

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

ORDINANCE NO. 2016-1401

AN ORDINANCE

TO AMEND PORTIONS OF CHAPTER 2, ARTICLE VI OF THE LANCASTER COUNTY CODE AS RELATES TO THE COUNTY PROCUREMENT CODE

WHEREAS, through the passage of ordinance 1076 on December 13, 2010, County Council did establish the present county procurement code that subsequently has been incorporated within the Lancaster County Code of Ordinances as noted above, and

WHEREAS, upon the recommendation of the County Procurement Director and the County Administrator, Council finds that various amendments to the procurement code are appropriate and necessary so as to update and modernize several policies and practices contained therein;

NOW THEREFORE, by the power and authority granted to the Lancaster County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, it is ordained and enacted that:

Section 1. Amendment of County Code.

Attached hereto and incorporated herein by reference as fully as if repeated verbatim herein is a seventeen (17) page attachment (Code of Ordinances, Section 2-251 – Section 2- 296) to this ordinance that specifically indicates the intended amendments to Chapter 2, Article VI of the County Code of Lancaster, South Carolina:

- A. Section 2-258(k);
- B. Section 2-260(c);
- C. Section 2-261(a) and (b);
- D. Section 2-266(a), (h) and (i);
- E. Section 2-267;
- F. Section 2-268(a);
- G. Section 2-269(f) and (j);
- H. Section 2-270 main provision and (g);
- I. Section 2-272 main provision and (h)
- J. Section 2-275;
- K. Section 2-276;
- L. Section 2-77(a)(7);
- M. Section 2-278(11) and (12);
- N. Section 2-281.

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Section 3. Severability.

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section 4. Controlling provisions.

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, orders and resolutions, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

Section 5. Effective date.

This Ordinance shall become effective on July 1, 2016.

AND IT IS SO ORDAINED

Dated this 27th day of June, 2016.

LANCASTER COUNTY, SOUTH CAROLINA

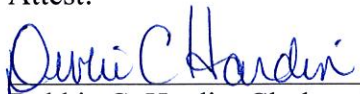


Bob Bundy, Chair, County Council



Steve Harper, Secretary, County Council

Attest:



Debbie C. Hardin, Clerk to Council

First Reading:	May 23, 2016
Second Reading:	June 13, 2016
Third Reading:	June 27, 2016

ARTICLE VI. - LANCASTER COUNTY PROCUREMENT CODE⁽¹³⁾

Footnotes:

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Editor's note—Ord. No. 1076, § 1, adopted Dec. 13, 2010, added provisions as Art. VI, Divs. 1—8, §§ 2-280A—2-324A. In order to avoid conflicts in section numbering and to conform to the format of numbering used in the Code, the editor has renumbered the provisions of Ord. No. 1076 as §§ 2-251—2-295 as herein set out.

DIVISION 1. - GENERALLY

Sec. 2-251. - Citation.

This article may be cited as the "Lancaster County Procurement Code."

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-252. - Purpose.

The purpose of the Lancaster County Procurement Code is to:

- (a) Establish policies and procedures for the Lancaster County government that embody sound principles of competitive procurement as required by Section 11-35-50 of the Code of Laws of South Carolina 1976, as amended (the South Carolina Consolidated Procurement Code);
- (b) Develop an efficient and effective means of delegating roles and responsibilities to departments, elected officials, boards, and component units;
- (c) Ensure fair and equitable treatment of all persons who do business with the county;
- (d) Provide a mechanism of controlling all purchases of supplies, materials, equipment and services required by the county;
- (e) Prescribe the manner in which the county shall dispose of surplus real and personal properties in an effective manner; and
- (f) Provide safeguards to ensure ethical behavior on the part of all persons engaged in the public procurement process.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-253. - Application of procurement code.

The Lancaster County Procurement Code applies to:

- (a) All procurements solicited after December 31, 2010;
- (b) All expenditure of funds by the county for public procurement irrespective of the source of the funds;

- (c) Procurement involving the expenditure of federal or state funds, except that the county shall comply with federal or state law that is mandatorily applicable to the procurement; and
- (d) All county departments, agencies, commissions, boards, or officials appropriated funds by the county.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-254. - Legal counsel; contract review.

- (a) The county attorney shall serve as legal counsel to the procurement officer.
- (b) The county attorney shall review any proposed contract: (i) with a term that extends beyond June 30 of the fiscal year following the fiscal year in which the contract is proposed to be entered; or (ii) with an automatic renewal clause.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-255. - Right to reject.

