

# CITY AND BOROUGH OF SITKA

## ORDINANCE NO. 2016-12

### AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING CHAPTER 3.16 "PROCUREMENT POLICY" OF THE SITKA GENERAL CODE TO ALLOW THE MUNICIPAL ADMINISTRATOR TO CREATE DETAILED PURCHASING PROCEDURES FOR MUNICIPAL STAFF BASED ON AND SUBJECT TO THESE POLICIES. FURTHER, THIS REVISED POLICY WILL ALLOW THE MUNICIPAL ADMINISTRATOR TO UPDATE MUNICIPAL PROCUREMENT PROCEDURES ON A REGULAR BASIS

1. **CLASSIFICATION.** This ordinance is of a permanent nature and is intended to become a part of the Sitka General Code.
2. **SEVERABILITY.** If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of this ordinance and application to any person or circumstance shall not be affected.
3. **PURPOSE.** The purpose of this ordinance is to update existing municipal code. These changes will allow the Municipal Administrator to separately create detailed purchasing procedures for municipal staff based on and subject to these policies. Further, this revised policy will allow the Municipal Administrator to update municipal procurement procedures on a regular basis.
4. **ENACTMENT, NOW, THEREFORE, BE IT ENACTED** by the Assembly of the City and Borough of Sitka that SGC Chapter 3.16 is amended to read as follows (new language underlined; deleted language stricken):

#### Chapter 3.16 PROCUREMENT POLICY

Sections:

- 3.16.010 Contract and purchase procedure.
- 3.16.020 Limitation on administrator's authority.
- 3.16.025 Purchase Splitting.
- 3.16.026 Types of Vendor Solicitation.
- 3.16.027 Alternative Contracting Methods.
- 3.16.030 Purchases or contracts exceeding fifty thousand dollars. ~~Open market procedures.~~
- 3.16.031 Purchases or contracts from twenty-five thousand to fifty thousand dollars.
- 3.16.032 Purchases or contracts of less than twenty-five thousand dollars.
- 3.16.040 ~~Advertising for bids and award to lowest bidder.~~
- 3.16.050 Processing of bids.
- 3.16.060 Exceptions to competitive ~~bidding~~ requirements.
- 3.16.070 Lowest responsive and responsible bidder.
- 3.16.080 ~~[Reserved.] Procurement monitoring.~~
- 3.16.090 ~~[Reserved]~~
- 3.16.100 Change orders—Administrator authority.
- 3.16.110 ~~[Reserved]—Competitive sealed proposals—Negotiated procurement.~~
- 3.16.120 Procurement ~~policy~~ procedure manual.

**3.16.010 Contract and purchase procedure.**

The administrator or his or her designee may carry out any of the following:

- A. Contract for, purchase or issue purchase authorizations for all supplies, materials, equipment, and services for the offices, departments, and agencies of the city and borough; and
- B. Contract for the construction, repair, or improvements of city and borough facilities.

**3.16.020 Limitation on administrator's authority.**

~~A.—The administrator may not make an acquisition or contract authorized by Section 3.16.010 if the value of the property, service or contract exceeds the assembly approved appropriation ~~fifty thousand dollars~~ without first obtaining assembly approval of the increased appropriation. Such approval can occur either through the listing of the property, service, or contract in the annual budget as adopted by the assembly or by passage of a motion by the assembly.~~

~~B.—If the value of the property, service or contract exceeds twenty-five thousand dollars but does not exceed fifty thousand dollars, the administrator may authorize the acquisition or contract with the written certification by the finance director that appropriated funds are available, and upon seeking at least three competitive bids from a minimum of three vendors. The acquisition or contract will be awarded to the lowest responsive and responsible bidder as determined in Section 3-16-070 and without observing the procedure prescribed for the award of formal sealed bids.~~

**3.16.025 Purchase Splitting**

A. Purchases for a single project or task shall not be split into smaller transactions with the intent to allow a lower level of review and approval.

**3.16.026 Types of Vendor Solicitations**

The following three types of bidding arrangements are acceptable forms of solicited procurement. Specific procedures governing the applicability of each will be set forth in the procedures manual:

A. Requests for Bids: These bids shall be awarded on the basis of the lowest price to a responsive and responsible bidder as determined by the city administrator.

