



Alaska Seafood Marketing Institute

Subject: Procurement Policy and Procedure

Policy Category: General

Adopted By: Alaska Seafood Marketing Institute – Board of Directors

Effective Date: October 8, 2024

State contracting and procurement procedures are governed by the Alaska Statutes (AS) 36.30, State Procurement Regulations 2 AAC.12 and the Alaska Administrative Manual (AAM) 81 & 82.

The Alaska Seafood Marketing Institute (ASMI) is exempt from the State Procurement Code. The statute referenced below cites that procurement procedures shall be adopted by the board of directors for ASMI.

AS 36.30.015(h) The board of directors of the Alaska Seafood Marketing Institute shall adopt procedures to govern the procurement of supplies, services, and professional services. The procedures must be similar to the procedures prescribed in this chapter, except that the Alaska Seafood Marketing Institute shall comply with the five percent (Alaska Bidder) preference under AS 36.30.321(a).

Staff and agents of ASMI shall comply with these procedures when procuring and obligating ASMI funds and shall act in good faith and in the best interest of the State of Alaska. ASMI shall procure goods, services and professional services in a manner to assure that all purchases are transparent and cost effective and whenever feasible such purchases shall be made from Alaskan vendors.

In accordance with AS 36.30.015, the board of directors of the Alaska Seafood Marketing Institute adopts these procedures as the rules governing the agency's procurement of supplies, services and professional services. Any amendments to this policy shall be approved by the board of directors.

Procurements will be based on the value versus lowest cost. In many cases, the lowest cost for professional services or items purchased need further evaluation than just cost.

Small Procurements (Less than \$200,000)

The following documents are commonly used in establishing contractual relationships (valid obligations) for goods and services:

- Letter contracts
- Memorandums of Agreement
- Subscription agreements
- Delivery Orders
- Credit card payments

ASMI shall use reasonable and adequate procedures providing competition that is practicable under the circumstances and for maintaining records to facilitate auditing of the activity for purchases of supplies, services, and professional services estimated to cost no more than the small procurement limitation (\$200,000) established under AS 36.30.320. Written documentation to support reasonable and adequate procedures shall be documented in the contract file.

Quote(s) or informal proposal(s) must be solicited from Alaskan vendors, if feasible, prior to soliciting non-Alaskan vendors.

Procurements Greater than \$200,000

The following solicitation types are commonly used in the establishment of contracts that exceed \$200,000. The type of solicitation used depends on the need and whether or not evaluation factors, other than cost are essential.

Invitation to Bid (ITB) is issued for Supplies or Services - award is made to the lowest cost bidder. As an example, the purchase of copy paper would be awarded to the lowest cost bidder who complies with the specification requirement included in the ITB.

The following information is required from program staff seeking a contract resulting from an ITB:

1. Supply or service required
2. Detail of services to be performed or product specification
3. Period of performance (if applicable)
4. Budget and fiscal year(s) impacted

Request for Proposal (RFP) is issued for Supplies, Services or Professional Services - award is based on evaluation factors and cost.

The following information is required from program staff seeking a contract resulting from an RFP:

1. Minimum qualifications
2. Background information
3. Detailed scope of work to be performed
4. Evaluation criteria
5. Proposal Evaluation Committee members
6. Project timeline
7. Budget and fiscal year(s) impacted

The Proposal Evaluation Committee (PEC) for RFP's shall be comprised of a minimum of three members and may be a combination of state employees, board members and committee members who possess subject matter knowledge of the solicited effort.

The Solicitation process (ITB or RFP) must be solicited for a minimum of 21 days, unless it is determined that a shorter notice period is advantageous and adequate competition is anticipated.

A pre-solicitation conference is a meeting held with potential bidders/offerors for the purpose of answering questions, clarifying any ambiguities, and responding to general issues with the solicitation. Such a conference can be very helpful to ensure that all the parties have a common understanding of what the state is seeking to purchase. Pre-solicitation conferences may be optional or mandatory, depending on the nature of the solicitation.

Once the PEC has completed the evaluation process an award is made using the Notice of Intent to Award (NOIA) form. The NOIA must include protest rights and be issued at least 10 days prior to contract award.

All protests resulting from a solicitation and award shall be forwarded immediately to the Executive Director for determination. The Executive Director is responsible for making the final determination and notifying the parties regarding all matters resulting from the protest. If an issue is not resolved by the Executive Director, a protest is referred to the Board for consideration at the next scheduled meeting.

