

(Published in THE DAILY REPORTER on May 14 and May 21, 2004)

CHARTER RESOLUTION NO. 57

Effective: July 21, 2004

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. 55.

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

SECTION I. 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 therefor.

SECTION II. Charter Resolution No. 55 is hereby repealed upon the Effective Date of this Charter Resolution.

SECTION III. General Requirements. All supplies, equipment and services acquired for Sedgwick County, for each and every office and department thereof, and for each and every elected official and for the Eighteenth Judicial District, regardless of the source of funds used to make the acquisition, shall be acquired in accordance with this Resolution and the policies and procedures established pursuant to it.

- A. Each purchase, including acquisitions by rental, lease, and lease/purchase, in an amount exceeding \$25,000.00 shall be offered to responsible vendors prior to issuing a purchase order or contract for said goods or services, and said purchase order or contract shall be awarded to a qualified vendor submitting the lowest responsible bid or best proposal as determined by the Board of County Commissioners after review of all vendor proposals and recommendation by the user department, the Purchasing Department and the Board of Bids and Contracts subject only to the exceptions provided in this Resolution.
- B. Each purchase, including acquisitions by rental, lease, and lease/purchase, in an amount exceeding \$10,000.00 but not more than \$25,000.00 shall be offered to responsible vendors prior to issuing a purchase order or contract for said goods or services, and said purchase order or contract shall be awarded to the vendor submitting the lowest price as determined by the County Manager after review of all vendor bids/proposals and recommendation by the user department and Purchasing Department; or if the County Manager determines that the County interest is best served by a vendor not offering the lowest price said purchase order or contract shall be awarded to the lowest responsible bid or best proposal as determined by the Board of Bids and Contracts after review of all vendor proposals and recommendation by the County Manager.
- C. Each purchase, including acquisitions by rental, lease, and lease/purchase, in an amount exceeding \$1,500.00 but not more than \$10,000.00 shall be offered by the Purchasing

Department to responsible vendors prior to issuing a purchase order or contract for said goods or services, and said purchase order or contract shall be awarded to the vendor submitting the lowest responsible bid or best proposal as determined by the Purchasing Director subject only to the exceptions provided in this Resolution.

- D. Each purchase, including acquisitions of vehicles or equipment by rental or lease for a temporary period, in an amount not exceeding \$1,500.00 may be made by the user department using a county-issued credit or procurement card in accordance with established policy governing the use of credit cards or by the Purchasing Department using procedures established pursuant to this Resolution.

SECTION IV. Waiver of Bid/Proposal Requirements. Requirements that purchases be offered to multiple vendors may be waived by the Purchasing Director as to subsections "A" through "G" and shall be waived by the Purchasing Director as to subsection "H". Except as otherwise provided in this Section, approval of any such purchases shall occur in the manner provided in this Resolution.

- A. Emergencies. Competitive bid/proposal requirements may be waived when unexpected or unforeseen events may cause serious financial 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. Emergency purchases may be approved by the Purchasing Director.
- B. Public Exigency. Competitive bid/proposal requirements may be waived when after advertising for bids, no bids are received, and the needs of the county warrant purchasing said goods or services without delay while awaiting additional advertising for bids.
- C. Sole Source. Competitive bid/proposal requirements may be waived for the procurement of items or services that are generally available only from one manufacturer, publisher, local distributor, or dealer and for which there is no basis for expecting multiple vendors to bid on said items.
- D. Joint Governmental Purchases. Competitive bid/proposal may be waived when purchases are made in cooperation with other city, county, state, or federal agencies and it is deemed to be in the best interest of the County to purchase supplies, services and equipment from contracts and agreements of other governmental agencies.
- E. Trade/Barter. Competitive bid/proposal requirements may be waived when procuring goods or services by either trade or barter in an amount less than \$10,000.00 and it is in the best interest of the County to procure goods or services in such a manner. Whenever it is deemed by the Purchasing Director that it is in the best interest of the County to procure goods or services by trade or barter such procurement shall be made in accordance with policies and procedures established by the Purchasing Director and subject to approval by the County's Chief Financial Officer.
- F. Insurance. Competitive bid/proposal requirements may be waived for the purchase of insurance and indemnity. Insurance and indemnity contracts shall be approved on the recommendation of the County's Risk Manager.
- G. Professional Services. Competitive bids/proposals may be waived for contracts for Professional Services. Professional Services shall be defined as services provided and performed by individuals or firms where a certification mandated by local, state or federal government is required. Examples of said services include but are not limited to architectural, engineering, specialized consulting, accounting, and medical services.
- H. Legal Professional Services. Competitive bids/proposals are unnecessary for contracts for Legal Professional Services. Legal Professional Services are defined as services that may

