

County Purchasing Act

23-3101. Act, how cited.

Sections 23-3101 to 23-3115 shall be known and may be cited as the County Purchasing Act.

Source:Laws 1985, LB 393, § 1; Laws 1988, LB 828, § 3.

23-3102. Purpose of act.

The purpose of the County Purchasing Act is to provide a uniform purchasing procedure for county purchases of equipment, supplies, other items of personal property, and services and to provide for county sales of surplus personal property which is obsolete or not usable by the county.

Source:Laws 1985, LB 393, § 2; Laws 1988, LB 828, § 4.

23-3103. Legislative intent.

The Legislature encourages counties to work together under the provisions of the County Purchasing Act when joint purchases would be to the best advantage of such counties.

Source:Laws 1985, LB 393, § 3.

23-3104. Terms, defined.

As used in the County Purchasing Act, unless the context otherwise requires:

(1) Mobile equipment means all vehicles propelled by any power other than muscular, including, but not limited to, motor vehicles, off-road designed vehicles, motorcycles, passenger cars, self-propelled mobile homes, truck-tractors, trucks, cabin trailers, semitrailers, trailers, utility trailers, and road and general-purpose construction and maintenance machinery not designed or used primarily for the transportation of persons or property, including, but not limited to, ditchdigging apparatus, asphalt spreaders, bucket loaders, leveling graders, earthmoving carryalls, power shovels, earthmoving equipment, and crawler tractors;

(2) Personal property includes, but is not limited to, supplies, materials, mobile equipment, and equipment used by or furnished to any county officer, office, department, institution, board, or other agency of the county government. Personal property does not include election ballots;

(3) Services means any and all services except telephone, telegraph, postal, and electric light and power service, other similar services, and election contractual services; and

(4) Purchasing or purchase means the obtaining of personal property or services by sale, lease, or other contractual means. Purchase also includes contracting with sheltered workshops for products or services as provided in Chapter 48, article 15. Purchasing or purchase does not include any purchase or lease of personal property or services by a facility established under section 23-3501.

Source:Laws 1943, c. 57, § 5, p. 228; R.S.1943, § 23-324.03; R.S.1943, (1983), § 23-324.03; Laws 1985, LB 393, § 4; Laws 1988, LB 602, § 1; Laws 1988, LB 828, § 5; Laws 2003, LB 41, § 1; Laws 2011, LB628, § 1; Laws 2012, LB995, § 1.

23-3105. Purchasing agent; compensation; bond.

The governing board of a county with a population of more than one hundred fifty thousand shall and the governing board of any other county may employ a purchasing agent who shall not be a county officer of the county. All purchases made from appropriated funds of the county shall be made through the purchasing agent. The county board shall pay the agent for such services as shall be agreed upon at the time of employment. The person so employed and designated shall serve at the pleasure of the county board and give bond to the county in such amount as the county board shall prescribe.

Source:Laws 1943, c. 57, § 3, p. 227; R.S.1943, § 23-324.01; Laws 1974, LB 1007, § 2; R.S.1943, (1983), § 23-324.01; Laws 1985, LB 393, § 5; Laws 1988, LB 602, § 2.

23-3106. Purchasing agent or county board; powers; election supplies.

The purchasing agent, under the supervision of the county board, or the county board, if there is no purchasing agent, shall purchase all personal property and services required by any office, officer, department, or agency of the county government in the county, subject to the County Purchasing Act. The purchasing agent or the county board, if there is no purchasing agent, shall draw up and enforce standard specifications which shall apply to all personal property purchased for the use of the county government, shall have charge of all central storerooms operated or established by the county board, and shall transfer personal property to or between the several county offices, officers, and departments. All purchases of election ballots and election contractual services shall be made by the election commissioner or by the county clerk in counties without an election commissioner.

Source:Laws 1943, c. 57, § 4, p. 228; R.S.1943, § 23-324.02; R.S.1943, (1983), § 23-324.02; Laws 1985, LB 393, § 6; Laws 1988, LB 602, § 3; Laws 1988, LB 828, § 6.

23-3107. County board or purchasing agent; administrative duties.