B. Requests for Proposals: If the administrator determines that use of competitive bidding is not in the best interest of the city and borough, supplies, services, materials, and equipment may be procured by competitive proposals. These proposals shall be awarded based on scoring against the criteria defined in the specification including but not limited to price. Additionally, the administrator is empowered to negotiate terms which are in the best interest of the city and borough of Sitka.

C. Requests for Qualifications: If the administrator determines that use of competitive bidding or proposals are not in the best interest of the city and borough, supplies, services, materials, and equipment maybe procured by competitive statement of qualifications. Vendor award shall be made on a qualification based criteria as defined in the specifications. Additionally, the administrator is empowered to negotiate terms which are in the best interest of the city and borough of Sitka.

**3.16.027 Alternative Contracting Methods**

When the Administrator determines it is in the best interest of the city and borough he or she may utilize alternative contracting methods such as: design build, energy services contracts, guaranteed maximum price, and on call contracting. These methods shall be defined within the city and borough purchasing procedures.

**3.16.030 Purchases or contracts exceeding fifty thousand dollars. Open market procedures**

A. If the value of the goods or service exceeds fifty thousand dollars, the administrator may authorize the acquisition or contract with the written certification by the finance director that appropriated funds are available, and seeking competitive formal sealed bids or as exempted by Section 3.16.060.

Purchases or contracts authorized by Section 3.16.010 having an estimated value exceeding fifty thousand dollars must be made in the open market and meet the requirements of Section 3.16.040

Purchases or contracts authorized by Section 3.16.010 having an estimated value that does not exceed fifty thousand dollars may be made in the open market without publishing notice in a newspaper.

B. Bids or proposals are considered formal bids and must be sealed and delivered to the submission point by the appointed time. Submission may be paper or electronic methods. A purchase or contract authorized by Section 3.16.010 having an estimated value that exceeds twenty-five thousand dollars but does not exceed fifty thousand dollars shall be based on the solicitation of at least three competitive written bids and be awarded to the lowest responsive and responsible bidder as determined in Section 3.16.070 and without observing the procedure prescribed for the award of formal sealed bids.

C. All purchases less than twenty-five thousand dollars shall be made on the open market with such competition as is reasonable and practical in the circumstances as long as by doing so, does not interfere with the ability of the city and borough of Sitka to receive grants and other funding sources. It is the city and borough of Sitka's intent to promote local purchases whenever the availability, quality, price and delivery is:

1. Within a four percent advantage to what is available outside the municipality for purchases under two thousand five hundred dollars; and

2. Within a two percent advantage to what is available outside the municipality for purchases two thousand five hundred dollars and above.

Prior to making any purchases that fall within this section, the city and borough of Sitka will request bids from local vendors. Bids will be posted and received through an electronic bidding system. The electronic bidding system shall establish a list of registered local vendors and addresses. The registered vendors will be electronically notified and requested to submit their electronic bid as specified.

**3.16.031 Purchases or contracts from twenty-five thousand to fifty thousand dollars.**

A. If the value of the property, service or contract exceeds twenty-five thousand dollars but does not exceed fifty thousand dollars, the administrator may authorize the acquisition or contract with the written certification by the finance director that appropriated funds are available, and upon seeking at least three competitive quotes from a minimum of three vendors or as exempted by section 3.16.060.

Purchases or contracts authorized by Section 3.16.010 having an estimated value that does not exceed fifty thousand dollars may be made in the open market without publishing notice in a newspaper.

B. All solicitations shall be awarded on the basis of Section 3.16.026.

**3.16.032 Purchases or contracts of less than twenty five thousand dollars.**

A. If the value of the property, service or contract is below twenty-five thousand dollars, the administrator may authorize the acquisition or contract on the open market with such competition as is reasonable and practical in the circumstances as long as by doing so, does not interfere with the ability of the city and borough of Sitka to receive grants and other funding sources or as exempted by section 3.16.060. It is the city and borough of Sitka's intent to promote local purchases whenever the availability, quality, price and delivery is:

1. Within a four percent advantage to what is available outside the municipality for purchases under two thousand five hundred dollars; and

2. Within a two percent advantage to what is available outside the municipality for purchases two thousand five hundred dollars and above.

