

CITY OF DILLINGHAM, ALASKA

ORDINANCE NO. 2015-16

AN ORDINANCE OF THE DILLINGHAM CITY COUNCIL AMENDING SECTION 4.30.080 TO MAKE A MINOR CORRECTION TO CHANGE RESPONSIVE BIDDER TO RESPONSIBLE BIDDER, AND AMEND SECTION 4.30.100 E. TO ADD NOTICE OF INTENT TO AWARD TO THE COMPETITIVE SEALED BID PROCESS

BE IT ENACTED BY THE DILLINGHAM CITY COUNCIL:

Section 1. Classification. This is a code ordinance.

Section 2. Amendment of Section 4.30.080, Contracts/purchases of \$5,000 or \$20,000. Section 4.30.080 of the Dillingham Municipal Code is hereby amended as follows with new language underlined and **emboldened**.

**Chapter 4.30
CONTRACT AND PURCHASE PROCEDURES**

4.30.030 Definitions.

Whenever the following words or terms are used in this section, they shall be construed as follows unless the context clearly indicates otherwise:

A. **Lowest Responsible Bidder.** The successful low bidder shall possess financial ability to complete the contract; integrity, trustworthiness, skill, judgment and ability to perform faithful and conscientious work; experience and necessary facilities and equipment for doing the work, together with other essential factors. The qualifications of the bidder may be determined by but are not limited to the following criteria:

1. Bidder is a manufacturer or regular dealer;
2. Bidder is a bona fide manufacturer's agent or regularly employed on a salary or commission basis by one or more manufacturers of supplies or services being procured;
3. Bidder is a producer of the items under consideration;
4. Bidder is considered responsible and qualified because of:
 - a. Demonstrated judgment and integrity;
 - b. Experience rating on the basis of prior work or activity of a similar nature.

4.30.080 Contracts/purchases of \$5,000 to \$20,000.

Unless otherwise required by law, contracts and purchases estimated by the city manager in writing to be between five thousand and twenty thousand dollars may be made in the open market without competitive sealed bid or public notice, subject to the following:

A. Quotations and Award. Such open market contracts and purchases, whenever possible and practicable, shall be based upon at least three competitive written quotations from interested bidders and shall be awarded to the lowest qualified and ~~responsive~~ **responsible** bidder.

Section 3. Amendment of Section 4.30.100, Competitive sealed bid or proposal procedure. Section 4.30.100 of the Dillingham Municipal Code is hereby amended as follows with new language underlined and **emboldened**.

4.30.100 Competitive sealed bid or proposal procedure.

E. Award/protest.

1. The city manager or city representative (e.g., engineer or consultant to the city) shall provide a written evaluation of the bids received to the city council. Such evaluation shall take into consideration conformity with the specifications, terms of delivery, and direct response to other factors addressed and conditions imposed on the call for bids. The bid of a bidder who has failed to satisfactorily perform on a previous contract may be rejected. If the city manager reports to the city council that the lowest bidder was not responsible, notice shall be sent to the three apparent low bidders and the report shall be placed on the agenda of the next regularly scheduled council meeting; provided, however, that the bidders shall be allowed at least two weeks' notice of the meeting date.

2. **Notice of intent to award does not constitute a formal award of a contract. The notice of intent to award must include:**

a. **a statement of a bidder's right to protest award, including the time within which the protest must be received, which is five days from the date of the notice; and**

b. **the name of the successful bidder; and**

3. **Unless only one responsive bid is received the notice of intent to award shall be issued to each bidder at least five days before formal award of the contract. If only one responsive bid is received, the contract may proceed as soon as practical after the notice of intent to award is issued.**

(New language is underlined and **emboldened** and deleted language displayed as strikethrough.)

4. Any unsuccessful bidder may appear at the council meeting at which a motion for award of contract is to be considered and present testimony to council regarding his/her bid and the city manager's recommendation of award.

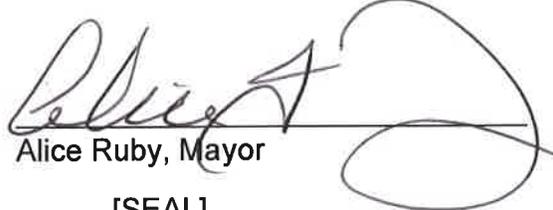
5. The city council shall then determine whether it is in the best interest of the public to affirm, reject or modify the city manager's evaluation and recommendation and in so doing, make written findings to support its determination. The written findings shall be based on, but not limited to the definition of "lowest responsible bidder" at Section 4.30.030.