Single-Source Procurements Over \$200,000

A contract may be awarded for supplies, services and professional services without competitive sealed bidding (ITB) and competitive sealed proposals (RFP) if it is determined in writing that:

1. It is not practicable to award a contract by competitive sealed bidding or competitive sealed proposals, or the solicitation process is contrary to public interest.
2. Award of the contract is in the state's best interest.

Written evidence to support the request for a single source procurement shall be furnished by the requesting program director and approved by the Executive Director.

Expert testimony is acceptable when it can be determined that the expert is unbiased and the testimony clearly demonstrates why the person is an expert.

A state employee may be subject to a criminal penalty if false statements are intentionally included in a RAP.

Exempt Contracts

The following contractual relationships are exempt in accordance with AS 36.30. As a result, agencies are able to engage contractors directly for these services.

1. Contracts of the University of Alaska where the work is to be performed substantially by

- students enrolled in the university;
2. Purchase of books, book binding services, newspapers, periodicals, audio visual materials (non-book prerecorded materials);
 3. Contracts for supplies or services for research projects funded by money received from the federal government or private grants;
 4. Guest speakers or performers for an educational or cultural activity;
 5. Contracts that are performed in an area outside of the country and that require knowledge of the customs, procedures, rules, or laws of the area;
 6. Procurement of contracts with the media for advertising;
 7. Contracts for travel services, including airplane travel, hotel accommodations, and travel agency services, but excluding motor vehicle rentals.

Contracts Award Manual

The Department of Administration, Office of Procurement and Property Management establishes purchasing contracts available for use by State agencies. The following link provides the list of available contracts: <https://oppm.doa.alaska.gov/>.

Unanticipated Contract Amendments

In accordance with 36.30, unanticipated contract amendments that exceed the lesser of 20 percent of the amount of the current contract term, or \$100,000, may be made if an explanation from the program director lists the specific reasons why the amendment is in the state's best interest and must address the following:

1. whether the change is legitimate and due to unforeseen circumstances which occurred as work progressed, and whether the reasons for the change were unforeseen at the time the contract was established, as opposed to an effort to evade procurement requirements;
2. whether the additional work is within the scope of the original contract;
3. whether the contract contains clauses authorizing modification;
4. whether an amendment represents any important general change which alters the essential identity or main purpose of the contract, or is of such importance as to constitute a new undertaking.

Procurement Certification

Because public procurement involves the obligation and expenditure of public funds, ethics play a major role in the procurement process.

All State of Alaska executive branch employees are bound by the **Executive Branch Ethics Act** found in Alaska Statute 39 and the **Executive Branch Code of Ethics** found in Alaska Administrative Code 9 AAC 52, which equates public office to public trust. The Code of Ethics further states that any effort to benefit a personal or financial interest through official action is a violation of public trust.

The goal of the Alaska Procurement Officer Certification Program is to provide guidance and procurement certification to employees of the State of Alaska's executive branch who are performing procurements for supplies, services and professional services. The program consists of three levels of procurement complexity; the following describes the levels of the state's procurement certification

structure.

Level I Procurement Certification

Required for state employees that perform small procurements up to \$25,000

Level II Procurement Certification

Required for state employees that perform small and/or alternate (Single Source) procurements from \$25,000 to \$200,000

Level III Procurement Certification

Required for state employees that perform formal (\$200,000 and above) and/or alternate (Single Source) procurements above \$200,000

At a minimum, ASMI staff that procure goods and services up to \$25,000 shall attain a Level I certification by reading the online Alaska Public Procurement Manual and by signing the Request for Level I Procurement Certification page.

Approval authority is granted to Program Directors with Level III certification for contracts up to \$200,000.

Contracts in excess of \$200,000 will require Executive Director approval.

Misuse of Official Position

Alaska's Code of Ethics states that you:

- May not use position for personal gain or give unwarranted benefit or treatment.
- May not take or withhold official action in which you have a personal or financial interest.
- May not unduly influence the award of a contract.
- May not accept money from anyone other than the state for performance of your official duties.

Improper Gifts

Public employees may not solicit or accept gifts that benefit them if it can be reasonably inferred that the gift is intended to influence their actions or judgment.

Alaska's Code of Ethics requires that gifts valued over \$150 must be reported to your ethics supervisor. Once the appearance of an impropriety is suggested, it calls into question all work done to that point and must be defended.

Improper Influence

You may not take actions or withhold action on the award or administration of a state contract if you have any personal or financial interest. A "personal or financial interest" could include an interest that would benefit yourself, your spouse, or an immediate family member or friend.

If you are ever in a position where you are unsure if you are in a situation that could be a violation of the Code of Ethics, it is important that you seek guidance from your ethics supervisor before proceeding.