

**Excerpted Sections of City and Borough of Juneau Code – Chapter 53.50 – Purchasing of Supplies and Services – Applicable to Bidding Review Board**

**53.50.061 Bidding review board.**

(a) There is established a bidding review board. The bidding review board shall consist of five persons appointed by the assembly. To the extent possible, one of the members shall be an attorney licensed to practice law in the state. The members of the bidding review board shall serve three-year terms. The bidding review board shall adopt written rules of procedure for the purpose of ensuring the expeditious resolution of protests. No member of the bidding review board who has served for three consecutive terms or nine years shall again be eligible for appointment until one full year has intervened, provided, however, that this restriction shall not apply:

- (1) If there are no other qualified applicants at the time reappointment is considered by the assembly human resources committee, or
- (2) To qualified board members serving in board seats for which a specific occupation or expertise is set forth by ordinance.

(b) The bidding review board shall hear protests as provided in this chapter and may perform such other related duties as the manager or assembly may, from time to time, request.

(Serial No. 93-11am, § 11, 1993; Serial No. 99-03, § 3, 1999; Serial No. 2004-08, § 7, 3-22-2004)

**53.50.062 Protests.**

(a) A party may protest award to any other party of a competitive sealed bid or competitive sealed proposal, but such protest shall be heard only if protests have also been filed against the award recommended by the purchasing officer and against any other bid or proposal having a higher ranking than that of the party filing the protest.

(b) A party shall provide written notice of intent to protest. Notice of intent to protest shall be delivered to the purchasing officer by the close of the business day following posting by the purchasing officer of a notice of apparent low bidder or successful proposer. Late notices of intent to protest shall not be considered. The notice of intent to protest shall include the name and address of the protestor and a brief description of the grounds for the protest.

(c) A written protest shall be filed with the purchasing officer within five working days after posting of notice of apparent low bidder or successful proposer.

(d) A written protest shall, at a minimum, contain the following:

- (1) The name, address, and telephone number of the interested party filing the protest;
  - (2) The signature of the interested party or the interested party's representative;
  - (3) Identification of the proposed award at issue;
  - (4) A statement of the legal or factual grounds for the protest;
  - (5) Copies of all relevant documents; and
  - (6) The fee required by section 53.50.080.
- (e) The purchasing officer shall reject an untimely or incomplete protest.

(f) If a timely and complete protest is filed, the award of the contract shall be stayed until the protest is resolved, unless the manager determines in writing that award of the contract pending resolution of the protest is in the best interests of the City and Borough.

(g) The purchasing officer shall issue a written response to the protestor within ten working days of the date the protest is filed. If multiple protests have been filed, they may be consolidated for purposes of the response. Copies of the response shall be provided to any other protestor requesting one. The response may include an amendment of all or any part of the recommended award. The manager may, upon written request of the purchasing officer, for good cause shown, extend the date for the purchasing officer's response for such additional period as may be necessary.

(h) A protestor aggrieved by the purchasing officer's response pursuant to subsection (g) of this section may request review by the bidding review board.

(i) The protestor may seek review of the purchasing officer's response by providing written notice of intent to request review. The protestor shall notify the purchasing officer of the intent to request review by the end of the working day following issuance of the purchasing officer's response. Late notices shall not be considered. A written request for review shall be filed within five working days after the response is issued by the purchasing officer. The notice of intent to request review and the written request for review shall be in the same form as provided in subsections (b), (c), and (d) of this section.

(j) Upon receipt of a timely and complete request for review of the purchasing officer's response, the matter shall be forwarded to the bidding review board and a hearing date shall be established. Once the hearing date has been established, all bidders or proposers shall be notified of the hearing in writing.

(k) The bidding review board shall conduct a hearing and issue a recommendation within seven calendar days of the date the referral is made to the board. The bidding review board may, by written notice to all bidders or proposers, extend this seven-day period to a maximum of 30 days. Hearings shall be conducted informally, with due regard for the rights of the parties involved. Hearings shall be recorded.

(l) The bidding review board's recommendation shall be based on the provisions of this Code interpreted in light of applicable state case law and generally accepted principles of government purchasing as set forth in standard treatises, decisions of the United States Comptroller General, and similar authorities. The recommendation shall contain findings of fact and conclusions of law.

(m) The recommendation:

(1) May include the following:

- a. A recommendation that a designated bid in a competitive sealed bid or proposal process be accepted as the lowest qualified bid or proposal; or
- b. A recommendation that one or more bids or proposals be considered or rejected or that the procurement process at issue be canceled;

(2) Shall not, except to the extent necessary to correct a failure to follow the procedures required by this chapter, include a recommendation for:

- a. An amendment of the specifications for a bid or request for proposals;
- b. A change in the criteria for selection of a proposal; or
- c. An amendment, reordering, or reassessment of any qualitative judgment in the rating of a proposal;

(3) Shall not include a recommendation for:

- a. Selection or rejection of any additive or deductive alternate; or
- b. The payment of money, including attorney's fees, by the City and Borough or any party, provided that the recommendation may recommend a refund of protest fees or payment of bid preparation costs by the City and Borough to one or more bidders or proposers.

(4) Shall be forwarded to the manager or assembly, as appropriate, for consideration in the award of the contract.

(n) The protest procedures established by this section, may be adapted for a procurement as necessary to maintain eligibility for state or federal funding for that procurement, provided that no such adaptation may authorize the board to grant a form of relief prohibited by subsection (m)(3) of this section.

(Serial No. 93-11am, § 12, 1993; Serial No. 95-20, § 2, 1995; Serial No. 96-31, § 5, 1996; Serial No. 97-11, § 2, 1997; Serial No. 99-03, § 4, 1999; Serial No. 2001-38, § 2, 7-2-2001)

### **53.50.080 Administration of protest.**

There is established a fee of \$750.00, payable by each person filing a bid protest, pursuant to section 53.50.062, which shall be refunded in full if the protest is granted.

(CBJ Code 1970, § 53.50.080; Serial No. 71-45, § 4, 1971; Serial No. 80-23, § 5, 1980; Serial No. 93-11am, § 14, 1993; Serial No. 99-03, § 5, 1999)