

Title 3

ADMINISTRATIVE CODE

Chapters:

- 3.01 COUNTY ADMINISTRATIVE CODE GENERALLY**
- 3.02 COUNTY BUDGET PROCEDURE AND RULES. [Reserved]**
- 3.03 COUNTY LEGISLATIVE ENACTMENT PROCEDURE AND RULES.**
- 3.04 COUNTY PERSONNEL MANAGEMENT.**
- 3.05 COUNTY PROCUREMENT PROCEDURES AND RULES.**

Chapter 3.01

COUNTY ADMINISTRATIVE CODE GENERALLY

Sections:

3.01.01 County Manager to Propose Rules.

3.01.02 Approved Rules become Administrative Code.

Section 3.01.01 County Manager to Propose Rules.

The County Manager shall have authority to propose rules for the fair and efficient administration of county business. These rules shall be approved by the County Legislative Body before taking effect.

Section 3.01.02 Approved Rules become Administrative Code.

Rules proposed by the County Manager and approved by the County Legislative Body shall be collectively known as the Wasatch County Administrative Code.

Chapter 3.02

COUNTY BUDGET PROCEDURE AND RULES. [Reserved]

Chapter 3.03

COUNTY LEGISLATIVE ENACTMENT PROCEDURE AND RULES.

Sections:

- 3.03.01** **Ordinances, Effective Dates, Adoption, and Publication**
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Section 3.03.01 Ordinances, Effective Dates, Adoption, and Publication

- (1) The enacting clause of all ordinances of the County Legislative Body shall be as follows: "The County Legislative Body of Wasatch County ordains as follows:"
- (2) Every ordinance shall be signed by the chair of the County Legislative Body and attested by the County Clerk. On the passage of all ordinances the votes of the several members of the County Legislative Body shall be entered on the minutes, and all ordinances shall be entered at length in the ordinance book.
- (3) Unless otherwise provided in this Code or by state law, no ordinance passed by Wasatch County legislative body may take effect within less than 15 days after its passage.
- (4) Unless otherwise provided in this Code or by state law, the County Legislative Body shall, before the ordinance may take effect:
 - (a) Deposit a copy of the ordinance in the office of the County Clerk; and
 - (b) Publish a short summary of the ordinance, together with a statement that a complete copy of the ordinance is available at the County Clerk's office and with the name of the members voting for and against the ordinance, for at least one publication in:
 - (i) A newspaper published in and having general circulation in the county, if there is one; or
 - (ii) If there is none published in the county, in a newspaper of general circulation within the county; or
 - (c) Post a complete copy of the ordinance in nine public places within the county.
- (5) Ordinances that in the opinion of the County Legislative Body are necessary for the immediate preservation of the peace, health, or safety of the county and the county's inhabitants may, if so provided in the ordinance, take effect immediately upon publication in one issue of a newspaper published in and having general circulation in the County, if there is one, and if there is none published in the County, then immediately after posting at the courthouse door.
- (6) An ordinance may take effect at a later date than provided in this section, if the ordinance so provides.

Section 3.03.02 Wasatch County Code Format

- (1) In addition to the ordinance book maintained by the County Clerk, the County Clerk shall cause a master copy of the County Code to be:
 - (a) maintained in electronic format accessible only by a code administrator and those with designated status as authors; and
 - (b) posted in a read-only format on the County web-site.
- (2) Copies of the County Code shall be available for sale at the office of the County Clerk at a price fixed by the County Legislative Body.

Section 3.03.03 Procedures for Ordinance Enactment Drafting Through First Reading

(1) Drafting Proposed Legislation. Any person, County Council Member, or County Department who desires the County Legislative Body to consider enactment of an ordinance or an amendment to an existing ordinance shall present the proposed ordinance or amendment to the County Clerk in writing and in electronic format.

(2) Submission for Legal and Fiscal Review. Within 5 working days of receiving the proposed ordinance or amendment, the County Clerk shall provide a copy to (a) the Wasatch County Attorney for legal review; and (b) the Wasatch County Auditor to estimate the cost of implementing the proposed ordinance or amendment, if any. Within 60 days from the date of receiving the proposed ordinance or amendment, the County Attorney and the County Auditor shall submit to the County Legislative Body a written recommendation regarding legal and fiscal implications of the proposed ordinance or amendment. The time period for review may be expanded for one additional 60 day period upon written explanation by the County Attorney or County Auditor.

(3) Submission for First Reading. Upon completion of both the legal and fiscal recommendations, the County Clerk shall submit the proposed ordinance or amendment to the County Legislative Body for its consideration in a regularly scheduled meeting.

(4) Actions Following First Reading. At the regularly schedule meeting, the County Legislative Body shall cause the proposed ordinance or amendment to be read in its entirety, or may waive the first reading in favor of an oral summary presented by the County Clerk. Following the first reading, the County Legislative Body may:

- (a) Reject the ordinance from further consideration by vote;
- (b) Decline to act on the ordinance;
- (c) Continue its consideration of the matter by vote to allow time for further information to be gathered; or
- (d) Direct the County Clerk by vote to forward the proposed ordinance or amendment to the County Legislative Coordinator for input into the code software program in preparation for second reading.

Section 3.03.04 Procedures for Ordinance Enactment Formatting Through Second Reading

(1) Formatting. Upon direction from the County Legislative Body, the County Clerk shall forward the proposed ordinance or amendment to the County Legislative Coordinator for input into the code software program in preparation for second reading. The County Legislative Coordinator may grant to County Departments “author” status thereby allowing Departments to input proposed ordinances or amendments into the code software program in preparation for second reading.

(2) Submission to County Legislative Body. Within 10 working days of receiving the proposed ordinance or amendment, the County Legislative Coordinator shall cause a seven formatted copies of the proposed ordinance or amendment to the County Clerk for distribution to the County Legislative Body. These copies shall be marked in bold type: “**FORMATTED— PREPARED FOR SECOND READING.**”

(3) Second Reading. After receiving the proposed ordinance or amendment, the County Clerk shall cause the same to be presented to the County Legislative Body at a regularly scheduled meeting for second reading and consideration. At the meeting, the County Legislative Body shall cause the proposed ordinance to be read in its entirety, or may waive second reading in favor of a summary of its provisions. After second reading, the County Legislative Body may:

- (a) Reject the ordinance from further consideration by vote.

