WEST VIRGINIA CODE: §8-27-23

§8-27-23. Competitive bids; publication of solicitation for sealed bids.

(a) Any contract for the construction of facilities by any authority, when the expenditure required exceeds the sum of $25,000, shall be based solely on competitive sealed bids.

(b) Except as provided in subsections (c) or (d) of this section, the procurement of all supplies, equipment and materials, where the expenditure required exceeds the sum of $25,000, shall be based on the competitive procedure that is best suited under the circumstances of the procurement.

(c) In determining the competitive bid procedure that is best suited under the circumstances, an authority shall conduct:

(1) Competitive sealed bidding if:

(A) Time permits a competitive bid process to be used;

(B) The award of the bid will be made primarily on price and price-related factors;

(C) It is likely to be unnecessary to conduct discussions with suppliers regarding bids, including discussions regarding price; and

(D) There is a reasonable expectation of receiving more than one sealed bid; or

(2) Competitive negotiation where competitive sealed bidding is not best suited under the circumstances.

(d) Notwithstanding the provisions of subsections (b) and (c) of this section, an authority may provide for the procurement of property or services covered by this section using other than competitive procedures only when:

(1) The property or services needed are available only from one responsible source and no other type of property or service will satisfy the authority's needs;

(2) The authority's need for the property or service is urgent, unusual and compelling because the authority would be seriously injured unless the authority is permitted to limit the number of sources from which it solicits;

(3) It is necessary to award a contract to a particular source or sources in order to maintain a facility, producer, manufacturer or other supplier in case of emergency;

(4) It is necessary to establish or maintain an alternative source or sources of supply for the property or service to increase or maintain competition; or

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(5) The authority is using the Federal Transit Administration Third Party Procurement Guidance circular, as may be amended by the Federal Transit Administration, when spending federal appropriations as a designated recipient of 49 U.S.C. §5307 and 49 U.S.C. §5340 - Urbanized Area Formula Appropriations - to finance its procurements or contracts.

(e) All sealed bids or competitive negotiated proposals received in response to a solicitation or request for bid may be rejected if an authority determines that the action is in the public interest.

(f) Sealed bids shall be opened publicly at the time and place stated in the solicitation and the authority shall evaluate the bids without discussions with bidders and award a contract with reasonable promptness to the responsible source whose bid conforms to the solicitation and is most advantageous to the authority, considering only price and other price-related factors included in the solicitation.

(g) The evaluation of competitive proposals may include written or oral discussions conducted with all responsible bidders or suppliers at any time after receipt of the proposals and before the award or may be made without discussions. In either event, the award shall be made to the lowest responsible bidder or supplier.

(h) Adequate public notice of the solicitation of bids and proposals shall be given. Public notice shall be given not less than seven days before the date set for bid opening or, in the case of competitive negotiation, not less than seven days before the due date for receipt of proposals: Provided, That bids for the construction of facilities shall be obtained by public notice published as a Class I legal advertisement in compliance with §59-3-1 et seq. of this code, with the publication being made at least 14 days before the final date for submitting bids.

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