In all solicitations made under the Lancaster County Procurement Code, the county shall reserve the right to reject any and all responses to the solicitation. A solicitation may be cancelled, or any or all bids or proposals received may be rejected, in whole or in part as may be specified in the solicitation, when it is in the best interest of the county. The reasons for rejection must be documented and kept on file. Each solicitation request by the County shall state this section of the code.

(Ord. No. 1076, § 1, 12-13-10)

DIVISION 2. - PROCUREMENT OFFICER

Sec. 2-256. - Procurement officer.

- (a) There is created the position of procurement officer who shall be the county's principal contact for procurement services. The procurement officer shall be under the supervision of the finance director and the county administrator.
- (b) The procurement officer shall not incur any obligation on behalf of the county if sufficient funds have not been appropriated by the county council.
- (c) Responsibilities of the procurement officer include, but are not limited to:
 - (1) Procuring supplies, materials, equipment and services needed by county government and its officials;
 - (2) Coordinating the disposal of all surplus property and equipment;
 - (3) Assisting grant recipients in ensuring proper procurement procedures are followed;
 - (4) Maintaining a complete record of all purchasing transactions;
 - (5) Conducting pre-bid conferences and bid openings;
 - (6) Handling bid advertisements, logging bids, mailing and posting notice of awards and rejection notices;
 - (7) Properly maintaining records of all bid information;

- (8) Establishing and updating a bidders list;
 - (9) Assisting county government entities with writing bid specifications;
 - (10) Developing, reviewing, and updating procurement and contract procedures to ensure effective and efficient operations;
 - (11) Receiving and responding to inquiries from county government entities and vendors regarding procurement procedures; and
 - (12) Providing instruction and guidance to county government entities and officials.
- (d) The procurement officer, subject to approval by the finance director, is authorized to develop, prepare and publish rules, regulations, manuals, guidelines, interpretations and other directives to aid in the implementation and use of the Lancaster County Procurement Code.

(Ord. No. 1076, § 1, 12-13-10)

DIVISION 3. - SOURCE SELECTION AND CONTRACT INFORMATION

Sec. 2-257. - Methods of source selection.

Unless otherwise provided by law, all Lancaster County contracts shall be awarded by competitive sealed bidding, pursuant to section 2-258, except as provided in:

- (a) Section 2-260 (purchases under \$25,000);
- (b) Section 2-263 (sole source procurement);
- (c) Section 2-262 (emergency procurement);
- (d) Section 2-264 (architect-engineering, construction management, land surveying services and other professional services);
- (e) Section 2-261 (Use of state contract and cooperative purchasing);
- (f) Section 2-265 (Authority to contract auditing services);
- (g) Section 2-259 (Competitive sealed proposals); and
- (h) Section 2-264.1 (Special/unusual procurements).

(Ord. No. 1076, § 1, 12-13-10; Ord. No. 1363, § 1, 8-10-2015)

Sec. 2-258. - Competitive sealed bidding.

- (a) Conditions for use. Contracts more than twenty-five thousand dollars (\$25,000.00) shall be awarded by competitive sealed bidding except as otherwise provided in section 2-257.
- (b) Invitation for bids. An invitation for bids shall be issued and shall include a description of the purchase and all contractual terms and conditions applicable to the procurement.
- (c) Notice. The county shall give notice of the invitation for bids at least ten (10) calendar days before the date set in it for the opening of bids. The notice shall be published on the County's website. A notice may also be published in the South Carolina Business Opportunities (SCBO) publication.
- (d) Pre-bid conference. A pre-bid conference may be held to clarify information or ask questions concerning the solicitation. Attendance at the pre-bid conference may or may not be mandatory.

When mandatory attendance is required, only bids from those attending the conference will be accepted at final bid time.

