

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
	<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>			
§ 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?			
	<p>NOTE: Exceptions to the competitive bidding requirements of Minn. Stat. § 471.345 exist for water tank service contracts, procurement from economically disadvantaged persons, shared hospital or ambulance service purchasing, fuel contracts for generation of municipal power, procurement from rehabilitation facilities, energy efficient projects, and solid waste contracts. If a contract you audit falls into one of these categories, review the relevant exceptions to see if its criteria are met. See Minn. Stat. §§ 471.345, subds. 5b, 8, 10, 11, 12, and 13; and 400.04.</p> <p>E. Other Considerations</p>			
§ 471.35	1. Specifications on contracts. Were the specifications written so as not to exclude all but one type or kind of supplies or equipment?			

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
§ 574.26	<p>Part I. Uniform Laws - Applies to All Municipalities (Continued)</p> <p>2. Interest in contract. (<u>See</u> Conflicts of Interest Section, page 2-1.)</p> <p>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.</p> <p>a. Were bonds received for all contracts greater than \$75,000?</p> <p>b. Were the amounts sufficient?</p> <p>NOTE: If the project is under \$50,000, contractor may provide for irrevocable bank letter of credit in place of a performance bond provided the letter of credit is subject to the same conditions as a performance bond.</p> <p>For school district contracts limited to the purchase of a finished tangible product, <u>See</u> note in Part II.D., <u>infra</u>.</p>			
§ 574.261, subd. 1a	<p>F. Group Insurance</p> <p>Any political subdivision that provides group insurance for 25 or more employees must comply with certain bidding requirements in contracting for or renewing said insurance.</p> <p>1. Was the request for proposals (RFP) in writing?</p> <p>2. Did the RFP include:</p> <p>a. the coverage to be provided;</p> <p>b. the criteria for evaluation of proposals; and</p> <p>c. the aggregate claims record for the appropriate period?</p> <p>3. Was the RFP notice placed in a newspaper or trade journal at least 21 days before the final date for submitting proposals?</p> <p>4. Was a written rationale explaining the political subdivision's decision prepared prior to entering into a contract?</p> <p>5. Was the term of the contract five years or less, including extensions?</p>			
§ 471.6161				

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
§ 123B.52, subd. 6	<p align="center">Part II. Laws Relating to Specific Municipalities (Continued)</p>			
	<p>(1) If a contract was made by direct negotiations, were quotations requested by published notice at least 30 days before the contract was awarded?</p>	_____	_____	_____
	<p>(2) Were written quotes received and were all quotations kept on file for at least one year?</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: _____