**3.16.040 Advertising for bids and award to lowest bidder.**

A. Unless other procedures are authorized under this chapter, purchases or contracts authorized by Section 3.16.010 having an estimated value of more than fifty thousand dollars may be made only after a notice calling for bids is printed in a newspaper of general circulation within the city and borough ~~three times during the period of not less than two consecutive weeks prior to the date for the bid award,~~ unless another form of media is authorized by the administrator. The notice shall contain a general description of the property, work or service; state where the bid forms and/or specifications may be obtained; specify the place for submission of bids and the time by which they must be received.

~~B. The purchase or contract shall be awarded to the lowest responsive and responsible bidder as determined in Section 3.16.070.~~

**3.16.050 Processing of bids.**

Notwithstanding other provisions of this chapter relating to the award after competitive bid for purchases and contracts, the city and borough may take one or more of the following steps during procurement:

A. Reject defective or nonresponsive bids;

B. Waive any irregularities in any and all bids;

C. Reject all bids;

D. Readvertise for bids with or without making changes in the plans, specifications, or scope of work.

**3.16.060 Exceptions to competitive bidding requirements.**

Unless otherwise authorized by law, all procurement actions shall ~~follow a be by~~ competitive process ~~bidding~~. The following is a list of authorized exceptions ~~which can be approved by department heads based on approval authority~~ describing situations in which ~~a competitive process bidding~~ is not required:

- A. Negotiated procurement following unsuccessful efforts to obtain a qualified bid through competitive bidding.
- B. Small procurement, below two ~~thousand five hundred fifty~~ dollars.
- C. Emergency acquisitions approved by the ~~administrator or~~ department head ~~based on authorization limits~~.
- D. Procurement of consultant and technical services.
- E. Procurement of real estate.
- F. ~~Procurement of architect-engineer~~ [Reserved].
- G. Interagency agreements.
- H. Utilization of state or local government contracts.
- I. Specialized equipment ~~for enterprise funds~~ where standardization is a primary criteria.
- J. Sole-Source Procurement.
  - 1. ~~Procurement resulting from competitive sealed proposals as defined in Section 3-16.110~~ [Reserved].
  - 2. Placement of insurance coverage as defined in this chapter.
  - 3. Contracts for electronic data processing and system control software and hardware systems and other software systems shall be by professional services contract; provided, however:
    - a. To be exempt from competitive bidding the service in question must be truly a “system” which is professionally designed.
    - b. The purchase of hardware which is not an inextricable part of the system and can be bid separately shall be competitively bid.

c. Software and systems readily available to the open market (e.g., computer operating systems) are not subject to this exception. Competition will be sought to the maximum extent practicable.

4. ~~Sole source justified procurement~~ Best interest of the city and borough.

~~K.—Services of officers and employees of the state of Alaska or the federal government if such services are provided pursuant to a written agreement with the employer.~~

~~L.—Services of students and members of faculty of an accredited high school, college, or university if such services are provided pursuant to a written agreement with the school.~~

~~M.—Services of members and employees of a nonprofit corporation registered as such with the state of Alaska, if:~~

~~1.—The services are provided pursuant to a written agreement with the corporation; and~~

~~2.—The total amount paid by the municipality divided by the number of hours of service provided by the members and employees of the corporation does not exceed double the minimum hourly wage established by the Alaska Wage and Hour Act.~~

**3.16.070 Lowest responsive and responsible bidder.**

The lowest responsive and responsible bidder is deemed to be the lowest qualified bidder under Section 11.14(a) of the Charter. In determining the lowest responsive and responsible bidder for purposes of award, the city and borough shall consider:

A. The price;

B. The ability, capacity and skill of the bidder to perform the contract within the time and price specified;

C. The reputation and experience of the bidder; and

D. The bidder performance and payment under previous contract.

**3.16.080 [Reserved.] ~~Procurement monitoring.~~**

~~The city and borough of Sitka purchases covered under this chapter will be tracked by Zip Code and a local purchase report included in quarterly financial reports to the assembly.~~

**3.16.090 [Reserved.]**

**3.16.100 Change orders—Administrator authority.**

The administrator is authorized, without assembly approval, to enter into change orders where the amount of additional expenditure occasioned by the change order or orders does not, in the aggregate,

exceed any contingency fund previously established with respect to the particular project or materially change the scope of work. Change orders exceeding in the aggregate the foregoing limitation or which change the scope of work beyond the assembly approved project are not binding without prior approval of the assembly.

