

REGENTS' POLICY
PART V - FINANCE AND BUSINESS
MANAGEMENT
Chapter VI - Procurement and Supply Management

P05.06. Procurement And Supply Management

- (a) Procurement and supply management for the university will be conducted and administered in accordance with the Alaska Procurement Code (AS 36.30), federal requirements and these policies. The university will use prudent business practices for the conduct of procurements that are exempt or otherwise excluded from consideration under AS 36.30 or federal requirements.
- (b) All rights, powers and duties for procurement at the University of Alaska are vested with the Board of Regents. In accordance with AS 14.40.170 and AS 36.30.005, the Board of Regents adopts Regents' Policy 05.06 as the rules governing university procurement and supply management and delegates to the University President all powers and duties necessary for implementation of the State Procurement Code and these policies. Any amendments or changes to these policies shall be approved by the Board of Regents.

(09-15-16)

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Nondiscrimination In Source Selection **P05.06.010**

Source selection may not be based on illegal discrimination as described in P05.06.990(14).

Authority: AS 36.30.005 AS 36.30.040

Exclusion Of Prospective Contractors From Competition **P05.06.020**

A procurement officer may exclude a prospective contractor from submitting a bid or proposal, or may reject a prospective contractor's bid or proposal, after making a written determination that the prospective contractor assisted in drafting the invitation for bid or request for proposals, or gained substantial information regarding the invitation for bids or request for proposals that was not available to the public. This does not prohibit a determination that the issue has been cured or adequately mitigated by other circumstances or procedures.

Authority: AS 36.30.005 AS 36.30.040

Procurement From Alaska Correctional Institutions **P05.06.030**

Requirements of the university may be fulfilled by procuring supplies produced or services performed by industries of Alaska correctional institutions. The procurement officer shall determine whether such supplies or services meet the university's requirements and whether the price represents a reasonable cost for such supplies or services. If a procurement is to be made from the state correctional industries program, the private sector need not be solicited to compete.

Authority: AS 36.30.005 AS 36.30.010 AS 36.30.040 AS 36.30.100

Procurement Of Supplies Or Services Produced By The University P05.06.035

Requirements of the university may be fulfilled by procuring supplies produced or services performed by university departments or programs. When university-produced supplies or services are obtained from university departments, except as may be governed by other policies of the Board of Regents or university regulations, the private sector need not be solicited to compete.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.850

Procurement Of Legal Services P05.06.040

- (a) University departments and officials may not contract for the services of legal counsel without the prior written approval of the university's general counsel, or designee.
- (b) Contracts for the services of legal counsel may incorporate clauses for adjustment in prices, time of performance, and total dollar amount.

Authority: AS 36.30.005 AS 36.30.015 AS 36.30.040

Procurement Of Supplies Or Services From Employment Programs Or Youth Education And Employment Programs P05.06.050

The chief procurement officer for the state of Alaska maintains a list of employment programs that qualify under AS 36.30.990(12).

- (1) A procurement officer may fulfill university requirements by procuring supplies produced or services performed by a listed eligible employment program or an accredited youth education and employment program.
- (2) Before procuring supplies or services from an eligible employment program or an accredited youth education and employment program, the procurement officer shall determine whether the supplies or services meet the university's requirements and whether the price represents a reasonable cost for the supplies or services. If the procurement is to be made from an eligible program under this section, the private sector need not be solicited to compete.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.100 AS 36.30.311

Warranty And Owner Of Record P05.06.065

A vendor selling supplies and equipment to the University must be an authorized representative of the manufacturer capable of making the University the first holder of the manufacturer's warranty and the first owner of record.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.050

Authority To Prepare Specifications

P05.06.070

Procurement officers shall advise and assist university departments in the development of specifications, and, within the limits of their formally delegated authority, may approve specifications for supplies, services, construction, architect engineering services, land surveying, and leasing of space or facilities.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.060

Purpose Of Specifications

P05.06.080

- (a) The purpose of a specification is to serve as a basis for obtaining, in a cost-effective manner, a supply, service, or construction item suitable for the university's needs.
- (b) Specifications must, to the extent practicable, emphasize functional or performance criteria necessary to meet the needs of the university. University departments, in consultation with the procurement officer, shall include draft specifications with their purchase requisition. Specifications emphasizing functional or performance criteria are primarily applicable to the procurement of supplies and services, and might not be practicable in construction, apart from the procurement of supply type items for a construction project.
- (c) The university will procure standard commercial products if practicable.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.060

No Unduly Restrictive Specifications

P05.06.090

Except for specifications relating to small procurements under P05.06.400, all specifications must describe the requirements to be met without having the effect of exclusively requiring a proprietary supply, service, or construction item, or procurement from a single source, unless no other manner of description will suffice.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.060

Brand Name Specifications

P05.06.100

- (a) Except for specifications relating to small procurements under P05.06.400, a specification that limits the procurement of an item to a specific manufacturer's name, model, and/or catalog number, may be used only if the procurement officer determines in writing that only the identified brand name item will satisfy the university's needs, and that no substitute is acceptable.
- (b) When a specified brand name is used in a purchase description, the purchase shall be made with competition that is practicable under the circumstances. If use of a brand name purchase description restricts the solicitation to only one source, the solicitation shall be treated as a single source procurement and conform to conditions for use of single source procurement under P05.06.410 - 05.06.420.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.060

Qualified Products List

P05.06.110

- (a) A qualified products list may be developed with the approval of the procurement officer, if testing or examination of the supplies or construction items before issuance of the solicitation is desirable or necessary in order to best satisfy university requirements.
- (b) When developing a qualified products list, a representative group of potential suppliers must be solicited, in writing, to submit products for testing and examination to determine acceptability for inclusion on a qualified product list. Any potential supplier, even though not solicited, may offer products for consideration.
- (c) Inclusion on a qualified products list must be based on results of tests or examinations conducted in accordance with university requirements. Test results may be made public in a manner that protects the confidentiality of the identity of the competitors, such as using numerical designations. Except as otherwise provided by law, trade secrets, test data, and similar information provided by the supplier will be kept confidential if requested in writing by the supplier.
- (d) The existence of a qualified products list does not constitute pre-qualification of any prospective supplier of pre-qualified products.
- (e) The responsible procurement officer may use a qualified products list of another state or federal agency, institution, or political subdivision when such use is determined in writing to be in compliance with reasonable standards of testing, openness, objectivity, and competition, and such use is otherwise in the best interest of the university.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.060

Invitations For Competitive Sealed Bids

P05.06.120

- (a) An invitation for bid must include the following:
 - (1) instructions and information to bidders concerning the bid submission requirements, the time and date set for receipt of bids, the address of the office to which bids are to be delivered, the maximum time for bid acceptance by the university, and any other special information;
 - (2) a purchase or project description, evaluation factors (if applicable), delivery or performance schedule, and the inspection and acceptance requirements that are not included in the purchase or project description;
 - (3) a description of all applicable contract terms and conditions, including warranty and bonding or other security requirements;
 - (4) a requirement for certification by the bidder that it complies with the applicable portion of 42 U.S.C. 1981 and 42 U.S.C. 2000e through 2000e-17 (Civil Rights Act), 42 U.S.C 12001-12213 (Americans with Disabilities Act of 1990 as modified by the ADA Amendments Act of 2008 and related regulations), AS 18.80, and regulations adopted under those statutes;

- (5) a requirement for certification by the bidder that, by submitting a bid, the bidder certifies that the price submitted was independently arrived at without collusion;
 - (6) a statement that by submitting a bid, the bidder certifies that the bidder will not engage in illegal discrimination as described in P05.06.990(14); and
 - (7) a statement of the bidders right under AS 36.30 to protest the award, including the time within which the protest must be received.
- (b) An invitation for bid may incorporate documents by reference.
 - (c) An invitation for bid may require the receipt of all amendments issued by the using agency to be acknowledged by bidders.
 - (d) An invitation for bid may require the submission of product samples, descriptive literature, technical data, or other material. An invitation for bid may provide for any of the following before award:
 - (1) inspection or testing of a product for such characteristics as quality or workmanship;
 - (2) examination of such elements as appearance, finish, taste, or feel; or
 - (3) other examinations to determine whether a product conforms with other purchase requirements.
 - (e) An invitation for bid must require the bidders to certify that the bidder's subcontractor work will be allocated in a manner intended to prevent illegal discrimination as described in P05.06.990(14).

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.110

Public Notice

P05.06.130

- (a) Except for small procurements made under P05.06.400 notice of a formal solicitation shall be given by posting on the Alaska Online Public Notice System as required by AS 36.30.130(a). Notice may also be provided by one or more of the following methods:
 - (1) publication in a newspaper(s) of general circulation, and, if practical, in a manner likely to attract interested bidders;
 - (2) publication in a newspaper(s) of local circulation within the area pertinent to the procurement deemed likely to attract interested bidders;
 - (3) notices posted in public locations within the area where the work is to be performed or the material or supplies furnished, including the regional procurement offices; or
 - (4) publication in other appropriate media, including postings in electronic media.

