



2026 Small Cities Summit: Procurement and Ethics

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What is Procurement?

- The term “procurement” refers to the act of purchasing or otherwise acquiring goods or services for a public body.
- It may, in some cases, also refer to the selling or leasing goods or services.
- Finally, procurement may include the method by which a public body can actually award a contract. For example, who can award a contract? Who can sign it?



State Procurement Code

- The South Carolina Consolidated Procurement Code is in Title 11, Chapter 35.
- It contains detailed rules for state purchasing: bids, proposals, sole source, emergencies, protests, and more.
- But that does NOT mean every city has to follow the State Procurement Code.



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Does the State Procurement Code Apply to Cities?

- Generally, no.
- With several specific exceptions, the detailed State Procurement Code does not apply to political subdivisions such as municipalities.
- Cities do not have to copy the State's purchasing procedures, and to be honest they are far more complicated than most of you need.



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What State Law DOES Require

- S.C. Code Sec. 11-35-5320 applies to every political subdivision, including every municipality.
- Each city or town must adopt ordinances or procedures embodying “sound principles of appropriately competitive procurement.”
- That is the basic legal requirement; cities have options here.



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The Practical Takeaway

- Every municipality should adopt a written local procurement code by ordinance.
- It can be much simpler than the State Procurement Code.
- It should fit the size, staffing, and purchasing needs of the municipality.
- But it should require real competition when competition is reasonably appropriate.



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What Should a Basic Local Code Answer?

- At what dollar amounts are competitive bids or written proposals required?
- How will bids or proposals be solicited and documented?
- What exemptions are allowed?
- Who approves an exemption?
- Who has authority to make purchases, and when is council approval required?
- What records must be kept?



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A Simple Procurement Ladder

- Small purchases: Direct purchase within an authorized dollar limit.
- Intermediate purchases: Obtain and document multiple quotes.
- Larger purchases: Formal competitive bids or proposals and public notice.
- Highest-level purchases: Council approval if required by the local code.
- The municipality chooses reasonable dollar thresholds in its own ordinance.



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Put the Exemptions in Writing

- Emergency purchases.
- True sole-source purchases.
- Purchases from state contracts or other authorized cooperative contracts.
- Professional services.
- Other limited exemptions the municipality lawfully chooses to recognize.
- An exception should be documented — not invented after the purchase has already been made.



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Three Common Procurement Mistakes

- “We have always bought it from him.”
- Splitting one purchase into smaller invoices to stay below a bidding or approval threshold.
- Declaring something an “emergency” simply because nobody planned ahead.
- *Good procurement rules protect staff from pressure to make exceptions for particular people.*



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Warning: Other Rules May Still Apply

- A local procurement code does not override other applicable law.
- Federal or state grants may impose additional procurement requirements.
- Particular kinds of contracts may be subject to other statutes.
- When outside money is involved, check the funding conditions before purchasing.



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But What Can Go Wrong?

- An Ethics Commission complaint or investigation.
- An audit or financial-review finding.
- A bid protest, contract dispute, or award challenge.
- Disallowed grant costs, sometimes requiring repayment.
- Negative media or social media attention.
- Loss of confidence in the town government.

The cheapest and easiest time to avoid these risks is before the purchase is made.



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Now Add the Ethics Act

- South Carolina's Ethics, Government Accountability, and Campaign Reform Act is in Title 8, Chapter 13.
- It applies to municipal elected officials, appointed public members, and municipal employees.
- A perfectly valid procurement process can still create an ethics violation if the wrong person participates.



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The Core Ethics Rule: No Self-Dealing

- S.C. Code § 8-13-700 prohibits using public office or employment to obtain an economic interest for yourself, a family member, or an associated person or business.
- It also prohibits participating in or attempting to influence a governmental decision affecting those economic interests.
- Think: "If money can flow to me or someone close to me, I need to stop before I act."



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“Family Member” Is Broader Than You May Think

- Spouse, parent, brother, sister, child, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, or grandchild.
- Members of the individual’s “immediate family,” a separate definition, which includes children residing in the person’s household and individuals claimed as dependents for income tax purposes.



