

Effective 3/29/2014

11-39-103 Requirements for undertaking a building improvement or public works project -- Request for bids -- Authority to reject bids.

- (1) If the estimated cost of the building improvement or public works project exceeds the bid limit, the local entity shall, if it determines to proceed with the building improvement or public works project:
 - (a) request bids for completion of the building improvement or public works project by:
 - (i)
 - (A) publishing notice at least twice in a newspaper published or of general circulation in the local entity at least five days before opening the bids; or
 - (B) if there is no newspaper published or of general circulation in the local entity as described in Subsection (1)(a)(i)(A), posting notice at least five days before opening the bids in at least five public places in the local entity and leaving the notice posted for at least three days; and
 - (ii) publishing notice in accordance with Section 45-1-101, at least five days before opening the bids; and
 - (b) except as provided in Subsection (3), enter into a contract for the completion of the building improvement or public works project with:
 - (i) the lowest responsive responsible bidder; or
 - (ii) for a design-build project formulated by a local entity, a responsible bidder that:
 - (A) offers design-build services; and
 - (B) satisfies the local entity's criteria relating to financial strength, past performance, integrity, reliability, and other factors that the local entity uses to assess the ability of a bidder to perform fully and in good faith the contract requirements for a design-build project.
- (2)
 - (a) Each notice under Subsection (1)(a) shall indicate that the local entity may reject any or all bids submitted.
 - (b)
 - (i) The cost of a building improvement or public works project may not be divided to avoid:
 - (A) exceeding the bid limit; and
 - (B) subjecting the local entity to the requirements of this section.
 - (ii) Notwithstanding Subsection (2)(b)(i), a local entity may divide the cost of a building improvement or public works project that would, without dividing, exceed the bid limit if the local entity complies with the requirements of this section with respect to each part of the building improvement or public works project that results from dividing the cost.
- (3)
 - (a) The local entity may reject any or all bids submitted.
 - (b) If the local entity rejects all bids submitted but still intends to undertake the building improvement or public works project, the local entity shall again request bids by following the procedure provided in Subsection (1)(a).
 - (c) If, after twice requesting bids by following the procedure provided in Subsection (1)(a), the local entity determines that no satisfactory bid has been submitted, the governing body may undertake the building improvement or public works project as it considers appropriate.

Amended by Chapter 196, 2014 General Session