- (b) For procurement of leased space that is in excess of the small procurement square foot limit or is estimated to have a total lease cost of more than \$100,000 for the term of the lease, including all extensions, public notice must be given to prospective offerors by posting on the Alaska Online Public Notice System and at least one of the methods described in (a)(1) through (4) of this section.
- (c) The responsible procurement officer may require payment of duplication costs or a deposit for supplying the solicitation or supporting documents. Nothing in this section limits the additional forms of public notice that the procurement officer may use to reach prospective contractors.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.130

Correction, Modification Or Withdrawal Of Bids Before Opening **P05.06.140**

- (a) A bid shall be corrected, modified or withdrawn only by written request received in the office designated in the invitation to bid before the time and date set for opening.
- (b) A request under (a) of this section must provide authorization for the person making the correction or withdrawal to do so.
- (c) If a bid is withdrawn, the bid security, if any, shall be returned to the bidder.
- (d) All documents relating to the correction, modification, or withdrawal of a bid shall be included in the appropriate procurement file.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.160

Receipt, Opening And Recording Of Bids **P05.06.150**

- (a) A bid must be submitted in a sealed envelope with the invitation to bid number identified on the outside of the envelope, unless other means of transmittal and receipt have been otherwise authorized in the solicitation. Upon receipt, bids shall be stored in a secure place until the time and date set for bid opening.
- (b) Bids and corrections shall be opened publicly at the time, date, and place designated in the invitation to bid. The name of each bidder, the bid price, and other information deemed appropriate by the procurement officer shall be tabulated.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.140

Late Bids, Late Corrections, And Late Withdrawals **P05.06.160**

A bid received after the time and date set for the receipt of bids in the invitation for bid or subsequent amendment is late. A correction or withdrawal of a bid received after the time and date set for opening of bids at the place designated for opening is late. A late bid, correction, or withdrawal shall not be accepted unless the delay was due to an error of the procurement office.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.160

Inadvertent Errors Discovered After Opening But Before Award

P05.06.170

- (a) Inadvertent errors by a bidder discovered after opening but before award, other than minor informalities, may not be corrected. If a bidder submits proof that clearly and convincingly demonstrates that an inadvertent error other than a minor informality was made, the responsible procurement officer may permit the bidder to withdraw the bid.
- (b) If a bid mistake is attributable to an error in judgment, the bid may not be corrected. Bid correction or withdrawal by reason of a nonjudgmental mistake may be permitted only to the extent it is not contrary to the interest of the university or the fair treatment of other bidders. Correction of a mistake which would displace an otherwise successful bidder is not permitted.
- (c) If, before award, a procurement officer knows of an error in a bid, the officer shall notify the bidder of the error.
- (d) If a decision is made to permit the correction or withdrawal of a bid, or to cancel an award or contract based on a bid mistake, the responsible procurement officer shall prepare a written determination supporting the decision as required by AS 36.30.160(b).

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.160

Bid Evaluation and Award

P05.06.180

- (a) Award of a bid may not be based on illegal discrimination as described in P05.06.990(14).
- (b) An evaluation of product acceptability shall be conducted to determine whether a bidder's offering is acceptable as set out in the invitation to bid. A bid that does not meet the acceptability requirements shall be rejected as nonresponsive.
- (c) For the purpose of evaluating price, the proposed price of a bidder who qualifies as an Alaska bidder under AS 36.30.990(2) shall be reduced by the amount of the Alaska bidder preference as described in AS 36.30.321. All other applicable preferences must also be applied. This subsection does not apply to solicitations or contracts for lease space under AS 36.30.080, limited competition, innovative or emergency procurements.
- (d) In addition to price, bids may be evaluated to determine which bid offers the lowest overall cost to the university, such as life cycle cost or other considerations, in accordance with the evaluation criteria set out in the invitation to bid. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible the evaluation factors must:
 - (1) be reasonable estimates based upon information the university has available concerning future cost considerations;
 - (2) treat all bids equitably

- (e) A contract award may not be made to a bidder submitting a higher quality item than that specified in the invitation to bid unless the bidder is also determined to be the lowest bidder in accordance with(c) of this section. This section does not permit negotiations with a bidder.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.150

Only One Responsive Bid Received

P05.06.190

If only one responsive bid is received in response to an invitation to bid, including multi-step bidding, an award may be made to the single bidder if the bidder is responsible and if the procurement officer finds that the price submitted is fair and reasonable and that other prospective bidders had reasonable opportunity to respond or there is not adequate time for resolicitation. Otherwise the bid may be rejected and:

- (1) new bids or offers solicited;
- (2) the proposed procurement canceled, or
- (3) conduct the procurement under P05.06.410 (single source procurement), P05.06.430 (limited competition procurement), or P05.06.440 (emergency procurements), as appropriate, if the procurement officer determines in writing that the price of the one bid is not fair and reasonable and there is no time for resolicitation or it is unlikely that resolicitation would increase the number of bids.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.350

Documentation Of Award

P05.06.200

Following award, a record showing the basis for determining the successful bidder shall be made a part of the procurement file.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.500

Notice Of Intent To Award

P05.06.210

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

- (1) the pertinent solicitation number;
- (2) the name of the successful bidder;
- (3) a brief description of items awarded;
- (4) a statement of the proposed contract amount; and
- (5) a statement of a bidder's right under AS 36.30 to protest the award of a contract, including the time within which the protest must be received.

Authority: AS 36.30.005 AS 36.30.365 AS 36.30.565

Competitive Sealed Proposals Without Written Determination

P05.06.215

- (a) The following types of goods and services may be procured by competitive sealed proposals without a written determination by the procurement officer:
 - (1) professional services contracts;
 - (2) supplies and services for clean-up of oil and hazardous substances;
 - (3) concession contracts;
 - (4) Telephone systems and telephone system maintenance;
 - (5) specialized aircraft charter or vessel charter contracts;
 - (6) leases of office and other space
 - (7) design-build contracts;
- (b) Other supplies or services may be procured by competitive sealed proposals only if the procurement officer determines that the use of competitive sealed proposals is more advantageous than competitive sealed bidding. The determination must be in writing and explain the specific reasons why the use of competitive sealed proposals is more advantageous to the university than competitive sealed bidding.
- (c) A request for competitive sealed proposals must contain the date, time and place for delivery of the proposals, a specific description of the supplies or services to be provided, and the terms under which the supplies or services will be provided. The request for proposals must also contain sufficient information for an offeror to submit a responsive proposal, a description of the factors that will be considered when evaluating the proposals received, including the relative importance of price and other evaluation factors, and a statement of the proposers right under AS 36.30 to protest the award, including the time within which the protest must be received.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.100 AS 36.30.200

Public Notice

P05.06.220

Public notice shall be given by distributing the request for proposals or notice of requests for proposals in the manner described in P05.06.130.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.210

Correction, Modification, Or Withdrawal Of Proposals

P05.06.230

A proposal may be corrected, modified, or withdrawn before the time and date set for receipt of proposals, in the manner described in P05.06.140, P05.06.160, or P05.06.170, as appropriate.

Authority: AS 36.30.005 AS 36.30.040

Receipt And Registration Of Proposals

P05.06.240

Proposals, modifications, and corrections shall have the date and time of receipt recorded upon receipt, and shall be held in a secure place. After the date set for receipt of proposals, a register of proposals must be prepared. The register must include the name of each offeror and a description of the supply, service, or construction item offered. The information included in the register shall be confidential until after the notice of intent to award a contract is issued.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.230

Late Proposals, Late Corrections, Late Modifications, And Late Withdrawals

P05.06.250

Unless otherwise provided in the request for proposals, a proposal or a correction, modification or withdrawal of a proposal received after the date set for receipt of proposals is late, and shall not be accepted unless the delay is due to an error of the procurement office.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.210

Evaluation Of Proposals

P05.06.260

- (a) The procurement officer or an evaluation committee consisting of the procurement officer or designee and at least two university employees or public officials shall evaluate proposals.
- (b) The evaluation must be based only on the evaluation factors set out in the request for proposals. Numerical rating systems may be used, but are not required. If a numerical rating system is used, award will be made to the offeror receiving the highest ranked score. The weighting value or numerical system to be applied to each evaluation factor must be set out in the request for proposals. If numerical rating systems are not used, the procurement officer, or each member of the evaluation committee, as applicable, shall explain his or her ranking determination in writing.
- (c) Price must be an evaluation factor unless the service sought is selected in accordance with AS 36.30.270(a) and (b). The proposal with the lowest price must receive the highest available rating allocated to price. A proposal that has a higher price than the next lowest must receive a lower rating for price.
- (d) For the purpose of evaluating price, the proposed price of an offeror that qualifies as an Alaska bidder under AS 36.30.990(2) shall be reduced by the amount of the Alaska bidder preference as described under AS 36.30.321. All other applicable preferences must be applied. This subsection does not apply to solicitations or contracts for lease space under AS 36.30.080, limited competition, innovative or emergency procurements.
- (e) The following are examples of additional evaluation factors that may be considered when relevant to the award:
 - (1) the offeror's experience in Alaska performing work similar to that sought in the request for proposals;
 - (2) the percentage of work that will be performed in Alaska;

- (3) the location of the office of the offeror where the work will be performed;
- (4) the offeror's past performance, including conformance to specifications and standards of good workmanship, containment and forecasting of costs or prices, history of reasonable and cooperative behavior and overall concern for the interests of the consumer, and adherence to contract schedules;
- (f) A proposal from a debarred or suspended offeror must be rejected.
- (g) Meetings may be held by an evaluation committee to discuss the request for proposals, the evaluation process, the weighting of evaluation factors, and proposals received.
- (h) If the evaluation is performed by an evaluation committee, each member shall exercise independent judgment and no member's vote may be weighted more than any other. However, this does not preclude collective evaluation based on consensus of the committee.
- (i) Auction techniques that reveal one offeror's price to another, and disclosure of any information derived from competing proposals, are prohibited.
- (j) An evaluation may not be based on illegal discrimination as described in P05.06.990(14).

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.210 AS 36.30.230
AS 36.30.250

Only One Responsive Proposal Received

P05.06.270

If only one responsive proposal is received in response to a request for proposals, the procurement officer shall proceed in a manner consistent with the guidelines provided in P05.06.190 for receipt of only one responsive bid.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.350

Proposal Compliance

P05.06.280

Proposals shall comply with the terms of the request for proposals. Proposals that do not comply in all material respects are nonresponsive and shall be rejected.

Authority: AS 36.30.005 AS 36.30.040

Clarification Of Offers

P05.06.285

- (a) In order to determine if a proposal is reasonably susceptible for award, communications by the procurement officer or the evaluation committee are permitted with an offeror, in writing, to clarify uncertainties or eliminate confusion concerning the contents of a proposal. These communications are not opportunities for the university to negotiate terms or conditions, or for the offeror to make material or substantive changes to the offer presented in their proposal. The evaluation by the procurement officer or the evaluation committee may be adjusted as a result of a clarification under this section.

