

Introduced by: Brown, Popp, Scalzi
Date: 02/15/00
Hearing: 03/21/00
Action: Enacted as Amended
Vote: 5 Yes, 1 No, 3 Absent
Action: Notice of Reconsideration filed by Fischer
Action: Reconsideration Withdrawn
Date: 04/04/00

**KENAI PENINSULA BOROUGH
ORDINANCE 2000-07**

**AN ORDINANCE AMENDING KPB CHAPTER 5.28 TO PROVIDE FOR
INNOVATIVE COMPETITIVE PROCUREMENT METHODS TO
ACHIEVE THE BEST VALUE FOR THE BOROUGH**

WHEREAS, the procurement and purchasing code of the Kenai Peninsula Borough, KPB Chapter 5.28, requires almost all contracts, other than those for professional services, to be awarded to the lowest qualified, responsive and responsible bidder; and

WHEREAS, KPB 5.28.230 authorizes the mayor to give a preference to local bidders if the lowest bids are approximately equal and the mayor determines this to be in the best interests of the borough; and

WHEREAS, strictly awarding contracts to the lowest bidder does not always provide the best value for the borough because it does not allow the borough to give different weight to bidders for other relevant criteria, and factors that cannot be anticipated in advance of determining the requirements for a specific contract may be relevant to the contract; and

WHEREAS, not allowing the borough this flexibility can cost the borough significant sums in the long term due to problems arising after the bid is awarded, such as delays in responding to requests related to warranties, difficulties in communication after the contract is awarded, lack of consistent attention to details, and other problems; and

WHEREAS, in 1996 the State of Alaska enacted AS 36.30.308 which authorizes certain officials in the state administration to award contracts for supplies, services, professional services, or construction using an innovative procurement process when it finds that such process would be advantageous to the state to meet certain unique requirements or to achieve best value; and

WHEREAS, the borough's best interests would be served by authorizing the mayor to award contracts for supplies, services, professional services and construction using an

innovative procurement process designed to obtain the best overall value for the borough;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That KPB 5.28.225 is enacted to read as follows:

5.28.225. Innovative procurements.

- A. A contract may be awarded for supplies, services, professional services, or construction using an innovative procurement process, with or without competitive sealed bidding or competitive sealed proposals. A contract may be awarded under this section only when the mayor or his designee determines in writing that it is advantageous to the borough to use an innovative competitive procurement process in the procurement of new or unique requirements of the borough, new technologies, or to achieve best value. This process is appropriate when it may be in the best interest of the borough to consider an award to other than the lowest priced offer or other than the highest technically rated offer.
- B. To utilize an innovative procurement procedure the requesting department shall submit:
 - 1. A detailed procurement plan to the purchasing officer for review and approval before public notice is issued as required under KPB 5.28.210(B). The plan shall, at a minimum, address the method of solicitation, scope, method of award, protest procedures, and proposed contract provisions. If the plan is submitted for a construction contract, the plan may address the use of a bonus in lieu of preferences; and
 - 2. An explanation of how use of this procedure will achieve the best value, or why it is advantageous to the borough. To the maximum extent allowed by law, costs and benefits associated with the location of the bidder may be considered in determining the best value for the borough.
- C. When using the process authorized in this section, all of the following apply:
 - 1. The mayor or his designee must first approve the use of the proposed innovative procurement plan.
 - 2. All evaluation factors and significant subfactors that will affect contract award and their relative importance shall be clearly stated in the solicitation.

3. The solicitation shall state whether all evaluation factors other than cost or price, when combined, are significantly more important than, approximately equal to, or significantly less important than cost or price.
 4. In developing evaluation factors, generally, where the requirement is clearly definable and the risk of unsuccessful contract performance is minimal, cost or price may play a dominant role in source selection. The less definitive the requirement, the more development work required, or the greater the performance risk, the more technical or past performance considerations may play a dominant role in source selection.
- D. A procurement under this section is subject to the applicable requirements of KPB 5.28.210(B), KPB 5.28.250 (B), (C), (D), (E), and (F), and other requirements of the borough purchasing code not inconsistent with this section.

SECTION 2. That KPB 5.28.230(A) shall be amended to read as follows:

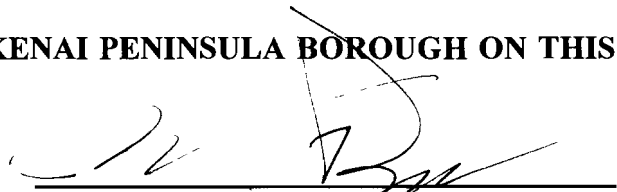
5.28.230. Procedures for award.

- A. Except as otherwise provided in this chapter, [C]contracts shall be awarded by written notice issued by the purchasing officer to the lowest qualified, responsive and responsible bidder, provided that, if the lowest bids are approximately equal, preference may be given to local bidders who maintain and operate businesses within the boundaries of the borough when it is determined by the mayor to be in the best interest of the borough.

SECTION 3. That this ordinance shall terminate on June 30, 2001, unless extended by ordinance of the Assembly.

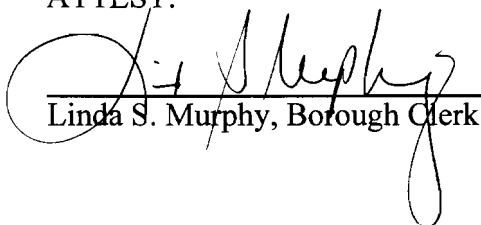
SECTION 4. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 21ST DAY OF MARCH, 2000.



 William Popp, Assembly President

ATTEST:



 Linda S. Murphy, Borough Clerk

