

Superseded 5/10/2016

11-42-301 Improvements made only under contract let to lowest responsive, responsible bidder -- Publishing notice -- Sealed bids -- Procedure -- Exceptions to contract requirement.

- (1) Except as otherwise provided in this section, a local entity may make improvements in an assessment area only under contract let to the lowest responsive, responsible bidder for the kind of service, material, or form of construction that the local entity's governing body determines in compliance with any applicable local entity ordinances.
- (2) A local entity may:
 - (a) divide improvements into parts;
 - (b)
 - (i) let separate contracts for each part; or
 - (ii) combine multiple parts into the same contract; and
 - (c) let a contract on a unit basis.
- (3)
 - (a) A local entity may not let a contract until after publishing notice as provided in Subsection (3)(b):
 - (i) at least one time in a newspaper of general circulation within the boundaries of the local entity at least 15 days before the date specified for receipt of bids; and
 - (ii) in accordance with Section 45-1-101, at least 15 days before the date specified for receipt of bids.
 - (b) Each notice under Subsection (3)(a) shall notify contractors that the local entity will receive sealed bids at a specified time and place for the construction of the improvements.
 - (c) Notwithstanding a local entity's failure, through inadvertence or oversight, to publish the notice or to publish the notice within 15 days before the date specified for receipt of bids, the governing body may proceed to let a contract for the improvements if the local entity receives at least three sealed and bona fide bids from contractors by the time specified for the receipt of bids.
 - (d) A local entity may publish a notice required under this Subsection (3) at the same time as a notice under Section 11-42-202.
- (4)
 - (a) A local entity may accept as a sealed bid a bid that is:
 - (i) manually sealed and submitted; or
 - (ii) electronically sealed and submitted.
 - (b) The governing body or project engineer shall, at the time specified in the notice under Subsection (3), open and examine the bids.
 - (c) In open session, the governing body:
 - (i) shall declare the bids; and
 - (ii) may reject any or all bids if the governing body considers the rejection to be for the public good.
 - (d) The local entity may award the contract to the lowest responsive, responsible bidder even if the price bid by that bidder exceeds the estimated costs as determined by the project engineer.
 - (e) A local entity may in any case:
 - (i) refuse to award a contract;
 - (ii) obtain new bids after giving a new notice under Subsection (3);
 - (iii) determine to abandon the assessment area; or
 - (iv) not make some of the improvements proposed to be made.

- (5) A local entity is not required to let a contract as provided in this section for:
 - (a) an improvement or part of an improvement the cost of which or the making of which is donated or contributed;
 - (b) an improvement that consists of furnishing utility service or maintaining improvements;
 - (c) labor, materials, or equipment supplied by the local entity;
 - (d) the local entity's acquisition of completed or partially completed improvements in an assessment area;
 - (e) design, engineering, and inspection costs incurred with respect to the construction of improvements in an assessment area; or
 - (f) additional work performed in accordance with the terms of a contract duly let to the lowest responsive, responsible bidder.
- (6) A local entity may itself furnish utility service and maintain improvements within an assessment area.
- (7)
 - (a) A local entity may acquire completed or partially completed improvements in an assessment area, but may not pay an amount for those improvements that exceeds their fair market value.
 - (b) Upon the local entity's payment for completed or partially completed improvements, title to the improvements shall be conveyed to the local entity or another public agency.
- (8) The provisions of Title 11, Chapter 39, Building Improvements and Public Works Projects, and Section 72-6-108 do not apply to improvements to be constructed in an assessment area.
- (9)
 - (a) Except as provided in Subsection (9)(b), this section does not apply to a voluntary assessment area designated for the purpose of levying an assessment for an energy efficiency upgrade or a renewable energy system.
 - (b)
 - (i) A local entity that designates a voluntary assessment area described in Subsection (9)(a) shall provide to each owner of property to be assessed a list of service providers authorized by the local entity to provide the energy efficiency upgrade or renewable energy system.
 - (ii) A property owner described in Subsection (9)(b)(i) shall select a service provider from the list to provide the energy efficiency upgrade or renewable energy system for the owner's property.