

§ 228.05 CONTRACTS AND PURCHASES.

(A) *Competitive bidding procedures.*

(1) *Competitive bidding required.* Any work or other public improvement which is not to be paid for, in whole or in part, by special assessment, and all purchases of and contracts for supplies, materials and services, shall, except as specifically provided in this section, be based, whenever possible, on competitive bids.

(2) *Formal contracts.*

(a) Any work or other public improvement which is not to be paid for, in whole or in part, by special assessment, except as otherwise provided in this section, when the estimated cost thereof exceeds \$10,000, shall be purchased by formal, written contract from the lowest responsible bidder after due notice inviting bids, unless competitive bidding is waived by a vote of two-thirds of all the Council members then holding office.

(b) All purchases of and contracts for supplies, materials and services, except as otherwise provided in this section, when the estimated cost thereof exceeds \$10,000, shall be purchased by formal, written contract from the lowest responsible bidder after due notice inviting bids, unless competitive bidding is waived by a vote of two-thirds of the Council members then holding office.

(c) The Public Works Director, with the consent of a majority of Council members, may enter into a contract for public works improvements or the purchase of supplies when the estimated cost thereof, whether in the aggregate or by single contract, is \$30,000 or below. Contracts exceeding \$30,000 will require the Public Works Director to follow divisions (A)(2)(a) and (A)(2)(b) of this section.

(3) *Notice inviting bids.*

(a) Notice inviting bids shall be published at least once in a newspaper with a general circulation in the city. The newspaper notice shall include a general description of the work to be performed or the articles to be purchased and shall state where specifications may be secured and the time and place for opening bids.

(b) The city shall also advertise all pending work or purchases by posting a notice on the public bulletin board in the City Hall and on the city website.

(4) *Bid deposits.* When deemed necessary by Council, bid deposits shall be prescribed in the public notices inviting bids. Unsuccessful bidders shall be entitled to the return of their bid deposits upon the award of the contract by Council. A successful bidder shall forfeit any bid deposit required by Council upon failure on his or her part to enter into a contract within ten days after the award.

(5) *Performance bonds.* The city administration may require performance bonds, before entering into a contract, in an amount as it finds reasonable and necessary to protect the best interests of the city. Performance bonds will be required on contracts involving purchases where materials and labor are involved. On purchases of material only, a warranty will be required for the specific use of the material.

(6) *Submittal and award of bids.*

(a) Bids shall be submitted sealed to the city and shall be identified as bids on the envelope.

(b) Bids shall be opened in public at the time and place stated in the public notice.

(c) A tabulation of all bids received shall be made by Council or by a city employee, in which latter event a tabulation of the bids shall be furnished to Council at its next regular meeting.

(d) The city may reject all bids or parts of bids when the public interest will be served thereby. The city shall not accept the bid of a contractor who is in default on the payment of taxes, licenses or other monies due the city.

(e) Council may award contracts within the purview of this section. Contracts shall be awarded to the lowest responsible bidder on the basis of the bid that is in the best interest of the city to accept. In awarding the contract, in addition to price, Council shall consider:

1. The ability, capacity and skill of the bidder to perform the contract or to provide the service required;
2. Whether or not the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
3. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
4. The quality of performance of previous contracts or services;
5. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
6. The sufficiency of financial resources and the ability of the bidder to perform the contract or provide the service;
7. The quality, availability and adaptability of supplies or contractual services to the particular use required;
8. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
9. The number and scope of conditions attached to the bid; and

10. Whether or not the bidder has a place of business in the city.

(B) *Open market procedure.* All work and purchases of supplies, materials and services of less than the estimated value of \$10,000, or \$30,000 in the case of public works contracts as described in division (A)(2)(c), shall be made in the open market, without newspaper advertisement and without observing the procedure prescribed in this section for the award of formal contracts.

(C) *Professional services.* All contracts for professional services, including but not limited to attorneys, engineers, real estate appraisers, auditors, architects and city planners, may be entered into by the city without observing the bidding procedures prescribed by this section for the award of formal contracts.