The county board or purchasing agent, subject to the approval of the county board, shall: (1) Prescribe the manner in which personal property shall be purchased, delivered, and distributed; (2) prescribe dates for making estimates, the future period which they are to cover, the form in which they are submitted, and the manner of their authentication; (3) revise forms from time to time as conditions warrant; (4) provide for the transfer to and between county departments and agencies of personal property which is surplus with one department or agency but which may be needed by another or others; (5) dispose of by sale personal property which has been declared by the county board to be surplus and which is obsolete or not usable by the county. Except as otherwise provided in subsection (2) of section 23-3115, such property with a value of less than two thousand five hundred dollars may be sold without competitive bidding. Except as otherwise provided in subsection (2) of section 23-3115, property with a value of two thousand five hundred dollars or more shall be sold through competitive bidding; (6) prescribe the amount of cash deposit or bond to be submitted with a bid on a contract and the amount of deposit or bond to be given for the performance of a contract, if the amount of the bond is not specifically provided by law; and (7) prescribe the manner in which claims for personal property or services delivered to any department or agency of the county shall be submitted, approved, and paid.

Source:Laws 1943, c. 57, § 6, p. 228; R.S.1943, § 23-324.04; R.S.1943, (1983), § 23-324.04; Laws 1985, LB 393, § 7; Laws 1988, LB 828, § 7; Laws 2003, LB 41, § 2; Laws 2011, LB628, § 2.

23-3108. Purchases; how made.

(1) Except as provided in section 23-3109, purchases of personal property or services by the county board or purchasing agent shall be made:

(a) Through the competitive sealed bidding process prescribed in section 23-3111 if the estimated value of the purchase is twenty thousand dollars or more;

(b) By securing and recording at least three informal bids, if practicable, if the estimated value of the purchase is equal to or exceeds five thousand dollars, but is less than twenty thousand dollars; or

(c) By purchasing in the open market if the estimated value of the purchase is less than five thousand dollars, subject to section 23-3112. In any county having a population of less than one hundred thousand inhabitants and in which the county board has not appointed a purchasing agent pursuant to section 23-3105, all elected officials are hereby authorized to make purchases with an estimated value less than five thousand dollars.

(2) In no case shall a purchase made pursuant to subdivision (1)(a), (b), or (c) of this section be divided to produce several purchases which are of an estimated value below that established in the relevant subdivision.

(3) All contracts and leases shall be approved as to form by the county attorney, and a copy of each long-term contract or lease shall be filed with the county clerk.

Source:Laws 1985, LB 393, § 8; Laws 1987, LB 55, § 1; Laws 2003, LB 41, § 3.

23-3109. Competitive bidding; when not required; waiver of bidding requirements; when.

(1) Competitive bidding shall not be required (a) when purchasing unique or noncompetitive items, (b) when purchasing petroleum products, (c) when obtaining professional services or equipment maintenance, or (d) when the price has been established by one of the following: (i) The federal General Services Administration; (ii) the materiel division of the Department of Administrative Services; or (iii) a cooperative purchasing agreement by which supplies, equipment, or services are procured in accordance with a contract established by another governmental entity or group of governmental entities if the contract was established in accordance with the laws and regulations applicable to the establishing governmental entity or, if a group, the lead governmental entity.

(2) The county board may, by majority vote of its members, waive the bidding requirements of the County Purchasing Act if such waiver is necessary to meet an emergency which threatens serious loss of life, health, or property in the county.

(3) The governing board may waive the bidding requirements of the County Purchasing Act if the county can save a significant amount of money by entering into a special purchase. The county board shall, five days prior to such special purchase, publish notice of its intention to make such a special purchase, stating the items considered and inviting informal quotes. A two-thirds vote of the entire county board shall approve such special purchase.

Source:Laws 1985, LB 393, § 9; Laws 2003, LB 41, § 4.

23-3110. Competitive bidding; considerations.

In awarding the bid, the following elements shall be given consideration when applicable:

(1) The price;

(2) The ability, capacity, and skill of the supplier to perform;

(3) The character, integrity, reputation, judgment, experience, and efficiency of the supplier;

- (4) The quality of previous performance;
- (5) Whether the supplier can perform within the time specified;
- (6) The previous and existing compliance of the supplier with laws relating to the purchase or contract;
- (7) The life-cost of the personal property or service in relation to the purchase price and the specific use;
- (8) The performance of the personal property or service taking into consideration any commonly accepted tests and standards of product or service usability and user requirements;
- (9) The energy efficiency ratio as stated by the supplier;
- (10) The life-cycle costs between alternatives for all classes of equipment, the evidence of expected life, the repair and maintenance costs, and the energy consumption on a per year basis; and
- (11) Such other information as may be secured having a bearing on the decision.