- (b) Adopt the ordinance;
- (c) Adopt the ordinance with amendments; or
- (d) Continue the matter for further consideration, information, or amendment.

Section 3.03.05 Procedures for Ordinance Enactment— Approval and Publication

- (1) After the County Legislative Body approves a proposed ordinance or amendment, the County Clerk shall provide the ordinance or amendment to the County Legislative Coordinator who shall:
- (a) Cause any changes to the text approved by the County Legislative Body to be made to the formatted text;
 - (b) Cause a short summary of the ordinance to be published or posted as required by these legislative procedures and state law;
 - (c) Upon the effective date of the ordinance or amendment, administratively publish the same by (1) publishing the text of the ordinance or amendment into the electronic master copy of the Code; and (2) publishing the ordinance or amendment on the County web-site;
 - (d) Upon the effective date of the ordinance or amendment, deposit a copy of the ordinance or amendment in the office of the County Clerk; and
 - (e) Within 10 days of the effective date of the ordinance or amendment, distribute to every County Department a hard-copy of the ordinance or amendment for insertion into the Department ordinance books.

Section 3.03.06 Exceptions to Procedures for Ordinance Enactment

(1) **Exceptions Generally.** The County Legislative Body shall have authority to disregard any one or all of the foregoing procedures where (a) in the opinion of the County Legislative Body enactment of an ordinance is necessary for the immediate preservation of the peace, health, or safety of the county and the county's inhabitants; or (b) the County Legislative Body desires to enact a temporary zoning ordinance in accordance with state law.

(2) **Exceptions Relating to General Plan, Zoning Map and Wasatch County Code Title 16, Planning, Zoning and Development Code.** Amendments to the General Plan, Zoning Map, and Zoning and Development Ordinance shall be exempt from the procedures outlined in Section 3.03.03 and 3.03.04, but shall nevertheless require the following

- (a) After submission of a proposed amendment to the Wasatch County Planning Commission, the Planning Director shall provide a copy of the proposed amendment to (a) the Wasatch County Attorney for legal review; and (b) the Wasatch County Auditor to estimate the cost of implementing the proposed amendment, if any. Within 10 days from the date of receiving the proposed amendment, the County Attorney and the County Auditor shall submit to the Wasatch County Planning Commission a written recommendation regarding legal and fiscal implications of the proposed ordinance or amendment. The time period for review may be expanded for one additional 10 day period upon written explanation by the County Attorney or County Auditor.
- (b) Upon the Wasatch County Planning Commission's recommendation to approve a proposed amendment, the County Clerk shall forward the proposed amendment to the County Legislative Coordinator for input into the code software program in preparation for consideration by the Wasatch County Council.

(Ord. 2003-20, Amended, 09/10/2003; 2003-20, Amended, 09/10/2003. An emergency ordinance to allow exceptions to Section 3.06.06 to legislative procedures to conform to Title 16, the Development Code.)

Chapter 3.04

COUNTY PERSONNEL MANAGEMENT.

Sections:

- 3.04.01 Purpose.**
- 3.04.02 Definitions.**
- 3.04.03 Career Service Council.**
- 3.04.04 Office of Personnel Management.**
- 3.04.05 Director of Personnel Management.**
- 3.04.06 Personnel Committee.**

Section 3.04.01 Purpose.

(1) It is the purpose of the County Legislative Body to provide, in accordance with the County Personnel Management Act, Chapter 33 of Title 17, Utah Code Annotated, for creation of a Career Service Council, an Office of Personnel Management, and a Personnel Committee.

(2) Nothing contained in this Chapter shall be deemed to change any obligation relative to deputy sheriffs in accordance with the Deputy Sheriffs Merit System, Chapter 30 of Title 17, Utah Code Annotated, to firemen in accordance with the Firemen's Civil Service Commission, Chapter 28 of Title 17, Utah Code Annotated, or to local health departments in accordance with the Local Health Department Act, Chapter 1 of Title 26A, Utah Code Annotated.

Section 3.04.02 Definitions.

- (1) “**Act**” means the County Personnel Management Act set forth in Title 17, Chapter 33 of the Utah Code, as amended.
- (2) “**Committee**” means the County Personnel Committee.
- (3) “**Council**” means the Career Service Council.
- (4) “**Director**” means of the duly appointed director of the Office of Personnel Management.

Section 3.04.03 Career Service Council.

(1) **Establishment and Membership.** There is hereby created a bi-partisan Career Service Council consisting of three regular members appointed by the County Manager with the advice and consent of the County Legislative Body. The County Manager may appoint alternate members of the Council to perform the duties set forth in the Act. Members of the Council shall meet the qualifications established by the Act and shall be persons in sympathy with the application of merit principles to public employment.

(2) **Powers and Duties.** The Council shall have all powers and duties and shall perform all functions assigned to it under the Act.

(3) **Term of Office.** Each regular member of the Council shall be appointed for a three-year term. The term of one regular member shall expire each year. Each alternate member of the Council shall be appointed for a one-year term.

(4) **Removal and Vacancies.** Members of the Council shall be removed and vacancies on the Council shall be filled in a manner consistent with the requirements of the Act.

(5) Career Service Council Procedures.

- (a) **Meetings.** The Career Service Council shall meet as often as is necessary to perform its duties

and functions set forth in the Act. The Chairman shall prepare and distribute agendas for and minutes of each meeting to members of the Council.

(b) Quorum. Two or more members of the Council shall constitute a quorum. The vote of a majority of the members of the Council present at a meeting at which a quorum is present is necessary to act or render any decision.

(c) Chairperson. The Council shall elect a Chair from its members to serve for a period of one year.

(d) Rules, Regulations, and By-laws. The Council may make and enforce such rules, regulations, and by-laws for the government of itself, the preservation of order, and the transaction of its business. The County Legislative Body shall approve all such rules, regulations, and by-laws before they may take effect.

Section 3.04.04 Office of Personnel Management.

(1) Establishment. There is hereby created an Office of Personnel Management, to be administered by a Director of Personnel Management.

(2) Powers and Duties. The Office of Personnel Management shall perform all duties and functions prescribed to it in the Act.

Section 3.04.05 Director of Personnel Management.

(1) Appointment. The Director of Personnel Management shall be appointed in a manner consistent with the Act.

