County Ordinance Code is amended to read as follows:

§ 1-03-1295. SAME: PERFORMANCE OF DUTIES:

No officer or employee of the County of Tulare shall attempt to coerce the Purchasing Agent in the performance of his or her duties.

Section 7. Section 1-03-1300 of the Tulare County Ordinance Code is amended to read as follows:

**§ 1-03-1300. ADMINISTRATIVE PROCEDURE REGULATIONS:
DEFINITIONS:**

“Lowest responsible bidder,” as used in this Article, shall mean the vendor whose bid, and the article or service offered, are the most economical and advantageous to the County from the standpoint of suitability to purpose, quality, delivery and discount terms, service reputation of the vendor, and other information and data required to establish the bidder’s responsibility.

Section 8. Section 1-03-1301 of the Tulare County Ordinance Code is amended to read as follows:

§ 1-03-1301. LOCAL PREFERENCE:

(a) Notwithstanding any other provision in this chapter to the contrary, whenever the County purchases supplies, materials, or equipment for the County through the use of competitive bids, the County in evaluating the price for such supplies, materials, and/or equipment shall determine if the lowest responsible bidder is a local vendor as defined in this section; and, if so, the contract shall be awarded to such vendor. If the low bidder is not a local vendor, any local vendor who submitted a bid which was within five percent (5%) of the low bid announced by the County shall have the option of submitting a new bid within forty-eight (48) hours (not including weekends and holidays) of the time indicated in the bid documents for the opening bid. Such new bid must be in an amount less than or equal to the low bid announced by the County. If the County receives any new bids from local vendors within said forty-eight (48) hour period, it shall award the contract to the local vendor submitting the lowest responsible bid.

If no new bids are received within said forty-eight (48) hour period, the contract shall be awarded to the original low bidder as announced by the County.

(b) For purposes of this section, “local vendor” shall mean any business which:

(1) Has had a fixed office or distribution point located in and having a street address within the County for at least six (6) months immediately prior to the issuance of the request for bids by the County; and,

(2) Holds any required business license by the County or any city within the County; and,

(3) Employs at least one (1) full-time or two (2) part-time employees whose primary residence is located within the County, or if the business has no employees, shall be at least fifty percent (50%) owned by one or more persons whose primary residence is located within Tulare County.

(c) Any vendor claiming to be a local vendor as defined above shall so certify in writing to the Purchasing Agent. The Purchasing Agent shall not be required to verify the accuracy of any such certification, and shall have sole discretion to determine if a vendor meets the definition of a “local vendor.”

(d) Any person or business falsely claiming to be a local vendor under this section shall be ineligible to transact any business with the County for a period of not less than three (3) months nor more than twenty-four (24) months as determined in the sole discretion of the Purchasing Agent. The County shall also have the right to terminate all or any part of any contract entered into with such person or business.

(e) Prior to the County declaring any person or business not a “local vendor” or ineligible to transact business with the County, such person or business shall be entitled to a public hearing before the Board of Supervisors and to a five (5) day notice of the time and place thereof.

(f) This section shall not apply to contracts required by state or federal statutes or regulations to be awarded to the “lowest responsible bidder,” or otherwise exempted from local preferences.

Section 9. Section 1-03-1305 of the Tulare County Ordinance Code is amended to read as follows:

§ 1-03-1305. SAME: NECESSITY FOR BIDS:

Unless otherwise ordered by resolution of the Board of Supervisors, all supplies, materials, and equipment acquired by the Purchasing Agent shall be purchased from the lowest responsible bidder after taking written bids if the estimated total cost of the commodities or

services required from a class of vendors exceeds the sum of Fifty Thousand Dollars (\$50,000). However, the Purchasing Agent is not required to call for bids for the following transactions:

(a) Purchase of proprietary drugs, library books, periodicals, standard school supplies, or repair parts for motor vehicles and construction equipment.

(b) Purchase of gasoline, diesel fuel, and other petroleum products used in and for motor vehicles.

(c) Purchase of services, with or without the furnishing of material, under section 1-03-1290 of this Code.

(d) Contracting for work and/or materials for County Road Projects of less than Twenty-Five Thousand Dollars (\$25,000) pursuant to Public Contract Code Section 20394.

(e) Purchase of services, with or without the furnishing of material, under section 1-03-1285 of this Code.

(f) Purchase of personal property or services from price lists of other governmental entities or of associations of governmental entities where such price lists have been compiled in such a manner as to insure lowest prices available to the County.

Section 10. Section 1-03-1310 of the Tulare County Ordinance Code is amended to read as follows:

§ 1-03-1310. SAME: INVITATIONS FOR BIDS: FORM:

Written invitations for bids shall contain the date and hour of bid opening, the name of the department to be supplied, the requisition number, delivery date, quantities, and complete specifications or description of the items or service to be supplied. The Purchasing Agent shall provide an invitation for bid to any prospective bidder requesting the specific invitation, and it is desirable generally to seek bids from a reasonable number of prospective bidders. Copies of the written invitation for bids shall be posted on a bulletin board available to the public, and bids shall be opened and read in public on the date and hour specified in each invitation for bids.

Section 11. Section 1-03-1325 of the Tulare County Ordinance Code is amended to read as follows:

§ 1-03-1325. SAME: RETENTION OF BIDS:

Bids shall be kept on file for the period of time specified in the County Records Retention/Destruction Policy, as such policy may be amended from time to time. Thereafter they may be destroyed.

Section 12. Section 1-03-1330 of the Tulare County Ordinance Code is amended to read as follows:

§ 1-03-1330. SAME: REQUISITION FOR PURCHASE:

(a) The Purchasing Agent shall supply the various offices, institutions, and departments of the County with forms, requisitions, and reports of goods received or services rendered, and the same shall be filled out with as many copies as may be deemed necessary by the Purchasing Agent.

