

Submitted by: Chair of the Assembly at the
Request of the Mayor
Prepared by: Purchasing Department
For reading: June 19, 2001

ANCHORAGE, ALASKA
AO NO. 2001- 122

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE TITLE 7, PURCHASING AND CONTRACTS AND PROFESSIONAL SERVICES, PERTAINING TO SECTIONS 7.10, GENERAL PROVISIONS, 7.15, GENERAL CONTRACTING PROCEDURES, SECTION 7.20, METHODS OF SOURCE SELECTION, AND 7.70, CONTRACTS WITH NONPROFIT SERVICE ORGANIZATIONS.

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1: That Anchorage Municipal Code section 7.10.060, *Applicability of title to Anchorage Telephone Utility*, is hereby repealed in its entirety.

Section 2: That Anchorage Municipal Code section 7.15.040 is hereby amended to read as follows:

7.15.040 Assembly approval of contracts.

A. No contract for supplies, services, professional services or construction whereby the municipality is obligated to pay more than \$100,000.00 pursuant to a contract awarded through competitive procedures, which are described in sections 7.20.020 through 7.20.040 (bids) and 7.20.060 (proposals), or more than \$50,000.00 [\$30,000.00] pursuant to contracts awarded through other authorized procedures, may be executed unless the assembly has approved a memorandum setting forth the essential terms of the contract. To the extent applicable for particular contracts, the following essential terms shall be set forth:

- 1 The identity of the contractor;
- 2 The contract price;
- 3 The nature and quantity of the performance that the municipality shall receive under the contract;
- 4 The using agency; and
- 5 The time for performance under the contract.

All contracts awarded through competitive procedures under this subsection [A] that are more than \$50,000.00 [\$30,000.00] and less than \$100,000.00 shall be reported to the assembly in an informational memorandum once each month. The report shall contain the information described in subsections 1 through 5 of this subsection.

C. No grant to a governmental or quasi-governmental agency or to a private nonprofit corporation under the provisions of chapter 7.70 for more than \$50,000.00 [\$30,000.00] may be issued unless the assembly has approved a memorandum setting forth:

1. The identity of the grantee;
2. The grant amount;
3. The purpose to which grant funds are to be devoted; and
4. The agency charged with administration of the grant.

(AO No. 79-203; AO No. 82-168; AO No. 93-217, § 1, 2-26-94; AO No. 94-123(S), § 1, 8-25-94)

Section 3: That Anchorage Municipal Code section 7.15.080 is hereby repealed and reenacted to read as follows:

7.15.080 **Contract amendments – Assembly approval.**

A. No contract amendment or change order that will cause the total value of the contract to exceed the limits specified below may be executed unless the Assembly has approved a memorandum setting forth the essential terms of the amendment or change order request:

1. For contracts with an original award value of \$50,000.00 or less; a contract amendment or change order, or cumulative contract amendments or change orders, that will cause the total contract amount, as amended, to exceed \$50,000.00 or 125% of the original contract award, whichever is greater.
2. For contracts with an original award value greater than \$50,000.00 up to \$250,000.00; a contract amendment or change order, or cumulative contract amendments or change orders, that will cause the total contract amount, as amended, to exceed 125% of the original contract award, or to increase the original contract by \$50,000.00, whichever is less.

2 3. For contracts with an original award value greater than \$250,000.00 up to
3 \$2,500,000.00; a contract amendment or change order, or cumulative
4 contract amendments or change orders, that will cause the total contract
5 amount, as amended, to exceed 120% of the original contract award, or to
6 increase the original contract by \$250,000.00, whichever is less.

7 4. For contracts with an original award value greater than \$2,500,000.00; the
8 department shall recommend, with concurrence of the purchasing officer,
9 the maximum contract amendment or change order value that can be
10 executed without Assembly approval. This value shall be established and
11 approved concurrently with the contract award under 7.15.040.

12
13 B. For contracts that contain one or more optional contract periods, and where the
14 municipality desires to exercise the option, a follow-on period may be executed in
15 an amount consistent with the original contract terms, notwithstanding subsection
16 A herein. The individual option period is considered a separate action and not an
17 amendment or change order. However, a contract amendment or change order, or
18 cumulative contract amendments or change orders, issued within the original or
19 any optional contract period, shall be subject to subsection A herein. If the
20 original contract period or any optional period is otherwise subject to 7.15.040,
21 such approval shall be received prior to contract execution.