(2) Powers and Duties. The Director shall have the powers and duties and shall perform all functions set forth in the Act, including the authority to

(a) manage all employee benefits, in cooperation with the County Auditor, and with the advice and recommendation of the Personnel Committee;

(b) recommend to the County Manager rules personnel policies and rules for the County, which rules and policies shall be approved by the County Legislative Body, and collectively referred to as the Wasatch County Personnel Manual; and

(c) serve as an ex officio member of the Personnel Committee and perform all duties assigned to the Director in that capacity.

(3) Term of Office. The position of Director of Personnel Management shall be a merit position. If the position of Director becomes vacant for any reason, the County Legislative Body shall appoint a new Director in a manner consistent with the requirements of the Act.

Section 3.04.06 Personnel Committee.

(1) Establishment and Membership. There is hereby established the Personnel Committee consisting of the following members appointed by the County Manager with the advice and consent of the County Legislative Body:

(a) Representing Elected Officials: One member from the county attorney's office, one member from the sheriff's office, one member only, to represent the 5 offices of clerk, assessor, treasurer, recorder and surveyor, and one member from the auditor's office;

(b) Representing County Departments: One member from the department of health, and one member from the department of public works;

(c) Representing County Employees: One county employee from any county department; and

(d) Ex officio, Non-voting Members: One member of the County Legislative Body, the County Manager, and the Director of the Office of Personnel Management, provided that the Director shall be

permitted to vote on any matter before the Committee when necessary to break a tie vote.

(2) Powers and Duties. The Personnel Committee shall serve as an advisory body to the Office of Personnel Management, the Director thereof, and the County Manager. As such, the Committee shall consider and make recommendations regarding:

- (a) the management and alterations of all employee benefits;
- (b) the management and administration of the Office of Personnel Management;
- (c) the administration and activities of the merit system and personnel functions within the county;
- (d) the enactment, amendment or repeal of county-wide personnel policies and procedures; and
- (e) such other personnel issues submitted for consideration by the Director.

(3) Terms of Office. Except for ex officio members who shall serve for their regular term of office or employment, members of the Committee shall be appointed for three-year terms.

(4) Removal and Vacancies. With the exception of ex officio members, the County Manager may remove any member of the Committee for cause if written charges are filed against the member with the Manager. The Manager shall provide the committee member with a public hearing if the member requests such a hearing. The Manager, with the advice and consent of the County Legislative Body shall fill any vacancy on the Committee. The person appointed to fill the vacancy shall serve for the unexpired term of the member whose position is vacant.

(5) Personnel Committee Procedures.

(a) Meetings. The Committee shall meet at the call of the Chair or the Director, or at the call of a majority of its members. The Director shall distribute agendas for and minutes of each Committee meeting to the members.

(b) Quorum. Four voting members of the Committee shall constitute a quorum. The vote of at least four of the members of the Committee is necessary to render a decision or to take any action.

(c) Chairperson. The Committee shall elect from its members a Chair and Vice-Chair to serve for a period of one year.

(d) Rules, Regulations, and By-Laws. The Committee may make and enforce such rules, regulations, and by-laws for the government of itself, the preservation of order, and the transaction of its business. The County Legislative Body shall approve all such rules, regulations, and by-laws before they may take effect.

Chapter 3.05

COUNTY PROCUREMENT PROCEDURES AND RULES.

Sections:

- 3.05.01** **Definitions.**
- 3.05.02** **Authority of Purchasing Agent.**
- 3.05.03** **Purchases and Contracts Requiring Competitive Bidding.**
- 3.05.04** **Purchases and Contracts Not Requiring Competitive Bids (Negotiated Purchases).**
- 3.05.05** **Emergency Procurement.**
- 3.05.06** **Contracts for Consultant Services.**
- 3.05.07** **Additional Requirements for Repair, Alteration or Construction of Public Buildings.**
- 3.05.08** **Procedures for Solicitation and Award of Purchase or Contract.**
- 3.05.09** **Protests.**
- 3.05.10** **Procurement Appeals Board.**
- 3.05.11** **Applicability of Procurement Rules and Procedures.**
- 3.05.12** **Procurement of Recycled Goods.**

Section 3.05.01 Definitions.

- (1) “Bilateral Contract” means a written agreement between the County and a provider of goods or services which contains terms which differ from the terms and conditions contained in the county’s standard purchase order. Prior to submission of a bilateral contract to the County Legislative Body for approval and/or ratification, the contract shall be reviewed and approved by the organization acquiring the property or services, by the county attorney, and by such other agencies as may be specified by the purchasing agent.
- (2) “Blanket Order” means a contract under which a vendor agrees to provide goods or services to the county or a county department on a demand basis for the period covered or until the dollar amount specified is exhausted.
- (3) “Consultant” means a person, firm, company or corporation having professional, special, or technical skill, knowledge, education, training, or other expertise. Consultant includes but is not limited to engineers, architects, accountants, and attorneys.
- (4) “Emergency Condition” means a situation which creates a threat to public health, welfare or safety such as may arise by reason of floods, epidemics, riots, equipment failures, earthquakes, or such other reason as may be proclaimed by the County Executive, and ratified by the County Legislative Body. The existence of such conditions creates an immediate and serious need for supplies, materials, services, equipment or construction that cannot be met through normal procurement methods, and the lack of such supplies, materials, services, equipment or construction would seriously threaten the functioning of county government, the preservation or protection of property, or the health, welfare or safety of any person. An emergency condition may result from both foreseeable and unforeseeable circumstances and events.
- (5) “Purchase Order” means a binding contract which is used to accept the offer of a vendor to provide goods or services.
- (6) “Responsible Bidder” is a bidder whose reputation, past performance, and business and financial capabilities are such that the bidder would be judged by appropriate authority to be capable of satisfying the County’s needs for a specific purchase order or contract.
- (7) “Responsive Bidder” means a bidder whose bid does not substantially vary from the specifications and terms set out in the invitation for bids.
- (8) “Services” means the furnishing of labor, time, or effort by a contractor, not involving the delivery

of a specific end product other than reports which are merely incidental to the required performance. It does not include employment agreements or collective bargaining agreements.

Section 3.05.02 Authority of Purchasing Agent.

(1) The purchasing agent shall, under the direction and supervision of the County Executive and in accordance with this chapter,

- (a) solicit bids and negotiate for the purchase of or contract for all supplies, materials, services, equipment, construction or labor required by the County in accordance with this chapter;
- (b) submit all contracts and purchases so negotiated to the County Legislative Body for approval and/or ratification as required by this chapter;
- (c) keep an accurate and complete record of all purchases and a detailed disposition of the same as required by this chapter; and
- (d) whenever required by the County Legislative Body, make a complete and detailed report to the County Legislative Body.

