

2890.4000 COMPETITIVE BIDDING REQUIREMENTS FOR CONTRACTOR SERVICES.

Subpart 1. **Generally; competitive bidding required.** The applicant must get, publicly or privately, a minimum of two written competitive bids for each contractor service before incurring costs for that contractor service and must approve the winning bid in writing before incurring costs for that contractor service. Bids for contractor services must be on a form prescribed by the board according to parts 2890.2400 to 2890.4300. The applicant must get bids for contractor services only from persons who are registered with the board as a contractor.

Subp. 2. **Contractor services in consultant proposals.** When costs for air sample analysis, drilling, groundwater sample analysis, soil sample analysis, or system installation are included in a consultant proposal, bidding requirements for these services are not governed by subpart 1 and part 2890.4300, but are governed by parts 2890.1000 to 2890.2100 and 2890.4200.

Subp. 3. **Notarization required.** The applicant's signature indicating acceptance of a written bid for contractor services must be dated with the date on which the applicant approves the bid in writing and must be notarized.

A bid obtained in a manner prohibited by this subpart is not a valid competitive bid for the purposes of this chapter.

Subp. 4. **Dollar cost bidding and cost per cubic yard bidding required.** Items on the contractor bid must be bid by dollar amount per unit of service. For purposes of this part, one cubic yard equals 1.4 tons. The following contractor services must be itemized on a cost per cubic yard basis on the bid form for contractor services:

- A. excavation;
- B. clean fill purchase, transportation, and installation;
- C. off-site stockpiling;
- D. on-site stockpiling;
- E. loading;
- F. surface disposal tipping fees;
- G. surface removal, when the surfacing removed is reinforced concrete; and
- H. soil disposal.

Subp. 5. **Lowest cost bid.**

A. Except as provided in part 2890.4100, total costs for contractor services that exceed the total cost in the lowest competitive bid for contractor services are prima facie

unreasonable, unless the applicant provides documented proof to demonstrate that the selected contractor's qualifications are superior to those of the contractor who gave the lowest competitive bid and justify the selection of a higher cost bid. Among the factors relevant to the qualifications of a contractor are education, experience, and certifications and registrations. A prior business relationship between the applicant and the contractor is not relevant to the qualifications of a contractor. The board must consider the cost for a contractor service in the lowest overall competitive bid as a reasonable amount to charge for a specific task or item if the cost for that task or item does not exceed the maximum cost stated in parts 2890.2400 to 2890.3850.

B. When the bids obtained by the applicant for contractor services are not based on identical assumptions about the scope of work to be performed, the bids are not valid competitive bids.

Subp. 6. **Exemptions from competitive bidding requirements.** The applicant may be granted an exemption from the competitive bidding requirements of this part if the board determines that the applicant has documented:

A. that only one contractor was reasonably available to perform the necessary service and that the costs are not substantially in excess of costs typically charged for similar services by comparable contractors in the same geographical area;

B. that the necessary services were required by an emergency that did not allow the applicant sufficient time to get bids for the necessary services; or

C. that a standard contract that was entered into via an annual bidding or evaluation process results in lower corrective action costs than obtaining bids on a per-job basis.

Statutory Authority: *MS s 115C.07*

History: *20 SR 227; 28 SR 383*

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