

POSSIBLE MOTION

I MOVE TO approve Ordinance 2018-50
on second and final reading.



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

MEMORANDUM

To: Mayor Hunter and Assembly Members
Keith Brady, Municipal Administrator

From: Jay Sweeney, Chief Finance and Administrative Officer

Date: October 3, 2018

Subject: Change to Title 3 of the SGC Necessitated by Federal Revisions to 2 CFR Part 200 (Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Grants)

Executive Summary

Portions of Federal revisions to 2 CFR Part 200 (*Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Grants*) have necessitated a wording change in the Municipality's procurement policy in order to comply with Federal law.

Background and Discussion

Portions of Federal revisions to 2 CFR Part 200 (*Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Grants*) became effective July 1, 2018, the start of the next fiscal year commencing after December 26, 2017). The applicable portions of 2 CFR Part 200 becoming effective July 1, 2018 include sections 200.317 thru 200.316, procurement standards.

The City and Borough of Sitka's external auditors, BDO USA LLP, have advised that the municipality's written procurement policy must explicitly state that it will comply with Federal procurement standards and guidelines outlined in 2 CFR Part 200 when expending Federal funds. Simply complying with Federal procurement standards in deed is insufficient.

The proposed wording change to Title 3 of the Sitka General Code is a policy commitment to adhere to Federal procurement guidelines when expending Federal funds. It is not applicable to all other procurements.

Sitka's procurement policy does differ from Federal procurement guidelines as set

forth in 2 CFR Part 200, in that Sitka's policy allows for greater exceptions to competitive bidding (notably, for professional services).

Failure to amend the procurement policy to include the proposed wording could possibly lead to a Federal Single Audit Act finding regarding internal controls over procurement with Federal funding.

Recommendation

Approve the proposed ordinance updating Title 3 of the Sitka General Code.

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2018-50

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING TITLE 3
"PROCUREMENT POLICY" OF THE SITKA GENERAL CODE BY MODIFYING
CHAPTER 3.16 "PROCUREMENT POLICY" SECTION 3.16.060 "EXCEPTIONS TO
COMPETITIVE REQUIREMENTS"

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 amend section 3.16.060 "Exceptions to competitive requirements" under Chapter 3.16 in Title 3 of the Sitka General Code. As recommended by the City and Borough Auditors, revisions to this section will ensure full compliance to federal regulations regarding procurement.

4. ENACTMENT. NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that the Sitka General Code Title 3, Chapter 3.16, is amended by revising section 3.16.060, to read as follows (deleted language stricken, new language underlined):

Title 3
PROCUREMENT

Chapters:

3.16 Procurement policy

* * *

Chapter 3.16
PROCUREMENT POLICY

Sections:

| | |
|-----------------|---|
| <u>3.16.010</u> | Contract and purchase procedure. |
| <u>3.16.020</u> | Limitation on administrator's authority. |
| <u>3.16.025</u> | Purchase splitting. |
| <u>3.16.026</u> | Types of vendor solicitations. |
| <u>3.16.027</u> | Alternative contracting methods. |
| <u>3.16.030</u> | Purchases or contracts exceeding fifty thousand dollars. |
| <u>3.16.031</u> | Purchases or contracts from twenty-five thousand to fifty thousand dollars. |
| <u>3.16.032</u> | Purchases or contracts of less than twenty-five thousand dollars. |
| <u>3.16.040</u> | Advertising. |
| <u>3.16.050</u> | Processing of bids. |
| <u>3.16.060</u> | Exceptions to competitive requirements. |
| <u>3.16.070</u> | Lowest responsive and responsible bidder. |

- 3.16.080 [Reserved.]
3.16.090 [Reserved.]
3.16.100 Change orders—Administrator authority.
3.16.110 [Reserved.]
3.16.120 Procurement procedure manual.

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3.16.060 Exceptions to competitive requirements.

A. Unless otherwise authorized by law, all procurement actions shall follow a competitive process. 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 is not required:

- ~~A.~~ 1. Negotiated procurement following unsuccessful efforts to obtain a qualified bid through competitive bidding.
- ~~B.~~ 2. Small procurement, below two thousand five hundred dollars.
- ~~C.~~ 3. Emergency acquisitions approved by the administrator or department head based on authorization limits.
- ~~D.~~ 4. Procurement of consultant and technical services.
- ~~E.~~ 5. Procurement of real estate.
- ~~F.~~ 6. [Reserved].
- ~~G.~~ 7. Interagency agreements.
- ~~H.~~ 8. Utilization of state or local government contracts.
- ~~I.~~ 9. Specialized equipment where standardization is a primary criteria.
- ~~J.~~ 10. Sole-Source Procurement.
- ~~1.~~ a. [Reserved].
- ~~2.~~ b. Placement of insurance coverage as defined in this chapter.
- ~~3.~~ c. 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.~~ i. To be exempt from competitive bidding the service in question must be truly a "system" which is professionally designed.

b. ii. The purchase of hardware which is not an inextricable part of the system and can be bid separately shall be competitively bid.

c. iii. 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. d. Best interest of the city and borough.

B. The provisions of Section 3.16.060 (A) notwithstanding, all procurement actions utilizing federal support or funding, which are subject to the procurement standards outlined in applicable federal regulations, will comply with those procurement standards in all respects except in cases where city and borough procurement code is stricter than applicable federal regulations. In such a case, the code must be followed. The administrator shall ensure that sufficient documents and records required by applicable federal regulations are retained in order to detail all procurements utilizing federal support or funding.

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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 23rd day of October, 2018.

Gary L Paxton, Mayor

ATTEST:

Sara Peterson, MMC
Municipal Clerk

1st reading 10/9/18

2nd and final reading 10/23/18

Sponsor: Administrator