
City of Joliet

Sec. 2-440. Mandatory requirements for all bidders; submission of bids; form.

- (a) In addition to any other requirement, unless otherwise expressly stated in a bid solicitation or an award of contract, all bidders must comply with the following requirements in order to submit a bid or be awarded a contract and include satisfactory evidence thereof in its bid. This section may be superseded by applicable federal or state law or regulation:
- (1) The bidder shall be a duly organized legal entity in good standing with the Illinois Secretary of State and in compliance with all laws prerequisite to doing business in the state and submit a copy of the Illinois Secretary of State Department of Business Services online records evidencing that the bidder has a current corporate annual report on file, if required. If the bidder is an individual, sole proprietor, or partnership, this subsection shall not apply.
 - (2) The bidder shall have a valid Federal Employer Tax Identification Number or Social Security Number (for individuals), documents evidencing current registration with the Illinois Department of Revenue and the Illinois Department of Employment Security (if bidder has employees).
 - (3) The bidder shall be an equal opportunity employer and comply with Section 2000(e) of Chapter 21, Title 42 of the United States Code and Executive Order No. 11246.
 - (4) The bidder shall provide certificates of insurance indicating the following coverages if called for in the bid solicitation: General liability, workers compensation, completed operations, automobile, hazardous occupation and product liability.
 - (5) A statement that all employees are (i) covered under a current workers' compensation insurance policy, and (ii) properly classified under such policy. If the bidder is insured with a carrier, the evidence of workers' compensation insurance shall be a copy of the "Information Page" of the bidder's workers' compensation policy and any continuation of that information page which includes the name and address of the insured, as well as the class codes upon which the compensation premium is based and the total estimated remuneration per class code.
 - (6) A statement of compliance with all provisions of the Illinois Prevailing Wage Act (820 ILCS 130), as amended, and all the rules and regulations therein, for the past five (5) years. Such statement shall also provide that the contractor has reviewed the Prevailing Wage Act or federal Davis-Bacon and Related Acts, has reviewed and agrees to pay the applicable prevailing wage rates attached to the bid specifications, and will strictly comply with the Prevailing Wage Act or federal Davis-Bacon and Related Acts and related requirements, including wages, medical and hospitalization insurance and retirement for those trades covered in the Act. A contractor who has been found, by the Illinois Department of Labor, to be in violation of the Prevailing Wage Act twice within a three-year period shall be deemed to not be a responsible bidder for two (2) years from the date of the latest finding.
 - (7) Certification of compliance with the Substance Abuse Prevention on Public Works Projects Act (820 ILCS 265/1 et seq.).
 - (8) A certification that individuals who perform work on the public works project on behalf of the contractor are properly classified as either (i) an employee, or (ii) an independent contractor under all applicable state and federal laws and local ordinances.
 - (9) Documents evidencing any professional or trade licenses required by law or local ordinance for any trade or specialty are in which the contractor is seeking a contract award. Additionally, the contractor must disclose any suspension or revocation of such license held by the company, or of any director, officer, or manager of the company.
 - (10) For construction contracts (construction of new facilities, renovation of existing facilities or road construction projects) or demolition contracts, over twenty-five thousand dollars (\$25,000.00),

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evidence of participation in apprenticeship and training programs applicable to the work to be performed on the project which are approved by and registered with the United States Department of Labor's Office of Apprenticeship, or its successor organization. The required evidence includes but is not limited to a copy of all applicable apprenticeship standards or apprenticeship agreement(s) for any apprentice(s) who will perform work on the public works project.

