



Special Called Meeting of County Council
Beaufort County, SC

Council Chambers, Administration Building Beaufort County Government Robert Smalls
Complex 100 Ribaut Road, Beaufort

Tuesday, July 23, 2024
5:00 PM

AGENDA

COUNCIL MEMBERS:

- | | |
|-------------------------------|------------------------------|
| JOSEPH F. PASSIMENT, CHAIRMAN | LAWRENCE MCELYNN, VICE CHAIR |
| DAVID P. BARTHOLOMEW | PAULA BROWN |
| LOGAN CUNNINGHAM | GERALD DAWSON |
| YORK GLOVER | ALICE HOWARD |
| MARK LAWSON | THOMAS REITZ |
| ANNA MARIA TABERNIK | |

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. PUBLIC NOTIFICATION OF THIS MEETING HAS BEEN PUBLISHED, POSTED, AND DISTRIBUTED IN COMPLIANCE WITH THE SOUTH CAROLINA FREEDOM OF INFORMATION ACT
4. APPROVAL OF AGENDA

CITIZEN COMMENTS

5. **CITIZEN COMMENT PERIOD- 15 MINUTES TOTAL**
Anyone who wishes to speak during the Citizen Comment portion of the meeting will limit their comments to no longer than (3) minutes. Speakers will address Council in a respectful manner appropriate to the decorum of the meeting, refraining from the use of profane, abusive, or obscene language. In accordance with Beaufort County Rules and Procedures, giving a speaker's time to another is not allowed.

EXECUTIVE SESSION

6. PURSUANT TO S.C. CODE SECTION 30-4-70 (A)(2): DISCUSSION OF MATTERS COVERED BY THE ATTORNEY-CLIENT PRIVILEGE (INQUIRIES AND INVESTIGATIONS PURSUANT TO S.C. CODE SECTION 4-6-660- HSB)

7. PURSUANT TO S.C. CODE SECTION 30-4-70 (A)(2): RECEIPT OF LEGAL ADVICE WHERE THE LEGAL ADVICE RELATES TO MATTERS COVERED BY THE ATTORNEY-CLIENT PRIVILEGE (S.C. CODE SECTION 4-9-610 ET SEQ.)

END OF EXECUTIVE SESSION

8. MATTERS ARISING OUT OF EXECUTIVE SESSION
9. ADJOURNMENT

**TO WATCH COMMITTEE OR COUNTY COUNCIL MEETINGS OR FOR A COMPLETE LIST OF AGENDAS AND
BACKUP PACKAGES, PLEASE VISIT:**

<https://beaufortcountysc.gov/council/council-committee-meetings/index.html>

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JOSEPH F. PASSIMENT, JR.
CHAIRMAN

LAWRENCE MCELYNN
VICE CHAIRMAN

COUNCIL MEMBERS

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THOMAS REITZ
ANNA MARIA TABERNIK

MICHAEL MOORE
COUNTY ADMINISTRATOR

SARAH W. BROCK
CLERK TO COUNCIL

**REPORT CONCERNING COUNCIL ACTIONS RELATING TO
PROCUREMENT AND PURCHASING ISSUES**

I. BACKGROUND OF ACTIONS TAKEN

In the summer of 2023 several improprieties came to light relating to procurement and purchasing activities of Beaufort County government. Beaufort County staff, working through the County Attorney's Office and under the direction of County Council, began investigating these improprieties. As part of its efforts County Council retained outside legal counsel, Haynsworth Sinkler Boyd, P.A., working with Swiftwater Strategies, LLC (collectively "HSB"), pursuant to a publicly announced Request for Qualifications.

County Council mandated, among other things, a review of all Beaufort County procurements in calendar year 2023 and all purchase card purchases ("P-Card" purchases) from fiscal years 2019 to 2023. This review involved thousands upon thousands of documents, which included:

- Documents from 392 procurements from calendar year 2023, broken down as follows:
 - 80 procurements involving a competitive process whose value, in the aggregate, totaled \$85,491,842.58; and
 - 312 procurements involving a non-competitive process whose value, in the aggregate, totaled \$12,863,546.36.
- Documents and digital data from four years' worth of P-Card purchases whose value, in the aggregate, totaled \$6,094,852.

County Council also ordered a review of the County's Procurement Code (and related policies and regulations), the County's P-Card Manual, and the practices of County staff in relation to these guidelines. This work took place over several months, during which time HSB and Beaufort County staff met on several occasions with County Council, and Council reviewed numerous presentations, reports and other data concerning Beaufort County procurement and purchasing.