- (b) A contract may be awarded based on the proposals submitted and clarifications received, if any, without conducting discussions described in P05.06.290.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.240

Discussions With Individual Offerors

P05.06.290

- (a) Offerors of proposals reasonably susceptible for award as determined in the evaluation conducted under P05.06.260 may be provided the opportunity to discuss their proposals with the procurement officer or evaluation committee at the discretion of the procurement officer. The procurement officer may limit the discussions to specific sections of the proposals received or specific sections of the request for proposals. The opportunity for confidential discussions, if held, must be extended to all offerors submitting proposals deemed reasonably susceptible for award.
- (b) Any oral modification of a proposal resulting from proposal discussions under (a) of this section shall be valid only if reduced to writing by the offeror.
- (c) Following discussions, the procurement officer may set a date and time for the submission of best and final proposals. Best and final proposals should be requested and submitted only once. However, the responsible procurement officer may make a written determination that it is in the university's best interest to conduct additional discussions or change the university's requirements and require another submission of best and final proposals. Except for this situation, discussion of or changes in the best and final proposals is not allowed before award. Any determination to require submission of best and final proposals must be undertaken with care to assure equal treatment of all offerors. If an offeror does not submit a best and final proposal or a notice of withdrawal, the offeror's previous proposal is considered the offeror's best and final proposal.
- (d) The evaluation of a proposal may be adjusted as a result of a discussion under this section. The conditions, terms, or price of the proposal may be altered or otherwise changed during the course of the discussions provided the changes are within the scope of the request for proposals. After best and final proposals are received, discussion of or changes in the best and final proposals is not allowed before award. Final evaluations will be conducted as described in P05.06.260.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.240

Amendments To Requests For Proposals

P05.06.295

If, after receipt of proposals, there is a need for any substantial clarification of or material change in the request for proposals, the request must be amended to incorporate the clarification or change, and a date and time established for withdrawal or receipt of amended proposals. Evaluations may be adjusted as a result of receiving new or amended proposals.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.210

Documentation Of Contractor Selection

P05.06.300

When a contractor has been selected by competitive sealed proposal, the procurement officer shall enter into the procurement file a written record of the basis on which the selection was found to be most advantageous to the university.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.250

Notice Of Intent To Award

P05.06.310

Notice of intent to award shall be issued in accordance with P05.06.210.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.365

Contract Negotiation

P05.06.315

After final evaluation of proposals, including an adjustment of an evaluation of a proposal as authorized under P05.06.290(d) and P05.06.295, the procurement officer may negotiate with the offeror of the highest ranked proposal for the purpose of obtaining contract terms consistent with the solicitation and with terms favorable to the university. If changes are made to the proposal during contract negotiations, the changes must be reasonable; however, the changes may not have the effect of changing the ranking of the highest ranked proposal. If the procurement officer determines that the offeror of the highest ranked proposal fails to negotiate in good faith or fails to negotiate within the time period set by the procurement officer, the procurement officer may terminate negotiations and begin contract negotiations with the offeror of the next highest ranked proposal in the manner prescribed in this section.

Authority: AS 36.30.005 AS 36.30.040

Procurement of Architect, Engineer, Or Land Surveying Services

P05.06.320

- (a) Except as provided otherwise in this section, architect, engineer, or land surveyor services must be procured under P05.06.215 - 05.06.315, P05.06.320 - 05.06.390, or P05.06.400. In the case of inconsistency, the provisions of P05.06.320 -05.06.390 shall control.
- (b) Procurement of incidental architect, engineer, or land surveying work in support of, and performed during, a contract procured under AS 36.30 is not subject to P05.06.320 - 05.06.390, and qualifies as a single source procurement under P05.06.410.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.270

Other Architect, Engineer, And Land Surveying Procurement Methods

P05.06.325

- (a) Notwithstanding other provisions of this policy, the selection procedures in P05.06.320 - 05.06.390 may be used to select one or more qualified consultants in the architectural, electrical, mechanical, civil/structural engineering, land surveying and other disciplines to award multi-term and indefinite quantity contracts for the purpose of acquiring design and consulting services for multiple projects. The procurement officer may establish limits on duration of resulting contracts or the size of the projects conducted under such contracts.

- (b) This section does not apply to a contract that incorporates both design services and construction.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.270

Public Notice

P05.06.340

- (a) Notice of the need for architect, engineer, or land surveying services shall be given as described in P05.06.130.
- (b) A solicitation must be prepared which describes the university's requirements, sets out the evaluation criteria, and includes notice of any conference to be held.
- (c) The procurement officer may require payment of a fee or deposit to supply a solicitation.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.270

Architect, Engineer, Or Land Surveyor Selection Committee

P05.06.350

- (a) If a contract for architect, engineer, or land surveying services is expected to exceed the small procurement limit for construction established under AS 36.30.320, the responsible procurement officer, shall designate a minimum of three persons to serve as members of a selection committee for that contract, including:
 - (1) two registered persons, if registration is required under AS 36.30.270(d), because price is a factor in the selection, or, if registration is not required under AS 36.30.270(d), two university employees who are well qualified in architecture, engineering, or land surveying, as appropriate; and
 - (2) others as considered appropriate by the responsible procurement office.
- (b) A majority of the committee must be registered persons if registration of committee members is required under AS 36.30.270(d) because price is a factor in the selection, or, if registration is not required under AS 36.30.270(d), a majority of the committee must be employees who are well qualified in architecture, engineering, or land surveying, as appropriate.
- (c) The responsible procurement officer, or designee, shall chair the committee.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.270

Evaluation And Selection Of Offerors For Discussions

P05.06.360

- (a) The selection committee shall consider and evaluate:
 - (1) statements submitted in response to the solicitation for architect, engineer, or land surveying services, including proposals for joint ventures; and
 - (2) supplemental statements of qualifications and performance data, if submission of such statements was required.
- (b) All statements and supplemental statements of qualifications and performance data shall be evaluated in light of the criteria set out in the solicitation.

- (c) Criteria considered in evaluating the statement of qualifications and performance data shall include, but not be limited to:
- (1) experience in providing the required services;
 - (2) the qualifications and competence of persons who would be assigned to perform the services, as reflected by technical training and education;
 - (3) ability to perform the services, as reflected by workload and the availability of adequate personnel, equipment, and facilities to perform the services expeditiously;
 - (4) past performance, as reflected by the evaluations of private persons and officials of other government entities that have retained the services of the firm or person, with respect to such factors as control of costs, quality of work, and ability to meet deadlines;
 - (5) proximity to the project site of the office or firm or person, unless federal law prohibits such consideration in the award of the contract; and
 - (6) employment practices of the firm or persons with regard to women and minorities.
- (d) The selection committee may select firms or persons evaluated as being professionally and technically qualified for discussions or interview and reasonably susceptible for award of a contract. The procurement officer shall notify each firm or person in writing of the date, time, and place of discussions, and, if necessary, shall provide each firm or person with additional information on the project and the services required. The notice may provide that a representative of a firm or person must attend discussions in order for the firm or person to be considered further.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.270

Discussions

P05.06.370

The selection committee may hold discussions regarding the proposed contract with the firms or persons selected. The purpose of such discussions is to explore the scope and nature of the required services and the relative utility of alternative methods of approach. The conditions, terms, or price of the proposed contract may be altered or otherwise changed during the course of the discussions.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.270

Selection Of The Most Qualified And Suitable Offerors

P05.06.380

After discussions, if held under P05.06.370, the selection committee shall reevaluate and rank, in order of preference, the three firms or persons that the committee considers to be the most qualified to provide the required services. The selection committee shall prepare a memorandum of the selection process which indicates how the evaluation criteria were applied to determine the resulting rankings of the most qualified and suitable firms or persons. The responsible procurement officer must approve the recommendation, and then may proceed to negotiate. The memorandum shall be included in the procurement file.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.270

Negotiation And Award Of A Contract

P05.06.390

- (a) The responsible procurement officer, or designee, shall negotiate with the top ranked offeror. Contract negotiations shall be directed toward:
 - (1) making certain that the offeror has a clear understanding of the scope of the work and the requirements involved in providing the required services;
 - (2) determining that the offeror will make available the necessary personnel and facilities to perform the services within the required time; and
 - (3) agreeing upon compensation that is fair and reasonable, taking into account the estimated value, scope, complexity, and nature of the required services.
- (b) The offeror selected for award shall submit and certify cost and pricing data.
- (c) Upon failure to negotiate a contract with the top ranked offeror, the procurement officer shall enter into negotiations with the next most highly ranked offeror.
- (d) If the procurement officer is unable to negotiate a contract with any of the initially selected offerors, additional offerors may be selected in preferential order based on their respective qualifications or ranking.
- (e) Written notice of the intent to award must comply with P05.06.210 and must be sent to each offeror. Notice of intent to award must be made available to the public.
- (f) After award of the contract, a memorandum setting out the principal elements of the negotiation shall be prepared by the procurement officer, or designee. The memorandum shall be included in the procurement file and be available to the public upon request.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.270

Authority To Make Small Procurements

P05.06.400

- (a) Procurement officers shall use procedures providing competition that is practicable under the circumstances and for making records that facilitate auditing of the activity for:
 - (1) purchases of supplies, services, construction, or professional services estimated to cost no more than the small procurement limits established under AS 36.30.320;

- (2) concession contracts estimated to have gross annual receipts of the not more than the small procurement limit for supplies and services as established under AS 36.30.320; and
 - (3) leased space not to exceed the small procurement limit for leased space as established under AS 36.30.320.
- (b) Procurement officers and others authorized to conduct such procurements shall use prudent business practices that:
 - (1) do not unfairly discriminate against potential offerors;
 - (2) allow for reasonable competition considering price, timeliness, product or service availability, and university needs; and
 - (3) provide fair and reasonable pricing.
 - (c) Such procedures may include contacting only one potential source in certain circumstances.
 - (d) Approvals and determinations required under P05.06.040 for legal services and P05.06.760 for construction apply to purchases made under this section.
 - (e) Procurement under this section shall include Alaskan vendors whenever practicable, and are subject to applicable Alaska bidder and Alaskan products preferences as set out in P05.06.890
 - (f) The requirements of P05.06.410, P05.06.415, P05.06.420, and P05.06.430 do not apply to small procurements under this section.
 - (g) The chief procurement officer shall establish procedures for public notice, sourcing and recording of small procurements as he or she determines appropriate.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.320

Conditions For Use Of Single Source Procurement

P05.06.410

- (a) Any request that a procurement be restricted to one potential contractor must be accompanied by a written explanation as to why it is not practicable to award a contract by competitive sealed bidding, competitive sealed proposals, or small procurement procedures, as applicable, and why award to a single source is in the university's best interest. The department making such a request shall provide a written explanation, subject to the false statement provisions of AS 36.30.315, and the supporting evidence necessary for the independent examination and determination of the material facts of the procurement. The responsible procurement officer may advertise the intent to make a single source procurement to determine if other sources are available.
- (b) The written determination required under AS 36.30.300(a) that it is not practicable to award a contract by competitive sealed bidding, competitive sealed proposals, limited competition or small procurement procedures, and why award to a single source is in the university's best interest must be prepared and signed by the responsible procurement officer in accordance with P05.06.415 and P05.06.755, and must specify the period for which the determination is effective.

