

**2026 ANNUAL
CONFERENCE**
WISCONSIN COUNTIES ASSOCIATION

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Ensuring the Biggest Bang for Your County Buck

8:00 – 9:00 am

Ensuring the Biggest Bang for Your County Buck

2026 WCA Annual Conference
September 22, 2026

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GENERAL OVERVIEW:



1. Purpose of RFP/RFQ
 - a. RFP/RFQ Process
 - b. Sample Provisions
 - c. Candidates and Interviews
2. Competitive Bidding
 - a. Competitive Bidding Requirements Categories
 - b. Lowest Responsible Bidder
 - c. Exceptions and Exemptions
 - d. Other Actions
 - e. Public Purpose Doctrine

Purpose of RFP/RFQ

- An RFP is a written request to prospective vendors to basically:
 - demonstrate they are qualified to perform the work,
 - provide the project delivery method on a common set of conditions, and
 - competitively bid the cost.
- The RFP process introduces competitive bidding on costs of the contract and is the best procedure to get the most for the best cost.

RFP/RFQ Process

- Identify up front the information needed to properly evaluate a proposal to provide services to your district.
- Build the RFP with an eye toward the end contract.
- Include required contractual language in the RFP.
- Require bidders to note any objection or exception to your required language.
- Advise bidders that promises made in a response will become a part of the contract.

Sample RFP Provisions

- The responses provided in conjunction with this RFP shall be considered representations of a successful bidder and a material inducement for the county to enter into a contract.
- The county's standard contractual terms and conditions are made a part of this RFP and the bidder shall provide any requested modifications to such terms and conditions in conjunction with the bidder's response.

Narrowing the Candidates

- An interview of the candidates does not happen until after the RFP responses come in
- Therefore, it is critical to ask the right questions in the RFP
- The RFP should provide you with enough information to evaluate sales vs. performance

Interview Process Pre-Selection



- Getting to know your vendor – what are the right questions to ask?
 - There is no standard set of questions – you need to get comfortable with what information is important and the questions to ask to solicit that information.
 - Understand the nature of the project/service.
 - What is the vendor's cost estimating process?
 - What happens if the cost is exceeded?
 - What is the vendor's reputation?



What if We Don't Use an RFP Process?

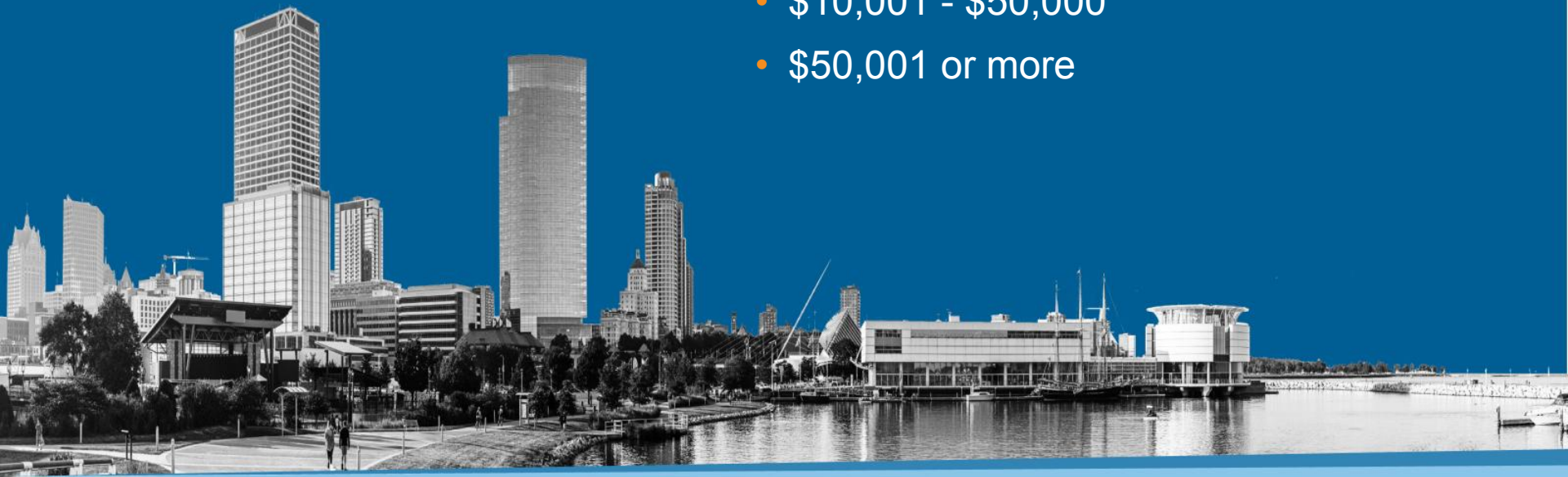
- Your county may not have many (if any) options in selecting a vendor.
- If that is the case, the negotiation process serves as a substitute for the RFP process.
- While you may not have the negotiation leverage associated with a competitive bid process with many bidders, there is mutual interest in a good contractual relationship.

