

Procurement & Public Works Construction

Procurement – I.C. Title 67 Ch. 28

Public Works – I.C. Title 54 Ch. 19

Key Provisions of Local Government Purchasing Statutes

- Basic rule – Unless exempt - must buy that which costs the least
 - Key protection – specifications
 - Exemptions from competitive bidding are limited
 - Requires both public accountability and respect for interests of bidders
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Internal Requirements

- Are expenditures budgeted?
 - Are procedures for making purchase clear?
 - Who has authority?
 - Has approval been granted?
 - Any special conditions – Davis-Bacon?
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Exemptions from Competitive Bidding

- Piggybacking – Idaho public agency
 - Purchases less than \$25,000
 - Personal or professional services
 - Interest in real property
 - Procurement of insurance
 - Shared work – public agencies
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Procurement of Services or Personal Property

- Remember piggybacking
 - Under \$25,000, purchase in the open market
 - \$25K - \$50K (note the upper limit difference) – use semi-formal procurement process – same procedures
 - Above \$50K – follow Category A procedures used for public works
 - Must award to low bidder - specifications
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What is Public Works Construction?

- Building a public facility or improvement – a building, street, canal, pipeline, park, treatment plant, etc.
 - Public works construction?
 - Hauling plowed snow from streets
 - Landscape maintenance work (02935)
 - Painting a building (09900)
 - Chip-sealing a roadway (02785)
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Exceptions and Compliance

- Federally funded procurement- license not required to bid, but required to build
 - Performance by agency employees
 - Time frames embedded in statute - must comply in time or waive right to object
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Licensed Public Works Contractors

- Construction of "public works"
 - No lien authority on public property
 - Performance bond/Payment bond
 - Licensing board – limited jurisdiction
 - Classes of licensure – tied to value of work to be performed – net worth
 - Licensure – no assurance of competence
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Public Works Procurement

- Licensed contractor for construction work over \$10,000(I.C. §54-1903(j))
 - If suspect no licensed contractor interest for small jobs (less than \$50,000), use alternative procedures.
 - Advertise for expression of interest from contractors, just as for bids.
 - If no interest, can use unlicensed contractors (I.C. §67-2805(1))
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Public Works Procurement (continued)

- Purchases of less than \$25,000 - purchase in open market from licensed contractor
 - Purchases of \$25,000-\$100,000, employ semi formal purchasing procedure
 - Purchases in excess of \$100,000, straight competitive bid or pre-qualified competitive bid
 - Procedural steps required for all but open market
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Semi-formal Public Works Purchasing (\$25K-\$100K)

- Written solicitation for bids from three licensed public works contractors
 - Must allow three (3) days to respond, bidder must object to specifications at least one (1) day before submittal of bids
 - Bid must be submitted in writing (fax, e-mail OK)
 - Low bid prevails** - keep records 6 months
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Full Competitive Bidding (over \$100K)

- Category A – open bidding process
 - Three considerations:
 - Required license
 - Comply with administrative requirements
 - Lowest bid
 - Two weeks notice for bids, object to specifications up to 3 days before
 - Award to lowest qualified bidder-if not to lowest, seven days notice to all, bidders can object - governing board decides
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Category B Public Works Purchasing - (over \$100 K)

- Allows owner to pre-qualify bidders
 - Publish notice soliciting bidder qualifications
 - Same timeframe as open bid (category A)
 - Qualifications allowed
 - Demonstrated technical competence
 - Experience constructing similar facility
 - Prior owner experience
 - Available non-financial resources
 - Whole body of work
 - Must award to lowest pre-qualified bidder
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Miscellaneous Provisions

- Joint purchasing programs authorized for all political subdivisions- previously counties and hospitals only
 - Emergency and sole-source procurement allowed
 - Possible civil penalty for using unlicensed contractor or bid avoidance - \$5K
 - Criminal penalty - up to one (1) year in jail/\$5K fine
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