- (c) Except for a procurement that does not exceed the amount for small procurements under AS 36.30.320, the award of a single source procurement may not be made without the prior written approval of the chief procurement officer.
- (d) A procurement officer shall conduct negotiations, as appropriate, as to price, delivery, and terms of a single source procurement. The procurement officer must make a written determination of fairness and reasonableness of price before award of a single source procurement.
- (e) The following are examples of circumstances in which single source procurement might be appropriate:
 - (1) if the compatibility of equipment, accessories, or replacement parts is a major consideration;
 - (2) if a specific item is needed for trial use or testing, including testing of a prototype;
 - (3) if services of a non-public utility are to be procured;
 - (4) if there exists a single source of expertise required to perform a specific professional service;
 - (5) if patents, copyrights or trade secrets exist which restrict availability of the product or process to only one source;
 - (6) if the procurement is for operation of a concession contract on university or public property by a non-profit organization whose sole purpose in performing the activity is to operate the concession and provide other public services;
 - (7) if the procurement is for the services of legal counsel for the purpose of advising or representing the university in specific civil or criminal proceedings or on specific matters before federal or state regulatory agencies, boards, or commissions;
 - (8) if the procurement is with a government police agency to provide investigative, enforcement, or support services;
 - (9) if the procurement is for lobbying, labor negotiation, or consulting by a foreign national;
 - (10) if the procurement is for maintenance or repair service only available from a manufacturer or manufacturer's authorized service center.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.300 AS 36.30.315

Single Source Determination

P05.06.415

A determination by a procurement officer that a specific course of action is or is not in the university's best interest shall be made in accordance with P05.06.755, and shall cite the specific and significant interests of the university which are supported by the use of the single source procurement.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.300

Record Of Single Source Procurements

P05.06.420

Written determinations and required approvals must be included in the procurement file for each single source procurement in accordance with procedures to be established by the chief procurement officer. A record of each single source procurement shall be made and must include:

- (1) the name of the supplier or contractor;
- (2) the amount and type of each contract;
- (3) a listing of the supplies, services, or construction procured; and
- (4) the identification number of each procurement file.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.300 AS 36.30.520

Unsolicited Offers

P05.06.425

The chief procurement officer may consider an offer presented to the university other than as the result of a solicitation. To be eligible for acceptance, the offer must be unique, qualify as a single source procurement, and be in the best interest of the university. The chief procurement officer may, without disclosing details of the unsolicited offer, issue a letter of interest to verify that no other source is available for the goods or services.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.300 AS 36.30.520

Conditions For Use Of Limited Competition

P05.06.430

- (a) Any request to limit a procurement to two or more potential contractors must be accompanied by a written explanation as to why the solicitation should be limited, and why the competitive sealed bidding, competitive sealed proposals, or small procurement procedures are impracticable or contrary to the public interest. The department must provide a written explanation, subject to the false statement provisions of AS 36.30.315, and the supporting evidence necessary for the independent examination and determination of the material facts of the procurement. The responsible procurement officer may advertise an intent to make a limited competition procurement, to determine if other sources are available for the procurement. Except for a procurement that does not exceed the amount for small procurements under AS 36.30.320, issuance of a limited competition solicitation may not be made without the prior written approval of the chief procurement officer, or general counsel for legal services, as appropriate, under AS 36.30.305(a).
- (b) The written determination, required under AS 36.30.305(a), that competitive sealed bidding or competitive sealed proposals, or small procurement procedures are impractical or contrary to the public interests for the required procurement must be prepared and signed by the responsible procurement officer. The required approvals must be obtained before initiation of limited competition procurement. The written determination and required approvals must be included in the procurement file for each procurement made under this section.
- (c) In accordance with AS 36.30.305(a), a procurement for construction under this section must be less than \$100,000.

- (d) A procurement officer shall solicit offers or conduct negotiations, as appropriate, for price, delivery, and terms, equally with each potential contractor for a limited competition procurement.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.305

Determination Of Emergency Conditions

P05.06.440

- (a) For the purposes of AS 36.30.310, emergency conditions include but are not limited to:
 - (1) fire, flood, epidemic, riot, environmental accident, or a similarly compelling reason;
 - (2) equipment failure, if the need for timely repair is essential;
 - (3) there exists a threat to public health, welfare or safety;
 - (4) a need to protect public or private property; or
 - (5) a situation in which procurement through competitive sealed bidding or competitive sealed proposals is impracticable or contrary to the public interest.
- (b) Unless a determination of emergency is made as provided in (c) of this section, before a procurement may be made under this section, a written determination of emergency by the chief procurement officer is required. A department or individual requesting a determination of emergency must provide a written explanation, subject to false statement provisions of AS 36.30.315, as to why emergency conditions exist. The explanation shall include the evidence necessary for the independent examination and determination of the material facts of the procurement.
- (c) A determination of emergency under this section:
 - (1) may be made by a responsible university official if:
 - (A) immediate action is necessary to protect public health, welfare, or safety, or to protect public or private property; and
 - (B) insufficient time exists for:
 - (i) the official to provide the explanation and evidence required under (b) of this section; and
 - (ii) the chief procurement officer to make the written determination of emergency required under AS 36.30.310 and (b) of this section; and
 - (6) the determination is subject to the false statement provisions of AS 36.30.315.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.310

Procurement Methods For Emergency Conditions

P05.06.450

- (a) When emergency procurement is authorized under P05.06.440, the emergency procurement is limited to the supplies, services, professional services, or construction necessary to meet the emergency, and shall be made with competition that is practicable under the circumstances.
- (b) A university official may make an emergency procurement by any reasonable means. If practical, approval by a procurement officer must be obtained before an emergency procurement of \$50,000 or more is made.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.310

Record Of Emergency Procurement

P05.06.460

Written findings and determinations and required approvals must be included in the procurement file for each emergency procurement. A written record of each emergency procurement shall be made and must include:

- (1) the name of the supplier or contractor;
- (2) the amount and type of each contract;
- (3) a listing or description of the supplies, services, or construction procured;
- (4) the identification number of the procurement file; and
- (5) the nature of the emergency.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.310

Standard Clauses, Terms, And Conditions

P05.06.470

The chief procurement officer, in consultation with the university's general counsel or designee, may establish standard contract clauses, solicitation terms and conditions, and forms for university procurement. A procurement officer may modify these only with the prior written approval of the chief procurement officer and approval as to form by the general counsel or designee.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.340

Changes, Liquidated Damages, And Terminations

P05.06.475

- (a) A university contract may include a clause that provides for adjustment of the contract price, adjustment of the time of performance, liquidated damages, termination of the contract, or other terms and conditions that the procurement officer deems appropriate.
- (b) A contract clause allowing the imposition of liquidated damages must specify their purpose, their amount, and the circumstances for which they are authorized.
- (c) A contract clause allowing termination of a contract for cause must specify the circumstances under which the university may terminate the contract, the procedural steps required for a termination to be effective, and the rights and responsibilities of the parties regarding payment and work in progress.

- (d) A contract clause allowing termination of a contract for convenience of the university must specify the procedural steps required for a termination to be effective and the rights and responsibilities of the parties regarding payment and work in progress.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.430

Novation Or Change Of Name

P05.06.480

- (a) A university contract may not be transferred or otherwise assigned without the prior written consent of the responsible procurement officer.
- (b) If the responsible procurement officer determines it is in the best interest of the university, a successor in interest may be recognized in a novation agreement in which the transferor and the transferee agree that:
 - (1) the transferee assumes all of the transferor's obligations under the contract;
 - (2) the transferor waives any and all rights it has under the contract against the university; and
 - (3) the transferee furnishes satisfactory performance and payment bonds, if required by the procurement officer.
- (c) If a contractor requests to change the name in which it holds a contract with the university, the responsible procurement officer may, when it is in best interest of the university, enter into an agreement with the requesting contractor to effect the change of name. The agreement changing the name must specifically indicate that no other terms and conditions of the contract are changed.
- (d) An assignment of payments may not be made without the prior written consent of the responsible procurement officer.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.360

Contract Modifications

P05.06.485

- (a) Except for contract modifications pursuant to provisions authorized under P05.06.475(a), all modifications to contracts shall be made in accordance with this section.
- (b) The responsible procurement officer may modify a contract for construction, as "construction" is defined under AS 36.30.990, but only within the scope of the original contract.
- (c) The responsible procurement officer may modify a contract established under P05.06.400 within the scope of the original contract, but the modification may not increase the contract beyond the small procurement limits establish under AS 36.30.320.
- (d) Except for modifications established under (b) or (c) of this section, unanticipated contract modifications which exceed the lesser of 20 percent of the amount of the original term of the contract, or a subsequent current term of the contract, as applicable, or \$100,000, may be made only if the procurement officer, or for services of legal counsel, the general counsel, determines in writing that the modification is in

the university's best interest in accordance with P05.06.755. A request by a department to modify a contract which exceeds these limits must be accompanied by a written explanation listing specific reasons why the modification is in the university's best interests, and must address:

- (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; and
 - (4) whether the modification represents any important general change which alters the essential identity or main purpose of the original contract, or is of such importance as to constitute a new undertaking.
- (e) A modification to a contract which the responsible procurement officer determines does not address each provision set out in (d)(1) - (4) of this section but which is determined by the procurement officer to be in the university's best interest in accordance with P05.06.755 may qualify as a single source procurement under P05.06.410.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.300

Responsibility Of Prospective Contractors

P05.06.490

University contracts may be awarded only to responsible prospective contractors. When a procurement officer determines that a prospective contractor does not meet standards of responsibility, the procurement officer must make a written determination that shall be made a part of the procurement file. A bidder or offeror determined to be non-responsible under this section must be notified promptly by the responsible procurement officer as to why the bidder or offeror will not be awarded a contract.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.360

Standards Of Responsibility

P05.06.500

- (a) A responsible prospective contractor is one who possesses the capacity, judgment, skill, ability, integrity, and financial capability requisite and necessary to perform a public contract in accordance with the terms of the solicitation and proposed contract.
- (b) Factors that may be considered in determining whether a prospective contractor is responsible include whether the prospective contractor:
 - (1) has a satisfactory record of performance;
 - (2) is qualified legally to contract with the university; and
 - (3) has supplied all necessary information in connection with the inquiry concerning responsibility.