- (11) Disclosure of the name and address of each subcontractor from whom the contractor has accepted a bid and/or intends to hire on any part of the project. Further, each such subcontractor shall be required to adhere to the requirements set forth herein as though it were bidding directly to the city. Each contractor shall submit all subcontractor information and supporting documentation to the city prior to the subcontractor commencing work on the project.
 - (12) Unless otherwise agreed to in a collective bargaining agreement, the bidder shall certify that it provides, or contributes to, a health care plan for those employees working on the project and shall provide a copy of the health plan upon request. The contributions toward a health care plan must be part of the employee's regular compensation, and not merely part of the employee's compensation during the period of time for which the employee is performing work on the project.
 - (13) Unless otherwise agreed to in a collective bargaining agreement, the bidder shall certify that it contributes to an employee pension or retirement program, including, but not limited to, a 401K, a defined benefit plan, or similar plan, for its field employees working on the project and shall provide a copy of the plan upon request. The contributions toward a pension or retirement program must be a part of the employee's regular compensation, and not merely part of the employee's compensation during the period of time for which the employee is performing work on the project.
 - (14) Certification that the bidder has not been subject to any determinations by a court or governmental agency for violations of federal, state, or local laws, including but not limited to serious, willful or repeated violations of the Occupational Safety and Health Act (OSHA), violations of contracting or antitrust laws, tax or licensing laws, environmental laws, or the Federal Davis-Bacon and Related Acts.
 - (15) Whether the bidder has prequalified as a local bidder.
- (b) Any material changes to the contractor's status, at any time during the performance of the project, must be reported in writing to the city within fourteen (14) days of its occurrence. Failure to comply with this requirement is grounds for the contractor to be deemed a non-responsible bidder.
 - (c) It is the sole responsibility of the contractor to comply with all submission requirements at the time it submits its bid to the city. Contractor submissions deemed inadequate or incomplete may result in a determination that the contractor is not a responsible bidder.
 - (d) The submission requirements also apply to all subcontractors, except that the contractor shall submit all subcontractor submissions to the city prior to the subcontractor commencing work on the project. Failure of a subcontractor to submit the required information shall not disqualify the successful bidder from performing work on the project and shall not constitute a contractual default and/or breach by the successful bidder. However, the city may withhold all payments otherwise due for work performed by a subcontractor, until the subcontractor submits the required information and the city approves such information. Further, where the city deems necessary, the city may also require that the successful bidder remove the subcontractor from the project and replace it with a responsive and responsible subcontractor.
 - (e) Bids shall be submitted in a sealed envelope to the city clerk. Each bid shall be addressed to the city clerk and shall bear on the face of the envelope the name of the bidder, a statement that it is a sealed bid to be opened on the day and hour mentioned in the advertisement for bids and a statement of the contract for which the bid is made. Each bid shall be submitted on the printed form supplied by the city and shall be bound in the original binding.

(Ord. No. 16849, § 1, 8-2-11; Ord. No. 17362, § 2, 5-5-15; Ord. No. 18130, § 2, 10-20-20)

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(Supp. No. 187)

City of Joliet

Sec. 2-444. Award of contract to the lowest responsible bidder; factors for determination of "lowest responsible bidder".

- (a) Contracts which require bidding shall be awarded, after final action by the mayor and city council, to the lowest responsible bidder. In determining the "lowest responsible bidder," the mayor and city council shall consider the following:
- (1) The ability, capacity and skill of the bidder to perform the contract or provide the service required;
 - (2) The ability of the bidder to perform the contract or provide the service promptly or within the time specified, without delay or interference;
 - (3) The character, judgment, experience and efficiency of the bidder;
 - (4) The quality of performance on previous contracts or service;
 - (5) The previous and existing compliance by the bidder with laws and ordinances relating to contracts, bidding or service;
 - (6) The sufficiency of the financial resources of the bidder to perform the contract or provide the service;
 - (7) The quality, availability and adaptability of the bidder's supplies, equipment, or personnel to the particular use or service required;
 - (8) The ability of the bidder to provide future maintenance and service;
 - (9) The number and scope of conditions attached to the bid;
 - (10) Any monies owed to the city by the bidder, which have remained unpaid for a period of more than forty-five (45) days whether for bills, taxes, licenses or otherwise;
 - (11) Whether the bidder has prequalified as a local bidder ("local qualified bidder") prior to the opening of the bid.
 - (12) Other factors deemed by the mayor and city council to be material and relevant.
- (b) *Local bidder.*
- (1) For bids in excess of twenty-five thousand dollars (\$25,000.00), if the lowest qualifying bid is submitted by a non-local qualified bidder ("non-local qualified bidder") and a local qualified bidder ("local qualified bidder") submitted a bid that is within two (2) percent of the lowest non-local qualified bidder (up to a maximum of twenty-five thousand dollars (\$25,000.00)), the local qualified bidder shall be the lowest responsible bidder, so long as the local qualified bidder match the bid price of the non-local qualified bidder, and shall be given written notice by the City of Joliet to that effect. The local qualified bidder shall be provided the opportunity, within three (3) business days from the date of such notice to provide written confirmation to the city that the local qualified bidder will match the bid price of the non-local qualified bidder. Where the bid is an aggregate of separate price components, the local qualified bidder shall reduce the price of sub-components of its aggregate bid to match the aggregate bid of the non-local qualified bidder. Should the local qualified bidder fail to provide such confirmation within the time allowed, the bid shall be considered as originally submitted.
 - (2) When more than one (1) local qualified bidder is within two (2) percent of the lowest non-local qualified bidder (up to a maximum of twenty-five thousand dollars (\$25,000.00)) of the non-local qualified bidder, only the local qualified bidder submitting the lowest bid shall be given the opportunity to match the bid of the non-local qualified bidder. Under no circumstance will any contract be awarded

