469.015 LETTING OF CONTRACTS; PERFORMANCE BONDS.

Subdivision 1. **Bids; notice.** All construction work, and work of demolition or clearing, and every purchase of equipment, supplies, or materials, necessary in carrying out the purposes of sections 469.001 to 469.047, that involve expenditure of the amount in section 471.345, subdivision 3, or more shall be awarded by contract. Before receiving bids the authority shall publish, once a week for two consecutive weeks in an official newspaper of general circulation in the community a notice that bids will be received for that construction work, or that purchase of equipment, supplies, or materials. The notice shall state the nature of the work and the terms and conditions upon which the contract is to be let, naming a time and place where bids will be received, opened and read publicly, which time shall be not less than seven days after the date of the last publication. After the bids have been received, opened and read publicly and recorded, the authority shall award the contract to the lowest responsible bidder, provided that the authority reserves the right to reject any or all bids. Each contract shall be executed in writing, and the person to whom the contract is awarded shall give sufficient bond to the authority for its faithful performance. If no satisfactory bid is received, the authority may readvertise. The authority may establish reasonable qualifications to determine the fitness and responsibility of bidders and to require bidders to meet the qualifications before bids are accepted.

Subd. 1a. **Best value alternative.** As an alternative to the procurement method described in subdivision 1, the authority may issue a request for proposals and award the contract to the vendor or contractor offering the best value under a request for proposals as described in section 16C.28, subdivision 1, paragraph (a), clause (2), and paragraph (c).

Subd. 2. **Exception; emergency.** If the authority by a vote of four-fifths of its members shall declare that an emergency exists requiring the immediate purchase of any equipment or material or supplies at a cost in excess of the amount in section 471.345, subdivision 3, but not exceeding one-half again as much as the amount in section 471.345, subdivision 3, or making of emergency repairs, it shall not be necessary to advertise for bids, but the material, equipment, or supplies may be purchased in the open market at the lowest price obtainable, or the emergency repairs may be contracted for or performed without securing formal competitive bids. An emergency, for purposes of this subdivision, shall be understood to be unforeseen circumstances or conditions which result in the placing in jeopardy of human life or property.

Subd. 3. **Performance and payment bonds.** Performance and payment bonds shall be required from contractors for any works of construction as provided in and subject to all the provisions of sections 574.26 to 574.31 except for contracts entered into by an authority for an expenditure of less than the minimum threshold amount in section 471.345, subdivision 3.

Subd. 4. **Exceptions.** (a) An authority need not require competitive bidding in the following circumstances:

(1) in the case of a contract for the acquisition of a low-rent housing project:

(i) for which financial assistance is provided by the federal government;

(ii) which does not require any direct loan or grant of money from the municipality as a condition of the federal financial assistance; and

(iii) for which the contract provides for the construction of the project upon land that is either owned by the authority for redevelopment purposes or not owned by the authority at the time of the contract but the contract provides for the conveyance or lease to the authority of the project or improvements upon completion of construction;

(2) with respect to a structured parking facility:

(i) constructed in conjunction with, and directly above or below, a development; and

(ii) financed with the proceeds of tax increment or parking ramp general obligation or revenue bonds; and

(3) in the case of any building in which at least 75 percent of the usable square footage constitutes a housing development project if:

(i) the project is financed with the proceeds of bonds issued under section 469.034 or from nongovernmental sources;

(ii) the project is either located on land that is owned or is being acquired by the authority only for development purposes, or is not owned by the authority at the time the contract is entered into but the contract provides for conveyance or lease to the authority of the project or improvements upon completion of construction; and

(iii) the authority finds and determines that elimination of the public bidding requirements is necessary in order for the housing development project to be economical and feasible.

(b) An authority need not require a performance bond for the following projects:

(1) a contract described in paragraph (a), clause (1);

(2) a construction change order for a housing project in which 30 percent of the construction has been completed;

(3) a construction contract for a single-family housing project in which the authority acts as the general construction contractor; or

(4) a services or materials contract for a housing project.

For purposes of this paragraph, "services or materials contract" does not include construction contracts.

Subd. 5. **Security in lieu of bond.** The authority may accept a certified check or cashier's check in the same amount as required for a bond in lieu of a performance bond for contracts entered into by an authority for an expenditure of less than the minimum threshold amount in section 471.345, subdivision 3. The check must be held by the authority for 90 days after the contract has been completed. If no suit is brought within the 90 days, the authority must return the amount of the check to the person making it. If a suit is brought within the 90-day period, the authority must disburse the amount of the check pursuant to the order of the court.

History: *1987 c 291 s 15,243; 1987 c 344 s 6; 1988 c 702 s 4; 1989 c 355 s 3; 1992 c 376 art 3 s 5-7; 1992 c 545 art 2 s 5; 1993 c 320 s 3,4; 1994 c 614 s 8; 1998 c 389 art 16 s 22; 2001 c 140 s 1-4; 2004 c 278 s 8,9; 2005 c 152 art 1 s 14; 2007 c 148 art 3 s 27; 2009 c 88 art 6 s 14-16; 2009 c 152 s 20; 2010 c 382 s 87 subd 11; 2012 c 294 art 2 s 19*