22
23 C. For construction contracts where the original contract value is greater than
24 \$500,000.00, the administering agency or department shall submit informational
25 memoranda to the assembly that, at a minimum, lists the contractor name and
26 project identity, the original contract amount, and all contract amendments or
27 change orders processed against the contract. Informational memoranda shall be
28 submitted no later than 60 days after issuing the final pay estimate.

29
30 [A. NO CONTRACT AMENDMENT WHICH WILL CAUSE THE TOTAL PRICE
31 OF THE CONTRACT, AS AMENDED, TO EXCEED \$30,000.00, OR 110
32 PERCENT OF THE ORIGINAL CONTRACT PRICE FOR CONTRACTS
33 GREATER THAN \$30,000.00, MAY BE EXECUTED UNLESS THE
34 ASSEMBLY HAS APPROVED A MEMORANDUM SETTING FORTH ANY
35 MODIFICATIONS TO THE ESSENTIAL TERMS OF THE CONTRACT;
36 PROVIDED, HOWEVER, THAT ANY CONTRACT AMENDMENT IN
37 EXCESS OF \$30,000.00 SHALL BE SUBJECT TO APPROVAL BY THE
38 ASSEMBLY EXCEPT AS AUTHORIZED BY SUBSECTIONS B AND C OF
39 THIS SECTION.

40
41 [B. FOR CONSTRUCTION PROJECTS, THE SUM TOTAL OF THE CONTRACT
42 AMENDMENTS WHICH WILL CAUSE THE TOTAL PRICE OF THE
43 CONTRACT, AS AMENDED, TO EXCEED 110 PERCENT OF THE
44 ORIGINAL CONTRACT PRICE, OR EXCEED \$30,000.00, WHICHEVER IS
45 GREATER, MAY NOT BE EXECUTED UNLESS THE ASSEMBLY HAS
46 APPROVED A MEMORANDUM SETTING FORTH ANY MODIFICATIONS

[C. USING AGENCIES WHICH AMEND CONSTRUCTION CONTRACTS AS AUTHORIZED UNDER SUBSECTION B OF THIS SECTION SHALL REPORT SUCH AMENDMENTS TO THE ASSEMBLY WITHIN 60 DAYS OF EXECUTION.]

E. In the manner provided in the request for proposals, the purchasing officer may enter into discussions [NEGOTIATE] with those responsible proponents whose proposals are determined by the purchasing officer to be most reasonably responsive to the request for proposals (short-listed firms). The Purchasing

Officer may issue an interim notice to the remaining firms that a qualified list has been established for discussion purposes. No disclosure of the short-listed firms, contents of proposals, tabulations or evaluations thereof shall be made in accordance subsection D above. Discussions [NEGOTIATIONS] shall be used to clarify and ensure full understanding of the requirements of the request for proposals. The purchasing officer may permit those short-listed firms [PROPOSERS] to revise their proposals after submission and prior to award to obtain best and final offers. Proponents deemed eligible for discussions [NEGOTIATIONS] shall be treated equally regarding any opportunity to discuss and revise proposals. However, if during the discussions it is evident that the proposals, as submitted, will exceed the available funding, and/or other changes in the terms, conditions, or requirements are needed to clarify or fulfill the requirements of the Municipality, the Purchasing Officer shall issue a written modification to those short-listed firms with an established date and time for the firms to respond. The failure of a short-listed firm to respond or to notify the Purchasing Officer of a needed time extension may be just cause to remove the proposer from further consideration. In conducting discussions [NEGOTIATIONS] or requesting revisions, neither the purchasing officer nor any other municipal officer or employee shall disclose any information derived from other competing proposals. [OF COMPETING PROPONENTS.]