to a local qualified bidder when the local qualified bidder's bid exceeds the non-local qualified bidder by more than twenty-five thousand dollars (\$25,000.00). This policy shall only apply if formal notice of the aforementioned criteria is provided as part of the bid specifications.

- (3) This sub-section shall not apply to a bid if the funding source prohibits it through law, rule or regulation or in any situation where any portion of the contract amount is being paid with funds other than city funds. Specifically, this sub-section shall not apply in any situation where the city has received a grant or otherwise received a source of funds other than its own funds.
- (4) In the event of a dispute about the application of the provisions of this sub-section, the decision of the purchasing director for any purchase or contract work which the purchasing director is authorized to make shall be deemed final and the decision of the mayor and city council for any purchase or contract work which the mayor and city council are authorized to make shall be deemed final.

(Ord. No. 16849, § 1, 8-2-11; Ord. No. 17362, § 3, 5-5-15; Ord. No. 17684, § 2, 11-7-17)

Sec. 2-445. Tie bids; procedure for determination of contract award.

- (a) If there is a tie between a local, responsible, low bidder and a nonlocal, responsible, low bidder for a contract with the city, the contract shall be awarded to the local, responsible, low bidder, quality and service being equal.
- (b) If there is a tie between nonlocal, responsible, low bidders, the contract award shall be determined by the drawing of lots by the city clerk in public upon prior written notice to the affected bidders.
- (c) If there is a tie between local, responsible, low bidders, the contract award shall be determined by the drawing of lots by the city clerk in public upon prior written notice to the affected bidders.
- (d) When used in this section, "local bidder" shall mean a person prequalified as a local bidder as provided in section 2-447.

(Ord. No. 16849, § 1, 8-2-11; Ord. No. 17362, § 4, 5-5-15)

Sec. 2-446. Advance disclosures.

Any disclosure of information contained in any submitted bid documents in advance of the opening of bids, made or permitted by a member of the city council or a city employee or representative thereof, shall operate to void the bid in its entirety as to all bidders.

(Ord. No. 16849, § 1, 8-2-11)

Sec. 2-447. Purchases; required documents.

The following requirements shall be met in the manner indicated below:

- (a) *Bid bond; all purchases.*
 - (1) All purchases over twenty-five thousand dollars (\$25,000.00). When the estimate for any purchase is over twenty-five thousand dollars (\$25,000.00), all bidders shall submit a bid bond, in the form of a cashier's or certified check or bid bond issued by an insurance company licensed to do business within the State of Illinois, attached to the bid documents in an amount equal to at least ten (10) percent of the bid, or such other reasonable amount as determined by the purchasing agent. The bond will be held to ensure good faith on the part of the bidder and to be applied as liquidated damages should the