II. COUNTY COUNCIL ACTION ITEMS

During the course of the work as described above, County Council adopted a Whistle Blower Policy in the latter part of 2023. The investigative work that County Council directed has concluded. County Council members have now had the opportunity to review, analyze, and digest the significant amount of verbal reports and written materials produced as a result of this work. County Council is ready to take steps to restore the public's trust by demonstrating County Council's commitment to have a purchasing and procurement system for Beaufort County that is built upon integrity, transparency and uniformity.

As an initial matter, we do believe that some Beaufort County staff failed to adhere to the County's procurement and P-Card guidelines. These failings, however, more likely than not, resulted from misfeasance rather than malfeasance, and no evidence of criminal activity has been discovered. Some of these failures were significant and, in a few instances, perhaps willful. Other failures (and indeed the majority of them) appear to have arisen out of a culture of laxness where some looked upon procurement and purchasing guidelines as mere suggestions and not the law.

To execute upon County Council's obligation to continually reexamine its purchasing system, County Council has directed County Administrator Michael Moore to work with and oversee Beaufort County staff to institute the following:

A. For Procurements

1. Take Steps to Provide for More Robust Documentation of Procurements

- a. Require the use of consistent folder structures for competitive and non-competitive procurements
- b. Ensure that the Procurement Department serves as the single authoritative location for all contract files
- c. Ensure completeness of folder contents, including substantive content to substantiate rationale
- d. Develop checklists specifying folder contents
- e. Perform random folder inspections for each procurement threshold and type, and ensure that inspections confirm that supported rationale is present

2. Take Steps to Ensure that All Procurements Fall within the County's Budget Authority

- a. Require a Purchasing Budget Confirmation Form for all non-P-Card procurements
- b. Require analysis and justification in the general description field of the Purchasing Budget Confirmation Form
- c. Revise Document Review Request Form to require a Purchasing Budget Confirmation Form
- d. Revise Document Review Request Form to require answering whether Finance should review
- e. If the eventual award will exceed the Estimated Project Cost in the Purchasing Budget Confirmation Form, require evidence of concurrence from Finance and other applicable authority (an Assistant County Administrator, the County

Administrator or County Council)

3. Ensure Proper determinations of fair and reasonable pricing

- a. Establish and implement an instructive policy for when and how to determine pricing is fair and reasonable, using tools such as:
 - (1) Historical prices
 - (2) Independent government estimates
 - (3) Comparisons with substantially similar items
 - (4) Sales of the same item to other purchasers
 - (5) Analysis of the cost elements (e.g. labor rates and total hours, material rates and total quantities, indirect costs, profit, allowable costs and non-allowable costs)
- b. Establish and require use of a template to document the fair and reasonable pricing analysis and include the completed form (with analysis) in each contract file where required

4. Require properly documented determinations of a bidder's responsiveness (meaning that the bidder's response is consistent with the scope of work and specifications of the invitation for bids) and a bidder's responsibility (meaning that the bidder has the necessary attributes to provide what the invitation for bids has requested).

- a. Ensure the policy for determination of responsiveness and responsibility is followed
- b. Establish and use a form or form letter to document the analysis and determination
- c. Establish and utilize a checklist for responsiveness
- d. If the solicitation does not include self-certifications of responsibility from the offeror, consider external sources for determining responsibility
- e. Maintain a database of suspended or debarred offerors

5. Provide better checks and balances to guard against erroneous justifications for non-competitive procedures

- a. Adhere to the established policy for non-competitive procurement decisions
- b. Adhere to the established minimum requirements for documentation and explanation for justifications for use of non-competitive procurement
- c. Require completion of all fields prior to completion of the Non-Competitive Purchases Form
- d. Require the Procurement Director (or designee) to verify all requests for single source procurement
- e. Add more instructive examples for staff to follow in making justifications for non-competitive procedures

6. Foster more competition, and where only one bid or proposal is received, ensure more robust Negotiation with that bidder.