(D) *Emergencies.* In cases of an apparent emergency which requires immediate work or purchase of supplies, materials or services, Council may secure, by open market procedure as set forth in this section, at the lowest obtainable price, any work, supplies, materials or services regardless of the amount of the expenditure.

(E) *Cooperative purchasing.* The city may join with other units of government in cooperative purchasing plans when the best interest of the city would be served thereby.

(Ord. 87-54, passed 11-10-1987; Ord. 04-35, passed 8-24-2004; Ord. 23-36, passed 12-26-2023)

CHAPTER 208: RESPONSIBLE BIDDER REQUIREMENTS

ON PUBLIC WORKS CONSTRUCTION PROJECTS

Section

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§ 208.01 PUBLIC WORKS.

For the purposes of this chapter, the term **PUBLIC WORKS** shall mean the following: any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintenance, landscaping, improving, moving, wrecking, painting, decorating, demolishing, and adding to or subtracting from any public building, structure, airport facility, highway, roadway, street, alley, bridge, sewer, drain, ditch, sewage disposal plant, water work, parking facility, railroad, excavation, or other project, development, real property, or improvement, or to do any part thereof, whether or not the performance of the work herein described involves the addition to, or fabrication into, any structure, project or development, real property or improvement herein described of any material or article of merchandise, which is paid for out of a public fund or out of a special assessment. The term also includes any public works leased by a political subdivision under a lease containing an option to purchase.

(Ord. 17-22, passed 6-14-2017)

§ 208.02 BID SUBMISSION REQUIREMENTS.

(A) In determining whether a bidder is a "responsible bidder" for the award of a public works contract, the bidder must submit the following information and supporting documentation verified under oath on a form designated by the city, in order for the bid to be accepted:

- (1) A copy of a print-out of the Illinois Secretary of State's Department of Business Services online records evidencing that the bidder has a current corporate annual report on file. If the bidder is an individual, sole proprietor, or partnership, this division shall not apply.
- (2) Documents evidencing current registration with the Illinois Department of Revenue if bidder has employees (e.g. document with account number, Illinois Business Tax number).
- (3) Documents evidencing current registration with the Illinois Department of Employment Security if bidder has employees (e.g. document with UI account number).
- (4) Disclosure of any federal, state or local tax liens or tax delinquencies against the contractor or any officers of the contractor in the last five years.
- (5) A statement that all employees are (i) covered under a current workers' compensation insurance policy and (ii) properly classified under such policy. If the bidder is insured with a carrier, the evidence of workers' compensation insurance shall be a copy of the "Information Page" of the bidder's workers' compensation policy and any continuation of that information page which include the name and address of the insured, as well as the class codes the compensation premium is based on and the total estimated remuneration per class code.
- (6) A statement of compliance with all provisions of the Illinois Prevailing Wage Act (ILCS Ch. 820, Act 130, §§ 1 et seq.) and all rules and regulations therein, for the past five years. Such statement shall also provide that the contractor has reviewed the Prevailing Wage Act or federal Davis-Bacon and Related Acts, has reviewed and agrees to pay the applicable prevailing wage rates attached to the bid specifications, and will strictly comply with the Prevailing Wage Act or federal Davis-Bacon and Related Acts and related requirements. A contractor who has been found by the Illinois Department of Labor to be in violation of the Prevailing Wage Act twice within a three year period shall be deemed not to be a responsible bidder for two years from the date of the latest finding.
- (7) A copy of the written program for the prevention of substance abuse to be filed with a public body pursuant to the Substance Abuse Prevention on Public Works Projects Act (ILCS Ch. 820, Act 265, §§ 1 et seq.).
- (8) A statement that individuals who will perform work on the public works project on behalf of the contractor are properly classified as either (i) an employee or (ii) an independent contractor under all applicable state and federal laws and local ordinances.

