

Athena Ordinances

ORDINANCE NO. 140

AN ORDINANCE DESIGNATING THE COMMON COUNCIL OF THE CITY OF ATHENA AS CONTRACT REVIEW BOARD FOR THE CITY; PROVIDING DEFINITIONS AND ESTABLISHING GUIDELINES AND PROCEDURES.

The city of Athena, Oregon ordains as follows:

Section 1. Contract Review Board. The common council of the city of Athena is hereby designated as the local contract review board and shall have all powers granted to the State Public Contract Review Board with respect to contracts entered into by said city of Athena.

Section 2. Definitions. The following words and phrases shall mean:

- (1) **Public contract.** Any purchase, lease or sale by the city of Athena of personal property, public improvements or services other than agreements which are exclusively for personal service.
- (2) **Public improvement.** Any construction of improvements on real property by or for the city of Athena.
- (3) **Board.** The local contract review board as established in Section 1 of this ordinance.

Section 3. Competitive Bids; Exemptions.

- (1) All contracts shall be based upon competitive bids except:
 - (a) Contracts made with, or the cost of which is provided by, other public agencies or the federal government.
 - (b) Contracts for any purchase the amount of which is less than \$1000.00.
 - (c) Contracts for any item which is available only through one company, firm or individual.
 - (d) Public sales of any property owned by the city of Athena.
- (2) The contract review board may by resolution exempt other contracts from competitive bidding if it finds:
 - (a) The lack of bids will not result in favoritism or substantially diminish competition in awarding the contract; and
 - (b) The exemption will result in substantial cost savings.

Section 4. Emergency Contracts. A contract may also be exempted from competitive bidding if the board, by unanimous vote, determines that emergency conditions require prompt execution of the contract. A determination of the meeting at which the determination was made.

Athena Ordinances

Section 5. Brand Name Specification in Contracts.

- (1) Specifications for contracts shall not require any product by any brand name or mark, nor the product of any particular manufacturer or seller, unless that product is exempted from this requirement by the board under this section. However, this section shall not be construed to prevent reference in the specification to a particular product as a description of the type of item required.
- (2) The board may by resolution exempt certain products or classes of products upon any of the following findings:
 - (a) It is unlikely that such exemption will encourage favoritism in the awarding of the contract or substantially diminish competition.
 - (b) The specification of a product by brand name or mark, or the product of a particular manufacturer or seller, would result in substantial cost savings.
 - (c) There is only one manufacturer or seller of the product of the quality required.
 - (d) Efficient utilization of existing equipment or supplies requires the acquisition of compatible equipment or supplies.

Section 6. Exemption Hearing. Whenever the board is considering an exemption to the requirements for competitive bids or brand name specification, it shall provide for notice to the public and an opportunity for a public hearing on whether the exemption should be allowed.

Section 7. Bid Rejection. The contract review board may reject any bid not in compliance with all prescribed public bidding procedures and requirements and may reject all bids if it is in the public interest to do so.

Section 8. Bidder Disqualification. The contract review board may disqualify any person as a bidder on a contract if:

- (1) The person does not have sufficient financial ability to perform the contract. Evidence that the person can acquire a surety bond in the amount and type required shall be sufficient to establish financial ability;
- (2) The person does not have equipment available to perform the contract;
- (3) The person does not have personnel of sufficient experience to perform the contract;
- (4) The person has repeatedly breached contractual obligations to public and private contracting agencies; or
- (5) The person fails to acquire any surety or performance bond required by the call for bids.

Athena Ordinances

Section 9. Appeal of Disqualification. A person who has been disqualified as a bidder may appeal such disqualification to the board as provided in this section:

- (1) The person shall, within three business days after receipt of notice of disqualification, in writing, notify the city recorder of the city of Athena that he wishes to appeal his disqualification.
- (2) Immediately upon receipt of such written notice of appeal, the city recorder shall inform the board.
- (3) Upon receipt of notice of appeal, the board shall notify the person appealing of the time and place of the hearing.
- (4) The board shall conduct the hearing according to the provisions of ORS 279.045(3) and decide the appeal within 10 days after receiving the notification and shall set forth in writing the reasons for its decisions.

Section 10. Additional Authority of the Board. In addition to the powers and duties established by this ordinance, the board shall have such additional powers as authorized by state law. Some of the additional powers include:

- (1) Require notice publication in addition to that contained in ORS 279.065.
- (2) Require prequalification for person desiring to bid for public improvement contracts.
- (3) Grant exemptions from the bid security and performance bond required on contracts for public improvements.
- (4) Make alternate arrangements for retainage pursuant to ORS 279.575.

Passed by the council and approved by the mayor December 22, 1975.

Passed by the council and approved by the mayor November 15, 2007.