

Town of Winfield
Responsible Bidder Ordinance 2023-1

Bid Requirements for Public Contracts:

1. \$5,000 or less: no bidding requirements.
2. Between \$5,000 and \$25,000: do not require sealed bids but do require notice at least 7 days before the town board acts on it. Posted in 3 locations, posted in 1 location and on the town's website, or published once in the newspaper.
3. Over \$25,000: the town is required to accept the bid from the lowest responsible bidder. The bids must be sealed and may not be opened in advance. The first notice must be published at least 14 days prior to, and the second notice must be published at least 1 week prior to the bid deadline. While this notice could be posted versus published, the Wisconsin Towns Association recommends that towns publish the bid notice in the newspaper to provide notice to as many potential bidders as possible. For work on Local Road Improvement projects, the bid announcement must be published in the newspaper to qualify for grant money. The Town of Winfield may mail or e-mail a notice to potential contractors.
4. Contracts with governmental entities are not required to be out on bids.
5. In emergency situations, bids will not be required for a temporary fix.
6. The Town of Winfield is not required to solicit bids for assessing, garbage/recycling collection, mowing, brushing, attorney services, winter maintenance, etc.

Responsible Bidder Criteria;

1. Purpose: Pursuant to Wisconsin Statutes Sections 66.0901 and 59.52(29), all public works contracts, including any contract for the construction, repair, remodeling, or improvement of any public work, building, or furnishing of supplies or material of any kind where the estimated cost of such work will exceed \$25,000, shall be let by contract to the lowest responsible bidder. What constitutes a "responsible bidder" is a determination that requires the exercise of discretion by the town board of the Town of Winfield; this ordinance is intended to provide those criteria.
2. Definitions: The following definitions shall apply.
 - a. "Contractor" means a person, corporation, partnership, or any other business entity that performs work on a public works contract as a general contractor, prime contractor, or subcontractor at any tier.

- b. "Registered Apprenticeship Program" means an apprenticeship program that is currently registered with either a state or federal governmental entity and that has a graduated apprentice to journeyperson job classification system process as well as a bona fide training program.
 - c. "Public Works Contract" includes any contract for the construction, repair, remodeling, or improvement of any public work, building, or furnishing of supplies or material of any kind where the estimated cost of such work will exceed \$25,000.
3. Responsible Bidder Criteria. To be considered a responsible bidder by the Town of Winfield for purposes of being awarded a public works contract, the following criteria must be met:
- a. The contractor must maintain a permanent place of business;
 - b. The contractor must be authorized to do business in the State of Wisconsin;
 - c. The contractor, agent, partner, employee and/or officer of the contractor, must not be debarred, suspended, or declared ineligible from contracting with any unit of federal, state, or local government;
 - d. The contractor must be following the provisions of Section 2000e of Chapter 21, Title 42 of the United States Code, and Federal Executive Order No. 11246, as amended by Executive Order No. 11375 (known as the Equal Opportunity Employer provisions);
 - e. The contractor must have adequate and appropriate:
 - 1) general liability insurance;
 - 2) automobile insurance, except when a licensed motor vehicle is not used in the performance of the contract; and
 - 3) workers' compensation and unemployment insurance, except when the contractor does not have employees.
 - f. The contractor must have complied with all provisions of any prevailing wage laws and federal Davis-Bacon related Acts, and the rules and regulations therein, for projects undertaken by the contractor that are covered by these laws, for the past five years;
 - g. Regarding a public works contract estimated to be more than two million dollars, and if determined to be appropriate in the discretion of the Town of Winfield at the time a Request for Bids is issued, then to be considered a responsible bidder, the contractor must participate in a Registered Apprenticeship Program;

- h. The contractor must have a written substance abuse prevention program meeting the requirements of Wisconsin Statutes Section 103.503;
- i. The employees who will perform work on the project for the contractor must be properly classified as employees or independent contractors under all applicable laws;
- j. If the contractor has been the subject of any order or judgment from any state or federal agency or court concerning an employment practice, the contractor must provide copies of the investigation, order, or judgment for the Town of Winfield to consider as a factor in determining whether the contractor is a responsible bidder. The contractor may be disqualified for failing to provide said documentation;
- k. The contractor's employees who will perform work on the project must be covered under a current workers' compensation policy and must be properly classified under such policy;
- l. The contractor must follow all laws regarding health insurance coverage for employees;
- m. The contractor must possess all applicable professional and trade licenses required for performing the public works;
- n. The contractor must have adequate financial resources to complete the public works contract, and to complete all other work the bidder is presently under contract to complete;
- o. The contractor must be bondable for the terms of the proposed public works contract;
- p. If required at the discretion of the town board of the Town of Winfield, at the time a Request for Bids regarding a contract of any amount is issued, then in order to be considered a responsible bidder, the contractor must have a record of satisfactorily completing at least 3 projects of similar size and complexity within the last 3 years;
- q. The contractor must have a history of satisfactorily completing projects. Criteria which will be considered in determining whether the contractor is a responsible bidder regarding satisfactorily completing projects may include, but are not limited to, whether the contractor has an acceptable history of:
 - 1) completing contracts in accordance with drawings and specifications;
 - 2) diligently performing work and completing contracts in accordance with established time schedules, including any granted extensions of time; and

3) fulfilling guarantee requirements of the contract documents; and

r. The contractor must have, and diligently maintain, a written safety program.

4. No Restriction on Discretion. If information is discovered or comes into the possession of the Town of Winfield, and if such information calls into question the contractor's abilities or competence to faithfully and responsibly comply with the terms of a public works contract, and is considered to be both credible and verifiable, then that information shall be considered in determining whether the contractor is a responsible bidder.

This ordinance shall take effect immediately upon passage and publication as required by law.

Adopted this 18th day of July 2023.

Kurt Mead, Chairman

Attested by:

Teresa Bass, Clerk

Responsible Bidder Criteria Checklist

Bidder:
Job:
Date:

Yes	No	Item
		Has a permanent place of business
		Is authorized to do business in Wisconsin
		Is not declared ineligible from contracting
		Is an Equal Opportunity Employer
		Has general liability insurance
		Has automobile insurance
		Has worker's compensation and unemployment insurance
		Has met prevailing wage laws
		Participates in a Registered Apprenticeship Program
		Has a written substance abuse prevention program
		Has properly classified employees
		Provided copies of any investigations
		Has workers' compensation policy
		Has health insurance coverage
		Has professional and trade licenses
		Has financial resources to complete the work
		Is bondable
		Has a record of satisfactorily completing jobs
		Has a record of completing contracts in accordance with drawings and specifications
		Has a record of completing contracts in established time schedules
		Has a record of fulfilling requirements of the contract
		Has a written safety program