

CHAPTER 151--S.F.No. 2764

An act relating to local government; Hennepin County; amending sections related to central purchasing and energy forward pricing; establishing job order contracting authority; amending Minnesota Statutes 2014, sections 383B.142; 383B.1588, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 383B.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2014, section 383B.142, is amended to read:

383B.142 PROCEDURE.

Subdivision 1. **Delegation of authority.** The county board may by resolution delegate the powers and duties enumerated in sections 383B.141 to ~~383B.151~~ 383B.1511, and those powers and duties necessary to the implementation of the purposes of central purchasing specifying the nature, scope and extent of the delegation. The authority and responsibility subject to delegation shall include, but not be limited to the following:

(a) purchasing and contracting for all goods, materials, supplies, equipment and contracted services, as provided in section 383B.143;

(b) preparation, review, modification and approval of all plans and specifications for goods, materials, supplies, equipment and contracted services;

(c) the transfer of any goods, materials, supplies, equipment or contracted services to or between departments, boards, commissions and agencies;

(d) selling or otherwise disposing of goods, materials, supplies, equipment and contracted services which are unusable or no longer required; and

(e) periodically reviewing and requiring department heads to supply necessary data concerning inventories and surpluses and monitoring compliance by department heads with purchasing laws, rules, regulations and procedures.

Subd. 2. **Administrator's duties.** Notwithstanding the provisions of section 373.02, the county board may delegate its purchasing powers and duties to the county administrator. The county administrator, wherever referred to in sections 383B.141 to ~~383B.151~~ 383B.1511, may designate and delegate a purchasing manager or other person to perform the tasks empowered or assigned to the county administrator. Any purchase in excess of \$3,500 shall require the signature of the county administrator or designee.

Sec. 2. [383B.1511] JOB ORDER CONTRACTING.

Subdivision 1. **Definitions.** (a) In this section, the definitions in this subdivision apply.

(b) "Job order contracting" means a project delivery method that requests a limited number of bids from a list of qualified contractors, selected from a registry of qualified contractors who have been prescreened and who have entered into master contracts with the county, as provided in this section.

(c) "Project" means an undertaking by the county to construct, alter, maintain, repair, or enlarge a building, structure, road, or bridge, or make other improvements.

(d) "Request for qualifications" means the document or publication soliciting qualifications for a job order contracting contract.

Subd. 2. **Authority.** Notwithstanding any law to the contrary, the county may utilize job order contracting for projects that do not exceed a construction cost of \$250,000.

Subd. 3. **Job order contracting request for qualifications.** (a) The county is authorized to issue a request for qualifications that includes the criteria that will be used for the projects, provided that these criteria (1) do not unduly restrict competition or impose conditions beyond reasonable requirements, in order to ensure maximum participation of all qualified contractors, and (2) do not relate to the collective bargaining status of the contractor.

(b) The request for qualifications must be publicized in a manner designated by the county that ensures open and unrestricted access for any potential responder. To the extent practical, this must include posting on a county Web site.

Subd. 4. **Qualified contractors.** (a) The county shall review the responses to the request for qualifications and determine each proposer's ability to enter into the master contract that will be utilized for the projects. The county shall establish a list of qualified contractors based on the proposers' ability to enter into a master contract as described in the request for qualifications.

(b) The county may establish a reasonable limit to the number of contractors on the registry of qualified contractors, based on the reasonable needs of the county. The county may reserve up to 75 percent of the registry for certified small business enterprises that may include minority-owned business enterprises, women-owned business enterprises, and veteran-owned businesses. The remaining 25 percent of the registry may include qualified businesses of any size or ownership.

(c) The county shall establish procedures to allow firms to submit qualifications at least every 24 months to allow placement on the list of contractors qualified to enter into a master contract. The county is not prohibited from accepting qualifications more frequently or on an ongoing or rolling basis.

Subd. 5. **Construction services bidding.** The county shall request bids for construction services for any project using job order contracting from qualified contractors as follows:

(1) for projects up to a maximum cost of \$50,000, the county shall request a minimum of two bids;

(2) for projects with a cost greater than \$50,000, but less than or equal to \$100,000, the county shall request a minimum of three bids; and

(3) for projects with a cost greater than \$100,000, but less than or equal to \$250,000, the county shall request a minimum of four bids.

Subd. 6. **Qualified contractor selection.** The county shall select the contractor who submits the lowest price bid for the construction services proposed. At the discretion of the county, any or all bids may be rejected if it is determined to be in the best interest of the county.

Subd. 7. **Reasonable distribution of bid requests among qualified contractors.** The county, in requesting bidding for projects using job order contracting as described in this section, shall develop a system to ensure a reasonable opportunity for all qualified contractors to periodically bid on construction services.

Subd. 8. **Expiration.** The authority to enter into new contracts under this section expires on December 31, 2019.

Subd. 9. **Reporting.** Hennepin County must provide reports to the chairs of the committees in the senate and the house of representatives that have jurisdiction over local government operations, describing the uses of the authority provided in this section. Uses of the authority described in the reports may include identifying the total number of projects where this procurement method was used, the total number of contractors qualified by the county, and the total annual expenditures for projects under this section. The first report must be made by January 15, 2018, and subsequent reports must be made on January 15 of each subsequent even-numbered year.

Sec. 3. Minnesota Statutes 2014, section 383B.1588, subdivision 3, is amended to read:

Subd. 3. **Conditions.** (a) Forward pricing transactions made under this section must be made only under the conditions in this subdivision.

(b) The amount of energy forward priced must not exceed the estimated energy usage for Hennepin County operations for the period of time covered by the forward pricing mechanism.

(c) The holding period and expiration date for any forward pricing mechanism must not exceed ~~24~~ 60 months from the trade date of the transaction.

(d) Separate accounts must be established for each operational energy for which forward pricing mechanisms are used under this section.

Presented to the governor May 20, 2016