only be performed by licensed attorneys (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 V. Contract Amendments. No work shall be authorized and no payment may be made pursuant to any contract except as provided by 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. An amendment shall also require a modification to a purchase order originally issued to authorize the procurement.
- B. Except where specifically authorized by resolution of the Board of County Commissioners, the following approval limitations apply to contract amendments:
 1. Multi-Department Commodities and Supply Contracts. The Purchasing Director may approve all amendments to commodities and supply contracts that involve multiple departments, so long as the cumulative amendments do not exceed 10% of the original contract cost. The Purchasing Director may also approve all amendments to such contracts that extend the contract time of performance, so long as the cumulative amendments do not exceed 10% of the original contract term or time of performance.
 2. Construction and Professional Services Contracts. Amendments to construction projects and Professional Services contracts that do not expand the intended result of the project, and that cumulatively do not exceed 10% of the original contract cost, or \$75,000.00, whichever is less, may be approved by the appropriate division or department director, so long as the cumulative amount of the amendments do not cause the project to exceed its project authorization amount. The appropriate division or department director may also approve all amendments to such contracts that extend the contract time of performance, but do not expand the intended result of the project, and that cumulatively do not exceed 10% of the original contract time of performance.
 3. Other Contracts. The appropriate division or department director may approve all other amendments so long as the cumulative amendments do not exceed 10% of the original contract cost, or \$25,000.00, whichever is less. The appropriate division or department director may also approve all other amendments to extend the contract time of performance so long as the cumulative amendments do not exceed 10% of the original contract time of performance.
 4. Any amendment that would cause the cumulative total of amendments to a contract to exceed the limitations set forth in this Section may be approved by the Board of County Commissioners upon the recommendation of the Board of Bids and Contracts.
- 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, an official of which shall approve the change order as to form. The change order shall be signed by the County official authorized to give approval and the authorized official of the vendor. All approved change orders 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 VI. Requirements for Competition. Whenever a purchase must be offered to responsible vendors the Purchasing Director shall determine the procedure for compliance. Purchases of \$1,500.00 to \$10,000.00 shall be offered by informal bid/proposal. Purchases of more than \$10,000.00 shall be offered by sealed bid/proposal. Any purchase may, in lieu of informal or sealed bids or proposals, be offered to responsible vendors by use of an internet-based auction or reverse auction service. All requests for bids/proposals shall be advertised at the discretion of the Purchasing Director. Competitive sealed bids/proposals shall be opened at a time and place specified pursuant to said public notice. The Purchasing Director shall make the determination as to whether purchases subject to this Resolution shall be made by requests for bids or requests for proposals. The following requirements shall apply for purposes of this Resolution:

- A. Competitive Bid. 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, deliver, 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 responsible bid. No criteria may be used in bid evaluation that has not been set forth in the request for bids/quotations.
- B. Competitive Proposal. 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 VII. 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 \$25,000.00 and approving purchases in excess of \$10,000.00 but not exceeding \$25,000.00 when required pursuant to this Resolution; and to review such other purchases as may be requested from time to time at the discretion of the Purchasing Director.
- 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 a representative from the Sedgwick County elected officials other than a county commissioner appointed by the County Manager, one representative from the Eighteenth Judicial District to be determined by the Chief Judge, and a member at large appointed by the County Manager from a roster listing all division and department directors. Members appointed by the County Manager shall serve two-year terms, and shall continue serving until a successor is appointed. 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 policies and procedures as promulgated by the Purchasing Director.

SECTION VIII. Purchasing Director's Authority and Responsibilities.

- A. Adoption of Policies and Procedures. Pursuant to and in conjunction with this Charter Resolution, the Purchasing Director may adopt policies and procedures governing the purchase of all goods and services for Sedgwick County and for the Board of Bids and Contracts. Any policies 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, consistent with any bid documents, 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 in the best interest of the County. In those instances where after advertising for bids/proposals, those bids/proposals received exceed the budgeted amount, the Purchasing Director is authorized to negotiate for purchases with the responsive low bidder or best proposal to bring such bids/proposals within the budgeted amounts.
- D. Authority to Negotiate Purchases. The Purchasing Director is authorized to negotiate all purchases, subject to the approval requirements set forth in this Resolution which include the following limitations:
 - 1. If approved by the Board of County Commissioners, purchases in excess of 25,000.00;
 - 2. If approved by the County Manager, purchases in excess of \$10,000.00 but not exceeding \$25,000.00;
 - 3. Purchases not exceeding \$10,000.00.

SECTION IX. County Manager's Authority. Notwithstanding any other provisions to the contrary, the County Manager is authorized to execute contracts for services, not to include Legal Professional Services, in amounts not exceeding \$10,000.00 without seeking competitive proposals or involving the Purchasing Director, subject to approval of the contracts as to form by the County Counselor and notification of the Board of County Commissioners within one week of the date of execution. 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 X. 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 \$10,000.00 but not more than \$25,000.00. The notification shall include the good or service purchased, amount of purchase, name of user department, number of bids/proposals received, and if competitive bid/proposal were waived pursuant to Section IV of this Resolution, an explanation of the condition resulting in the waiver.
- B. The Purchasing Director shall, within one week of any such purchase, notify the Board of County Commissioners in writing of each emergency purchase and of the nature of the emergency.

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

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

SECTION XIII. 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.

ADOPTED this 12th day of May, 2004.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

THOMAS G. WINTERS, Chairman
Third District

ATTEST:

DAVE UNRUH, Chair Pro Tem
First District

DON BRACE, County Clerk

TIM R. NORTON, Commissioner
Second District

APPROVED AS TO FORM:

CAROLYN MCGINN, Commissioner
Fourth District

RICHARD A. EUSON
County Counselor

BEN SCIORTINO, Commissioner
Fifth District