These duties of the purchasing agent, however, shall not extend to duties concerning elections imposed upon the county clerk, or duties imposed on the county sheriff under section 17-22-8 of the Utah Code, as amended or replaced.

(2) The County Manager or a deputy county auditor shall act as the purchasing agent for the County. Each organization or department of the County shall submit in writing to the purchasing agent the names of such officers or employees as shall be authorized to sign requests for purchases for such organization. All requests for purchases shall be void unless executed by such certified officers or employees and approved by the purchasing agent.

(3) The purchasing agent shall have authority to dispose of surplus, obsolete, or unusable personal property owned by the County and valued at \$1,500.00 or less. In disposing of such property, the purchasing agent shall consider the best interests of the County and shall apply good property management techniques.

(4) The purchasing agent shall have authority to debar or to suspend a person for cause from consideration for award of a purchase or contract in accordance with the terms of Title 63, Chapter 56, Section 48 of the Utah Code, as amended or replaced. The purchasing agent's decision to debar or to suspend a person shall be in writing and shall be appealable to the Procurement Appeals Board within 60 days from the date of the decision.

(5) The purchasing agent shall from time to time recommend changes or amendments to these procurement procedures and rules.

Section 3.05.03 Purchases and Contracts Requiring Competitive Bidding.

(1) **General Rule.** Except as otherwise provided in this chapter, all purchases and contracts shall be made on a competitive bid basis to the maximum practicable extent.

(2) **Contracts and Purchase Orders In Excess of \$10,000.00.** Except as otherwise provided in this chapter, all county purchase orders and contracts involving amounts in excess of \$10,000.00, for labor and services, or for the purchase, lease or sale of personal property, materials, equipment, or supplies, shall be let by competitive solicitation of sealed bids after advertisement, to the lowest responsible and responsive bidder or, in the appropriate instance, to the highest responsible and responsive bidder, depending on whether the County is to expend or to receive the money.

(3) **Contracts and Purchase Orders for \$10,000.00 or Less.** Except as otherwise provided in this chapter, all county purchase orders and other contracts involving amounts equal to \$10,000.00 or less, but in excess of \$700.00, for labor and services, or for the purchase, lease or sale of personal property, materials, equipment, or supplies shall be let in the open market in a manner calculated to insure the best

interests of the public, and after solicitation of bids by mail, telephone, or otherwise. All bids in excess of \$5,000.00 shall be in writing. The purchasing agent or his designee shall solicit bids, if possible, from at least three qualified vendors.

(4) Small Cost Blanket Orders. Purchases of repetitive miscellaneous items of small dollar amounts may be approved by the purchasing agent as a small cost blanket order. These orders may not exceed a \$700.00 cost per transaction (invoice), up to a maximum of \$5,000.00 per year from the same vendor. Repetitive purchases of noncapitalized items which are acquired through an underlying statewide contract may be set up as blanket orders, provided the contract is approved by the County Legislative Body.

Section 3.05.04 Purchases and Contracts Not Requiring Competitive Bids (Negotiated Purchases).

(1) Negotiated Purchases Permitted. All purchase orders and contracts for personal property or services shall be made by formally advertising or soliciting bids as required in this chapter, except that such purchase orders and contracts may be negotiated by the purchasing agent or others as may be designated by ordinance or by the County Legislative Body without competitive bidding under the following circumstances:

(a) For goods and services made available by any federal, state or local unit of government, or agency thereof, including associations of government of which the county is a member, such as the Utah Association of Counties and the National Association of Counties, where such materials, supplies or services are currently being provided to such governmental entity, agency or association, and were acquired after competitive bidding or were otherwise procured in a manner consistent with the requirements of this purchasing chapter, provided, however, that it may be presumed that acquisitions by the state pursuant to the Title 63, Chapter 56, Utah Procurement Code, of the Utah Code, as amended or replaced, were procured in a manner consistent with this chapter;

(b) Purchases or contracts where the aggregate amount involved does not exceed \$700.00, which purchases or contracts may be awarded by the purchasing agent without ratification by the County Legislative Body;

(c) For medicines or medical supplies which are not generic in nature;

(d) For goods and supplies purchased for authorized resale;

(e) For perishable or nonperishable subsistence supplies;

(f) For technical equipment which the purchasing agent, after consulting with appropriate technical experts, determines to be technical equipment, and as to which the purchasing agent determines that the procurement thereof without advertising is necessary in special situations in order to assure standardization of equipment and interchangeability of parts or supplies, and that such standardization or interchangeability is necessary and in the public interest;

(g) For purchases or contracts as to which the purchasing agent, with the advice of the appropriate departmental personnel and/or consultants, determines that bid prices after advertising once for competitive bids, are not reasonable (either as to all or as to some part of the requirement), exceed the estimated construction cost of a public improvement project by an amount that is unacceptable, or have not been independently arrived at in open competition; provided, that no negotiated purchase or contract may be entered into under this subsection after the rejection of all of the bids received unless notification of the intention to negotiate and reasonable opportunity to negotiate shall have been given by the purchasing agent to each responsive and responsible bidder whose bid conformed to the invitation for bids, and the negotiated price is the lowest negotiated price offered by any such bidder. In any case, the purchasing agent may, at the agent's discretion, elect to readvertise for bids;

(h) In the event bids for a public construction project, including but not limited to the repair,

alteration, or construction of a courthouse, jail, hospital or other public building, exceed available funds and the low responsive and responsible bid does not exceed such funds by more than

twenty-five percent (25%), the purchasing agent or agent's designee is authorized in situations where

time or economic considerations preclude resolicitation of work of a reduced scope, to negotiate an adjustment of the bid price, including changes in the bid requirements, with the low responsive and responsible bidder, in order to bring the bid within the amount of available funds, provided that the final contract amount does not exceed two hundred thousand dollars (\$200,000.00).

(i) An emergency condition will not tolerate the delay incident to the advertising for or soliciting of bids;

(j) The product or service sought by the County can be procured from only one source, manufacturer or distributor, as determined by the County Legislative Body in an open meeting;

(k) By their nature, such purchase orders or other contracts are not adapted to award by competitive bidding, including:

(i) The services of consultants or other individuals possessing a high degree of professional skill where the ability or fitness of the individual plays an important part, which services shall be procured as otherwise set forth in this chapter.