- a. Establish and implement a requirement for market research for certain procurement dollar thresholds such that known capable contractors are contacted to determine interest and require documentation of the same

- b. Establish and implement an affirmative policy of negotiation where one bid or proposal is received, including documentation thereof
- c. Where only one bid or proposal is received in response to a competitive solicitation, require the responsible procurement professional and Procurement Director to conduct an analysis of the solicitation, including consideration for and discussion with any anticipated offerors that did not submit a bid or proposal
- d. Where only one bid or proposal is received in response to a competitive solicitation, document the reasoning for the decision against resoliciting the requirement

7. Foster more Encouragement of Small and Disadvantaged Businesses to Participate in Beaufort County procurements.

- a. Ensure reasonable efforts are made to encourage small/disadvantaged business participation in County procurement solicitations where appropriate
- b. Establish a training program for small/disadvantaged businesses by the County

8. Implement and require more County Staff Training

- a. Contract Foundational Skills – What is the County procurement system (law, participants, contracting life cycle, key solicitation/contract terms) and how does the procurement professional fit in
- b. How to properly document procurement decisions
- c. What goes into a procurement file and how should it be maintained
- d. Contract Pre-Award – Market research, acquisition planning, and solicitation development; and industry perspective on the same
- e. Contract Award – Cost and price analysis, negotiations, selecting an awardee, protests
- f. Contract Administration – Roles and responsibilities between County and contractor, startup, ongoing performance and administration, disputes and remedies, closeout

B. For P-Card Purchases

- 1. **Create a policy for the number and assignment of P-cards and reduce the number of users.**
- 2. **Enforce the requirement that employees include authorization request approval forms and documentation with their P-card payment request and receipts to verify the actual approved amount.**
- 3. **Change the approval process so that subordinates can no longer authorize expenses for their superiors, and individuals cannot authorize their own expenses.**
- 4. **Create a travel policy that addresses the following issues:**
 - a. Hotel stays and meal reimbursements should have a minimum distance limit from the county
 - b. Restrict the number of employees per department who can attend each meeting, conference or event
 - c. Include authorization request approval form and meeting agenda with receipts to justify meal, lodging and transportation expenses
 - d. Travel authorization needs to be tied to each individual's position and career plan
 - e. Establish a standard travel site instead of multiple platforms that charge avoidable fees

- e. Create a policy regarding personal loyalty points accrual
 - f. Assign responsibility to one person for closing out each travel request and reimbursement request once it's been reconciled, and require a process that would validate that cash advances, accommodation expenses, and airline ticket expenses are returned when a conference is canceled
 - g. All travel-related expenses for an event, conference, or meeting need to be charged on one P-card to reduce the possibility of payment errors and allow for easier verification of expenses and refunds per employee without duplicative booking
 - k. Address whether or not remote working employees can be reimbursed for travel expenses to come to Beaufort County
- 5. Create a centralized purchasing policy to ensure standardization and oversight of purchases, especially regarding IT equipment, office supplies, business cards, work gear, tools, appliances and marketing materials.**
- a. Create a standardized clothing and uniform policy
 - b. Develop a policy to standardize the County brand and format for all communication and marketing materials
 - c. Create a standardized IT policy setting policy that all purchases are to be approved by IT and the department head from the requesting department
 - d. IT department should make IT related purchases, and not the using employee or department
 - e. All expenses should be tagged to the employee receiving the item(s)
 - f. Maintain an inventory of purchases and the employee receiving the purchase
 - g. Cell phone storage and equipment (cases, cords, screen covers) purchases should be limited and tagged to the employee receiving items
 - h. Limit eBay and Amazon purchases by many different departments and employees
 - i. Require data storage subscriptions to be centrally purchased by IT and tagged to the department using the service
 - j. Reduce the number of and centralize purchasing memberships
 - k. Develop a policy to manage and centralize purchasing of subscriptions
 - l. Ensure that P-Card decisions are business-driven
- 6. Make better use of the State procurement contracts to secure the best pricing available to Beaufort County.**

III. NEXT STEPS

County Council recognizes that the Action Items outlined above will take some time to implement fully. County Council also recognizes that Council has only recently hired County Administrator Michael Moore, who took office on July 1, 2024. County Council has directed, however, that Mr. Moore take the following next steps:

- 1. Provide a framework and timeline for implementing the Action Items outlined above and inform County Council of same during a meeting in August 2024;
- 2. Beginning in August 2024 provide a monthly list of competitive and non-competitive contract awards, noting the amount of each contract, the department signing off on the

contract, and verification that all necessary documents for the contract are in the appropriate files within our Document Retention System; and

3. Where necessary, further investigate the appropriateness of problematic P-Card expenditures and procurements.

These next steps are important to demonstrate County Council's commitment to compliance and a purchasing and procurement system built upon integrity, transparency and uniformity that restores public trust.

7-23-24

Date



Joseph Passiment, Chairman
Beaufort County Council