Source:Laws 1985, LB 393, § 10.

23-3111. Competitive bidding; procedure.

When competitive sealed bidding is required by section 23-3108:

- (1) Sealed bids shall be solicited by public notice in a legal newspaper of general circulation in the county at least once a week for two consecutive weeks before the final date of submitting bids;
- (2) In addition to subdivision (1) of this section, sealed bids may also be solicited by sending requests by mail to prospective suppliers and by posting notice on a public bulletin board;
- (3) The notice shall contain: (a) A general description of the proposed purchase; (b) an invitation for sealed bids; (c) the name of the county official in charge of receiving the bids; (d) the date, time, and place the bids received shall be opened; and (e) whether alternative items will be considered;
- (4) All bids shall remain sealed until opened on the published date and time by the county board or its designated agent;
- (5) Any or all bids may be rejected and the bid need not be awarded at the time of opening, but may be held over for further consideration;
- (6) If all bids received on a pending contract are for the same unit price or total amount and appear to be so as the result of collusion between the bidders, the county board or purchasing agent shall have authority to reject all bids and to purchase the personal property or services in the open market, except that the price paid in the open market shall not exceed the bid price;
- (7) Each bid, with the name of bidder, shall be entered on a record and each record, with the successful bidder indicated thereon, shall, after the award or contract, be open to public inspection; and
- (8) All lettings on such bids shall be public and shall be conducted as provided in Chapter 73, article 1.

Source:Laws 1985, LB 393, § 11.

23-3112. Insufficient funds; compliance with budget; wrongful purchase, effect.

Except in an emergency, which the county board shall declare by resolution, no order for delivery on a contract on open market order for personal property or services for any county department or agency shall be awarded until the county clerk is satisfied that the unencumbered balance in the fund concerned, in excess of all unpaid obligations, is sufficient to defray the cost of such order or contract or the county clerk is satisfied that the purchase is one contemplated in the terms of the county budget as set up by the county board. Whenever any officer, office, department, or agency of the county government shall purchase or contract for any personal property or services contrary to the County Purchasing Act, such order or contract shall be void. The county officer or the head of such department or agency shall be personally liable for the costs of such order or contract and, if already paid for out of county funds, the amount may be recovered in the name of the county in an appropriate action.

Source:Laws 1943, c. 57, § 8, p. 230; R.S.1943, § 23-324.06; R.S.1943, (1983), § 23-324.06; Laws 1985, LB 393, § 12.

23-3113. Purchasing agent or staff; financial interest prohibited; penalty; county board; limitation.

(1) Neither the county purchasing agent nor any member of his or her office staff, if any, shall be financially interested in or have any personal beneficial interest, either directly or indirectly, in any contract or purchase order for any personal property or services used by or furnished to any office, officer, department, or agency of the county government, nor shall such purchasing agent or a member of his or her staff, if any, receive directly or indirectly, from any person, firm, or corporation to which any contract or purchase order may be awarded, by rebate, gift, or otherwise, any money, anything of value whatsoever, or any promise, obligation, or contract for future reward or compensation. Any county purchasing agent or any member of his or her office staff, if any, who violates any of the provisions of the County Purchasing Act shall, upon conviction thereof, be guilty of a Class IV felony. All contracts or agreements in violation of this section are declared unlawful and shall be wholly void as an obligation against the county.

(2) If there is no purchasing agent, the county board acting pursuant to the County Purchasing Act shall be subject to section 49-14,103.01.

Source:Laws 1943, c. 57, § 9, p. 230; R.S.1943, § 23-324.07; Laws 1983, LB 370, § 15; R.S.1943, (1983), § 23-324.07; Laws 1985, LB 393, § 13; Laws 1986, LB 548, § 10.

23-3114. Equipment; lease; contract.

The county board, in addition to other powers granted it by law, may enter into contracts for lease of real or personal property for authorized purposes. Such leases shall not be restricted to a single year and may provide for the purchase of the property in installment payments. This section shall be in addition to and notwithstanding the provisions of sections 23-132 and 23-916.

Source:Laws 1967, c. 115, § 1, p. 363; R.S.1943, (1983), § 23-324.08; Laws 1985, LB 393, § 14.

23-3115. Surplus personal property other than mobile equipment; surplus mobile equipment; sale; conditions.