(ii) The publication of legal notices, ordinances, resolutions, and other legal advertising;

(iii) The private placement of bonds, tax anticipation notes, or other instruments of indebtedness;

(iv) Utility services such as water, light, heat, telephone and telegraph;

(v) The purchase of subscriptions, media advertisement, magazines, books, trade journals, reference works, periodicals, examination or testing materials, and similar articles of an educational, informational or instructional nature;

(l) Such other personal property or services as the County Legislative Body may, upon the recommendation of the purchasing agent, determine to be, by their nature, not adapted to award by competitive bidding; and

(m) As otherwise authorized or prescribed by law.

(2) Documentation Requirements. In negotiating purchase orders and other contracts for the above-referenced categories of personal property or services, the purchasing agent must ensure that:

(a) The file contains a memorandum explaining in detail why a purchase order or contract has not been bid and identifying the specific provision of this section which exempts the purchase order or other contract from the bidding requirement.

(b) All aspects of the business transaction are fully resolved, to include price, delivery date, delivery terms, acceptance period, warranties, funding terms, and such other terms and conditions as are appropriate;

(c) The file reflects price or cost analysis or such other evidence of reasonable pricing and other information concerning contract or award matters as will reasonably support the award of the purchase or contract;

(d) All files relating to the award of a purchase or contract based upon an emergency condition reflect that the need was compelling and of unusual urgency; and

(e) All files relating to the award of a contract based upon "sole source" reflect why the contractor or vendor is the only source of supply for the item, and why that particular item is required.

(3) Award of Negotiated Purchases or Contracts

(a) Negotiated Purchases or Contracts In Excess of \$10,000.00. Negotiated purchases or contracts in excess of \$10,000.00 shall be awarded by the County Legislative Body, unless the order or contract arises pursuant to an emergency condition, in which event the purchasing agent may award the purchase or contract subject to the ratification of the County Legislative Body at its next regularly scheduled meeting.

(b) Negotiated Purchases or Contracts for \$10,000.00 or Less. Negotiated purchases or contracts involving amounts of \$10,000.00 or less, but more than \$700.00 shall be awarded by the purchasing agent, and submitted to the County Legislative Body for ratification at the next regularly scheduled meeting.

Section 3.05.05 Emergency Procurement.

(1) Notwithstanding any other provision of this chapter, the purchasing agent or agent's designee, may make or authorize others to make emergency procurements when there exists an emergency condition, provided that such emergency procurements shall be made with such competition as is practicable under the circumstances.

(2) Emergency procurement shall be limited to those supplies, services or construction items necessary to meet the emergency condition. The purchasing agent, or agent's designee, or any organization of the county authorized in writing by the purchasing agent, may make emergency procurements when an emergency condition arises and the need cannot be met through normal procurement methods, provided that, whenever practicable, approval by the purchasing agent or the County Legislative Body shall be obtained prior to the procurement. When prior approval is not reasonably obtainable, the County Legislative Body shall consider the procurement at the earliest possible meeting and either approve or disapprove of the procurement.

(3) The purchasing agent shall select a procurement method sufficient to assure that the required supplies, services or construction items are procured in time to meet the emergency condition. Given this constraint, such competition as is practicable shall be obtained by the purchasing agent.

(4) The purchasing agent shall make a written determination stating the nature of the emergency condition, that the need was compelling and of unusual urgency, and the basis for selecting a particular vendor or contractor. This determination, together with a copy of the purchase order or contract shall be sent promptly to the County Legislative Body. Additionally, the purchasing agent, as soon as practicable, shall prepare a record of each emergency procurement which shall set forth

(a) the vendor's or contractor's name;

(b) the amount and type of the contract; and

(c) a listing of the supplies, materials, services or construction procured under the contract.

Copies of such records shall be public records and shall be submitted promptly to the County Legislative Body.

Section 3.05.06 Contracts for Consultant Services.

(1) **Applicability of This Section.** Unless otherwise stated in these procurement procedures and rules, the standards set forth in this section shall govern contracts for the services of consultants or other individuals possessing a high degree of professional skill where the ability or fitness of the individual plays an important part.

(2) **Request for Proposals.** Unless otherwise provided in this section, the purchasing agent shall, in cooperation with the county department in need of consultant services, develop a request for proposals which defines the scope of the services to be performed, sets forth the time frame within which the services must be completed, identifies other terms and conditions that may be necessary and appropriate, and states a closing date for the submission of written proposals. The purchasing agent shall cause the request for proposals to be published once each week for two consecutive weeks in a newspaper of general circulation in Wasatch County. The purchasing agent may cause the request for proposals to be published in trade journals or may contact and solicit interested persons and firms who may be qualified to provide the requested consultant services. Proposals shall be submitted prior to the closing date.

(3) **Award of Consultant Service Contracts**

(a) **Consultant Service Contracts In Excess of \$5,000.00.** For any consultant service contract in excess of \$5,000.00, the purchasing agent shall present to the County Legislative Body in an open and public meeting all proposals received in response to the request for proposals. The County Legislative Body shall award the contract to the consultant which in the discretion of that body is best able to perform the required consultant services. Upon selecting a consultant, a written contract shall be prepared, approved as to form by the county attorney, and executed by the parties. The County

Legislative Body shall specify the general contractual terms and conditions it deems necessary to protect the interests of the county.

(b) Consultant Service Contracts For \$5,000.00 or Less. The purchasing agent shall have authority to award contracts for consultant services in an amount equal to \$5,000.00 or less, but more than \$700.00, provided that the award is submitted to the County Legislative Body for ratification. The purchasing agent shall award the contract to the consultant who in the discretion of the agent is best able to perform the required consultant services. Upon selecting a consultant, a written contract shall be prepared, approved as to form by the county attorney, and executed by the parties. The county purchasing agent shall specify the general contractual terms and conditions he or she deems necessary to protect the interests of the county.

(4) Intermittent Consultant Services on Ongoing Basis. In those instances where specific consultant services are required on an intermittent but ongoing basis, the County Legislative Body may prequalify persons or firms interested in providing such services, and shall establish eligibility lists from which departments of the county may select consultants on a rotational or other basis providing for equality of treatment. Eligibility lists shall be reapproved by the County Legislative Body every twenty-four (24) months.