Do Competitive Bidding Requirements Apply?

- “Public Contract”
- Wis Stat. 66.0901(c):
- “Public contract” means a contract for the construction, execution, repair, remodeling or improvement of a public work or building or for the furnishing of supplies or material of any kind, proposals for which are required to be advertised for by law

Competitive Bidding Requirements

- Wis. Stat § 59.52(29)
- Different Thresholds:
 - \$10,000 or less
 - \$10,001 - \$50,000
 - \$50,001 or more



\$10,000 or Less

- Need not be advertised or let in accordance with any competitive bidding structure
- Let as the County Board directs

\$10,001 - \$50,000

- May be let as the County Board directs, but:
- The Board shall give a class 1 notice under chapter 985 before it contracts for the work, OR
- Shall contract with a person qualified as a bidder under Wis. Stat § 66.0901(2)

\$50,001 or More

- For a Contract:
 - Shall be let and entered into under Wis. Stat § 66.0901
 - County Board may by a three-fourths vote of all members entitled to a seat provide that any class of public work or any part thereof may be done directly by the county without submission for bids
- For Public Work:
 - Shall be let by contract to the lowest responsible bidder



Lowest Responsible Bidder

- Wisconsin Supreme Court has stated that “the determination of the question of who is the lowest responsible bidder does not rest in the exercise of an arbitrary and unlimited discretion, but upon a bona fide judgment, based upon facts tending to support the determination.”
- If the bidding authority acts in an arbitrary and unreasonable manner, an unsuccessful bidder may ask the court to issue an injunction, pursue relief, and recover its reasonable and necessary expenditures in preparing its bid, plus the costs of obtaining the bonds required by the specifications.

Exceptions

- The requirements do not apply to:
- Public construction if the materials were donated or if labor is provided by volunteers
- Construction by a private person of an improvement that is donated to the County after its completion
- Highway Contracts which the County Highway Committee or the County Highway Commissioner is authorized by law to let or make
- The purchase of mobile homes and park model homes for the purpose of providing housing for persons placed on supervised release

Exemptions

- The Wisconsin Supreme Court has held that a County is free to let its contracts without notice and competitive bidding restraints for any contract outside of the statutory requirements.
- If your contract is not (i) for the construction, repair, remodeling or improvement of any public work or (ii) for the provision of supplies or materials to be incorporated into any public work project, you need not follow the competitive bidding process, **UNLESS** the county, by ordinance or policy, requires a competitive bidding process.

More Specific Exemptions

- Contracts for the purchase of equipment are not included in those items that must be let by competitive bid. (Though supplies or materials still must be)
 - Whether the contract calls for the provision of “equipment” is a good starting point
- Procurement of services requiring professional or technical expertise is also exempt from the bidding process.
 - For example, contracting for the design and implementation of computer systems, programs, and applications.



More Specific Exemptions Cont'd

- Acquisition or Transfer of Real Property
 - Contracts for the acquisition or transfer of real property are not subject to competitive bidding requirements.
 - However, many Counties have enacted ordinances requiring bidding on certain contracts
- It is a good idea to check your ordinances prior to making a final determination as to the bidding requirements in any situation!
- The only other restriction on acquisition / disposition of property is the exercise of 'reasonable business judgment'

Cooperative Purchasing

- Counties may enter into cooperative purchasing agreements with other counties and municipalities for any contracts that are not required to be competitively bid or are subject to procedural requirements of Wis. Stat. § 66.0901.
- Where Wis. Stat. § 66.0901 is inapplicable, Wis. Stat. §§ 16.73 and 66.0301 encourage a cooperative bid-sharing system.

Reverse Auction

- A County may also use a Reverse Auction to let contracts
- The County lists the maximum price it is willing to pay, and vendors then offer bids at or below the price listed by the County, who is authorized to select a winning bid from those submitted
- This system can be used for contracts for the provision of:
 - Equipment
 - Public Work and Public Work related materials or supplies, the value of which is less than \$10,000
 - Or the same supplies with a value between \$10,000 and \$50,000 if the county has given Class 1 notice of the reverse auction OR the person to whom the contract is awarded is a qualified bidder under Wis. Stat. § 66.0901
 - For a Public Work Contract with a value that exceeds \$50,000 a county is subject to the competitive bidding requirements in § 59.52(29)

Public Purpose Doctrine

- The rule “that public funds may be expended only for public purposes, and that the expenditure of such funds for a private purpose is unconstitutional.”
- The Supreme Court stated it as “The course or usage of the government, the objects for which taxes have been customarily and by long course of legislation levied, and the objects and purposes which have been considered necessary for the support and proper use of the government are all material considerations as well as the rule that to sustain a public purpose the advantage to the public must be direct and not merely indirect or remote.”
- Whether or not the County needs to follow competitive bidding requirements, it still must ensure that its expenditure passes constitutional muster by having a public purpose.

QUESTIONS?



Thank You!



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