

CONTRACTING - BID LAWS

LEGAL COMPLIANCE MANUAL

CONTRACTING - BID LAWS

Introduction

A municipality entering into an agreement for the sale or purchase of supplies, materials, equipment or the rental thereof, or the construction, alteration, repair or maintenance of real or personal property must abide by the statutes relating to contracting and bidding. In addition, for counties, such statutory requirements also apply to contracts for "work or labor."

A municipality, for the purpose of this section, is a county, town, city, school district, or other municipal corporation or political subdivision of the state authorized by law to enter into contracts. Each contract must be approved by the appropriate authority, as authorized by statute or charter, within the municipality.

If the audited governmental unit is one of the listed types of municipalities and it has the power to contract, complete the questionnaire to determine if the municipality conformed to the contracting and bidding statutes.

Minn. Stat. § 471.345, the Uniform Municipal Contracting Law, was established to provide dollar limits for all municipalities upon contracts which shall or may be entered into on the basis of competitive bids, quotations, or purchase or sale in the open market. Beginning August 1, 2000, the statute sets the basic requirements for governmental subdivisions as set forth below. (For pre-August 1, 2000, contracts, apply Section 4 from the 1999 Legal Compliance Audit Guide.)

A. For Municipalities of Less Than 2,500 Population.

1. For contracts over \$35,000--sealed bids, solicited by public notice and subject to the particular requirements of the governmental subdivision.
2. For contracts from \$10,000 to \$35,000--sealed bids or direct negotiation, with two quotations whenever possible.
3. For contracts of \$10,000 or less--open market or quotations (with at least two contract quotations, if practicable).

B. For All Other Municipalities.

1. For contracts over \$50,000--sealed bids, solicited by public notice and subject to the particular requirements of the governmental subdivision.
2. For contracts from \$10,000 to \$50,000--sealed bids or direct negotiation, with two quotations whenever possible.
3. For contracts of \$10,000 or less--open market or quotations (with at least two contract quotations, if practicable).

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
Part I. Uniform Laws - Applies to All Municipalities				
(Note: For pre-August 1, 2000, contracts, apply Section 4 from the 1999 Legal Compliance Audit Guide.)				
§ 471.345, subd. 3	<p>A. For municipalities of less than 2,500 population</p> <p>The estimated contract amount determines whether sealed bids or quotations are required.</p> <p>1. Contracts over \$35,000</p> <p>a. Have all contracts estimated to exceed \$35,000 been let on sealed bids?</p> <p>b. Have the bids been solicited by public notice?</p> <p>c. Are the bids on file? (<u>See</u> Introduction section entitled "Destruction of Records," pages iii through iv.)</p>	_____	_____	_____
§ 471.345, subd. 4	<p>2. Contracts from \$10,000 to \$35,000 can be made on sealed bids or by direct negotiation based on quotations.</p> <p>a. Have all contracts estimated to exceed \$10,000 but not to exceed \$35,000 been let on sealed bids or negotiated quotes?</p> <p>b. If sealed bids were used, were the requirements of A.1. met?</p> <p>c. If quotations were used and obtaining two or more quotes was possible, were two or more quotes obtained?</p> <p>d. If quotations were used, were the quotations kept on file for at least one year?</p>	_____	_____	_____
§ 471.345, subd. 5	<p>3. Contracts estimated to be \$10,000 or less may be made either upon quotation or in the open market. If quotations were used, are they on file?</p>	_____	_____	_____
§ 471.345, subd. 3	<p>B. For all other municipalities</p> <p>The estimated contract amount determines whether sealed bids or quotations are required.</p> <p>1. Contracts over \$50,000</p> <p>a. Have all contracts estimated to exceed \$50,000 been let on sealed bids?</p> <p>b. Have the bids been solicited by public notice?</p> <p>c. Are the bids on file? (<u>See</u> Introduction section entitled "Destruction of Records," pages iii through iv.)</p>	_____	_____	_____

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
§ 471.345, subd. 4	<p>Part I. Uniform Laws - Applies to All Municipalities (Continued)</p> <p>2. Contracts from \$10,000 to \$50,000 can be made on sealed bids or by direct negotiation based on quotations.</p> <p>a. Have all contracts estimated to exceed \$10,000 but not to exceed \$50,000 been let on sealed bids or negotiated quotes?</p> <p>b. If sealed bids were used, were the requirements of B.1. met?</p> <p>c. If quotations were used and obtaining two or more quotes was possible, were two or more quotes obtained?</p> <p>d. If quotations were used, were the quotations kept on file for at least one year?</p>	<p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	<p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	<p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
§ 471.345, subd. 5	3. Contracts estimated to be \$10,000 or less may be made either upon quotation or in the open market. If quotations were used, are they on file?	_____	_____	_____
§ 471.345, subd. 5a	C. County or town contracts for the rental of equipment estimated to be \$60,000 or less may, at the discretion of the board, be made by direct negotiation by obtaining two or more quotations when possible. If this method was used, were quotations kept on file for at least one year?	_____	_____	_____
§ 471.345, subd. 15	D. If the municipality contracted for the purchase of supplies, materials, or equipment without regard to competitive bidding requirements, was the purchase through a national municipal association's purchasing alliance or cooperative created by a joint powers agreement that purchases items from more than one source on the basis of competitive bids or competitive quotations?	_____	_____	_____
§ 471.35	E. Other Considerations			
	1. Specifications on contracts. Were the specifications written so as not to exclude all but one type or kind of supplies or equipment?	_____	_____	_____
§ 574.26	2. Interest in contract. (<u>See</u> Conflicts of Interest Section, page 2-1.)			
	3. Contractor's performance and payment bonds. Contractors doing public work are required to give both a performance bond and a payment bond in an amount not less than the contract price if the contract is more than \$75,000.			