(5) Protests. Any person or firm aggrieved by the request for proposals or award of a contract for consultant services may file a protest with the Procurement Board of Appeals.

(6) Cost-Plus Contracts Prohibited. Contracts which compensate the consultant based solely upon a percentage of the cost of the project shall not be permitted.

Section 3.05.07 Additional Requirements for Repair, Alteration or Construction of Public Buildings.

(1) Additional Requirements. The following additional requirements must be met when the County seeks to repair, alter, or construct a courthouse, jail, hospital or other public building to be paid for out of the general funds of the County and where the estimated cost of the project exceeds \$25,000.00.

(2) Plans, Specifications, and Cost Estimate. The county executive shall require plans and specifications to be drawn up and an estimate of cost to be made.

(3) Award of Contract and Required Notice. The contract for the project shall be let to the lowest responsive and responsible bidder after publication of notice at least once each week for three (3) consecutive weeks in a newspaper of general circulation published in the County, or if there is no such newspaper, then after posting for at least twenty (20) days in at least five public places in the County. The county executive may reject any or all bids.

(4) State Procurement Code May Be Adopted. In seeking bids under this section, the County Legislative Body may elect to follow any of the provisions of Title 63, Chapter 56, Utah Procurement Code, as the County Legislative Body in its discretion considers appropriate under the circumstances for specification preparation, source selection, or contract formation. The election may be made on a case-by-case basis, and shall be done in an open meeting of the County Legislative Body. The portions of the Utah Procurement Code elected shall be specified in the minutes of the County Legislative Body.

(5) Required Bonds. The person to whom the contract for the project is awarded shall execute bonds as required under sections 14-1-18 and 63-56-38 of the Utah Code, as amended or replaced.

(6) Notice of Commencement of Project or Improvement. Within 30 days of commencing work on the project, the person to whom the contract for the project is awarded shall file a notice of commencement of the project or improvement with the County Recorder. The notice shall include the

- (a) name, address of the owner of the project,
- (b) name and address of the original contractor,
- (c) name and address of the surety providing any payment bond for the project or improvement, or if none exists, a statement that it was not required,
- (d) name and address of the project, and

(e) legal description of the property on which the project is located.

(7) Approval of Cost-Increase Alterations or Changes In Plans and Specifications.

(a) Approval. Whenever the county executive adopts plans and specifications for the alteration, construction or repair of any public building or other public structure, the plans and specifications may not be altered or changed in any manner that would increase the cost of the project, unless the County Legislative Body, in a regularly scheduled open and public meeting, approves the alteration or change in the plans and specifications. Whenever any change or alteration to the plans and specifications is made, the alteration or change shall be specified in writing, and the resulting increase or decrease in cost shall be established by the county executive according to the provisions of the contract, or established principles in the construction industry.

(b) Delegation of Authority. The County Legislative Body may delegate authority to approve alterations or changes in plans and specifications to a county employee, including the County Executive, the purchasing agent, the county engineer, architect, surveyor, or director of the department responsible for the work. A county employee so authorized may approve alterations or changes only under the following circumstances:

- (i) the alteration or change is within the general scope of the contract;
- (ii) the alteration or change does not increase the cost of the project more than \$5,000.00;
- (iii) the aggregate cost of such alterations or changes do not exceed \$10,000.00;
- (iv) the alteration or change is specified in writing, and the resulting increase or decrease in cost is established by the county executive according to the provisions of the contract, or established principles in the construction industry; and
- (v) the alteration or change is subsequently submitted to the County Legislative Body for its approval.

(c) County Not Liable. Unless the requirements of this section are met, the County is not liable for any extra work resulting from alterations or changes to the plans and specifications for the project.

(8) Approval of Alterations or Changes in Contract for Alteration, Construction, and Repair of Public Building.

(a) Approval. Whenever the County Executive enters into a contract for the construction, alteration, or repair of any public building or other public structure, the contract may be changed only

- (i) by vote of the County Legislative Body made in a regularly scheduled open and public meeting; and
- (ii) when the alteration or change is within the general scope of the contract. Whenever any change or alteration in the contract is made, the alteration or change shall be specified in writing, and the resulting increase or decrease in cost shall be established by the county executive according to the provisions of the contract, or established principles in the construction industry.

(b) Delegation of Authority. The County Legislative Body may delegate authority to approve alterations or changes to the contract to a county employee, including the purchasing agent, the county executive, engineer, architect, surveyor, or director of the department responsible for the work. A county employee so authorized may approve alterations or changes only under the following circumstances:

- (i) the alteration or change is within the general scope of the contract;
- (ii) the alteration or change does not increase the cost of the project more than \$5,000.00;
- (iii) the aggregate cost of such alterations or changes do not exceed \$10,000.00;
- (iv) the alteration or change is specified in writing, and the resulting increase or decrease in cost is established by the county executive according to the provisions of the contract, or established principles in the construction industry; and
- (v) the alteration or change is subsequently submitted to the County Legislative Body for its approval.

(c) County Not Liable. Unless the requirements of this section are met, the County is not liable for any extra work resulting from alterations or changes to the contract.

(9) Accounting for Public Construction Work. Within 90 days after substantial completion of the

public building, the purchasing agent shall cause to be published in a newspaper of general circulation in the county the total cost of the project, together with the estimated cost. All records and accounts kept pursuant to this rule shall be open to inspection by the public at all reasonable times. Certified copies thereof shall be furnished to any citizen of this state on demand, on payment of the cost of making and certifying the same.

Section 3.05.08 Procedures for Solicitation and Award of Purchase or Contract.

(1) Advertisements for Bids. All proposals to award purchase orders or contracts involving amounts in excess of \$10,000.00 shall be published once each week for two consecutive weeks in a newspaper of general circulation published in the county. Nothing contained in this section shall be construed to prohibit the purchasing agent from placing additional announcements in recognized trade journals.

Advertisements for bids shall

- (a) describe the character of the proposed contract or agreement in sufficient detail to enable prospective bidders to know what their obligations will be, which description may be made either in the advertisement itself or by reference to detailed plans and specifications or other documents on file at the time of the publication of the first announcement;
- (b) state the closing date and time after which bids will no longer be accepted; and
- (c) state the date, time and place assigned for the opening of bids.

(2) Closing Date and Time for Receipt of Bids– Extension. No bids shall be received at any time subsequent to the closing date and time indicated in the announcement. An extension of time may, however, be granted for the opening of such bids upon approval by the County Legislative Body and publication in a newspaper of general circulation throughout the county of the date to which the bid opening has been extended.

