

## Life After Prevailing Wage: Public Construction Bidding Rules Cheat Sheet

Issue	Standard Circa 2009	Current Standard
Public Construction Contract Awarded To Which Contractor?	Lowest Responsive and Responsible Bidder	No Change in Standard  *Standard now set forth in Wis. Stat. § 66.0901(1m).
Municipality Able to Evaluate Whether Contractor is “Responsible” or “Qualified?”	<p>Wis. Stat. §§ 66.0901 (2)-(4):</p> <ul style="list-style-type: none"> <li>- A Municipality may require bidders to submit “a full and complete statement” under oath related to contractor’s:               <ul style="list-style-type: none"> <li>o Financial ability;</li> <li>o Equipment</li> <li>o Related work experience; and</li> <li>o “Other matters that the municipality requires for the protection and welfare of the public in the performance of a public contract.”</li> </ul> </li> <li>- If required by Municipality, bidders are required to submit information as condition precedent to contract award.</li> <li>- Municipality must keep contractor information confidential.</li> <li>- Municipalities can establish a “pre-qualification” process.</li> <li>- Municipality can reject a bid if it deems the information submitted is inadequate.</li> </ul>	No Change in Standard

<p>Municipality Able to Consider Contractor Residency or Local Hire Requirements in Bid Process?</p>	<p>No prohibitions on considering contractor residency or local hire requirements as part of determining lowest responsible bidder.</p>	<p>Municipalities now prohibited from giving preference based on contractor geographic location or that uses criteria <u>other than</u> lowest responsible bidder in awarding contract.</p> <p>Wis. Stat. § 66.0901(1m).</p>
<p>Municipality Required to Pay Prevailing Wage?</p>	<p>Wis. Stat. § 66.0903</p> <ul style="list-style-type: none"> <li>- Municipality required to obtain prevailing wage determination and to ensure payment of prevailing wage on most public works projects.</li> <li>- Municipality could enact more stringent prevailing wage ordinances.</li> </ul>	<p>Wis. Stat. § 66.0903 (effective 1/1/2017)</p> <ul style="list-style-type: none"> <li>- Prevailing wage no longer applicable for most municipal public works <ul style="list-style-type: none"> <li>o Still in effect for state agency work, Wis. Stat. § 16.856</li> <li>o Still in effect for state highway projects, Wis. Stat. § 84.062</li> <li>o Still in effect for federally-funded projects, Davis-Bacon</li> </ul> </li> <li>- Municipalities no longer able to enact more stringent prevailing wage ordinances.</li> </ul>
<p>Municipal Protections Still in Place?</p>	<p>Municipalities protected from poor work and adverse events:</p> <ul style="list-style-type: none"> <li>- Bonds and insurance</li> <li>- Contractual tools, i.e., retainage, liquidated damages, etc.</li> <li>- Professional standards of care</li> <li>- Inspections</li> </ul>	<p>No changes.</p>