6. Notwithstanding other provisions of this chapter, the city may reject defective or nonresponsive bids; waive any irregularities in any and all bids; reject all bids; negotiate with two or more of lowest bidders, if bid prices are in excess of the money available or authorized, for a reduction in the scope, quality or quantity of the supplies or services; or readvertise for bids with or without making changes in the plans or specifications.

7. The city council shall award a contract under this chapter in the form of a resolution authorizing the city manager to enter into the contract under the terms and conditions as set forth in the bid documents, as established in this chapter and any other conditions as may be deemed necessary to protect the public interest. (Ord. 86-10 § 1, 1986.)

Section 4. Effective Date. This ordinance is effective upon passage.

PASSED and ADOPTED by a duly constituted quorum of the Dillingham City Council on Oct. 15, 2015.


Alice Ruby, Mayor
[SEAL]

ATTEST:


Janice Williams, City Clerk

City of Dillingham Information Memorandum

Agenda of: October 15, 2015

Attachment to:

Ordinance No. 2015-16 / Resolution No. _____

Subject:

Make a minor correction to DMC Section 4.30.080 to change responsive bidder to be responsible bidder and amend Section 4.30.100 E. to add the notice of intent to award to the competitive bid process

City Manager: Recommend Approval

Signature: Rose Doera

Fiscal Note: Yes No

Funds Available: Yes No

Other Attachments:

-An advertisement for a Public Hearing on Ordinance No. 2015-16 was scheduled to be placed in the October 8, 2015 edition of the Bristol Bay Times as required to be advertised in a local newspaper five days in advance of the public hearing, which is scheduled for October 15, 2015.

Summary Statement:

This ordinance was introduced at the October 1, 2015 Council meeting.

The city is looking to add a section on notice of intent to award to the section of code regarding the competitive bid process. The city is recommending a five day notice.

This code change is being recommended by the Code Review Committee for adoption by the Council.

AS 36.30.365 Notice of Intent to Award a Contract

At least 10 days before the formal award of a contract that is not for construction, and at least five days before the award of a construction contract, under this chapter, except for a contract awarded under AS 36.30.300 – 36.30.320, the procurement officer shall provide to each bidder of offer or notice of intent to award a contract. The notice must conform to regulations adopted by the commissioner.

Attorney Advisement.

The City is not required to follow either the administrative code or the statute on this point. Having ordinances mirror statutes is worthwhile when there is no good reason to diverge. If ten days is a reasonable choice for Dillingham, copying the state statute makes sense but Dillingham isn't obligated to do so.



Attachment to: 2015-16 / Resolution No. _____
Ordinance No. _____

Summary Statement continued:

Route to	Department Head	Date
	Finance Director	
X	City Clerk	



NOTICE OF A PUBLIC HEARING

*Public Hearing on Ordinance Nos. 2015-15, 2015-16,
and 2015-17*

The City Of Dillingham will hold a **Public Hearing** on Thursday, October 15, 2015, at 7:00 P.M. in the City Council Chambers for the purpose of taking comment from the public on the following ordinance:

- Adopt Ordinance No. 2015-15, An Ordinance of the Dillingham City Council Amending Dillingham Municipal Code Chapter 2.68, Planning Commission, Section 2.68.130, Duties and Functions, and Section 11.08.010, Speed Limits, to Act on Requests for Changes in Speed Limits
- Adopt Ordinance No. 2015-16, An Ordinance of the Dillingham City Council Amending Dillingham Municipal Code Section 4.30.080 to Make a Minor Correction to Change Responsive Bidder to Responsible Bidder, and Amend Section 4.30.100 E. to Add Notice of Intent to Award to the Competitive Sealed Bid Process
- Adopt Ordinance No. 2015-17, An Ordinance of the Dillingham City Council Amending Dillingham Municipal Code Chapter 2.27, City Clerk, to Add Records Manager Under Power-Duties Consistent with Essential Job Duties

If you have any questions, please contact the City Clerk's office at 842-5212 or email cityclerk@dillinghamak.us.