(3) Deposit Required. On all bids involving amounts in excess of \$10,000.00, the purchasing agent may require each bidder to post as a deposit of good faith a reasonable amount in cash, a cashier's check, or a certified check, provided that the amount shall not exceed ten percent (10%) of the bid amount.

(4) Opening of Sealed Bids. All sealed bids shall be publicly opened by the purchasing agent or agent's designee who is duly authorized in writing by the purchasing agent to open such bids.

(5) Rejection of Bids.

- (a) Any or all bids received may be rejected by the purchasing agent if
 - (i) the bid is deemed not responsive;
 - (ii) the bidder is deemed not responsible;
 - (iii) the character or quality of the services, supplies, materials, equipment or labor does not conform to county requirements; or
 - (iv) the public interest may otherwise be served thereby. The purchasing agent shall have absolute discretion to determine whether or not a bidder is responsible and/or responsive.
- (b) In determining the responsibility of any bidder, the purchasing agent may take into account other factors in addition to financial responsibility, such as past records or transactions with the bidder, experience, adequacy of equipment, ability to complete performance within a specified time limit, and other pertinent considerations.

(6) Awarding Contracts.

- (a) **Purchase Orders or Contracts In Excess of \$10,000.00.** After seeking and receiving competitive bids for a purchase order or contract involving amounts in excess of \$10,000.00 for labor, services, or for the purchase, lease, or sale of real property, materials, equipment, or supplies, the purchasing agent or the agent's designee shall open the sealed bids in an open and public meeting of the County Legislative Body. The purchasing agent shall exclude bidders who are not responsive or not responsible. In an open and public meeting, the County Legislative Body shall award the purchase or contract to the lowest responsive and responsible bidder, or where appropriate, the highest responsive and responsible bidder. The purchasing agent shall retain the names of each bidder and his

or her bid in a record open to the public for inspection. Such records shall be maintained for such period of time as set by retention schedule approved by the County Legislative Body.

(b) Purchase Orders or Contracts for \$10,000.00 or Less. After seeking and receiving bids for a purchase order or contract involving amounts equal to \$10,000.00 or less, but in excess of \$700.00 for labor, services, or for the purchase, lease, or sale of real property, materials, equipment, or supplies, the purchasing agent or the agent's designee shall award the purchase or contract to the lowest responsive and responsible bidder, or where appropriate, to the highest responsive and responsible bidder. The purchasing agent shall submit the purchase order or contract to the County Legislative Body for approval and ratification at the next regularly scheduled meeting. The purchasing agent shall retain the names of each bidder and his or her bid in a record open to the public for inspection. Such records shall be maintained for such period of time as set by retention schedule approved by the County Legislative Body.

(7) Bonds of Bidders

(a) Permissive Bonds. As determined by contracts and procurement, bonds written upon a corporate surety qualified to do business in the state and in an amount approved by the County Legislative Body, may be required for the following purposes:

(i) to insure performance of the contract or purchase order in the time and manner prescribed therein; and

(ii) to save, indemnify and hold the county harmless from and against losses, damages, claims, liabilities, judgments, costs and expenses which may accrue in consequence of contractor's actions, or failures to act, in performance of the contract or purchase order.

(b) Required Bonds. Before any contract for the repair, alteration or construction of any public building, or public improvement is awarded to any person, that person shall furnish to the county such bonds as are required by this chapter and sections 14-1-18 and 63-56-38 of the Utah Code, as amended or replaced.

(8) Alterations or Changes to Purchase Orders or Contracts in Excess of \$10,000.00.

(a) Approval. Whenever a purchase order or contract in excess of \$10,000.00 has been awarded, changes or alterations to the purchase order or contract shall be approved only

(i) by vote of the County Legislative Body made in a regularly scheduled open and public meeting; and

(ii) when the alteration or change is within the general scope of the original purchase order or contract.

Whenever any change or alteration in the purchase order or contract is made, the alteration or change shall be specified in writing, and the resulting increase or decrease in cost shall be established by the county executive according to the provisions of the contract, or established principles in the construction industry.

(b) Delegation of Authority. The County Legislative Body may delegate authority to approve alterations or changes to a purchase order or contract in excess of \$10,000.00 to a county employee, including the purchasing agent, the County Executive, or director of the department responsible for the work. A county employee so authorized may approve alterations or changes only under the following circumstances:

(i) the alteration or change is within the general scope of the original purchase order or contract;

(ii) the alteration or change does not increase the cost of the purchase order or contract more than \$5,000.00;

(iii) the aggregate cost of such alterations or changes do not exceed \$10,000.00;

(iv) the alteration or change is specified in writing, and the resulting increase or decrease in cost is established by the purchasing agent; and

(v) the alteration or change is subsequently submitted to the County Legislative Body for its approval.

(c) County Not Liable. Unless the requirements of this section are met, the County is not liable for any extra costs resulting from alterations or changes to a purchase order or contract.

(9) Collusion Among Bidders and Advance Disclosures Prohibited.

- (a) Any agreement or collusion among bidders or prospective bidders to bid a fixed price shall render the bids of each such bidder void.
- (b) Any disclosure made or permitted by the purchasing agent in advance of the opening of bids, of the terms of the bids submitted in response to an advertisement, shall render the entire proceeding void and shall require readvertisement and re-award.
- (c) All purchase orders and contracts with the County shall be deemed to contain a clause under which all vendors or contractors shall certify that neither they nor their agents or employees have restrained free and competitive bidding for the contract by
 - (i) conspiring with any other person to fix bids for, or compensation under, the contract;
 - (ii) obtaining information concerning the contents of a competitor's bid or proposal from any county agent, employee, or other source in advance of the public opening of bids or proposals for the contract;
 - (iii) discouraging or eliminating competition by any means; or
 - (iv) taking any action while seeking the contract which violates law or county purchasing policies.A violation of this subsection shall entitle the County Legislative Body to cancel the contract immediately for material breach thereof and the County shall thereafter be entitled to seek damages as allowed by law for breach of contract.

(10) Assignment of Purchase Orders or Contracts— Limitations. No purchase order or contract awarded to the lowest responsible bidder or to the highest responsible bidder, as the case may be, shall be assignable by the successful bidder without the written consent of the County Legislative Body. In no event shall a contract or any part thereof be assigned to a bidder who is declared not to be a responsible bidder in the consideration of bids submitted in response to advertisement of the particular contract or purchase order.