- (c) The procurement officer may require the prospective contractor to demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel, by submitting:
 - (1) evidence that the contractor possesses the necessary items;
 - (2) acceptable plans to subcontract for the necessary items; or
 - (3) a documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items; and/or
 - (4) other information required by the procurement officer.
- (d) A procurement officer's determination of responsibility, or failure to determine non-responsibility, does not relieve the contractor from the requirements for performance under the contract.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.360

Access To Plant Or Place Of Business

P05.06.510

- (a) If an inspection is made in the plant or place of business of a contractor or subcontractor, the contractor or subcontractor shall provide without charge all reasonable assistance and access to facilities for the safety and convenience of the person performing the inspection or testing.
- (b) On-site inspection of construction shall be performed in accordance with the terms of the contract.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.410

Inspection And Testing Of Supplies And Services

P05.06.520

- (a) The university may, in its discretion, inspect supplies and services at the contractor, subcontractor's facility, or manufacturer's or fabricator's facility, and perform tests to determine whether they conform to solicitation requirements, or, after award, to contract requirements, and are therefore acceptable. Inspections and tests may be conducted at any reasonable time.
- (b) The chief procurement officer may establish operational procedures governing the testing and trial use of equipment, materials, and other supplies by a university department, and the application of resulting information and data to specifications or procurements.
- (c) Procedures used for testing and inspection shall be reasonable, objective, and sufficient to meet the university's need to determine quality, durability, and effectiveness.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.410

Retention Of Books And Records

P05.06.530

Books and records that relate to a university contract or subcontract for which submission of cost and pricing data may be required shall be maintained by the contractor as required under AS 36.30.420. Such records shall be maintained in a manner that allows all actual cost related to a contract or subcontract to be easily determined.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.420

Cost And Pricing Analysis

P05.06.540

The chief procurement officer may establish procedures for cost and pricing analysis.

Authority: AS 36.30.005 AS 36.30.040

Cost And Pricing Data

P05.06.550

A procurement officer may not waive the requirements of AS 36.30.400(a) concerning submission of cost and pricing data without the prior written approval of the chief procurement officer, unless the contract price is based on adequate price competition or the price is set by law or regulation.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.400

Guidelines For Cost Principles

P05.06.560

- (a) The chief procurement officer may establish guidelines for cost principles that may be used to determine allowable incurred costs for the purpose of reimbursement under contract provisions that provide for the reimbursement of costs.
- (b) Cost principles may be modified by contract upon approval of the chief procurement officer.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.480

Use Of Federal Cost Principles

P05.06.570

In dealing with contractors operating according to federal cost principles, such as the Federal Acquisition Regulations (FAR) or the Defense Federal Acquisition Regulation Supplement (DFARS), the procurement officer may use the federal cost principles as guidance in contract negotiations.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.480

Conditions For Use Of Innovative Procurements

P05.06.575

- (a) A request to use an innovative procurement procedure shall be submitted in writing by the responsible procurement officer to the chief procurement officer for approval. The request must include an explanation of the proposed innovative procurement procedure and
 - (1) how this procedure will achieve the best value for the university; or

- (2) why it is advantageous to the university due to new university needs, unique university needs, or new technologies.
- (b) The responsible procurement officer shall also submit a detailed procurement plan to the chief procurement officer for procurement approval and to the general counsel or designee for review and approval as to form before issuing public notice required under AS 36.30.130. The plan shall, at a minimum, address the method of solicitation, scope, method of award, protest procedures, and proposed contract provisions. A plan may include the use of a bonus instead of preferences for the procurement of construction.
- (c) If a protest procedure other than that identified in AS 36.30.560 - 36.30.615 is to be included in the solicitation, it must be included in the plan approved by the chief procurement officer and the general counsel or designee.
- (d) Innovative procurement approval requests for construction shall identify:
 - (1) the nature and scope of the risks associated with the project, including the cost, schedule, and complexity;
 - (2) how the innovative procurement will avoid, transfer or mitigate those risks;
 - (3) the compelling arguments for utilizing an innovative procurement method; and
 - (4) how the innovative procurement will achieve the best value for the university.
- (e) In determining whether use of an innovative procurement provides the best value to the university, the chief procurement officer shall consider all relevant factors, such as, recommendations of the system office chief facilities officer, the size of the project, the perceived complexity and risks associated with the activity, other benefits of the proposed methodology, and the incremental cost, if any. The approval of an innovative procurement shall be based on an assessment of the expected benefits relative to any identifiable costs or other negative impacts. This sub-section is intended to provide internal guidance and is not intended to create an independent basis for claims against or liability on the part of the university. The chief procurement officer's approval of an innovative procurement represents the authorization required by AS 36.30.308 in order to utilize an innovative procurement process as proposed. It does not represent a directive to use that process.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.308

Record Of Innovative Procurement

P05.06.577

- (a) A procurement file shall be maintained for each innovative procurement by the responsible procurement officer, and shall be open for inspection as required under AS 36.30.140(b) and AS 36.30.230. The file shall contain:
 - (1) a copy of the contract;
 - (2) the written determination approved by the chief procurement officer;

- (3) the procurement plan as approved as to form by general counsel;
- (4) a record of notice as required under AS 36.30.130;
- (5) a record of respondents to the solicitation;
- (6) a record of the selection process; and
- (7) the project management plan for construction projects.

Authority: AS 36.30.005 AS 36.30.140(b) AS 36.30.230 AS 36.30.522

Inventories

P05.06.580

The university controller in conjunction with the chief procurement officer may establish procedures in the form of a Statewide Property Manual to help determine appropriate stock levels, manage university supplies, and direct the use of inventory records to account for non-consumable supplies and other property determined to be sensitive.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.070

Supplies Inventory Records

P05.06.590

- (a) University departments and units shall maintain inventory records as directed by the university controller in conjunction with the chief procurement officer. Inventory records shall include the following:
 - (1) all non-consumable supplies with a unit acquisition cost of more than \$5,000;
 - (2) supplies determined by the university controller to be sensitive, regardless of cost; and
 - (3) lease purchase or installment purchase equipment or long-term rental equipment;
- (b) Inventory records shall be based on a physical inventory and adjusted for subsequent purchases, property traded in, transferred, salvaged, or disposed of unless otherwise provided in the Statewide Property Manual.
- (c) University departments and units may be required by the university controller to take physical inventory of supplies annually and at other times as he or she directs.
- (d) Thefts of supplies with a replacement value of more than \$1,000 shall be reported to the appropriate administrative vice chancellor and law enforcement agency. All lost, stolen, or destroyed non-consumable supplies with an original cost in excess of \$5,000 and equipment classified as sensitive shall be reported to the responsible administrative vice chancellor and the university controller.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.070

Surplus Supplies

P05.06.600

- (a) The chief procurement officer, or designee, shall act on behalf of the university in all matters pertaining to the disposition of surplus supplies. No campus, department, or unit of the university may transfer or otherwise dispose of supplies owned by the university without the written authorization of the chief procurement officer or designee.
- (b) University departments and units shall notify the campus property coordinator of all surplus supplies on the forms and at the times prescribed in the Statewide Property Manual. The chief procurement officer, or designee, shall determine the fair market value of surplus supplies, if necessary.
- (c) Surplus supplies shall be offered through spot bids, competitive sealed bids, public auction, established markets, posted prices, or other disposition methods, in the manner prescribed by the Statewide Property Manual or the chief procurement officer.
- (d) Payment may be accepted for sales of surplus supplies only in forms of payment prescribed by the Statewide Property Manual or as approved by the chief procurement officer.
- (e) Notice of sale of surplus supplies by competitive sealed bidding must be posted publicly at least 10 days before the date set for opening bids, unless a shorter period is approved by the chief procurement officer in writing.
- (f) An employee of the owning or disposing unit or department may not purchase directly or indirectly, or agree with another person to purchase surplus supplies if the employee is, or has been, directly or indirectly involved in the disposal, maintenance, or preparation for sale of the surplus supplies.
- (g) The chief procurement officer may authorize the offer of surplus supplies by negotiated sale, transfer, lease, or donation to local governments, public procurement units, or tax exempt nonprofit organizations, when the chief procurement officer determines it to be in the university's best interest.
- (h) "Disposition of surplus supplies" as used in this section, includes donations, transfers, lease or trade-in of university property, and must be authorized by the chief procurement officer or designee.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.070

Disposition Of Other Supplies

P05.06.605

The chief procurement officer may establish procedures as he or she considers necessary for the management, disposition or disposal of supplies including, but not necessarily limited to, consumable supplies, items for resale, promotional items, and purchases on behalf of third parties. The management, disposition or disposal of such property and supplies are subject to reasonable business practices and documentation. The management, disposition or disposal of real property and interests in real property, except for privately owned property leased by the university (e.g. leased space), are subject to reasonable business practices and other applicable policies of the Board of Regents, including P05.11.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.070

Federal Or State Surplus Materials Program

P05.06.610

The university may, from time to time identify items available from U.S. Government or state of Alaska surplus property that may be usable and necessary for public purposes by the university. The chief procurement officer may establish procedures for the acquisition of U.S. Government surplus property. When a department or university official chooses to acquire surplus property under federal or state surplus programs, the property acquisition must be reported to the campus property coordinator in accordance with the Statewide Property Manual and the Statewide Accounting Manual.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.070

Protest Of A Solicitation Cancellation

P05.06.615

An interested party may protest the cancellation of an invitation to bid or request for proposals by filing with the procurement officer a written protest that includes the information required by AS 36.30.560 no more than 10 days after a notice of cancellation is issued by the procurement officer.