**3.16.110 [Reserved.] Competitive sealed proposals—Negotiated procurement.**

A.—~~If the administrator determines that use of competitive sealed bidding is not practicable, the city and borough may procure supplies, services, materials, and equipment by competitive sealed proposals under this section.~~

B.—~~The administrator shall solicit competitive sealed proposals by issuing a request for proposals. The request for proposals shall state, or incorporate by reference, all specifications, contractual terms, and conditions to which a proposal must respond, and shall state the factors to be considered in evaluating proposals and the relative important of those factors. Public notice of a request for proposals shall be given in accordance with Sections 3.16.040(A) and (B).~~

C.—~~Sealed proposals shall be designated as such on an outer envelope and shall be submitted by mail or in person at the place no later than the time specified in the request for proposals. Proposals not submitted at the place or within the time so specified may not be opened or considered.~~

D.—~~Proposals shall be received at the time and place designated in the request for proposals, and shall be opened so as to avoid disclosing their contents to competing proponents during the process of negotiation. Proposals, tabulations, and evaluations thereof shall be open to public inspection only after the contract award.~~

E.—~~In the manner provided in the request for proposals, the administrator or his or her designee shall negotiate with those proponents whose proposals are determined to be responsive to the request for proposals. Negotiations shall be used to clarify and assure full understanding of the requirements of the request for proposals after submission and prior to award to obtain best and final offers. Proponents deemed eligible for negotiations shall be treated equally regarding any opportunity to discuss or revise proposals. In conducting negotiations or requesting revisions, no city and borough officer or employee shall disclose any information derived from proposals of competing proponents.~~

F.—~~If fair and reasonable compensation, contract requirements, and contract documents can be agreed upon with the most qualified proponent, the contract shall be awarded to that proponent.~~

G.—~~If fair and reasonable compensation, contract requirements and contract documents cannot be agreed upon with the most qualified proponent, the administrator or his or her designee shall advise the proponent of the termination of negotiations. If the proposals were submitted by one or more other proponents determined to be qualified, negotiations may be conducted with such other proponents in the order of their respective rankings. The contract may be awarded to the proponent then determined to be most qualified and advantageous to the city and borough.~~

H. ~~Awards shall be made by written notice to the proponent whose final proposal is determined to be most advantageous to the city and borough if satisfactory compensation, contract requirements, and contract documents are agreed upon pursuant to subsection G of this section. No criteria other than those set forth in the request for proposals may be used in proposal evaluation. If the assembly or the administrator (if the contract is within the administrator's authority to award) determine that it is in the best interest of the city and borough to do so, the city and borough may reject all proposals.~~

**3.16.120 Procurement policy procedure manual.**


A. ~~The administrator will create, maintain and update a procurement procedures manual in compliance with the Sitka General Code. The manual may be updated by approval of the administrator with assembly notification. The procurement procedures may be more restrictive than the Sitka General Code where the municipal administrator deems necessary. The assembly herein incorporates by reference procurement policies and procedures specified in the city and borough of Sitka procurement policy and procedures manual.~~

B. ~~A copy of the manual shall be available to the public at all times through the municipal clerk at the Sitka City Hall. The manual may be revised with assembly approval.~~


C. ~~A copy of the manual shall be available to the public at all times through the municipal clerk at the Sitka City Hall.~~

5. **EFFECTIVE DATE.** This ordinance shall become effective the day after the date of its passage.

**PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough of Sitka, Alaska this 26<sup>th</sup> day of April, 2016.

  
\_\_\_\_\_  
Mim McConnell, Mayor

ATTEST:

  
\_\_\_\_\_  
Sara Peterson, CMC  
Municipal Clerk

1<sup>st</sup> reading 4/12/16  
2<sup>nd</sup> reading 4/26/16