- (e) Receipt and safeguarding of bids. All bids (including modifications) received prior to the time of bid opening shall be kept secure and unopened. It is the responsibility of bidders to make sure all bids are delivered to the proper place and at the proper time. Bids received after the time set in the Invitation for Bids shall not be considered and shall be noted as "late".
- (f) Bid opening. Bids shall be publicly opened. Questions on the contents of the bids shall not be answered until after evaluations are completed. A bid tabulation must be kept and shall be open for public inspection.
- (g) Bid acceptance and bid evaluation. Bids shall be evaluated based on the criteria set forth in the solicitation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this article.
- (h) Correction, cancellation or withdrawal of a bid. After bids are opened, no changes in bid prices or other provisions of the bids prejudicial to the interest of the county or fair competition shall be permitted.
- (i) Discussion with bidders. As provided in the invitation for bids, discussions may be conducted with apparent responsive bidders for the purpose of clarification to assure full understanding of the requirements of the invitation for bids. Clarification on any bidder's bid must be documented in writing by the procurement officer.
- (j) Tie bids. If two (2) or more bidders are tied in price while otherwise meeting all of the required conditions, awards shall be determined in the following order of priority:
 - (1) In-state vs. out-of-state firms. If there is a tie with a South Carolina and an out-of-state firm, the award shall be made to the South Carolina firm;
 - (2) Lancaster County firm vs. other South Carolina county firms. If there is a tie with a firm located in Lancaster County and a firm located in another county of South Carolina, the award shall be made to the Lancaster County firm; and
 - (3) In all other situations in which bids are tied, the award must be resolved by the flip of a coin by the procurement officer with a witness.
- (k) Award. The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bid. Notice of award must be posted on the county's website. If the contract is at least fifty thousand one dollars (\$50,001.00) notice of award must be sent to all bidders on the same day.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-259. - Competitive sealed proposals.

- (a) Conditions for use. A contract may be entered into by competitive sealed proposals when the procurement officer or county administrator determines in writing that the use of competitive sealed bidding is either impractical or not advantageous to the county.
- (b) Request for proposals. Proposals shall be solicited through a request for proposal.
- (c) Public notice. Public notice for request for proposals shall be given in the same manner as provided in subsection 2-258(c) for competitive sealed bids.
- (d) Receipt and safeguarding of proposals. All proposals (including modifications) received prior to the time of opening shall be kept secure and unopened. It is the responsibility of persons submitting proposals to make sure their proposal is delivered to the proper place and at the proper time.

Proposals received after the time set in the request for proposals shall not be considered and shall be noted as "late".

- (e) Proposal opening. Proposals shall be publicly opened. Questions on the contents of the proposals shall not be answered until after evaluations are completed. A proposal tabulation must be kept and shall be open for public inspection.
- (f) Evaluation factor. The request for proposals must state the relative importance of factors to be considered in evaluating the proposals.
- (g) Discussion with responsible offerors. Discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification.
- (h) Award. Award shall be made to the responsible offeror whose proposal is determined in writing to be most advantageous to the County, taking into consideration the evaluation factors set forth in the request for proposals. The contract file must contain the basis on which the award is made.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-260. - Procedures for procurements not exceeding twenty-five thousand dollars (\$25,000.00).

- (a) Purchases under \$2,500.00. Small purchases not exceeding two thousand five hundred dollars (\$2,500.00) may be accomplished without securing competitive quotations if the prices are considered to be reasonable.
- (b) Purchases from \$2,500.01 to \$25,000.00. Purchases from two thousand five hundred dollars and one cent (\$2,500.01) to twenty-five thousand dollars (\$25,000.00) may be accomplished by solicitation of quotes from a minimum of three (3) qualified sources and documentation of the quotes submitted with the purchase requisition.
- (c) All purchases of technology and technology services must be approved by IT Director, including, but not limited to: computer hardware, computer software, servers, printers, audio visual equipment, security systems, and networking.

(Ord. No. 1076, § 1, 12-13-10; Ord. No. 1363, § 2, 8-10-2015)

Sec. 2-261. - Use of state contract and cooperative purchasing.

- (a) When it is advantageous to the county, purchases may be made through the State of South Carolina's Materials Management Office. Sections 2-258, 2-259 and 2-260 are waived when purchasing from the state contract.
- (b) The procurement officer may enter into an agreement, independent of sections 2-258, 2-259 and 2-260, with any public procurement entity for the cooperative use of supplies or services under the terms agreed upon by the parties.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-262. - Emergency procurements.

Notwithstanding any other provision of this article, the county administrator or designee may make or authorize emergency procurements of supplies, services or construction items when an emergency condition arises and the need cannot be met through normal procurement methods. An emergency condition is a situation which creates a threat to public health, welfare, or safety such as may arise by reason of floods, epidemics, riots, equipment failures, fire loss, or other reason as may be proclaimed by either the

County Administrator or designee. The existence of emergency conditions must create an immediate and serious need for supplies, services, or construction that cannot be met through normal procurement methods and the lack of which would seriously threaten: (i) the functioning of county government; (ii) the preservation or protection of property; or (iii) the health or safety of any person. Emergency procurements shall be made with as much competition as is practicable under the circumstances. A written determination (Emergency Procurement Form) of the basis for the emergency and for the selection of the particular contractor or vendor shall be made and shall set forth the contractor's or vendor's name, amount, and a listing of the items procured under the contract.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-263. - Sole source procurement.

