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[Official Code of Georgia Annotated](#) [TITLE 36. LOCAL GOVERNMENT](#) [PROVISIONS APPLICABLE TO COUNTIES, MUNICIPAL CORPORATIONS, AND OTHER GOVERNMENTAL ENTITIES](#) [CHAPTER 91. PUBLIC WORKS BIDDING](#) [ARTICLE 2. CONTRACTING AND BIDDING REQUIREMENTS](#)

§ 36-91-20. Written contract required; advertising; competitive sealed bidding; timing of addendums; prequalification

(a) All public works construction contracts subject to this chapter entered into by a governmental entity with private persons or entities shall be in writing and on file and available for public inspection at a place designated by such governmental entity. Municipalities and consolidated governments shall execute and enter into contracts in the manner provided in applicable local legislation or by ordinance.

(b)

(1) Prior to entering into a public works construction contract other than those exempted by Code Section 36-91-22, a governmental entity shall publicly advertise the contract opportunity. Such notice shall be posted conspicuously in the governing authority's office and shall be advertised in the legal organ of the county or by electronic means on an Internet website of the governmental entity or an Internet website identified by the governmental entity which may include the Georgia Procurement Registry as provided by Code Section 50-5-69.

(2) Contract opportunities that are advertised in the legal organ shall be advertised a minimum of two times, with the first advertisement occurring at least four weeks prior to the opening of the sealed bids or proposals. The second advertisement shall follow no earlier than two weeks from the first advertisement.

(3) Contract opportunities that are advertised solely on the Internet shall be posted continuously for at least four weeks prior to the opening of sealed bids or proposals. Inadvertent or unintentional loss of Internet service during the advertisement period shall not require the contract award or bid or proposal opening to be delayed.

(4) Contract opportunities that will be awarded by competitive sealed bids shall have plans and specifications available on the first day of the advertisement and shall be open to inspection by the public. The plans and specifications shall indicate if the project will be awarded by base bid or base bid plus selected alternates and:

(A) A statement listing whether all anticipated federal, state, or local permits required for the project have been obtained or an indication of the status of the application for each such permit including when it is expected to be obtained; and

(B) A statement listing whether all anticipated rights of way and easements required for the project have been obtained or an indication of the status as to when each such rights of way or easements are expected to be obtained.

(5) Contract opportunities that will be awarded by competitive sealed proposals shall be publicly advertised with a request for proposals which request shall include conceptual program information in the request for proposals describing the requested services in a level of detail appropriate to the project delivery method selected for the project.

(6) The advertisement shall include such details and specifications as will enable the public to know the extent and character of the work to be done.

(7) All required notices of advertisement shall also advise of any mandatory prequalification requirements or pre-bid conferences as well as any federal requirements pursuant to subsection (d) of Code Section 36-91-22. Any advertisement which provides notice of a mandatory pre-bid conference or prequalification shall provide reasonable advance notice of said conference or for the submittal of such prequalification information.

(c) Governmental entities are authorized to utilize any construction delivery method, provided that all public works construction contracts subject to the requirements of this chapter that:

(1) Place the bidder or offeror at risk for construction; and

(2) Require labor or building materials in the execution of the contract

shall be awarded on the basis of competitive sealed bidding or competitive sealed proposals. Governmental entities shall have the authority to reject all bids or proposals or any bid or proposal that is nonresponsive or not responsible and to waive technicalities and informalities.

(d) No governmental entity shall issue or cause to be issued any addenda modifying plans and specifications within a period of 72 hours prior to the advertised time for the opening bids or proposals, excluding Saturdays, Sundays, and legal holidays. However, if the necessity arises to issue an addendum modifying plans and specifications within the 72 hour period prior to the advertised time for the opening of bids or proposals, excluding Saturdays, Sundays, and legal holidays, then the opening of bids or proposals shall be extended at least 72 hours, excluding Saturdays, Sundays, and legal holidays, from the date of the original bid or proposal opening without need to readvertise as required by subsection (b) of this Code section.

(e) Bid and contract documents may contain provisions authorizing the issuance of change orders, without the necessity of additional requests for bids or proposals, within the scope of the project when appropriate or necessary in the performance of the contract. Change orders may not be used to evade the purposes of this article.

(f) Any governmental entity may, in its discretion, adopt a process for mandatory prequalification of prospective bidders or offerors; provided, however, that:

- (1) Criteria for prequalification must be reasonably related to the project or the quality of work;
- (2) Criteria for prequalification must be available to any prospective bidder or offeror requesting such information for each project that requires prequalification;
- (3) Any prequalification process must include a method of notifying prospective bidders or offerors of the criteria for or limitations to prequalification; and
- (4) Any prequalification process must include a procedure for a disqualified bidder to respond to his or her disqualification to a representative of the governmental entity; provided, however, that such procedure shall not be construed to require the governmental entity to provide a formal appeals procedure. A prequalified bidder or offeror can not be later disqualified without cause.

History

Code 1981, § 36-91-20, enacted by Ga. L. 2000, p. 498, § 1; Ga. L. 2001, p. 820, § 12; Ga. L. 2007, p. 640, § 2/SB 146.

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