(9) Documents evidencing any professional or trade license required by law or local ordinance for any trade or specialty area in which the contractor is seeking a contract award. Additionally, the contractor must disclose any suspension or revocation of such license held by the company, or of any director, officer or manager of the company.

(10) Evidence of participation in apprenticeship and training programs applicable to the work to be performed on the projects which were approved by and registered with the United States Department of Labor's Office of Apprenticeship, or its successor organization. The required evidence includes a copy of all applicable apprenticeship standards and Apprenticeship Agreement(s) for any apprentice(s) who will perform work on the public works project.

(11) Bidder shall certify that all employees expected to perform work on the project have completed a ten-hour or greater OSHA safety program within the last five years. Only workers that have satisfactorily completed a ten-hour or greater OSHA safety program will be allowed to participate on the project. The bidder must have copies of employee OSHA cards on file, and the city may request the bidder provide copies of employees OSHA cards; failure to produce an employee's OSHA card may result in determination that the bidder is not a responsible bidder.

(12) Disclosure of the name and address of each subcontractor from whom the contractor has accepted a bid and/or intends to hire on any part of the project. Further, each such subcontractor shall be required to adhere to the requirements set forth herein as though it were bidding directly to the city. Each contractor shall submit all subcontractor information and supporting documentation to the city's responsible department prior to the subcontractor commencing work on the project.

(13) Statements as to past performance, which shall give an accurate and complete record of all public works projects completed in the past three years by the contractor. Such statements shall include the name of the public body and the projects, original contract price, final contract price, and the names of all subcontractors used, if applicable, and a statement as to compliance with completion deadlines.

(14) Any determinations by a court or governmental agency for violations of federal, state, or local laws, including but not limited to serious, willful or repeated violations of the Occupational Safety and Health Act (OSHA), violations of contracting or antitrust laws, tax or licensing laws, environmental laws, the National Labor Relations Act (NLRA), or the Federal Davis-Bacon and Related Acts.

(B) Any material changes to the contractor's status, at any time, must be reported in writing to the city within 14 days of its occurrence. Failure to comply with this requirement is grounds for the contractor to be deemed a non-responsible bidder.

(Ord. 17-22, passed 6-14-2017)

§ 208.03 INCOMPLETE SUBMISSIONS BY BIDDERS AND SUBCONTRACTORS.

(A) It is the sole responsibility of the contractor to comply with all submission requirements at the time it submits its bid to the city. Contractor submissions deemed inadequate or incomplete may result in a determination that the contractor is not a responsible bidder.

(B) The submission requirements also apply to all subcontractors, except that the contractor shall submit all subcontractor submissions to the city prior to the subcontractor commencing work on the project. Failure of a subcontractor to submit the required information shall not disqualify the successful bidder from performing work on the project and shall not constitute a contractual default and/or breach by the successful bidder. However, the city may withhold all payments otherwise due for work performed by a subcontractor, until the subcontractor submits the required information and the city approves such information.

(Ord. 17-22, passed 6-14-2017)

§ 208.04 LOWEST BIDDER NOT CHOSEN.

When the award is not recommended to be given to the lowest bidder, a statement of the reason for such recommendation shall be prepared by the City Administrator or designee.

(Ord. 17-22, passed 6-14-2017)

§ 208.05 MULTIPLE LOW BIDS.

When two or more responsible bidders submit the same low bid, the contract award shall be determined by drawing lots at a public meeting of the City Council, unless one bidder is a local contractor and one is a non-local contractor, in which event the local contractor shall be awarded the contract.

(Ord. 17-22, passed 6-14-2017)

§ 208.06 PUBLIC RECORDS.

All information submitted by a contractor or subcontractor pursuant to this chapter are public records subject to review pursuant to the Illinois Freedom of Information Act (ILCS Ch. 5, Act 140, §§ 1 et seq.).

(Ord. 17-22, passed 6-14-2017)

§ 208.07 MATERIALITY.

The requirements of this chapter are a material part of the bid documents and the contract and the successful bidder shall insert this chapter in all subcontracts.

(Ord. 17-22, passed 6-14-2017)