(b) All request for purchases made through the Purchasing Agent shall be submitted on a requisition form. Such requisition shall specify the quantities desired, provide a complete description or specification of the item or service required, an explanation of usage, and shall be signed by the proper authority. Brand names are to be indicated on requisitions only to describe a standard quality or what has been formerly used; provided, however, that proprietary drugs when required shall be indicated as such.

(c) Upon receipt of a properly completed requisition, the Purchasing Agent shall initiate the acquisition process. If the Purchasing Agent refuses to act upon a requisition, the officer or employee requesting the expenditure may bring the matter before the Board of Supervisors for review.

(d) Written requisitions may be destroyed after the period of time specified in the County Records Retention/Destruction Policy, as such policy may be amended from time to time, and such requisitions need not be photographed, reproduced or microfilmed.

Section 13. Section 1-03-1340 of the Tulare County Ordinance Code is amended to read as follows:

§ 1-03-1340. SAME: DECLARATION OF SURPLUS PROPERTY:

Personal property no longer needed for use by an office or department of the County shall be immediately declared as surplus by the using agency, and the Purchasing Agent shall supply property forms for such declaration. The form shall contain the quantity, description, serial number, date of purchase, and such other pertinent information as may be required by the Purchasing Agent, and shall be filed with the Purchasing Agent. If the personal property is to be

sold or traded in as a credit for purchase, the procedure shall be in accordance with section 25503 et seq. of the Government Code.

Section 14. Section 1-03-1345 of the Tulare County Ordinance Code is amended to read as follows:

§ 1-03-1345. SAME: INTERDEPARTMENTAL TRANSFER OF PROPERTY:

Whenever any office or department of the County requires materials, supplies or equipment, or any personal property which has been declared to be surplus, a requisition in the same form and issued in the same manner as hereinbefore provided shall be presented to the Purchasing Agent. The Purchasing Agent, if the surplus item complies with the need and has been approved by the General Services Agency Director, may authorize the transfer, and the departmental inventories shall be adjusted accordingly.

Section 15. Section 1-03-1350 of the Tulare County Ordinance Code is amended to read as follows:

§ 1-03-1350. EXCEPTIONS TO PURCHASE ORDER PROCEDURE: ADVERTISING:

County departments may secure newspaper advertising of legal notices and other documents required to be published for the discharge of their duties without securing a purchasing order. The invoice from the newspaper shall be sent to the County Auditor for payment from funds budgeted for such advertising.

Section 16. Section 1-03-1360 of the Tulare County Ordinance Code is amended to read as follows:

§ 1-03-1360. EMERGENCY PURCHASES:

(a) In an emergency as defined in section 1-15-1005 of this Ordinance Code, the procedures in Chapter 15 of this Part, entitled "Civil Defense and Disaster," shall be followed.

(b) In all other cases, an emergency shall be deemed to exist when the Purchasing Agent or any of his or her assistants cannot be contacted by telephone or radio, and materials, supplies, or rental equipment is immediately necessary for the preservation of life or property, or to prevent the breakdown of a county service at substantial expense to the County. Emergency purchases may be made by any employee or official authorized to sign requisitions. Each

emergency purchase shall be reported to the Purchasing Agent within ten (10) calendar days after the purchase is made. Such emergency purchases may be subsequently ratified by the Purchasing Agent, or if he or she refuses such ratification, or if such ratification is beyond the authority of the Purchasing Agent, the Board of Supervisors may subsequently approve and ratify such purchase by a four-fifths (4/5) vote of the entire Board. Unless an emergency purchase is so approved and ratified by either the Purchasing Agent or the Board of Supervisors, the cost thereof shall not constitute a legal charge against the County, but shall constitute a charge against the person making the same. No purchase shall be approved or confirmed by the Purchasing Agent or by the Board of Supervisors under this section except upon an express finding by the Purchasing Agent or by the Board that an emergency actually existed at the time of the acquisition of such property.

Section 17. Section 1-03-1365 of the Tulare County Ordinance Code is amended to read as follows:

§ 1-03-1365 UNLAWFUL PURCHASES:

If any officer, employee or agent of the County makes a purchase or contracts for services contrary to the provisions of this Article, such order or contract shall be void and of no effect. The head of the department, office, or institution shall be personally liable for the amount of such purchase, order, or contract and, if already paid for out of County funds, the amount thereof may be recovered in the name of the County in an appropriate action therefor.

Section 18. Section 1-03-1395 of the Tulare County Ordinance Code is repealed.

Section 19. Section 1-03-1400 of the Tulare County Ordinance Code is repealed.

Section 20. Section 1-03-1405 of the Tulare County Ordinance Code is repealed.

Section 21. Section 1-03-1410 of the Tulare County Ordinance Code is repealed.

Section 22. The foregoing ordinance shall take effect thirty (30) days from the date of the passage hereof, and prior to the expiration of fifteen (15) days from the passage hereof a

summary shall be published once in the Visalia Times-Delta, a newspaper of general circulation in the County of Tulare, State of California, together with the names of the Board of Supervisors voting for and against the same.

THE FOREGOING ORDINANCE was passed and adopted by the Board of Supervisors of the County of Tulare, State of California, on the ____ day of _____, 20__, at a regular meeting of said Board duly and regularly convened on said day by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

COUNTY OF TULARE

By: _____
Chairman, Board of Supervisors

ATTEST: MICHAEL C. SPATA
County Administrative Officer/
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

Approved as to Form:
County Counsel

By _____
Deputy
Matter No. 2018945