Authority: AS 36.30.005 AS 36.30.040

Protests And Contract Dispute Resolution

P05.06.617

- (a) A protest or contract dispute shall be resolved in accordance with the provisions of AS 36.30.560 - 36.30.699 and P05.06.615 - 05.06.695. For purposes of university procurements, the university is not required to arbitrate construction claims as indicated in AS 36.30.627 and references to the commissioner, commissioner of administration and commissioner of transportation and public facilities in AS 36.30.560 - 36.30.699 shall mean the university's procurement policy administrator.
- (b) The procurement policy administrator may establish procedures for the resolution of a protest by interested parties of a debarment, suspension, solicitation, cancellation of a solicitation, award of a contract, or resolution of a contract dispute consistent with the requirements set out in AS 36.30.560 - 36.30.699 and these policies.
- (c) A protest or appeal shall be accepted or rejected within the time period specified in AS 36.30. If "accepted," the matter will be considered on its merits by a deciding

official who will subsequently render a decision. If “rejected,” the matter will be dismissed without consideration of the merits of the claim. The terms accepted, rejected or dismissed refer to whether or not a matter will be considered on its merits. The terms “uphold” or “deny” refer to decisions rendered on various elements of the protest or appeal after considering its merits.

- (d) The decision of the procurement policy administrator or designee for purposes of making a final decision is the final administrative decision of the university. The final decision may be appealed by the university or a party directly affected by the decision to the superior court in accordance with the Alaska Rules of Appellate Procedure.
- (e) The duties of the procurement policy administrator under AS 36.30.550 - 36.30.699 and related policies, including the appointment of hearing officers and final decision makers for an administrative adjudication, may be delegated at the discretion of the procurement policy administrator.
- (f) The procedures established for dispute resolution may include alternative dispute resolution processes. At any time during a controversy, the parties may agree to use of an alternative dispute resolution process as may be approved by the procurement policy administrator. However, administrative proceedings in progress shall continue uninterrupted, unless the parties to the dispute agree to a postponement or delay of the process or settlement of the dispute or claim.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.550 36.30.699

Stay Of Award

P05.06.618

- (a) The award of a contract may be made after receipt of a protest, unless the responsible procurement officer determines in writing that a:
 - (1) reasonable probability exists that the protest will be sustained; or
 - (2) stay of award is not contrary to the best interests of the university.
- (b) If a protest appeal is filed before a contract is awarded and the award was stayed, the filing of the appeal automatically continues the stay, unless the procurement policy administrator or designee determines in writing that the award of the contract without delay is necessary to protect substantial interests of the university.
- (c) The procurement policy administrator may sustain an award or may suspend activity on a contract pending resolution of the dispute or protest.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.575 AS 36.30.600

Appeal Decision Without A Hearing

P05.06.619

- (a) The procurement policy administrator shall reject or dismiss a protest appeal, before a hearing is held, if the he or she determines in writing that the appeal is untimely under AS 36.30.590(a).

- (b) Within 15 days after the due date of the appellant’s comments on the protest report, or within 15 days after receipt of an appeal of a contract controversy, the procurement policy administrator may issue a decision on an appeal without a hearing, if the appeal involves questions of law without genuine undisputed issues of material fact.
 - (1) The procurement policy administrator may, during the 15 days prior to issuing a decision, correspond in writing with the appellant or procurement officer to resolve issues of fact. Copies of said correspondence shall be made available to all parties to the dispute.
 - (2) The decision must include a discussion of the basis for the determination that there are no genuine issues of material undisputed fact.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.610 AS 36.30.630

Decision To Suspend

P05.06.620

- (a) If a determination to suspend a contractor or prospective contractor is made by the chief procurement officer, the written decision shall be sent to the contractor to be suspended. The decision must state that:
 - (1) the suspension is for the period it takes to complete an investigation into possible debarment, but not for a period in excess of three months;
 - (2) bids or proposals will not be solicited from the suspended contractor, and, if they are received, they will not be considered during the period of suspension; and
 - (3) if a hearing has not been held, the suspended contractor may request a hearing.
- (b) A contractor or prospective contractor is suspended upon issuance of the written decision to suspend. The suspension remains in effect during an appeal. The suspension may be ended by the procurement policy administrator or by a court. Otherwise, the suspension ends when it has been in effect for three months or when a debarment decision takes effect, whichever occurs first.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.635

Initiation Of Debarment Action

P05.06.630

- (a) The chief procurement officer shall send written notice of a proposed debarment action by certified mail, return receipt requested, to the last known address of the contractor or prospective contractor. This notice must:
 - (1) state that debarment is being considered;
 - (2) set out the reasons for the action;
 - (3) state that the affected contractor may be represented by counsel.
- (b) Notice of proposed debarment shall also be sent to the university’s general counsel, the procurement policy administrator, and the affected procurement department heads.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.635

Effect Of Debarment Decision

P05.06.640

A debarment decision takes effect upon issuance of the written decision. After the debarment decision takes effect, the contractor remains debarred until a court or the chief procurement officer policy administrator orders otherwise, or until the debarment period specified in the decision expires.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.635

Request For Hearing

P05.06.650

A person entitled to a hearing under AS 36.30 must request in writing that a hearing be held. The request must be received by the procurement policy administrator within the applicable time period set out in AS 36.30 and must set out specific grounds for the hearing.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.650 AS 36.30.695

Notice Of Time And Place Of Hearing

P05.06.660

The hearing officer shall send a written notice of the time and place of a hearing to the last known address of the person requesting the hearing and other affected persons. A copy shall be sent to the chief procurement officer, the respective procurement department head, university general counsel, and the procurement policy administrator.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.670 AS 36.30.695

Hearing Procedures

P05.06.670

- (a) A hearing shall be as informal as is reasonable and appropriate under the circumstances. The weight to be attached to evidence presented is within the discretion of the hearing officer. Stipulations of fact agreed upon by the parties may be regarded and used as evidence at the hearing. The hearing officer may require evidence in addition to that offered by the parties.
- (b) The procurement policy administrator shall act as hearing officer or appoint a hearing officer. The appointee may or may not be a university employee and shall have no personal interest in the matter. If the appointee is an employee of the university, the appointee shall not have materially participated in making any decisions regarding the matter prior to the hearing, nor may the appointee be under the supervision of a person who is responsible for presenting or developing the university's case in the matter.
- (c) An appointed hearing officer may hear the matter alone or with the final decision maker present. The hearing officer shall issue a recommended decision to the final decision maker and may discuss the facts, issues and conclusions with the final decision maker.
- (d) A hearing shall be recorded. All evidence produced at a hearing shall be preserved by the procurement policy administrator or designee.
- (e) Opening statements may be made at the hearing at the discretion of the hearing officer.
- (f) The particular principles of law listed in AS 36.30.860 will be considered by the hearing officer if they are specifically argued by a party.

- (g) A witness must testify under oath or affirmation. A witness may be cross-examined.
- (h) If there are no material undisputed facts, either party may submit, or the hearing officer may require, motions for summary adjudication.
- (i) If an identical issue was decided in a prior hearing, a party to the first hearing may be precluded from raising the issue again in another hearing.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.670

Reporting Suspected Anti-Competitive Practices

P05.06.680

The chief procurement officer, in consultation with the general counsel, shall develop procedures, including forms, for reporting suspected anti-competitive practices. A procurement officer who suspects that an anti-competitive practice has occurred or may be occurring shall follow these procedures.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.635 AS 36.30.920

Misrepresentation And Fraudulent Claims

P05.06.690

In accordance with AS 36.30.687, upon finding that the recipient of a university contract made misrepresentations or fraudulent claims at any stage of proceedings relating to a procurement or contract controversy, the responsible procurement officer, after consulting with the general counsel or designee, may declare the contract void.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.687

Protests Of Small Procurements

P05.06.695

- (a) An interested party may attempt informally to resolve a dispute regarding a small procurement with the responsible procurement officer. If the attempt is unsuccessful, the interested party may protest the solicitation or award. The protest must be filed with the responsible procurement officer.
- (b) To be accepted, the protest must contain the information required under AS 36.30.560.
- (c) If protesting the terms or conditions of a small procurement solicitation, the protest must be filed before the date and time that quotations or informal proposals are due to the procurement office.
- (d) If protesting the award of a small procurement, the protest must be received within 10 days of the award.
- (e) Upon receipt of a protest of a solicitation or award of a small procurement, the responsible procurement officer shall immediately provide the respective procurement department head and the chief procurement officer with a copy of the protest, the status of the procurement and the names and addresses of potentially affected parties.
- (f) Based on the nature of the protest and the status of the procurement, the respective procurement department head or designee shall give notice of the protest to those affected parties that, in his or her judgment, may be directly impacted by the protest. The notice shall provide a schedule and plan for final administrative resolution of the issue.

- (g) The respective procurement department head, or designee, (chief procurement officer if the solicitation value is in excess of \$50,000) after determining the facts and circumstances, in accordance the plan for resolution, may:
 - (1) issue a final decision denying the protest and stating the reasons for denial;
 - (2) issue a final decision sustaining the protest, in whole or in part, and establishing the appropriate remedy;
 - (3) with the concurrence of the protester, attempt to agree upon a final administrative resolution under an alternative dispute resolution procedure; or
 - (4) issue a determination that a formal hearing be conducted by the procurement policy officer to resolve the matter.
- (h) In accordance with AS 36.30.585, if a protest is sustained in whole or in part, the protester’s damages are limited to reasonable bid or proposal preparation costs.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.550 AS 36.30.585

Requests For Personnel, Information, And/Or Services P05.06.700

- (a) A request made to a public procurement unit by another public procurement unit to provide or make available personnel, services, information, or technical services under AS 36.30.730 must be complied with only to the extent that is mutually agreed upon.
- (b) A request made to a state public procurement unit by another state public procurement unit to provide or make available personnel, services, information, or technical services under AS 36.30.730 must comply with the procedures established by the office of management and budget.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.730

Procurement Limitations Relating To Human Trafficking P05.06.725

- (a) Procurement may not be made from a person or entity that has headquarters in a country listed in Tier 3 of the most recent “Trafficking in Persons Report” published by the United States Secretary of State under 22 U.S.C. 7107(b)(1)(C).
- (b) The commissioner may restrict procurement from a person that conducts business in, but does not have headquarters in, a country listed in Tier 3 of the most recent Trafficking in Persons Report published by the United States Secretary of State under 22 U.S.C. 7107(b)(1)(C).