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- successful bidder fail to execute all required contract documents or attempt to withdraw the bid prior to the beginning date of the contract.
- (2) *Other purchases.* When the estimate for any purchase is twenty-five thousand dollars (\$25,000.00) or less, or the bid award is computed from a bid not based on a fixed total contract sum, the purchasing agent shall have the authority to fix a reasonable bid bond amount to ensure good faith on the part of the bidder and to be applied as liquidated damages should the successful bidder fail to execute all required contract documents or attempt to withdraw the bid prior to the beginning date of the contract.
- (3) *Return.* All bid bonds, other than that submitted by the successful bidder, shall be returned to the respective bidders upon award of the contract by the city council. The bond of the successful bidder shall be held until all required contract documents have been fully executed.
- (b) *Affidavits; all purchases.* The successful bidder shall submit, with other required contract documents, the following affidavits:
- (1) An affidavit indicating all incomplete work under contract and all pending contracts. This affidavit shall be required of the successful bidder only in construction and demolition contracts.
- (2) An affidavit indicating the following:
- a. *Corporation or limited liability company.* The name of the state in which the bidder is organized, and the name and address of the local registered agent and office;
- b. *Partnership.* The names of all partners and the address of the business office;
- c. *Sole proprietorship.* The name of the owner and the address of the business office.
- (3) An affidavit that the bidder has not colluded with any person in the bid for the contract.
- (4) An affidavit that the bidder does not and will not engage in unlawful discriminatory employment practices and does not and will not engage in unlawful discrimination because of race, gender, religion, national origin, age or disability in hiring or firing, and is an equal opportunity employer.
- (c) *Insurance; all construction and demolition contracts.*
- (1) The successful bidder in all construction and demolition contracts shall submit, with other required contract documents, a certificate of insurance, issued by an insurance company licensed to do business in the state on an occurrence basis, indicating the bidder as the insured and an endorsement naming the city, and its officers and employees, as an additional insured on a primary and non-contributory basis with right of notice of cancellation for the duration of the contract in at least the following amounts:
- a. *General liability insurance:* One million dollars (\$1,000,000.00) general liability insurance covering injuries, deaths and property damage.
- b. *Workers compensation insurance:* Amount required by state law.
- (2) The successful bidder shall require the same amounts and coverages as in subsection (c)(1) from all subcontractors.
- (3) The amounts stated in subsection (c)(1)a. shall be doubled for contracts exceeding five hundred thousand dollars (\$500,000.00).
- (4) The minimum amount of insurance may be modified and other insurance-related terms and conditions may be required in specific contracts as the mayor and city council may deem appropriate.
- (d) *Performance bond; all contracts.*

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- (1) *Performance bond; construction and demolition contracts over one hundred thousand dollars (\$100,000.00).* Unless otherwise provided in the contract documents, the successful bidder in all construction and demolition contracts whose estimated contract price exceeds one hundred thousand dollars (\$100,000.00) shall submit a performance bond written for the duration of the contract issued by an insurance company licensed to do business within Illinois, conditioned on the full completion of the contract according to its terms and the payment for materials and labor used in such completion, in the amount of one hundred (100) percent of the contract price. Any person may submit in lieu of the performance bond required herein, cash or approved securities in escrow with an escrow agreement approved by the corporation counsel. The amount deposited in escrow shall be in the amount of one hundred (100) per cent of the contract price. Notice of the intent to make such an escrow deposit shall accompany the bid proposal. No withdrawal of the escrow deposit by the bidder shall be allowed until the completion of the project as approved by the city manager. The bidder shall execute the performance bond on a form provided by the city or its equivalent and submit the bond with other required contract documents.
 - (2) *Performance bond; all other contracts.* The successful bidder, for all other contracts not covered by subsection (d)(1), shall post a surety bond in an amount specified by the city manager to ensure full and faithful performance of the contract conditioned on the full completion of the contract according to its terms and the payment for material and labor used in such completion. The bidder shall execute the bond on a form provided by the city, or its equivalent, and submit the bond with other required contract documents.
- (e) *Prequalification; construction contracts over one hundred thousand dollars.* When the estimate of construction contracts exceeds one hundred thousand dollars (\$100,000.00), all bidders shall become prequalified in one of the following ways:
- (1) If an interested bidder is currently prequalified by the State of Illinois, such bidder shall submit a copy of said prequalification statement to the city clerk prior to the date set for bid opening.
 - (2) If an interested bidder is not state-prequalified, such bidder shall submit a statement to the current independent external city auditors showing its financial condition as of a date not earlier than twelve (12) calendar months prior to the date of the bid opening. Said statement shall be properly executed on forms provided by the city, and shall be prepared or certified by a certified public accountant authorized to practice in Illinois. Additionally, answers to a questionnaire relating to the bidder's experience in performing construction work or providing services similar to that for which the proposed work shall be submitted to the independent external city auditor. Bidders shall submit said documents to the independent external city auditors no later than the close of business on the seventh (7th) day next preceding the date set for the bid opening. The evaluation of the city auditor shall determine the amount of prequalification. Said prequalification shall be valid for a period of twelve (12) calendar months following the date of certification by city auditors. The cost of prequalification review shall be paid by bidder in advance of the review and shall be non-refundable.
 - (3) Bids from bidders who have not submitted required prequalification documents as required in subsections (e)(1) or (e)(2) shall not be opened.
- (f) *Prequalification; state motor fuel tax contracts.*
- (1) Notwithstanding subsection (e), all bidders on any contract which is funded from the state motor fuel tax fund shall submit, when required by the state, a current certificate of eligibility issued by the state to the city clerk prior to the date set for bid opening. This requirement shall be in lieu of prequalification under subsection (e).
 - (2) Bids from bidders who have not submitted required certificates of eligibility as required by subsection (f)(1) above shall not be opened.