- J. Legal services shall be procured in accordance with this section. Except for procurement of legal services by the assembly as provided by section 4.06 of the Charter and subsection K of this section, no negotiations or contracts for the services of legal counsel may be pursued or awarded without the prior approval in writing of the municipal attorney. The municipal attorney shall review the responses received by the purchasing officer and shall be assisted by the purchasing officer in the selection process. All bills or invoices for payment for legal services obtained pursuant to this section shall be reviewed and approved by the municipal attorney prior to payment. All funds budgeted, obligated or expended by any municipal department, agency or utility [EXCEPT THE ANCHORAGE TELEPHONE UTILITY] for contract legal services must be charged to a separate legal services budget account within that department, agency or utility. The assembly shall be informed, in advance, of the participation by the municipality in any litigation as plaintiff or intervener where outside counsel is retained to represent the municipality if the cost of such representation is likely to exceed \$50,000.00 [\$30,000.00].

(AO No. 79-203, 1-1-80; AO No. 88-163; AO No. 92-82(S), 1-1-93; AO No. 92-87(S); AO No. 94-174, § 1, 10-25-64)

Section 6: That Anchorage Municipal Code section 7.20.070 is hereby amended to read as follows:

7.20.070 Open market procedures.

A. The purchasing officer may procure all supplies, services, professional services and construction having an estimated value of not more than \$50,000.00 [\$25,000.00] on the open market without formal advertising or other formal bid procedures.

C. Awards, where practicable, shall be made to the lowest responsive and responsible bidder. The purchasing officer shall keep a record of all open market bids received and awards made thereon. Local bidders preference shall be applied in accordance with Section 7.20.040.

(AO No. 79-203, 1-1-80)

Section 7: That Anchorage Municipal Code section 7.20.080 is hereby repealed and reenacted to read as follows:

7.20.080 Proprietary [REQUIREMENTS] and non-competitive procurements.

A. The Purchasing Officer may contract, without the use of the competitive source selection procedures of this chapter, for the following supplies, services, professional services or construction:

For contracts, including reimbursable agreements, with Federal or State units of government, any post secondary educational institutions, or utility provider where the municipality has a financial responsibility or beneficial interest in entering into an agreement.

2. For contracts issued pursuant to any Federal, State, or local government contract where the municipality is an authorized user, or where the resulting contractor agrees to extend the same terms, conditions, and pricing to the municipality as those awarded under the original contract. (Piggy-backing) such agreements shall be limited to those contracts where the award is issued pursuant to a formally advertised solicitation.

3. For contracts where the amount is less than \$5,000.00 for supplies, services, or professional services, and \$10,000.00 for construction services, and the price is fair and reasonable.

4. For contracts pursuant to a formal recommendation by a municipal contractor specifically tasked with researching and/or reviewing the market place for qualified products or services. The municipal contractor

must have been hired specifically for this purpose and must have been selected in accordance with the competitive procedures of 7.20.020 (Bids) or 7.20.060 (Proposals).

- 5 For contracts where the purchasing officer determines in writing that the municipality's requirements reasonably limit the source for the supplies, services, professional service or construction to one person.

- B. All contract awards under this section, or any amendments thereto, shall be subject to the applicable approval requirements of sections 7.15.040 and 7.15.080 prior to execution.

[THE MUNICIPALITY MAY AWARD A CONTRACT FOR SUPPLIES, SERVICES OR CONSTRUCTION WITHOUT COMPETITION WHERE THE PURCHASING OFFICER DETERMINES IN WRITING THAT THE MUNICIPALITY'S REQUIREMENTS REASONABLY LIMIT THE SOURCE FOR THE SUPPLIES, SERVICES OR CONSTRUCTION TO ONE PERSON.]

(AO No. 79-203, 1-1-80)

Section 8: That Anchorage Municipal Code section 7.20.120 is hereby amended to read as follows:

7.20.120 Waiver of formal [BIDDING] procedures.

- [A.] The mayor may waive, in writing, the formal [BIDDING] procedures of this Title [CHAPTER] when time is of the essence and the best interests of the municipality will be served by such action. [IN PROCEEDING UNDER THIS SECTION, THE MAYOR SHALL SUBMIT AN INFORMATIONAL MEMORANDUM TO THE ASSEMBLY STATING ALL ESSENTIAL TERMS OF THE CONTRACT AND THE REASONS FOR PROCEEDING UNDER THIS SECTION.] All contracts for which formal procedures are waived under this section shall be reported to the assembly at its next meeting. The report shall contain the information described in section 7.15.040.A and shall summarize the reasons for proceeding under this section.

