

**Agenda Item 13-1307 Purchase Agreement - Code Enforcement Vehicles  
Additional Information in Response to Board Questions on September 17, 2013**

**Key Questions and Answers**

Q: Were state law and County procurement processes followed in the vehicle purchase approval request provided to the Board in its September 17, 2013 agenda item 13-1307?

A: Yes, Charlotte-Mecklenburg Procurement Services followed state statute and the County Procurement Policy in conducting the formal bid process for vehicle purchase that was submitted for approval in the September 17, 2013 Board meeting agenda item 13-1307.

Q: Over the last three years, how many previous bids have been approved for the vendor recommended to receive the purchase award in the September 17, 2013 meeting agenda item 13-1307?

A: Benson Ford of Easley, SC was determined to be the lowest responsible bidder. Benson Ford has had no vehicle purchase agreements with the County in the past three years. Benson Ford has received payments from the County for vehicle purchase prior to FY2011 as summarized below:

<b>Fiscal Year</b>	<b>Payment Total</b>
FY2008	\$530,610
FY2009	\$130,349
FY2010	\$181,426

See Attachment 1 for the County’s vehicle purchase agreements managed by Procurement Services over the past three years.

Q: Why was the vendor that Chairman Cotham spoke to not contacted about this bid opportunity?

A: The procurement process for these vehicles required a formal bid, which does not include steps to contact individual vendors because legal counsel has determined this could be perceived as showing favoritism to certain vendors. Vendors that want to be considered for formal bids must register with Charlotte-Mecklenburg Procurement Services to receive formal bid notifications automatically or vendors can access the [North Carolina State Interactive Purchasing System \(IPS\) website](#) to identify bid opportunities. Although this vendor was registered as a vendor through the state IPS website, the vendor had not registered as an SUV vehicle vendor and therefore did not receive the SUV bid opportunity notification. Procurement Services has contacted this vendor to confirm that the vendor understands the registration requirements to receive all applicable notifications through the state website and from Procurement Services.

Q: Why did Charlotte-Mecklenburg Procurement staff email a list of vendors about another vehicle purchasing opportunity, and how were these vendors selected to receive the email?

A: The email provided by Chairman Cotham (that she received from a vendor) was a request for an informal bid. The law and process for informal bids are different than the law and process for formal bids. Informal bids allow and enable staff to directly contact vendors to request bids. The vendors selected for the informal bid that occurred with the email mentioned above were selected by Charlotte-Mecklenburg Procurement staff because these vendors had previously submitted formal bids on a similar vehicle purchase. The key criteria for determining the need for a formal bid versus an informal

bid is the projected cost of the purchase. A purchase of \$100,000 or more requires a formal bid. See Attachment 2 for County Procurement Policy, Section 11.2, Informal Bid Process.

Q: Can Mecklenburg County establish a preference for local vendors?

A: When awarding contracts that are subject to bidding requirements, such as the vehicle purchase referenced in agenda item 13-1307, local governments have no statutory authority to establish preferences of any kind, including a preference for a local vendor or bidder, or to establish a local vendor or bidder preference policy, and are bound by the “lowest responsible bidder” standard. Vendor location does not affect the County’s costs for delivery or service. The total bid price must include the cost of delivery, registered title, and a full tank of fuel per the requirements of the Invitation to Bid (ITB). Vehicles can be taken to any local dealership represented by the manufacturer that is authorized for warranty repairs (Ford, Chevrolet, GMC, etc.). Therefore local vendors benefit from the parts/warranty work. See Attachment 3 for excerpt from *A Legal Guide to Purchasing and Contracting* published by the UNC School of Government.

## **Additional Background and Details on Item 13-1307**

The item on the agenda for approval (13-1307) pertains to a formal bid process that Procurement Services conducted for LUESA as required by state statute for purchases over \$100,000. In a formal bid process, Procurement Services may not contact a vendor about bid opportunities unless the vendor has already registered to receive notifications through the state website. At the conclusion of the bid process, Benson Ford of Easley, SC was determined to be the lowest responsible bidder. The County does not have statutory authority to give preference to local vendors when bids are awarded.

### **Key Dates in Procurement Process for Item 13-1307**

**August 7, 2013** – Procurement Services issued an Invitation to Bid (ITB) #269-2014-005 requesting responses for the purchase of twenty-six (26) 2014 Ford Escape SUVs, and the ITB was posted on the IPS website (see Attachment 4 for ITB #269-2014-005).

**August 12, 2013** – The ITB was advertised in the Legal Section of The Charlotte Observer, a newspaper having general circulation in the State of North Carolina per G.S. 143-129.

**August 22, 2013** – Three vendors responded with bids. Procurement Services evaluated the bids to determine the lowest bid that met ITB specifications (see Attachment 5 for Bid Summary). Benson Ford of Easley, SC was determined to be the lowest responsible bidder.

### **Overview of Procurement Process for Item 13-1307**

Procurement Services used a formal bid process per G.S. 143-129 and the County Procurement Policy (Section 11.1) as required for purchases of \$100,000 or more (see Attachment 6 for County Procurement Policy).

Procurement Services completed the following steps:

- Drafted the Invitation to Bid (ITB) solicitation document that included the prepared specifications and County terms and conditions.
- Advertised the ITB in The Charlotte Observer a minimum of seven days prior to the advertised bid opening date in compliance with G.S. 143-129.
- Posted the ITB on the North Carolina Interactive Purchasing Site (IPS), which is maintained by the State of North Carolina Purchasing and Contracts Division. Vendors can register with the State to

receive automatic notification of any new bidding opportunity posted on the IPS site, or they can choose to monitor the site for bids at their discretion.

- Generated a Bidder's List through the Compass Vendor Management System for all vendors who desire to seek business with the County/City and have registered as a vendor. The vendor must provide accurate information, including commodity codes for products or services they provide, as well as correct contact information, in order to include them on the bidder's list. (This step exceeds statute or County Procurement Policy requirements.)
- Sent a mass e-mail to all registered vendors to notify them of the new solicitation posting on IPS and to provide a link directly to the document on the IPS site. The vendors can download the entire ITB to their computer. If they are unable to download the document, they can contact Procurement to request the document in Word format, which is sent as an attachment to an e-mail to the vendor. (This step exceeds statute or County Procurement Policy requirements.)
- Scheduled and held a public pre-bid meeting (schedule included in the ITB and advertisement) to allow vendors the opportunity to ask questions and receive clarification regarding the bid.
- Held a public bid opening where bid totals were read aloud and recorded in compliance with G. S. 143-129.
- Evaluated all bids received to determine the lowest, responsive, responsible bidder in accordance with G. S. 143-129.
- Gave bid tabulations and pertinent solicitation information to LUESA to prepare a Request for Board Action for the BOCC agenda item 13-1307.

#### **Restrictions on Contacting Individual Vendors**

The North Carolina Supreme Court has stated that the purpose of the competitive bidding law "is to prevent favoritism, corruption, fraud, and imposition in the awarding of public contracts by giving notice to prospective bidders and thus assuring competition which in turn guarantees fair play and reasonable prices in contracts involving the expenditure of a substantial amount of public money."

In formal bid processes, Procurement Services does not research for additional vendors and/or call them individually. The practice of Procurement Services, which is supported by City attorneys, is to not personally contact any vendors, regardless of location, to advise them of the bidding opportunity. Doing so can be interpreted as showing favoritism and may result in litigation. Vendors are responsible for monitoring advertisements and the State IPS site for bidding opportunities.