A contract may be awarded for a supply, service, or construction item by the procurement officer without competition, subject to the approval of the County Administrator or designee. Procurements made with grant funds must receive written approval from the grantor agency. Written documentation (sole source justification form) must include the determination and basis for the proposed sole source procurement. A sole source purchase must be based upon one or more of the following criteria: (i) there is a lack of competition for a product or service; (ii) it is a unique, one-of-a-kind service offer; or (iii) the product has patented or proprietary rights that provide superior capabilities that are not obtainable from similar products, and the product is not marketed through other wholesalers or distributors whose competition could be encouraged.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-264. - Architecture, engineering, construction management, land surveying and other professional services.

- (a) The county administrator may negotiate contracts for architect-engineer, construction management, land surveying and other professional services valued at fifty thousand dollars (\$50,000.00) and below.
- (b) It is the policy of Lancaster County to publicly announce requirements for architect-engineer, construction management, land surveying and other professional services at fifty thousand dollars (\$50,000.00) or more and to negotiate contracts for such services on the basis of demonstrated competence and qualification at fair and reasonable prices. The date for submission from interested persons or firms in response to an invitation shall not be less than ten (10) days after publication of the invitation. An evaluation panel, the procurement officer, and the county administrator shall conduct interviews with no less than two (2) firms regarding the proposed contract. The procurement officer and the county administrator shall negotiate a contract with the highest qualified firm or person. The county administrator shall present the contract to county council for its approval.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-264.1. - Special/unusual procurements.

A special/unusual procurement is the acquisition by Lancaster County of personal property, services and improvements to real property without competition, subject to the approval of the county administrator or designee. Lancaster County is justified in utilizing a special/unusual procurement when it has a need that has a unique requirement that the use of the procurement methods would not responsibly satisfy or further the interests to Lancaster County.

(Ord. No. 1363, § 1, 8-10-2015)

Sec. 2-264.2. - Local vendor preference.

The lowest local responsible and responsive bidder who is within three (3) percent, with a cap of six thousand dollars (\$6,000.00), of the lowest non-local responsible and responsive bidder, may match the bid submitted by the non-local responsible and responsive bidder and thereby be awarded the contract. The local preference as set forth in this section shall only be applied to responses to solicitations of written quotes and invitations to bid in excess of ten thousand dollars (\$10,000.00). The local preference as set forth in this section shall only be given to local responsible and responsive bidders who have a physical business address located and operating within Lancaster County for a minimum of six (6) months prior to the solicitation of quotes and/or bids, and who have met all other requirements of the solicitations of written quotes or the invitation to bid, including, without limitation, payment of all duly assessed state and local taxes. If state or federal guidelines prohibit or otherwise limit local preference, then the county shall not use local preference in awarding the contract. If there are multiple responsible and responsive bidders who meet the local preference guidelines as set forth in the section, the county shall use standard procurement practice and procedure as set forth in the article to determine the priority of selection. The local preference as set forth in this section does not waive or otherwise abrogate the county's unqualified right to reject any and all bids or proposals or accept such bids or proposals, as appears in the county's own best interest.

(Ord. No. 1363, § 3, 8-10-2015)

Sec. 2-265. - Authority to contract auditing services.

County council must approve all contracts for auditing services.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-266. - Procurement procedures exemptions.

The following specific supplies or services are exempt from the procurement procedures:

- (a) Published books, periodicals, pamphlets, DVDs and other media;
- (b) Professional dues, membership fees and seminar registration fees;
- (c) Utilities including gas, electricity, water, and sewer;
- (d) Postage stamps and postal fees;
- (e) Travel;
- (f) Bank payments;
- (g) Legal services, subject to the approval of the county administrator; and
- (h) Brand name fleet operations equipment and services. (i)
Maintenance Agreements

(Ord. No. 1076, § 1, 12-13-10; Ord. No. 1326, § 1, 3-9-2015)

DIVISION 4. - PURCHASING CARD PROGRAM

Sec. 2-267. - Purchasing card program.