- [B. THE MAYOR MAY WAIVE THE FORMAL PROCEDURES OF THIS CHAPTER WITHOUT ASSEMBLY APPROVAL FOR THE FOLLOWING TRANSACTIONS:

- 1 ACQUISITION OR DISPOSAL OF UNUSED OR OBSOLETE TELEPHONE CUSTOMER EQUIPMENT; AND
2. ACQUISITION BY PURCHASE OR LEASE, OR THE SALE OR LEASE, OF TELEPHONE CUSTOMER EQUIPMENT WHICH IS

INTENDED FOR USE BY A TELEPHONE UTILITY CUSTOMER
PURSUANT TO AN OUTSTANDING CUSTOMER ORDER.]

[C. ALL CONTRACTS FOR WHICH FORMAL PROCEDURES ARE WAIVED
UNDER THIS SECTION SHALL BE REPORTED TO THE ASSEMBLY AT
ITS NEXT MEETING. THE REPORT SHALL CONTAIN THE
INFORMATION DESCRIBED IN SECTION 7.15.040.A AND SHALL
SUMMARIZE THE REASONS FOR PROCEEDING UNDER THIS
SECTION.]

(AO No. 79-203, 1-1-80; AO No. 88-163)

Section 9: That Anchorage Municipal Code section 7.70.030 is hereby amended to read as
follows:

7.70.030 Assembly approval of grant agreements.

In accordance with the provisions of section 7.15.040, grants to governmental agencies
and nonprofit service organizations in an amount exceeding \$50,000.00 [\$30,000.00]
shall be subject to assembly approval.

Section 10: That this ordinance shall be effective immediately upon passage and approval.

PASSED AND APPROVED by the Anchorage Assembly the ____ day of _____, 2001

Chair

ATTEST:

Municipal Clerk

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects - General Government

AO Number: 2001- 122 Title: An Ordinance Amending Various Chapters and Sections of AMC Title 7.
Sponsor: Purchasing Department
Preparing Agency: Purchasing Department
Others Impacted:

CHANGES IN EXPENDITURES AND REVENUES:		(Thousands of Dollars)				
		FY01	FY02	FY03	FY04	FY05
Operating Expenditures		N/A				
TOTAL DIRECT COSTS:		N/A				
Add: 6000 Charges from Others						
Less: 7000 Charges to Others		N/A				
FUNCTION COST:		N/A				
REVENUES:		N/A				
CAPITAL:		N/A				
POSITIONS: FT/PT and Temp.		N/A				

PUBLIC SECTOR ECONOMIC EFFECTS:

The effects of this ordinance will provide administrative efficiencies and operational effectiveness by standardizing the dollar thresholds currently residing within AMC Title 7. It is expected that fewer approval documents will be processed through the Assembly for change orders, annual renewals on lower valued contracts, and contract amendments. Additionally, the competitive bid threshold is being increased to coincide with the economic trends that have increased over the past 20 years while preserving the public's interests and rights to a competitive bidding system. These revisions will improve the Purchasing Departments turn-around times, save on advertising/mailling fees, and reduce administrative overhead currently associated with lower valued contracts for goods and services. Staff reductions were instituted in BY 2001 in anticipation of these code revisions and implementation of a procurement credit card program for small purchases. Current savings are expected to be less than \$30,000.

PRIVATE SECTOR ECONOMIC EFFECTS:

No direct savings or reductions are expected to the private sector. However, contractors and vendors providing goods and services will see improved efficiency by having contracts and notices to proceed on lower valued projects in a more timely manner. Additionally, more timely approval of contract change orders and amendments should reduce administrative conflicts and provide improved timing for payment processing. Upon implementation of the new procurement credit card program for small purchases, vendors and service providers will see automatic and nearly immediate payment without the need to maintain or produce accounts receivable statements.

Prepared by: Barton R. Mauldin, Purchasing Officer

Telephone: 343-4170

Validated by OMB

Cheryl Frasca

Date: 6/4/01

Approved by:

Barton R. Mauldin
(Director, Preparing Agency)

Date: 6-1-01

Concurred by:

N/A

(Director, Impacted Agency)

Approved by:

[Signature]
(Municipal Manager)

Date: 6-7-01