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Recusal Means More Than “I Won’t Vote”

- Prepare a written statement describing the matter and the conflict.
- For an elected official or board member: Give it to the presiding officer and place the disqualification and reason in the minutes.
- Do not vote.
- Do not deliberate.
- Do not take other action or try to influence the decision.
- For an employee: Disclose the conflict to the supervisor so the matter can be assigned to someone else.



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Scenario: A Councilmember's Brother Owns the Roofing Company

- The town needs a roofing contractor. A councilmember's brother owns a local roofing company.
- Is the brother automatically barred from bidding? Not necessarily.
- But the councilmember cannot steer the process, discuss the award, lobby other members, or vote on the contract.
- The councilmember must make the written disclosure and fully recuse.
- The town still must follow its procurement code. Recusal does not excuse a bad procurement process



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A Stricter Rule: Contracting With Your Own Government

- S.C. Code Section 8-13-775 specifically addresses a public official, public member, or public employee who has an economic interest in a government contract.
- The person may not have that interest if he or she is authorized to perform an "official function" relating to the contract.
- Official functions include preparing specifications, accepting bids, awarding the contract, or taking other action on its preparation or award.
- This is a red-alert situation; get legal advice before the procurement begins.



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Competitive Bidding as a Safety Valve

- Section 8-13-775 expressly recognizes a path for a contract awarded through public notice and competitive bids.
- The interested official or employee must not perform an official function regarding the contract.
- That means removing the person from the procurement process BEFORE specifications, bids, and award, and not merely recusing at the end.
- Later matters involving the contract may still require recusals under Section 8-13-700.



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Scenario: The Mayor Owns the Only Local Landscaping Company

- The town needs landscaping services and the Mayor owns the only local company in the business.
- “It is convenient” is not an answer.
- Ask first: Does the mayor have any official function in purchasing or awarding this contract?
- If the town wants to contract with the mayor’s business, you have both a Section 8-13-700 problem (economic interest requiring recusal) and a 8-13-775 problem (performing an official function). You need to analyze all this BEFORE the solicitation begins.
- Do not try to fix the problem afterward with a retroactive abstention.



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Nepotism: Can the Town Hire a Relative?

- The Ethics Act is not a blanket ban on relatives working for the same municipality.
- But S.C. Code Section 8-13-750 prohibits an official or employee from causing the employment, appointment, promotion, transfer or advancement of a family member into a position the official or employee supervises or manages.
- The official or employee also may not participate in discipline of the family member.
- For a small town, the reporting and supervisory structure matters.



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Vendor Favors and Inside Information

- A meal or gift from a vendor is not automatically a bribe. BUT Section 8-13-705 prohibits giving or receiving anything of value to influence official action.
- Certain gifts from current or prospective contractors also trigger disclosure requirements under Section 8-13-710.
- Best practice: Do not accept meals, gifts, or favors from bidders or vendors.
- Do not use or disclose confidential information to benefit yourself, your family, or an associated business. S.C. Code Section 8-13-725.



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Scenario: “But This Is an Emergency”

- A water line breaks on Friday night. The fastest available contractor is owned by a councilmember or a close family member.
- An emergency exception in the procurement code may change the competitive purchasing process.
- It does NOT suspend the Ethics Act.
- Isolate the conflicted person from the decision, document the emergency and the alternatives considered, and get legal advice when the facts are close.
- Emergency procurement is an exception to local procurement, not an exception to the State Ethics Act.



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Suggestion: The Newspaper Test

Before participating in a procurement decision, ask:

- Would I be comfortable seeing this purchase on the front page of the local newspaper, or in the local Facebook group?
- Would an ordinary citizen think this process was fair?
- Have we documented why we made this decision?
- Would the explanation still sound reasonable six months from now?



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Six Rules to Take Home

1. Adopt and periodically update a simple written procurement code.
2. Follow the code you adopted, especially its dollar thresholds and exceptions.
3. Document quotes, bids, sole source, emergency, and exemption decisions.
4. If a purchase can financially benefit you, your family, or your business, you must recuse yourself.
5. Recusal means no influence, no deliberation, and no other action, not merely "I didn't vote."
6. Contracts involving an official's or employee's own economic interest require special Section 8-13-775 analysis before the procurement begins.



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Questions?



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