The procurement officer is authorized to establish a purchasing card program ("P-Card" or "P-Card Program"). The P-Card is a VISA charge card issued to county employees to make small value purchases of supplies, materials, equipment, and services for county business use. The objective of the program is to streamline payments by eliminating the administrative burdens and costs associated with traditional methods of payment. The use of the P-Card is intended to eliminate the need for issuing small dollar purchase orders and petty cash. The P-Card Program also provides a simplified purchasing and payment process and provides for an expedited delivery of goods. The P-Card is issued by a vendor under the umbrella of a contract awarded by the State Materials Management Office which permits county governments to participate in the program. Use of the P-Card is subject to the small purchase procedures established in this article, unless otherwise authorized.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-268. - P-Card administration and responsibilities.

- (a) The procurement officer will serve as the P-Card administrators and the liaisons between accounts payable, the issuing bank, and county entities.
- (b) The county's accounts payable office shall reconcile and ensure transactions are paid in accordance with the requirements of this division and the P-Card Program.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-269. - Recordkeeping.

Department heads and supervisors are responsible for:

- (a) Recordkeeping;
- (b) The monthly transactions including obtaining and submitting receipts for the purchases with the monthly statement;
- (c) Determining that the purchases are reasonable;
- (d) Approving the billing statement;
- (e) Maintaining knowledge of the P-Card policy and procedures;
- (f) Requesting P-Cards for employees under their supervision;
- (g) Notifying the P-Card administrator when a cardholder resigns, transfers, or is terminated from employment;
- (h) Monitoring transactions and card activity to ensure that all purchases are for legitimate county business use;
- (i) Reviewing all documentation and ensuring original receipts are sent to accounts payable in a timely manner; and
- (j) Approving the monthly transactions for card holders within their department using P-Card software from the issuing bank.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-270. - Cardholder responsibilities.

Persons who are issued a P-Card must use the P-Card solely for legitimate county business purposes. Cardholders may make purchases of two thousand five hundred dollars (\$2500) or less without obtaining competitive quotes. Certain types of vendors may be blocked from use. Misuse of the card subjects the cardholder to disciplinary action. Cardholders must:

- (a) Maintain the P-Card in a secure location;
- (b) Prevent the use of the P-Card by anyone other than the approved cardholder;
- (c) Maintain knowledge of the P-Card policy and internal policies and procedures;
- (d) Ensure all purchases are allowable purchases according to the County's P-Card policy;
- (e) Ensure all purchases comply with purchasing requirements of the Lancaster County Procurement Code;
- (f) Obtain "best value" for the county when making any purchase;
- (g) Approve monthly transactions using P-Card software from the issuing bank; and
- (h) Immediately investigate any discrepancies and resolve the discrepancy in a timely manner to ensure that the county is not assessed a late fee for non-payment of a charge.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-271. - Accounts payable responsibilities.

The accounts payable specialist is responsible for reviewing signed supporting documents submitted from county entities and reconciling documents with the monthly bill. The accounts payable specialist must review the credits and returns on the P-Card statements with the supporting documentation submitted by the county entity to assess the validity and completeness of the transaction. Any lack of documentation or support must be communicated immediately to the county entity and resolved in a timely manner. Payments must be made in a timely manner.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-272. - P-Card administrator.

The procurement officer is designated as the P-Card administrators and is responsible for the overall P-Card program. Responsibilities of the P-Card administrator include:

- (a) Acting as the county's liaison with the issuing bank;
- (b) Utilizing the P-Card software from the issuing bank;
- (c) Reviewing department approved applications for completeness of required information;
- (d) Submitting completed applications to the issuing bank and receiving P-Cards from it;
- (e) Training supervisors and cardholders before releasing P-Cards;
- (f) Ensuring each cardholder signs the cardholder agreement, signifying agreement with the terms of the P-Card Program;
- (g) Handling disputed charges and discrepancies not resolved by the cardholder or supervisor;
- (h) Submitting information to the issuing bank; to deactivate P- Cards;
- (i) Reviewing usage of P-Card data for appropriateness;

- (j) Ensuring lost or stolen cards have been blocked by the issuing bank; and
- (k) Assisting supervisors with erroneous declines and emergency transactions.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-273. - Issuance of P-Cards.

The P-Card Administrator issues P-Cards to authorized personnel who have signed the P-Card agreement that covers the code of conduct and the terms and conditions of the program. The issuance of a P-Card to an employee is strictly prohibited if the employee has not signed the agreement. The P-Card administrator shall maintain a copy of the signed P-Card agreement and shall forward a copy to human resources and the accounts payable specialist. The P-Card administrator must maintain the following information: (i) name of the employee issued a P-card; (ii) date of issue; (iii) card number; and (iv) limits. Access to the P-Card data base is restricted to authorized personnel and any misuse is strictly prohibited and shall subject the employee to immediate termination and possible prosecution. The P-Card is the property of the County and must be retained in a secure location.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-274. - Authority to use P-Card.