Authority: AS 36.30.005 AS 36.30.010

Exempt Procurements And Exclusions

P05.06.726

- (a) The chief procurement officer may establish procedures as he or she considers necessary for the procurement of goods and services which are, by the nature of the acquisition exempt from formal procurement procedures or excluded from consideration, including those procurements described under AS 36.30.700 – 36.30.730 and AS 36.30.850. These include, but may not be limited to, items for resale, promotional items, book services, governmental or institutional purchases, and purchases on behalf of third parties. Such procurements are subject to prudent business practices.
- (b) Notwithstanding the above, this section does not apply to transactions that are governed by other policies adopted by the Board of Regents including the acquisition of real property, real property use authorizations and other interests in real property except for construction procurement and privately owned property leased by the university (e.g. leased space).

Authority: AS 36.30.005 AS 36.30.040

Purpose And Implementation Of Policies

P05.06.727

All duties and authorities granted by AS 36.30 to the Board of Regents are hereby transferred to the university president, except as such duties and authority may be limited by state statute or other policies adopted by the Board of Regents. These policies document the processes and practices established by the Board of Regents relating to the procurement, control, management, and disposal of supplies, services, and construction by the University of Alaska and are intended to achieve uniformity of procurement practices throughout the university system.

Authority: AS 36.30.005 AS 36.30.010 AS 36.30.015 AS 36.30.040
Art. VII, sec. 3, Alaska Constitution

Procedures And Guidelines

P05.06.728

The chief procurement officer may issue authoritative procedures manuals, guidelines, and directives to supplement these policies. Failure to comply with university procurement policies, procedures, guidelines, or related directives of the chief procurement officer may be considered cause for disciplinary action, including dismissal.

Authority: AS 36.30.005 AS 36.30.010

Federal Grants, Contracts And Assistance

P05.06.730

If a procurement involves the expenditure of federal money, including cost reimbursements, or requires federal assistance and there is a conflict between a provision of this chapter and a federal statute, regulation, policy, or requirement, the procurement officer shall comply with the federal statute, regulation, policy, or requirement.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.890

Federal Contracts

P05.06.735

- (a) Notwithstanding other provisions of these policies, when use of General Services Administration (GSA) or other federal supply contracts is approved for non-federal funded procurements, purchases may be made through the GSA federal supply schedule contracts, or vendors holding GSA or federal supply schedule contracts without seeking competitive bids, proposals or other competition so long as:
 - (1) the university does not have, or is not party to, a mandatory purchase contract for the specified supply or service;
 - (2) the contractor is the contractor offering the lowest scheduled delivered price;
 - (3) the price offered by the contractor is no greater than the scheduled price; and
 - (4) the contractor qualifies as an Alaska bidder under AS 36.30.990(2).
- (b) The responsible procurement officer shall review the scheduled price lists that are reasonably available and contract terms and conditions, including delivery terms (e.g., FOB point), to determine that the procurement under the federal contract is in the best interest of the university.
- (c) A purchase may be made at a higher price than the lowest delivered price if the responsible procurement officer makes a written determination that only the higher priced item will satisfy the needs of the university.
- (d) The provisions of (a)(4) of this section do not apply to the expenditure of federal funds.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.910

Standards Of Conduct, Conflicts Of Interest, & Proper Business Practices **P05.06.738**

- (a) University business shall be conducted in a manner above reproach. Transactions relating to expenditure of university funds require a high degree of public trust, a high standard of conduct, and an avoidance of any actual or appearance of a conflict of interest in university-contractor relationships.
- (b) University employees who are delegated procurement authority under this chapter and all purchasing or procurement department employees shall be subject to the code of ethics under AS 39.52 and standards of ethical conduct established by the university including procedures governing:
 - (1) periodic disclosure of financial interests and outside employment;
 - (2) personal conflicts of interest;
 - (3) solicitation or acceptance of gratuities; and
 - (4) anti-kickback compliance.

Authority: AS 36.30.005 AS 36.30.040

Authority To Delegate

P05.06.740

- (a) Except as otherwise provided by AS 36.30 or this chapter, the chief procurement officer in his/her discretion may delegate authority under AS 36.30 to procurement department heads and other responsible employees of the university. Authority delegated to procurement department head may be delegated by that officer to employees in their respective departments and management units. A delegation of authority must be in writing, state the term of the delegation, the scope or limitation, and indicate that the delegator has made an affirmative determination that the recipient of the authority is reasonably capable of implementing the authority.
- (b) The chief procurement officer, a procurement department head, or other recipient in the chain of delegated authority may revoke any authority further down his or her chain of delegated authority.
- (c) An employee delegated authority under this section may exercise that authority only in accordance with the delegation, AS 36.30, and this chapter.
- (d) The chief procurement officer may develop procedures to provide notification and allow for an appeal process for an employee whose delegation is under consideration for revocation, reduction, or restriction.

Authority: AS 36.30.005 AS 36.30.015 AS 36.30.040

Fiscal Responsibility

P05.06.753

In accordance with AS 36.30.470, if a contract, change order, contract modification, or other price adjustment to a contract exceeds the authorized budget or any limit established by the Board of Regents or the university’s chief finance officer, a written certification of funding availability must be obtained before awarding or modifying the contract. Funding for construction contract modifications must be approved by the responsible procurement officer.

Authority: AS 36.30.005 AS 36.30.470

University’s Best Interest Determination

P05.06.755

A determination by a procurement officer that a specific course of action is, or is not, in the best interest of the university means that the determination is reasonable under the circumstances and not arbitrary, capricious, or prompted by corruption. The determination shall be in writing and shall cite those specific and significant interests and circumstances which justify the finding.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.300 AS 36.30.305
AS 36.30.308 AS 36.30.310

Written Determinations

P05.06.757

- (a) Where AS 36.30 or these policies require a written determination, it must be signed in advance of the procurement by the responsible procurement officer, and, if required, approved by the chief procurement officer before the procurement is initiated.

- (b) The chief procurement officer may prescribe forms and procedures for written determinations.
- (c) Each written determination must be retained in the procurement file to which it applies.

Authority: AS 36.30.005 AS 36.30.040

Procurement Separate From A Construction Contract **P05.06.760**

The chief procurement officer, or designee, is authorized to determine whether a supply item or group of supply items will be included as a part of, or procured separately from, a contract for construction.

Authority: AS 36.30.005 AS 36.30.040

Trade Secrets And Confidential Technical Data **P05.06.770**

The chief procurement officer may establish procedures to protect the confidentiality of trade secrets and confidential technical data.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.140 AS 36.30.230

Determination Of Contractual Terms And Conditions **P05.06.780**

The responsible procurement officer may determine the contractual provisions, terms, and conditions of solicitations and contracts for services, supplies, construction, architect, engineering, and land surveying services for the university, if the provisions, terms, and conditions are not contrary to statutory or regulatory requirements, and, if all contract terms have been reviewed and approved as to form by the university's general counsel or designee.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.340

No Unduly Restrictive Terms And Conditions **P05.06.790**

Contractual terms and conditions may not have the effect of unnecessarily limiting competition or exclusively requiring a proprietary supply, service, or construction item or procurement from a single source, unless no other requirements will suffice.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.060

Philanthropic Contributions In Connection With Procurement Contracts P05.06.795

Unless approved in writing, in advance, and determined to be in the best interest of the university by the chief procurement officer, no contract for the procurement of supplies, services, or construction shall be solicited or awarded if such award or the related contract is based upon a philanthropic contribution or a promised future contribution by the contractor or a related party. Without express approval by the Board of Regents, agreements and pledges regarding philanthropic contributions will not form any part of the consideration for a procurement transaction.

Authority: AS 36.30.005 AS 36.30.040

Non-Collusion Certification P05.06.800

Solicitations must provide that by submitting a bid or offer, the bidder or offeror certifies under penalty of perjury that the price submitted was independently arrived at without collusion.

Authority: AS 36.30.005 AS 36.30.040

Bid, Payment, And Performance Bonds P05.06.810

Bid, payment, and performance bonds or other security shall be required for all construction procurements that exceed the limit established under AS 36.25.010 and such other contracts as the responsible procurement officer deems advisable to protect the interests of the university, or as required by law. Any such requirements must be set out in the solicitation. Irrevocable letters of credit may be substituted for the required bond at the discretion of the responsible procurement officer.

Authority: AS 36.25.010 AS 36.30.005 AS 36.30.040 AS 36.30.120

Installment Purchase Contracts P05.06.820

Contracts may provide for installment or lease-purchase payments over a period of time. Installment or lease-purchase payment agreements may not be used unless provision for these payments is included in the procurement solicitation. Financing arrangements for installment or lease-purchase agreements require prior written approval by the university's chief finance officer, or designee.

