

Chapter Adm 8

BIDDING PROCESS AND EXCEPTIONS TO BIDDING

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Adm 8.01 Simplified bidding. (1) USE. The procedure for the solicitation of procurements under \$10,000 is as follows:

(a) Sealed bids shall be solicited from 3 or more vendors using forms and formal procedures determined by the department. Bids may be solicited from less than 3 vendors if the procuring agency documents that 3 vendors do not exist in proximity to the procuring agency; or

(b) The procuring agency shall send a written request for price quotations to 3 or more suppliers. Price quotations may be solicited from less than 3 suppliers if the procuring agency documents that 3 suppliers do not exist in proximity to the procuring agency; or

(c) The procuring agency shall compare 3 or more price lists or quotes on file, or shall solicit quotes from 3 or more suppliers. The solicitation may be made by phone, verbally, or in writing. Price quotations may be solicited from less than 3 suppliers if the procuring agency documents that 3 suppliers do not exist in proximity to the procuring agency; or

(d) Except for printing, the procuring agency shall consider competitive pricing and make the award to the supplier judged best able to supply.

(e) The procuring agency shall obtain approval from the department before using any of the methods indicated in this section.

(2) **DOCUMENTATION.** Documentation of all simplified bidding transactions is required, including justification when award is not given to the apparent low bidder, and when bidding is waived. Simplified bids shall be documented in the bid file according to department established procedures.

History: Cr. Register, September, 1986, No. 369, eff. 10-1-86.

Adm 8.02 Withdrawal and modification of bids. Any bidder may withdraw, resubmit, or modify a bid at any time prior to the bid opening.

History: Cr. Register, September, 1986, No. 369, eff. 10-1-86.

Adm 8.03 Basis for awards as a result of bidding. (1) LOWEST RESPONSIBLE BIDDER. The award of a contract for a procurement shall be made to the lowest responsible bidder, taking into account qualified bids from sheltered workshops, small businesses, and minority businesses.

(2) **REJECTION OF BIDS.** Any, and all, bids may be rejected. The reason for rejection shall be documented and made a part of the bid file.

(3) **DISCOUNTS FOR EARLY PAYMENT.** Discounts for early payment may be taken into account in making awards only when all other conditions are equal.

(4) **TIED BIDS.** In the case of tie bids, an award shall be made to Wisconsin suppliers, in preference to out-of-state suppliers, as provided in 16.75 (1) (a), Stats. If the tie is between 2 Wisconsin bidders or 2 non-Wisconsin bidders, the successful bidder shall be selected by chance as determined by a witnessed and documented drawing of names or its equivalent.

History: Cr. Register, September, 1986, No. 369, eff. 10-1-86.

Adm 8.04 Public opening and reading of bids and proposals. (1) BIDS. Opening and reading of bids shall include all of the following:

(a) Sealed bid openings are open to attendance by interested bidders and the public.

(b) A procurement agency that invited the submission of bids, shall open and orally read the bids as soon as practicable after the date and hour shown on the inquiry, at the place designated. No action other than the reading of the names of the bidders, the terms, and the prices bid is required at the bid opening.

(c) On complex, multi-line or multi-option bids, the procuring agency may open and read only the names of bidders. This procedure is used to reduce the time needed for the public opening of bids. When this option is exercised, detailed results of individual bids will be made available to the bidders; and the public within a reasonable time.

(2) **REQUESTS FOR PROPOSALS.** Proposals shall be opened at the time and date specified. The names of the proposers may be read aloud. When the names are read aloud, a written record of the names of the proposers shall be established. Proposals need not be evaluated at this time, nor awards announced.

History: Cr. Register, September, 1986, No. 369, eff. 10-1-86.

Adm 8.05 Waiver of bidding for sealed bids. (1) WAIVER REQUIREMENTS. Waiver of bidding may be authorized when in the best interests of the state. The department may authorize the waiver of bidding on procurements estimated to total less than \$10,000. Authority to request the waiver of a sealed bid on procurements estimated at \$10,000 or over may not be delegated by the department. All requests for waivers shall be thoroughly documented including justification for not using a competitive process.

(2) **CONDITIONS FOR WAIVER OF BIDDING PROCESS.** One or more of the following conditions, with written justification, may serve as criteria for request to waive the bidding process:

(a) The product is unique and can be established as one of a kind that is not available from more than one supplier;

(b) The purchase of specific used equipment will offer a significant discount to the state;

(c) The patented or proprietary features of a product will give the state a superior and necessary utility that cannot be obtained from others;

(d) An item is unique as determined by its historic, artistic, or educational value; or

(e) A risk of human suffering or substantial damage to real or personal property exists that requires immediate action.

(3) **EXCEPTIONS.** Bidding policies and procedures regarding procurements of printing and stationery may not be waived.

Note: See ss. 16.75 (2) (a), 16.75 (7), Stats., and Wis. Const. Art. 4, Sect. 25.

History: Cr. Register, September, 1986, No. 369, eff. 10-1-86.

Adm 8.06 General Waiver. Repetitive and similar transactions may be consolidated into a general request for prior approval of the proposed procurement process.

History: Cr. Register, September, 1986, No. 369, eff. 10-1-86.

Adm 8.07 Recordkeeping documentation. Competitive bidding, competitive negotiation, and noncompetitive negotiation require documentation of the procurement process and the results of the action taken.

History: Cr. Register, September, 1986, No. 369, eff. 10-1-86.

Adm 8.08 Exceptions to bidding. (1) **INTERGOVERNMENTAL PROCUREMENTS.** Intergovernmental procurements include procurements from any municipality and from any unit of the federal government.

(a) Intergovernmental procurements, except for procurement of printing and stationery, may be made without bidding if approved by the department.

(b) All other established procurement policies and procedures designated by the department shall apply to intergovernmental procurements.

(2) **GRANTS AND OTHER NONPROCUREMENT TRANSACTIONS.** Grants, agreements between state agencies, and other payments made pursuant to statute when only one provider is statutorily permissible and the rate of reimbursement is set by statute are exempt from the procurement process upon approval of the department.

(3) **REGULATED SERVICES.** Regulated services that are determined to be available from a sole source as a result of a regulated or natural monopoly may be obtained without bidding as provided in s. 16.75 (2) (b), Stats. Procuring agencies contracting for regulated services shall document the reason for not bidding. The purchasing transaction shall be conducted by official state purchase order or letter of agreement that includes standard terms and conditions.

Note: A purchase order form AD-P-10 may be obtained from the Department of Administration, Printing and Publications Section, 202 S. Thornton Avenue, P.O. Box 7840, Madison, WI 53707.

History: Cr. Register, September, 1986, No. 369, eff. 10-1-86.