

Submitted by: VICE CHAIR
CONSTANT, ASSEMBLY CHAIR
LAFRANCE, AND ASSEMBLY
MEMBER ZALETEL
Prepared by: Assembly Budget Analyst
Reviewed by: Assembly Counsel's
Office
For reading: March 7, 2023

**ANCHORAGE, ALASKA
AO No. 2023-23(S)**

**AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE
MUNICIPAL CODE TITLE 7, PURCHASING AND CONTRACTS AND
PROFESSIONAL SERVICES, EFFECTIVE FOLLOWING THE REPEAL OR
EXPIRATION OF EMERGENCY ORDINANCE 2023-2, AS AMENDED.**

WHEREAS, in 2007 the Anchorage Assembly approved AO 2007-22, amending Title 7 to require Assembly approval of competitively awarded contracts over \$500,000; and

WHEREAS, on January 20, 2023, the Anchorage Assembly approved Emergency Ordinance 2023-2, As Amended, requiring Assembly approval of contracts and contract amendments at lower thresholds than required by current Anchorage Municipal Code; and

WHEREAS, as the legislative branch, the Anchorage Assembly has the appropriation power of the Municipality and is responsible to the people of Anchorage to oversee that taxpayer funds are spent legally and effectively in accordance with Municipal Code; now, therefore

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code Section 7.15.040, Assembly approval of contracts, is amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

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 \$150,000.00 [\$500,000.00] 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 \$30,000.00 including any amendment pursuant to contracts awarded under section 7.20.080A.5, or more than \$50,000.00 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 and less than \$150,000.00 [\$500,000.00] 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.

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(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; AO No. 2001-122(S-1), § 2, 7-24-01; AO No. 2007-22, § 1, 2-27-07; AO No. 2018-74, § 1, 9-25-18; AO No. 2015-39, § 1, 5-14-15; AO No. 2019-24, § 3, 4-1-19)

Section 2. Anchorage Municipal Code Section 7.15.080, Contract amendments - Assembly approval, is amended 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 excluding contracts awarded under section 7.20.080A.5.; 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 percent of the original contract award, whichever is greater. For contracts awarded under section 7.20.080A.5.; any contract amendment or change order, or cumulative or successive contract amendments or change orders, that will cause the total contract amount to exceed \$30,000.00, or continue to exceed \$30,000.00, as amended.
 2. For contracts with an original award value greater than \$50,000.00 up to \$150,000.00 [\$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 percent of the original contract award [, OR TO INCREASE THE ORIGINAL CONTRACT BY \$50,000.00, WHICHEVER IS LESS].
 3. For contracts with an original award value greater than \$150,000.00 [\$250,000.00] up to \$1,500,000.00 [\$2,500,000.00]; a contract amendment or change order, or

1 cumulative contract amendments or change orders, that will
2 cause the total contract amount, as amended, to exceed 120
3 percent of the original contract award, or to increase the original
4 contract by \$150,000.00 [\$250,000.00], whichever is less.

- 5 4. For contracts with an original award value greater than
6 \$1,500,000.00 [\$2,500,000.00]; the department shall
7 recommend, with concurrence of the purchasing officer, the
8 maximum contract amendment or change order value that can
9 be executed without assembly approval. This value shall be
10 established and approved concurrently with the contract award
11 under section 7.15.040.

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

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

- 30 D. No contractor may provide supplies, services, professional services,
31 or construction provided to the municipality before the applicable
32 requirements of this section are first satisfied.

- 33 E. No contract amendments may be authorized without Assembly
34 approval that allow for supplies, services, professional services or
35 construction not contemplated within the details of the memorandum
36 previously approved by the Assembly.

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38 (AO No. 79-203, 1-1-80; AO No. 88-163; AO No. 2001-122(S-1), § 3, 7-24-
39 01; AO No. 2015-39, § 2, 5-14-15)

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41 **Section 3.** Anchorage Municipal Code Section 7.20.090, Emergency
42 procurements and waiver of formal procurement procedures, is amended to read as
43 follows:
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45 **7.20.090 - Emergency procurements and waiver of formal procurement**
46 **procedures.**

- 47
48 A. The municipality may award a contract for supplies, services,
49 professional services or construction without competition, formal
50 advertising or other formal procedure if:

1. The mayor determines in writing that an emergency threatening the public health, safety or welfare requires that the contract be awarded without delay; or
 2. The mayor waives, in writing, the formal procedures of this title when time is of the essence and there is not sufficient time to bring the request to a regular meeting of the Assembly, and the best interests of the municipality will be served by such action; or
 3. The assembly authorizes by resolution the temporary suspension of procurement rules in order to expend federal or state funds expeditiously in accordance with the funding intent and the assembly make a finding that formal procurement is reasonably likely to frustrate or delay the intent; or
 4. The assembly authorizes by resolution the temporary suspension of procurement rules in order to expend federal or state funds prior to expiration of spending authority for said funds and the assembly makes a finding that formal procurement is reasonably unlikely to be completed in time to fully utilize the funds.
- B. Contracts awarded under this section shall be reported to the assembly no later than the second regular meeting following award of the contract. The report shall include justification for the contract including under which subsection justification is claimed, stating with particularity the facts and circumstances relied upon for the justification, all costs of the contract, and identification of the persons or entity awarded the contract.
- C. Waivers granted under subsection A.2. shall be reported in writing to the assembly within 24 hours of issuance including all the information that is required in subsection B. and prior to the execution of any contract under the waiver. Execution of a contract under subsection A.2. may not occur until 48 hours after notice of the waiver is provided. The assembly may revoke a waiver by resolution.

(AO No. 79-203, 1-1-80; AO No. 2021-33(S), § 1, 5-12-21)

Section 4. This ordinance shall be effective **March 21, 2023 or** immediately upon **the repeal or expiration of Emergency Ordinance No. 2023-2, As Amended, whichever occurs first [passage and approval by the Assembly]**.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2023.

Chair of the Assembly

ATTEST:

1 Municipal Clerk