

CHAPTER 3.22

INFORMAL BIDDING PROCEDURES

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Statutory reference:

Provisions regarding the Uniform Public Construction Cost Accounting Act, see Public Contract Code § 22000 et seq.

Provision regarding the City's authority to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws, see Cal. Const. Art. XI, § 7.

3.22.010 PURPOSE OF INFORMAL BIDDING PROCEDURES.

Pursuant to Public Contract Code § 22000, general law cities may adopt an alternative method for the bidding of public works projects. The purpose of this chapter is to:

- A. Comply with the requirements of state law; and
- B. Establish efficient and effective processes for the bidding of public projects at the lowest feasible cost commensurate with the level of quality required.

(Ord. 918, § 2, passed 08-10-2015)

3.22.020 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

COMMISSION. Uniform Public Construction Cost Commission.

CONSTRUCTION TRADE JOURNALS. The appropriate construction trade journals for Mendocino County as determined by the Commission.

PUBLIC PROJECT. As defined in Public Contract Code § 22002(c), as set forth below, and as may be amended from time to time:

- A. Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility.
- B. Painting or repainting of any publicly owned, leased, or operated facility.
- C. "Public project" does not include maintenance work. For purposes of this section, "maintenance work" includes all of the following:

1. Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.
2. Minor repainting.
3. Resurfacing of streets and highways at less than 1 inch.
4. Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.
5. Work performed to keep, operate, and maintain publicly owned water, power, or waste disposal systems, including, but not limited to, dams, reservoirs, power plants, and electrical transmission lines of 230,000 volts and higher.

QUALIFIED CONTRACTOR LIST. A list of qualified contractors, identified according to categories of work. Minimum criteria for development and maintenance of the qualified contractors list shall be determined by the Commission.

(Ord. 918, § 2, passed 08-10-2015)

3.22.030 EXCEPTIONS TO THIS CHAPTER.

The procedures described in this chapter shall govern the bidding of public projects, except in cases of public projects constituting an emergency when repair or replacements or immediate action are necessary. In such cases, the City Council by four-fifths vote of its members may authorize emergency contracting subject to compliance with Public Contract Code § 22050.

(Ord. 918, § 2, passed 08-10-2015)

3.22.040 PROCEDURES.

A. Public projects of \$ \$45,000 or less may be performed by City employees by force account, by negotiated contract, or by purchase order using procedures described in Chapter 3.20.

B. Public projects of more than \$45,000 and less than \$175,000 shall be let to contract after following informal bidding procedures.

C. Public projects of more than \$175,000 shall be let to contract by formal bidding procedures. In such cases, the City Council shall approve the plans, specifications, and working details.

D. The City Manager may approve contract change orders not exceeding a total of 10% of the approved contract or up to the contingency amount whichever amount is less for any 1 project. Such change orders shall be reported to the Finance and Administration Committee on a quarterly basis.

E. The City Manager's authority to approve contracts shall be limited to a maximum of \$45,00 .

(Ord. 918, § 2, passed 08-10-2015)

3.22.050 INFORMAL BIDDING PROCEDURES FOR PUBLIC PROJECTS OF MORE THAN \$45,000 AND LESS THAN \$175,000.

A. The City shall compile a qualified contractor list. The vendor's name shall remain on the list for a period of 12 months, unless otherwise requested to be removed by the vendor. The vendor must notify the City whether or not they wish to remain on the list. It is the responsibility of the vendor to ensure, from time to time, that its name is on the qualified contractor list.

B. At least twice a year, the Director of Public Works or his/her designee shall publish on the City's website the qualified contractor list.

C. All contractors on the qualified contractor list for the category of work being bid and all construction trade journals shall be mailed a notice inviting informal bids unless the product or service is proprietary.

D. All mailing of notices to qualified contractors and construction trade journals shall be completed not less than 10 calendar days before bids are due.

E. The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project, and state the time and place for the submission of bids.

F. The City Council may delegate the authority to award informal contracts to the Purchasing Officer as defined in § 3.20.040.

G. Contracts shall be awarded to the lowest responsible bidder submitting a responsive bid. Upon the refusal or failure of the successful bidder to execute the contract, the contract may be awarded to the next lowest responsible bidder submitting a responsive bid.

H. If all bids received are in excess of \$175,000, the City Council may, by adoption of a resolution by a four-fifths vote, award the contract, at \$187,500 or less, to the lowest responsible bidder submitting a responsive bid if the Council determines the cost estimate of the public agency was reasonable.

(Ord. 918, § 2, passed 08-10-2015)

3.22.060 FORMAL BIDDING PROCEDURES FOR PUBLIC PROJECTS OF MORE THAN \$175,000.

- A. Notice inviting formal bids shall be handled as set forth in Public Contract Code § 22037.
- B. When required by law or deemed appropriate by the City, and if included in bid instructions, bidders may be required to submit a bid deposit or bond in an amount determined by the City. Bidders shall be entitled to return of bid security, except that a successful bidder (and a successful bidder's surety, if a bid bond is required) shall be liable for any damages suffered or incurred by the City upon refusal or failure to execute a contract within 10 days after the notice of award of contract has been mailed, unless the City is responsible for the delay.
- C. The City Council shall award the contract to the lowest responsible bidder submitting a responsive bid. The City Council may, upon refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder submitting a responsive bid. If the City Council awards the contract to the next lowest bidder, and bidders were required to provide security, following a forfeit of the bid security by the lowest bidder the amount of the lowest bidder's bid security shall be applied by the City to the difference between the low bid and the second lowest bid; the surplus, if any, shall then be returned to the lowest bidder.
- D. When deemed appropriate by the City, and if included in bid instructions, any person or entity entering into a contract with the City may be required to furnish a faithful performance deposit or bond in an amount determined by the City.
- E. Sealed bids shall be submitted to the City and shall be identified as bids on the envelope. Bids shall be opened in public at the time and place stated in the public notices. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than 30 calendar days after the bid opening.

(Ord. 918, § 2, passed 08-10-2015)

3.22.070 AWARD OR REJECTION OF BIDS

- A. In its discretion, the City may reject any formal or informal bids presented and abandon the project or readvertise.
- B. In its discretion, the City may also reject any formal or informal bids presented and, by passage of a resolution by a four-fifths vote of the City Council, declare that the project can be performed more economically by the employees of the City. However, prior to rejecting all bids, the City must first furnish written notice to the apparent low bidder informing the bidder of the City's intention to reject the bid. Such notice shall be mailed at least 2 business days prior to the hearing at which the City intends to reject the bid.
- C. If 2 or more bids are the same and the lowest, the public agency may accept the one it chooses.
- D. If no bids are received through the formal or informal procedure, the project may be performed by the employees of the public agency by force account, or negotiated contract without further complying with this chapter.

(Ord. 918, § 2, passed 08-10-2015)

3.22.080 SPLITTING ORDERS PROHIBITED.

It is unlawful to split or separate into smaller work orders or projects any public project for the purpose of evading the competitive bidding provisions of this chapter.

(Ord. 918, § 2, passed 08-10-2015)

3.22.090 PREVAILING WAGES.

Potential bidders for public projects that are subject to the requirements of the California Prevailing Wage Law (Cal. Labor Code § 1720 et seq.) shall comply therewith.

(Ord. 918, § 2, passed 08-10-2015)