

Adopted: 1998

Revised: 2001, 2004, 2007, 2010, 2013

806 CONSTRUCTION CONTRACTS

I. PURPOSE

The purpose of this policy is to provide guidelines for the District in carrying out the provisions of the statutes of the State of Minnesota when bidding and awarding construction contracts for facilities improvement and construction projects.

II. GENERAL STATEMENT OF POLICY

It is the intent of the Board of Education to comply with all state statutes and regulations when bidding, awarding, and contracting for the services required for facility improvement and construction projects.

The District will typically utilize the services of an architect, engineer, and/or similar construction consultant, to provide technical assistance during the bid phase, contract award and construction phase of the building project.

The Superintendent or designee shall serve as the District's representative to assure the work of the design professionals and contractors meets the expectations of the District and intent of the contracts.

III. COMPETITIVE BIDDING

It is the intent of the District to comply with all state, federal and local regulations pertaining to the solicitation and receipt of competitive bids for public works projects.

It shall be the responsibility of the architect and/or engineer (A/E) to assure that the construction documents include all existing requirements for bidding public works projects and that these requirements are clearly stated within the instructions to prospective bidders.

The District shall advertise for bids in the local publication of record. Advertisements may be placed in other geographical regions in an effort to assure competitive pricing is received and that qualified minority and/or disadvantaged applicants are given consideration.

The bidding requirements shall include, but not be limited to, the following:

1. The District's intent to award the contract(s) to the lowest responsible bidder or the bid that represents the best value.

2. Compliance with bid security requirements.
3. A statement by the bidder of intent to comply with the provisions of the contract documents and all pertinent federal, state, and local regulations and codes.
4. A definitive construction schedule that includes provisions for liquidated damages as a breach of contract to be applied if completion deadlines are not met.

IV. AWARD OF CONSTRUCTION CONTRACTS

The District shall award the contract(s) for which competitive bids or proposals are required by either of the following:

1. The lowest responsible bidder, taking into consideration conformity with the specifications, terms of delivery, the purpose for which the contract is intended, the status and capability of the vendor or contractor, other considerations imposed in the call for bids, and, where appropriate, principles of life-cycle costing; or
2. The vendor or contractor offering the best value, taking into account the specifications of the request for proposals, the price and performance criteria, and described in the solicitation document.

If method 2, best value, is chosen besides price, consideration to performance criteria, which may include, but are not limited to:

1. the quality of the contractor's performance on previous projects;
2. the timeliness of the contractor's performance on previous projects;
3. the level of customer satisfaction with the contractor's performance on previous projects;
4. the contractor's record of performing previous projects on budget and ability to minimize cost overruns;
5. the contractor's ability to minimize change orders;
6. the contractor's ability to prepare appropriate project plans;
7. the contractor's technical capabilities;
8. the individual qualifications of the contractor's key personnel; or
9. the contractor's ability to assess and minimize risks.

When using best value contracting, the solicitation document must state the relative weight of price and other selection criteria.

The architect and/or engineer shall assist the District in reviewing the bids received and the capabilities of the firms to complete the work to the specified standards and required completion schedules. The A/E firm shall provide the

District with a written award recommendation.

The Board shall review the contract award recommendation(s) provided and award the construction contract(s) via a motion, second and majority vote at a public meeting.

A notice of intent to award shall be transmitted to the successful bidder after the Board has taken action authorizing the same. Construction contracts shall be prepared by the architect, engineer, and/or similar construction consultant, and transmitted to the successful bidder for execution.

Construction contracts shall clearly state all regulatory requirements for a public works project, including but not limited to licensure, insurance, and bonding requirements.

Construction contracts shall not be awarded until all required surety bonds and insurance certificates have been received. Failure of the contractor to provide the required surety bonds and insurance coverage required within the time specified shall provide just cause for the District to retain the bid bond and pursue awarding the contract to the next qualified bidder.

V. CONSTRUCTION PHASE

It is the intent of the District to assure construction projects are performed per the contract requirements.

The Superintendent or designee shall monitor the performance of the work throughout the construction phase. The architect, engineer, and/or construction manager shall monitor the progress of the work through completion to assure the work meets the contract requirements.

The District shall withhold a retainage from all progress payments due to the contractor(s) until the project is completed per the requirements of the contract.

Final acceptance of the work is predicated upon the receipt of: the architect's and/or engineer's letter of final acceptance, permanent certificates of occupancy, release of all lien waivers, consent of surety; warranties and all other documentation required by the contract documents. Final payment and release of the retained payments shall not be made until the work is completed per the contract documents.

Legal References: MS 123B.52 MS 471.345, MS 16C.02, and 16C.28

Cross References: Policies 801, 803 and 805