(11) Preference for Local Businesses. It is the policy of the County to support local businesses in an effort to support the County's economy and tax base. At the sole discretion of the County, a local business may be given local preference and may be deemed to be the lowest responsive and responsible bidder, or where appropriate, the highest responsive and responsible bidder as set forth in Section 3.05.01, and the local business' bid is within 5% of the lowest responsive and responsible bidder, or where appropriate, within 5% of the highest responsive and responsible bidder. For purposes of this Section only, a "local business" is defined as a business having:

- (1) a commercial office, store, distribution center, or other place of business located within the boundaries of the County, with an intent to remain on a permanent basis;
- (2) a current business license within the County; and
- (3) at least one employee physically present at the local commercial office, store, distribution center, or other place of business.

(Ord. 09-02, Amended, 01/29/2009)

Section 3.05.09 Protests.

(1) Content of Protests. Protests challenging the solicitation of bids, request for proposals, and/or award of any purchase or contract shall be in writing and shall specifically and completely state the facts which constitute error and the desired remedy.

(2) Protesting The Solicitation or Award of A Purchase or Contract.

- (a) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation of bids, request for proposals, or award of a purchase or contract may file a written protest with the Procurement Appeals Board. A protest shall be filed prior to the opening of bids or the closing date for proposals. If the aggrieved person did not know or could not have known of the facts giving rise to the protest prior to bid opening or the closing date, a protest shall be filed within fourteen (14) days of the date the aggrieved person knew or should have known of the facts giving rise

thereto.

(b) If a timely protest is received prior to the award, the County shall not proceed further with the solicitation, request for proposals, or award of the purchase or contract until the protest has been submitted to the Procurement Appeals Board, and a final decision rendered by the Board upon the protest.

(3) **Protesting Debarment or Suspension.** For an appeal from a decision regarding debarment or suspension, the aggrieved person shall file an appeal in writing with the Procurement Appeals Board within sixty (60) calendar days from the date of a decision by the purchasing agent.

(4) **Review by County Attorney.** The purchasing agent may refer any protest to the county attorney to make a recommendation.

Section 3.05.10 Procurement Appeals Board.

(1) **Membership.** The Procurement Appeals Board shall consist of the County Legislative Body.

(2) **Jurisdiction.** The Procurement Appeals Board shall have jurisdiction over the following causes:

(a) any protest of a solicitation for, request for proposals for, or award of a purchase or a contract addressed to the Appeals Board by an aggrieved actual or prospective bidder or offeror, or a contractor; and

(b) any protest of the purchasing agent's decision to debar or to suspend as provided in this chapter filed by a person aggrieved by the decision.

(3) **Hearings and Determinations.** The Procurement Appeals Board shall hold a hearing to consider the merits of any protest no later than twenty (20) days from the date the protest is filed. Notice of the hearing shall be sufficient if sent by registered mail to the last known address of the protesting party. The Board shall issue a decision in writing, a copy of which shall be provided to the purchasing agent and all other parties.

(4) **Effect of No Violation** If prior to award or after award of a purchase or contract, the Board determines that a protest fails to demonstrate that the solicitation or award was in violation of law, the Board shall

(a) direct the purchasing agent to proceed with the competitive bid process or request for proposals already commenced under this chapter; or

(b) affirm the contract.

(5) **Effect of Violation Prior to Award.** If prior to award the Board determines that a solicitation of, request for proposals for, or proposed award of a purchase order or contract is in violation of law, the Board shall cancel or revise the solicitation, request, or proposed award to comply with the law.

(6) **Effect of Violation After Award.** If after an award, the Board determines that a solicitation of, request for proposals for, or award of a contract is in violation of law, the Board may take the following action:

(a) **No Fraud or Bad Faith.** If the person awarded the purchase or contract has not acted fraudulently or in bad faith, the Board shall

(i) ratify and affirm the contract if the Board determines that doing so is in the best interests of the public; or

(ii) terminate the contract, and direct that the person awarded the contract be compensated for actual expenses reasonably incurred under the contract prior to termination, plus a reasonable profit.

(b) **Fraud or Bad Faith.** If the person awarded the purchase or contract has acted fraudulently or in bad faith, the Board shall

(i) declare the contract null and void; or

(ii) ratify and affirm the contract if such action is in the best interests of the County, without prejudice to the County's rights to any appropriate damages.

(7) **Adoption of Rules.** The Procurement Appeals Board shall adopt rules of procedure which, to the

fullest extent possible, will provide for the expeditious resolution of controversies, including procedures to encourage agreements between the parties to a controversy prior to a hearing. The Board may adopt small claims procedures for the resolution of controversies involving claims of less than fifteen thousand dollars (\$15,000.00).

(8) Further Review and Statutes of Limitation. Decisions of the Procurement Appeals Board may be appealed to the state district court in Wasatch County. Appeals to the district court shall be subject to the following statutes of limitation:

- (a) appeals from decisions relating to the solicitation of, request for proposals for, or award of a purchase or contract shall be commenced within 14 days after the date the final decision of the Procurement Appeals Board is issued; and
- (b) appeals from decisions relating the suspension or debarment of any person shall be commenced within 120 days after the date the final decision of the Procurement Appeals Board is issued.

Section 3.05.11 Applicability of Procurement Rules and Procedures.

(1) This chapter shall not apply to the acquisition of personnel pursuant to the provisions of the County Personnel Management Act, Section 17-33-1 et seq., Utah Code Annotated (1953), as amended, nor shall this title be applicable to the granting or issuance, pursuant to powers conferred by laws, ordinances or resolutions, of franchises, licenses, permits or other authorizations by the county executive, County Legislative Body, or by other organizations of the county.

(2) This chapter shall not apply to the disposal of surplus, obsolete, or unusable personal property owned by the County and valued at \$1,500.00 or less. In disposing of such property, the purchasing agent shall consider the best interests of the County and shall apply good property management techniques.

(3) This chapter shall not be construed as authorizing the waiver of competitive bidding when such bidding is required by the provisions of any federal or state grant or relevant federal or state statute or regulation.

Section 3.05.12 Procurement of Recycled Goods.

The county purchasing agent shall comply with section 11-37-101 of the Utah Code, as amended or replaced, regarding the procurement of recycled goods.