

Mixture of laws regulate bidding on public business



Different rules for state, counties, cities

By JEAN MANEKE
MPA Legal Consultant



(Jean Maneke, MPA's Legal Hotline attorney, can be reached at (816) 753-9000; jmaneke@manekelaw.com.)

One of the most frequent questions to the hotline (and one of the questions I am least prepared to answer quickly) relates to whether a public governmental body must take bids before making a purchase.

Because it's such a frequent question, I hope this column provides some basic guidelines, and since the column will be on the Missouri Press Association website, it will give reporters a quick place to look for some quick answers to the basics. (You could even copy the column and keep it in a handy file.)

The laws are different depending on what the public body is. State entities are generally required to get bids for purchases. That's a pretty broad requirement, with only some exceptions, so you are usually safe if you assume there is probably a requirement for bids on the state level.

Also, there is a requirement that if state funds are being provided to a local governmental entity for a project, there must be bids taken for that project, even if it would not normally require bids be taken.

Counties, cities and school districts have varying requirements. There are some obvious statutes with specific purposes that require bids, such as publication of the financial statement, which I am not including in this article.

Rather, in terms of these local entities, I am focusing more on the issue of whether bids are required in terms of purchases for the local governmental unit of supplies and similar items.

First, any member of a legislative or governing body of a political subdivision of the state cannot perform, sell, rent or lease property to the entity for a sum of more than \$500 per transaction or \$1,500 annually unless the sale, rental or lease is the result of a competitive bid process and the member is the lowest bid. (School board members have a lower figure of \$500 per year.) Bills have been passed to raise the thresholds to \$5,000 per year.

Second, there is a statutory preference for goods and products made in the state of Missouri, if the price is competitive to other similar items. And all political subdivisions must take bids for the purchase of insurance coverage provided for employees.

Counties are governed primarily by state law. Section 50.660 requires all contracts for the purchase of supplies, materials, equipment or services valued at more than \$4,500 must be by competitive bid, and that also applies to cumulative purchases from this same supplier that total that amount during a period of 90 days. If a county has a county purchasing agent, that person takes the bids and determines the lowest price, quality considered, in purchasing supplies for the county.

In second-class counties and first-class counties with a commissioner form of government, the commissioners must advertise for sealed bids for supplies, and for advertising and printing. (There are a number of requirements in terms of soliciting bids for publication of legal notices. I am not addressing all of those requirements in this article but would direct readers to the legal notice handbook on the web-page of the Missouri Press Association, which contains the statutes relating to legal notice publications.)

Counties are also required to take bids for the construction of buildings. School boards also are governed somewhat by state law. School boards in seven-director districts are required to take bids to select the depository of district funds. Metropolitan school districts are required to advertise for bids for the furnishing of supplies for the district, while seven-member districts are not required to take bids by state law. (However, some seven-

member districts have implemented such a requirement by local regulation.)

Cities are the least regulated by state law, because they are a “corporate” entity of themselves, subject to limited state supervision. Cities of 500,000 inhabitants must take bids for construction projects in excess of \$25,000.

Third-class cities must solicit bids before contracting to do certain road work paid for with special tax bills.

Fourth-class cities must solicit bids when they are improving streets within the city limits. While this doesn’t cover every single requirement in state law, it does serve to highlight the main instances when bids are required. And, again, I would remind reporters that, particularly in the case of cities, there may be local ordinances that require bids be taken before purchases that are more restrictive than the limited provisions listed above for cities.