(g) *Prequalification; local bidder.*

- (1) If an interested bidder would like to qualify as a "local bidder", such bidder shall complete and submit the prequalification application along with supporting documentation and the applicable fee as set by the city council, to the finance department, as follows:
 - a. Whether the bidder has established and maintained a physical presence in Will County or Grundy County or Kendall County, by virtue of the ownership or lease of all or a portion of a commercial building for a period of not less than twelve (12) consecutive months prior to the submission of the prequalification application; and
 - b. Whether the bidder is legally authorized to conduct business within the State of Illinois and the city, and has a business license to operate in the city if required; and
 - c. Is not a debtor to the City of Joliet. For purposes of this subparagraph, a debtor is defined as having outstanding fees, water bills, sales tax or restaurant/bar tax payments that are thirty (30) days or more past due, or has outstanding weed or nuisance abatements or liens, failure to comply tickets or parking tickets that are not in dispute as to their validity and are not being challenged in court or other administrative process.
- (2) Within twenty-one (21) days after submittal, after review of the prequalification application and supporting documentation by the finance department, the finance department will notify the bidder on whether the bidder qualifies as a local qualified bidder. A bidder aggrieved by the decision of the finance department in the failure to qualify as a local bidder shall have the right of appeal to the city manager or designee (who shall not a member of the finance department). The appeal shall be taken by filing with the city clerk, within fourteen (14) days after notification of the bidder of the failure to qualify as a local bidder, a written statement setting forth fully all of the grounds for the appeal with all supporting documentation. The city manager or designee shall set a time and place for a hearing on the appeal and notice of the hearing shall be given to the bidder in writing not less than five (5) days before the date set for hearing. The decision of the city manager or designee on the appeal shall be in writing within a reasonable period of time. If qualified as a local qualified bidder, said prequalification shall be valid following the date of certification by the finance department.
- (3) If qualified as a local qualified bidder, the bidder shall be required to keep current any information submitted in the prequalification application and/or supporting documentation.
- (4) If a bidder submits a bid and indicates on the bid documents that said bidder is qualified as a local qualified bidder and it is subsequently determined that said bidder is: a) not qualified as a local qualified bidder for failing to keep current any information submitted in the prequalification application and/or supporting documentation, or b) falsified any information in the prequalification application or supporting documentation, said bidder shall not be provided the opportunity to match the bid price of the non-local qualified bidder as set forth in section 2-444(b) and shall not be awarded any bids by the City of Joliet for a period of three (3) years.

(Ord. No. 16849, § 1, 8-2-11; Ord. No. 17362, § 5, 5-5-15; Ord. No. 17684, § 2, 11-7-17)