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<p data-bbox="87 1052 207 1115"><u>See also</u> § 574.26</p> <p data-bbox="87 1283 207 1314">§ 375.21</p> <p data-bbox="87 1577 207 1608">§ 375.22</p>	<p data-bbox="321 163 1068 195">Part II. Laws Relating to Specific Municipalities (Continued)</p> <p data-bbox="370 233 1133 359">c. If the contract is for the construction or repair of roads, bridges, or buildings, was the public notice, stating time and place for bids, published three weeks prior to the deadline?</p> <p data-bbox="370 394 1101 457">d. Did the published notice include the time and place of awarding the contract?</p> <p data-bbox="370 493 1101 556">e. Did the published notice include a brief description of the work?</p> <p data-bbox="310 592 654 623">2. Awarding the Contract</p> <p data-bbox="370 659 1084 722">a. Was the contract awarded to the lowest responsible bidder?</p> <p data-bbox="370 758 1133 852">b. If the contract was not awarded to the lowest bidder, were reasonable and appropriate reasons documented in the minutes?</p> <p data-bbox="370 888 1101 951">c. Were the names of the bidders and the amount of the bids put on record?</p> <p data-bbox="370 987 906 1018">d. Was the contract executed in writing?</p> <p data-bbox="370 1054 1084 1180">e. If the contract involved work and labor for the construction or repair of roads, bridges, or buildings, was a faithful performance bond received from the contractor?</p> <p data-bbox="310 1215 654 1247">3. Emergency Exceptions</p> <p data-bbox="370 1283 1133 1545">a. In case of an emergency arising from the destruction or impassability of road or bridges by floods, rain or snow, or other casualty, or the breaking or damaging of any property in the county if the public health, safety, or welfare would suffer by delay, contracts for purchase or repairs may be made without advertising for bids; but, in that case, the action of the board shall be recorded in its official proceedings.</p> <p data-bbox="370 1581 1109 1843">b. In case of an emergency arising from breakage, damage, or decay in county property that cannot be allowed to wait for the time required to advertise for bids, repairs may be made without advertising for bids if the work is authorized by a majority of the board of county commissioners and the action is ratified and recorded in the official proceedings of the board at its next meeting.</p>	<p data-bbox="1159 352 1224 363">_____</p> <p data-bbox="1159 447 1224 457">_____</p> <p data-bbox="1159 541 1224 552">_____</p> <p data-bbox="1159 709 1224 720">_____</p> <p data-bbox="1159 846 1224 856">_____</p> <p data-bbox="1159 940 1224 951">_____</p> <p data-bbox="1159 1003 1224 1014">_____</p> <p data-bbox="1159 1171 1224 1182">_____</p> <p data-bbox="1159 1171 1224 1182">_____</p>	<p data-bbox="1250 352 1315 363">_____</p> <p data-bbox="1250 447 1315 457">_____</p> <p data-bbox="1250 541 1315 552">_____</p> <p data-bbox="1250 709 1315 720">_____</p> <p data-bbox="1250 846 1315 856">_____</p> <p data-bbox="1250 940 1315 951">_____</p> <p data-bbox="1250 1003 1315 1014">_____</p> <p data-bbox="1250 1171 1315 1182">_____</p> <p data-bbox="1250 1171 1315 1182">_____</p>	<p data-bbox="1347 352 1533 363">_____</p> <p data-bbox="1347 447 1533 457">_____</p> <p data-bbox="1347 541 1533 552">_____</p> <p data-bbox="1347 709 1533 720">_____</p> <p data-bbox="1347 846 1533 856">_____</p> <p data-bbox="1347 940 1533 951">_____</p> <p data-bbox="1347 1003 1533 1014">_____</p> <p data-bbox="1347 1171 1533 1182">_____</p> <p data-bbox="1347 1171 1533 1182">_____</p>

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§ 123B.52, subd. 6	<p align="center">Part II. Laws Relating to Specific Municipalities (Continued)</p> <p>6. School District Surplus Computers</p> <p>Did the school district dispose of surplus computer and related equipment by conveying the property and title to another school district, the state department of corrections, the board of trustees of the Minnesota state colleges and universities, or the family of a student residing in the district whose total family income meets the federal definition of poverty?</p>	_____	_____	_____

Part III. Audit Conclusion

The auditor must state a conclusion--based on this questionnaire and any other audit procedures performed--whether the client has complied with the legal provisions reviewed relating to contracting and bidding.

Conclusion: _____