Only the employee issued the P-Card is authorized to use it. Delegating the use of the P-Card to another employee or person is strictly prohibited and may result in the termination of employment.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-275. - P-Card cancellation.

A P-card must be immediately cancelled when an employee terminates employment with the county or assumes another position that does not require the use of the P-Card. The employee's supervisor is responsible for immediately notifying the P-Card administrator. If an employee is taking a leave of absence, then the P-Card shall be placed in an inactive status during the leave and may only be reactivated when the employee's return to work is confirmed in writing by the employee's department head or supervisor.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-276. - P-Card dollar limits.

Each P-Card has a single transaction limit of two thousand five hundred dollars (\$2500). Requests to raise the limit must be submitted in writing to the P-card administrator. For purchases in amounts greater than the single transaction limit, a purchase order must be processed. Transaction limits more than two thousand five hundred dollars (\$2500) must be approved by the county administrator and finance director. As used in this section, "single transaction limit" means one or more items purchased from the same vendor at the same time on the same day. Any intentional circumvention of the single transaction limit is strictly prohibited and may result in the immediate termination of employment.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-277. - P-Card purchases.

(a) A P-Card may be used to purchase:

- (1) Airline tickets;
- (2) Hotel accommodations for travel;
- (3) Car rental for travel;
- (4) Registrations for conferences;
- (5) Ground transportation for travel;
- (6) Facsimile charges when traveling;
- (7) Business meals; must attach agenda or meeting minutes to receipt;
- (8) Authorized memberships or subscriptions; and
- (9) Supplies.

(b) In addition to the goods and services listed in subsection (a), the P-Card administrator may designate other goods and services that may be purchased with a P-Card.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-278. - Prohibited purchases.

(a) The following is a list of charges that are not allowed as purchases using the P-Card:

- (1) Personal purchases of any kind;
- (2) Cash advances;
- (3) Gift cards, calling cards, pre-paid cards of any type or similar products;
- (4) Employee travel expenses such as meals and transportation (except airline tickets);
- (5) Entertainment, including in-room movies;
- (6) Alcoholic beverages;
- (7) Tobacco products;
- (8) Fuel (maintenance to be arranged by the county garage department);
- (9) Professional services;
- (10) Food for consumption by county employees; and
- (11) Computers, unless purchased by IT.
- (12) Services conducted on county owned property.

(b) In addition to the goods and services listed in subsection (a), the P-Card administrator may designate other goods and services that may not be purchased with a P-Card.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-279. - Documentation.

All charges on a P-Card must be documented with an original receipt from the vendor as support for the transaction. Receipts must include at a minimum: (i) vendor name; (ii) amount of the purchase; (iii) date of the transaction; and (iv) a description of the items purchased. Receipts that do not include this minimum documentation are not considered acceptable.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-280. - P-Card statements.

A copy of a cardholder's P-Card statement shall be sent directly to the cardholder's business address. The master copy of P-Card statements shall be sent to accounts payable by the issuing bank and shall contain a detailed listing of charges by cardholder name and department.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-281. - Deadlines.

Cardholder must approve transactions by 12:00PM on the first (1st) day of the following month. The accounts payable specialist must receive the cardholder's statement and supporting documentation by 12:00PM the seventh (7th) day of the following month. If the information received is incomplete, a notice shall be sent to the cardholder. Failure of the cardholder to respond to the notice by the fifteenth (15th) calendar day, then the cardholder's account shall be deactivated and no more transactions shall be allowed.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-282. - Lost cards.

Cardholders must immediately notify the issuing bank and the P-Card Administrator if the cardholder's P-Card is lost or stolen.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-283. - Card violations.

(a) The following is a list of violations of the P-Card Program:

- (1) Prohibited purchases (see section 2-277);
- (2) Unacceptable documentation (see section 2-280);
- (3) Missed deadlines for submitting the P-Card documentation (see section 2-276);
- (4) Unresolved credits or disputes; and
- (5) Intentional circumvention of the authorized limits, such as splitting transactions to avoid the single transaction limit (see section 2-276).

(b) Repeated violations of the P-Card program's requirements, including the violations listed in subsection (a), may result in the deactivation of a P-Card and discipline including possible termination of employment.