Authority: AS 36.30.005 AS 36.30.040

Multiple Or Alternative Bids Or Proposals P05.06.830

Multiple or alternate bids or proposals are nonresponsive, unless the solicitation states that such bids or proposals may be accepted.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.110 AS 36.30.210

Conditioning Bids Or Proposals On Other Awards

P05.06.840

A bid or proposal that is conditioned upon receiving award of both the particular contract being solicited and another contract or upon a change to a material term of the solicitation is nonresponsive, unless conditioned bids are specifically authorized in the invitation to bid or other solicitation.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.110 AS 36.30.210

Suspension, Extension, Amendment, Or Cancellation Of Solicitation

P05.06.850

- (a) Before the opening of bids or proposals, a solicitation may be amended, or the time for opening may be extended, upon the procurement officer's determination that the extension or amendment is in the university's best interest. All potential bidders or offerors known to have copies of the solicitation shall be notified of the extension or amendment.
- (b) Before the opening of bids or proposals, a solicitation may be canceled in whole or in part if the chief procurement officer, or the responsible procurement officer issuing a solicitation, determines that cancellation is in the university's best interest. Reasons for cancellation include, but may not be limited to, the following:
 - (1) the university no longer requires the supplies, services, or construction or there has been a change in its requirements;
 - (2) the university can no longer reasonably expect to pay for the procurement;
 - (3) proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable; or
 - (4) the procurement officer, after consultation with the general counsel, determines that a solicitation is in violation of the law.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.350

Rejection Of All Bids Or Proposals

P05.06.860

After the opening of bids or proposals or after notice of intent to award but before award, all bids or proposals may be rejected in whole or in part by the responsible procurement officer. Reasons for rejection include, but may not be limited to, the following:

- (1) the supplies, services, or construction being procured are no longer required or there has been a change in the university's requirements;
- (2) ambiguous or otherwise inadequate specifications were part of the solicitation;
- (3) the solicitation did not provide for consideration of all factors of significance to the university;
- (4) prices exceed available money and it would not be appropriate to adjust quantities to accommodate available money;
- (5) all otherwise acceptable bids or proposals received are at unacceptable or unreasonable prices;

- (6) there is reason to believe that the bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith; or
- (7) the award is not in the best interests of the university.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.350

Rejection Of Individual Bids Or Proposals

P05.06.870

Reasons for rejecting an individual bid or proposal include, but are not necessarily limited to, the following:

- (1) the bidder or offeror that submitted the bid or proposal is not responsible as determined under P05.06.490;
- (2) the bid or proposal is nonresponsive;
- (3) the supply, service, or construction item fails to meet the specifications or other acceptability criteria set out in the solicitation; or
- (4) the bid or proposal fails to meet the requirements set out in the solicitation to eliminate and prevent in university contracting illegal discrimination as described in P05.06.990(14).

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.350

Disposition Of Bids Or Proposals

P05.06.880

- (a) If a solicitation is canceled prior to the submittal deadline, and no protests have been filed, the procurement officer may return the bid or proposal, or otherwise dispose of it as provided by written instruction from the bidder or offeror.
- (b) If bids or proposals are rejected, the bids or proposals that have been opened must be retained in the procurement file. Bid guarantees in the form of cash or other negotiable instruments shall be returned to the bidders after award of contract or, if no award is made, after cancellation of the solicitation.
- (c) A listing of all returned bids or proposals, and any disposal instructions from the bidder or offeror shall be retained in the solicitation file.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.350

Application Of Preferences

P05.06.890

- (a) Agricultural and Fisheries Product Preferences - (AS 36.15.050 – AS 36.15.060) bidders and offerors responding to a solicitation for the purchase of agricultural and/or fisheries products harvested in Alaska, for which the funding source is state money, shall receive a price preference in accordance with AS 36.15.050. For purposes of this subsection, agricultural products include dairy products, timber and lumber products harvested in Alaska, and products manufactured in the state from timber and lumber, and fisheries products include products harvested or processed within the

jurisdiction of Alaska. A bidder receiving a preference under this subsection may not receive an Alaska forest products preference under AS 36.30.322 for the same product procurement. All solicitations and contracts that involve agricultural or fisheries products shall include the substance of the provisions of AS 36.15.050.

- (b) Other Preferences – (AS 36.30.321 – AS 36.30.338) include the requirements for applying the following preferences, including preferences for Alaska bidders and offerors, services procured through a qualified employment programs, Alaska domestic insurers, disabled persons (not available in conjunction with the qualified employment program preference), Alaska veterans (limited to \$5,000), recycled products composed of 50% recycled materials, and Alaska value added products (except for products subject to the Alaska agricultural and fisheries product preference under AS 36.15.050). These preferences do not apply to limited completion, innovative or emergency procurements.
- (c) Application - Except for the Alaska Products Preference under AS 36.30.328 and the disability preference for services procured through a qualified employment program, if multiple preferences apply to a solicitation, the values of the applicable preferences shall be summed and applied to the qualifying bid. If a product qualifies for the Alaska products preference and the agricultural and fisheries product preference, only one preference shall be applied. The Alaska products preference and the Alaska agricultural and fisheries product preferences shall only be applied to the price of the qualifying products.

Authority AS 36.30.005 AS 36.30.040 AS 36.30.170 AS 30.15.050
AS 30.15.060, and AS 36.30.321 thru AS36.30.338

Low Tie Bids Or Proposals

P05.06.900

In the event of low tie responsive and responsible bids, or a tie evaluation for responsive and responsible proposals, after application of preferences under AS 36.30.170, 36.30.250, AS 36.30.322, and P05.06.890, award shall be made through random drawing, before two witnesses, and documented in writing by signature of the witnesses. Award may not be made by dividing the procurement among identical bidders or tied proposers.

Authority: AS 36.30.005 AS 36.30.040 AS 36.30.150

Extension Of Time For Bid Or Proposal Acceptance

P05.06.910

After opening bids or proposals, a procurement officer may request bidders or offerors to extend the time during which the university may accept a bid or proposal.

Authority: AS 36.30.005 AS 36.30.040

Multiple Awards

P05.06.920

Multiple source awards may be made if award to two or more sources of similar products is necessary for adequate delivery, service, or product compatibility or is otherwise determined to be in the best interest of the university. A multiple source award shall be made in accordance with the provisions relating to competitive sealed bidding, competitive sealed proposals, small procurements, emergency or other authorized procurements, as applicable. Multiple source awards may not be made if a single award will meet the university's needs without sacrifice of economy or service. Awards may not be made for the purpose of dividing the procurement, or to allow for user preference unrelated to utility or economy.

Authority: AS 36.30.005 AS 36.30.040

Definitions

P05.06.990

For purposes of this Chapter 05.06 and application of the Alaska Procurement Code, AS 36.30:

- (1) “accredited youth education and employment program” means a program that allows participants to earn academic credits that are recognized by a school district in Alaska.
- (2) “agency” means a department or sub-unit of the executive branch of state government and does not include the University of Alaska.
- (3) "Alaska Online Public Notice System" means the system developed under AS 44.62.175.
- (4) “alternate dispute resolution” means any informal technique that is voluntarily used to resolve issues in controversy and has been approved by the chief procurement officer.
- (5) “attorney general” means the university’s general counsel unless otherwise required by the context.
- (6) "business license" means a license required under the Alaska Business License Act (AS 43.70).
- (7) “chief procurement officer” is a person designated by the President of the University of Alaska in accordance with AS 36.30.005(c).
- (8) “commissioner of administration” means the chief procurement officer unless otherwise required by the context of this chapter or by subsection 23 of this section.
- (9) “commissioner of transportation and public facilities” means the chief procurement officer unless otherwise required by the context of this chapter or by subsection 23 of this section.
- (10) “concession contract” means a contract:
 - (A) in which the primary method of compensation is based on commissions paid to the contractor;

- (B) the commissions are generated from the collection of receipts, or fees for service, charged to customers other than the university; and
 - (C) generally, the commissions are based on a percentage of gross sales or an established fee schedule and do not involve the expenditure of university funds.
- (11) “cost analysis” means the evaluation of cost data for the purpose of arriving at costs actually incurred or estimates of costs to be incurred, prices to be paid, and costs to be reimbursed.
 - (12) “cost data” means information concerning the actual or estimated cost of labor, material, overhead, and other cost elements that have been actually incurred or that are expected to be incurred by the contractor in performing the contract.
 - (13) “days” means calendar days unless otherwise specified. If a due date or deadline falls on a Saturday, Sunday or University holiday, the due date or deadline will be extended to the next business day.
 - (14) “illegal discrimination” means treatment, consideration of, or making a distinction in favor of or against, someone or something based upon a characteristic determined by federal or state law to be illegal, including but not limited to race, religion, color, national origin, sex, sexual orientation gender identity, age, marital status, pregnancy, parenthood, mental or physical disability, veteran status or political affiliation.
 - (15) “interested party” means an actual or prospective bidder or offeror whose economic interest might be affected substantially and directly by the issuance of a contract solicitation, the award of a contract, or the failure to award a contract.
 - (16) “minor informalities” means matters of form rather than substance which are evident from the bid document, or are insignificant matters that have a negligible effect on price, quantity, quality, delivery, or contractual conditions and can be waived or corrected without prejudice to other bidders.
 - (17) “nonresponsive” means a bid or proposal that does not conform in all material respects to the solicitation.
 - (18) “practicable” means what may reasonably be accomplished or applied. The terms “practical” and “practicable” shall be considered to have the same meaning.
 - (19) “pricing analysis” means the evaluation of price data, without analysis of the separate cost components and profit as in cost analysis, which may assist in arriving at prices to be paid and costs to be reimbursed.
 - (20) “pricing data” means factual information concerning offered or proposed selling prices, historical selling prices, and current selling prices for supplies, services, or construction substantially similar to those being procured.

- (21) “procurement department head” means a senior procurement officer who is responsible for a major segment of procurement and receives his or her delegated authority under AS 36.30 directly from the chief procurement officer.
- (22) “protester” means an actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or the award of a contract and who files a protest.
- (23) “procurement policy administrator” means the individual appointed by the university president to maintain the procurement policies and address protest and contract claim appeals. With regard to protest and contract claim appeals for the university, statutory references to commissioner of revenue or administration in AS 36.30.560 – 36.30.699 shall mean the university procurement policy administrator.
- (24) “prudent business practices” means procedures that do not unfairly discriminate against potential offerors; allow for reasonable competition, considering price, timeliness, product or service availability, university needs and available competition; and provide fair and reasonable pricing. Such procedures may include contacting only one potential source in certain circumstances.
- (25) “responsible procurement officer” means the procurement officer acting within the limits of his/her delegated authority with regard to a particular transaction or activity.
- (26) "responsive offeror" means a firm or person who has submitted a bid or proposal that conforms in all material respects to the solicitation.
- (27) “solicitation” means invitation to bid, request for proposals, request for quotations, or any other method used to solicit bids, proposals or quotes to perform a university contract.
- (28) “state” means University of Alaska unless otherwise required by the context.

Authority: AS 36.30.005 AS 36.30.040

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