

ORDINANCE 4256

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO PROCUREMENT STANDARDS AND THE SMALL WORKS ROSTER PROCESS.

The City Council of the City of Kirkland do ordain as follows:

Section 1. Section 3.85.040 of the Kirkland Municipal Code is hereby amended to read as follows:

3.85.040 Procurement standards.

The following standards shall be applicable to city procurements:

(a) A review of all proposed procurements shall be done by purchasing staff and/or the appropriate budget authority for the purpose of, including but not limited to, avoiding the purchase of unnecessary or duplicative items and for consolidating procurements when appropriate to obtain a more economical purchase.

(b) The purchasing agent or designee shall be responsible for analyzing procurements to determine whether or not a lease arrangement may be more economically practical than the purchase alternative. All lease agreements must be approved by the director.

(c) Time and material type contracts shall be used only after a determination that no other type of contract is suitable and when the contract includes a ceiling price, which the contractor shall not exceed, except at its own risk.

(d) When using a liquidated damages provision in a contract, the project manager shall document the derivation of the rate of assessment and ensure it is reasonable, proper, and not arbitrary and capricious. The rate should be enough to reasonably compensate the city for damages suffered, but not so large as to be construed as a penalty.

(e) When contracting for professional services, the contract shall limit the total of the base and option time periods to not more than five years, unless otherwise approved by the city council. Prices for each base and option time period shall be firm and fixed wherever possible and shall be established in the initial contract negotiation and execution. If it is not possible to establish firm, fixed prices, changes in the option period prices shall be tied to a well-known, published pricing index, such as the appropriate Consumer Price Index.

(f) ~~Advance funding payments made to a contractor prior to the incurring of costs by the contractor shall be prohibited~~Generally goods and services are not to be prepaid (paid for before receiving) unless expressly allowed by statute, the Kirkland Municipal Code or city administrative policy; provided, prepayment may be made if the terms of the prepayment are included in a contract executed prior to the payment. Progress or percentage of completion payments made to a contractor while work is being performed by the contractor may be allowed if deemed appropriate for the project.

(g) Project managers and purchasing staff shall work together to ensure contractors perform in accordance with the terms and conditions, and specifications of their contract or purchase order.

(h) All contracts must contain a provision allowing the city to terminate the contract. Ideally, the provision will authorize such termination without cause but, in lieu of this ideal, a provision allowing termination for cause is acceptable if approved by the city attorney's office. A provision in a single contract authorizing termination without cause in certain circumstances and termination only for cause in others is also acceptable upon approval by the city attorney's office.

Section 2. Section 3.85.170 of the Kirkland Municipal Code is hereby amended to read as follows:

3.85.170 Small works roster process.

(a) In accordance with the procedures set forth in RCW 39.04.155, contracts for public works projects with a total cost, including applicable taxes, between seven thousand five hundred dollars and ~~two~~ three hundred thousand dollars may be awarded using the small works roster process.

(b) The limited public works process as defined in RCW 39.04.155(3) may also be used for projects estimated to cost less than thirty-five thousand dollars. Using this process, quotes are solicited from a minimum of three contractors found in the appropriate category of work in the small works roster. The performance and payment bond requirements and retainage requirements may be waived by the city.

(c) Quotations may be invited from all appropriate contractors on the appropriate small works roster. As an alternative, quotations may be invited from at least five contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. However, if only five quotations are sought and the estimated cost of the work is from one hundred fifty thousand dollars to ~~two~~ three hundred thousand dollars, the city must also notify the remaining contractors on the appropriate small works roster that quotations on the work are being sought. Such notice must be published in a legal newspaper of general circulation, mailed to these other contractors or sent by facsimile or other electronic means.

(d) At least once a year, the city shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters. Responsible contractors shall be added to an appropriate roster or rosters at any time that they submit a written request and necessary records.

(e) The city is authorized to participate with other local governments in the use of a multijurisdictional small works roster. The lead entity for the multijurisdictional small works roster must be clearly

identified in the interlocal agreement as being responsible for implementing the provisions of RCW 39.04.155(2).

(f) A formal public bid opening is not required when using the small works roster process. However, no interested party shall be unreasonably denied the opportunity to be present when bids are opened.

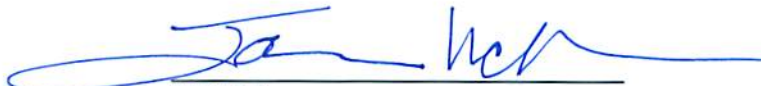
(g) Contracts for small works roster bids between fifty thousand dollars and two hundred thousand dollars will be awarded by the city council at the next scheduled council meeting following staff recommendation, unless continued by the city council.

(h) In accordance with RCW 39.04.200, the purchasing agent will, at least once every year, make available to the public a list of the contracts awarded using the small works roster process during the previous year. The list shall contain the name of the contractor or vendor awarded the contract, the amount of the contract, a brief description of the type of work performed or items purchased under the contract, and the date it was awarded. The list shall also state the location where the bid quotations for these contracts are available for public inspection.

Section 3. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this 1st day of September, 2010.

Signed in authentication thereof this 1st day of September, 2010.


MAYOR

Attest:


City Clerk

Approved as to Form:


City Attorney