(Ord. No. 1076, § 1, 12-13-10)

DIVISION 5. - RISK MANAGEMENT

Sec. 2-284. - Bid security.

- (a) Bid security is required for all competitive sealed bidding for construction contracts in excess of fifty thousand dollars (\$50,000.00) and other contracts as may be prescribed by the procurement officer. Bid security shall be a certified cashier's check or a bond provided by a surety company licensed in South Carolina with an "A" minimum rating of performance as stated in the most current publication of "Best Key Rating Guide, Property Liability," which company shows a financial strength rating of at least five (5) times that portion of the contract price that does not include operations, maintenance, and finance. Each bond shall be accompanied by a "power of attorney" authorizing the attorney in fact to bind the surety.
- (b) Bid security must be in an amount equal to at least five (5) percent of the amount of the bid at a minimum.
- (c) When the invitation for bids requires security, noncompliance requires that the bid be rejected except that a bidder who fails to provide bid security in the proper amount or a bid bond with the proper rating must be given one working day from bid opening to cure the deficiencies. If the bidder is unable to cure these deficiencies within one working day of bid opening, the bid must be rejected.
- (d) After the bids are opened, they must be irrevocable for the period specified in the invitation for bids.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-285. - Contract performance payment bonds.

- (a) The following bonds or security must be delivered to the county and become binding on the parties upon the execution of the contract for construction:
 - (1) A performance bond satisfactory to the county, executed by a surety company meeting the criteria established in section 2-284, or otherwise secured in a manner satisfactory to the county, in an amount equal to one hundred percent of the portion of the contract price that does not include the cost of operation, maintenance, and finance;
 - (2) A payment bond satisfactory to the county, executed by a surety company meeting the criteria established in Section 2-284, or otherwise secured in a manner satisfactory to the county, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the construction work provided for in the contract. The bond must be in an amount equal to one hundred percent of the portion of the contract price that does not include the cost of operation, maintenance, and finance; and
 - (3) in the case of a construction contract valued at fifty thousand dollars (\$50,000.00) or less, the county may waive the requirements of (1) and (2) above;
- (b) The county may require a performance bond or other security in addition to the security listed in subsection (a).

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-286. - Insurance requirements.

The county may require a vendor or contractor performing services under contract with the county to file with the procurement officer a certificate of insurance evidencing workers compensation coverage, general liability coverage, errors and omissions coverage or other types of insurance coverage as may be appropriate for the type of goods or services being procured by the county. The amount and scope of any insurance coverage for a specific contract shall be determined by the procurement officer after consultation with the county's risk management official.

(Ord. No. 1076, § 1, 12-13-10)

DIVISION 6. - SMALL AND MINORITY BUSINESS ENTERPRISES

Sec. 2-287. - Participation in procurements.

The procurement officer shall facilitate the participation of small business enterprises (SBE) and minority business enterprises (MBE) in the procurement transactions of the county. The procurement officer shall assist any SBE or MBE in understanding county solicitations.

(Ord. No. 1076, § 1, 12-13-10)

DIVISION 7. - SURPLUS PROPERTY

Sec. 2-288. - Disposal of personal property.

- (a) All items of personal property belonging to the county may be declared surplus property to be sold, transferred, traded, or placed in storage by the county. Each department shall report all surplus property to the procurement officer on an annual basis.
- (b) Surplus personal property shall be disposed of in the following manner:
 - (1) County personal property may be sold by public auction or by competitive sealed bidding to the highest bidder. The sale of property not in actual public use shall be conducted by the procurement officer. Sales may be held on an as needed basis. The procurement officer shall deposit the proceeds from the sales, less the expense of the sales, in the fund from which the item was originally paid from.
 - (2) Surplus supplies, inventory, or capital assets may be transferred between departments. The procurement officer must document all transfers of assets and give proper documentation to the accounting office.
 - (3) Certain personal property may be held in storage until an appropriate time for disposal in accordance with this article.
 - (4) Certain property deemed by the procurement officer and the using department to be of no value and not suitable for disposal through the above methods, may be dismantled and disposed of permanently and in an appropriate fashion.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-289. - Disposal of real property.

- (a) Surplus real property is property owned by the county and declared surplus by the county council. The county administrator may make recommendations to the county council. Disposal of property declared surplus by the county council shall be disposed of in accordance with this section.
- (b) All surplus real property must be appraised to determine its fair market value.
- (c) The sale of any surplus real property must be approved by county council by passage of an ordinance and with a public hearing held prior to final approval of the ordinance.
- (d) County council shall determine the method of disposal of the surplus real property in the ordinance authorizing the sale of the property.

(Ord. No. 1076, § 1, 12-13-10)

DIVISION 8. - LEGAL AND CONTRACTUAL REMEDIES

Sec. 2-290. - Right to protest; exclusive remedy.

- (a) A prospective bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the solicitation of a contract shall protest to the procurement officer in the manner stated in Section 2-291 within ten (10) days of the date of issuance of the invitation for bids or requests for proposals or other solicitation documents, whichever is applicable, or any amendment to it, if the amendment is at issue. An invitation for bids or request for proposals or other solicitation document, not including an amendment to it, is considered to have been issued on the date it is posted on the county's website.
- (b) Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall protest to the procurement officer in the manner stated in section 2-291 within ten (10) days of the date of award or notification of intent to award, whichever is earlier, is posted in accordance with this article; except that a matter that could have been raised pursuant to subsection (a) as a protest of the solicitation may not be raised as a protest of the award or intended award of a contract.
- (c) The rights and remedies granted in this division to bidders, offerors, contractors, or subcontractors, either actual or prospective, are to the exclusion of all other rights and remedies of the bidders, offerors, contractors, or subcontractors against the county.
- (d) The rights and remedies granted by this section are not available for contracts with an actual or potential value of up to twenty-five thousand dollars (\$25,000.00).

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-291. - Protest procedure.

- (a) A protest pursuant to section 2-290 must be in writing, filed with the procurement officer, and set forth the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided. The protest must be received by the procurement officer within the time provided in subsection 2-290(a).
- (b) A protest pursuant to subsection 2-290(b) must be in writing and must be received by the procurement officer within the time limits established by subsection 2-290(b). At any time after filing a protest, but no later than ten (10) days after the date of award or notification of intent to award, whichever is earlier, is posted in accordance with this article, a protestant may amend a protest that was first submitted within the time limits established by subsection 2-290(b). A protest, including amendments, must set forth both the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-292. - Attempt to settle.

Before commencement of an administrative review as provided in section 2-293, the procurement officer or designee may attempt to settle by mutual agreement a protest of an aggrieved bidder, offeror, contractor, or subcontractor, actual or prospective, concerning the solicitation or award of the contract. The procurement officer or designee has the authority to approve any settlement reached by mutual agreement.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-293. - Administrative review; decision; and finality.

- (a) If in the opinion of the procurement officer, after reasonable attempt, a protest cannot be settled by mutual agreement, the procurement officer shall immediately notify the county administrator who shall conduct promptly an administrative review. The county administrator or designee shall commence the administrative review no later than fifteen (15) business days after the deadline for receipt of a protest has expired and shall issue a decision in writing within ten (10) days of completion of the review. The decision must state the reasons for the action taken.
- (b) A copy of the decision under subsection (a) must be mailed or otherwise furnished immediately to the protestant and other party intervening. The procurement officer or designee shall post a copy of the decision at a date and place communicated to all parties participating in the administrative review, and the posted decision must indicate the date of posting on its face.
- (c) A decision pursuant to subsection (a) is final and conclusive, unless fraudulent.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-294. - Automatic stay.

In the event of a timely protest pursuant to section 2-290, the county shall not proceed further with the solicitation or award of the contract until ten (10) days after a decision is posted by the procurement officer except that solicitation or award of a protested contract is not stayed if the procurement officer, after consultation with the head of the using department or agency, makes a written determination that the solicitation or award of the contract without further delay is necessary to protect the best interests of the county.

(Ord. No. 1076, § 1, 12-13-10)

Sec. 2-295. - Procurement officer address.

Notice of the address of the procurement officer must be included in every notice of an intended award and in every invitation for bids, request for proposals, or other type solicitation.

(Ord. No. 1076, § 1, 12-13-10)

DIVISION 9. - REAL PROPERTY ACQUISITION

Sec. 2-296. - Acquisition of real property.

All transactions involving real property, made for or by the county, must be approved by county council by passage of a resolution or ordinance to that effect. If the transaction is for the purchase of real property the resolution or ordinance must include the purchase price. Prior to acting on the resolution or ordinance, county council shall be provided a phase I environmental assessment and an appraisal completed by an MAI certified appraiser. For right-of-ways and easements, a phase I environmental assessment is not required and a valuation by the county tax assessor's office may be provided to county council in lieu of an MAI appraisal.

(Ord. No. 1099, § 1, 6-27-11)