(1) The county board or the purchasing agent, with the approval of the county board, may authorize a county official or employee to sell surplus personal property, other than mobile equipment, which is obsolete or not usable by the county and which has a value of less than two thousand five hundred dollars. In making such authorization, the county board or purchasing agent may place any restriction on the type

or value of property to be sold, restrict such authority to a single transaction or to a period of time, or make any other appropriate restrictions or conditions.

(2) The county board or the purchasing agent, with the approval of the county board, may authorize a county official or employee to sell surplus mobile equipment which is obsolete or not usable by the county and which has a value of less than five thousand dollars. Surplus mobile equipment which is obsolete or not usable by the county and which has a value of five thousand dollars or more shall be sold through competitive bidding.

(3) Any county official or employee granted the authority to sell surplus personal property which is obsolete or not usable by the county as prescribed in subsection (1) or (2) of this section shall make a written report to the county board within thirty days after the end of the fiscal year reflecting, for each transaction, the item sold, the name and address of the purchaser, the price paid by the purchaser for each item, and the total amount paid by the purchaser.

(4) The money generated by any sales authorized by this section shall be payable to the county treasurer and shall be credited to the funds of the department, office, or agency to which the property belonged.

(5) No person authorized by the county board or purchasing agent to make such sales shall be authorized to make or imply any warranty of any kind whatsoever as to the nature, use, condition, or fitness for a particular purpose of any property sold pursuant to this section. Any person making sales authorized by this section shall inform the purchaser that such property is being sold as is without any warranty of any kind whatsoever.

Source: Laws 1988, LB 828, § 2; Laws 2011, LB628, § 3.

Miscellaneous Provisions

13-329. County, city, village, or public utility; donation of motor vehicle; conditions.

The governing body of a county, city, village, or public utility may authorize the donation of any motor vehicle that is owned by such county, city, village, or public utility, if the governing body has determined that the motor vehicle has reached the end of its useful life, to any charitable organization described in section 501(c)(3) or 501(c)(19) of the Internal Revenue Code that is incorporated pursuant to the Nebraska Nonprofit Corporation Act unless such donation is prohibited by law. The governing body shall not authorize such donation if any employee of the charitable organization or any proposed recipient of the motor vehicle from the charitable organization is a family member of any member of the governing body. For purposes of this section, family member means a spouse, child, parent, brother, sister, grandchild, or grandparent by blood, marriage, or adoption.

Source: Laws 2011, LB628, § 4.

23-104. Powers.

Each county shall have power: (1) To purchase and hold the real and personal estate necessary for the use of the county; (2) to purchase, lease, lease with option to buy, acquire by gift or devise, and hold for the benefit of the county real estate sold by virtue of judicial proceedings in which the county is plaintiff or is interested; (3) to hold all real estate conveyed by general warranty deed to trustees in which the county is the beneficiary, whether the real estate is situated in the county so interested or in some other county or counties of the state; (4) to sell, convey, exchange, or lease any real or personal estate owned by the county in such manner and upon such terms and conditions as may be deemed in the best interest of the county; (5) to enter into compacts with other counties to exercise and carry out powers possessed by

or conferred by law upon each county separately; and (6) to make all contracts and to do all other acts in relation to the property and concerns of the county necessary to the exercise of its corporate powers, except that no lease agreement for the rental of equipment shall be entered into if the consideration for all lease agreements for the fiscal year exceeds one-tenth of one percent of the total taxable value of the taxable property of the county.

Source:Laws 1879, § 22, p. 359; Laws 1889, c. 61, § 1, p. 491; R.S.1913, § 951; C.S.1922, § 851; C.S.1929, § 26-104; R.S.1943, § 23-104; Laws 1953, c. 48, § 2, p. 174; Laws 1963, c. 109, § 1, p. 437; Laws 1967, c. 116, § 1, p. 364; Laws 1979, LB 187, § 92; Laws 1992, LB 1063, § 13; Laws 1992, Second Spec. Sess., LB 1, § 13.

23-175. County board; county vehicles; liability insurance procurement; effect; applicability.

When a county board employs a person and places in his or her charge and under his or her supervision trucks, automobiles, snowplows, road graders, or other vehicles and authorizes such employee to use them upon a public road, the county board shall purchase liability insurance to protect any such employee against loss occasioned by any acts of negligence resulting from the use of such vehicles or equipment. The insurance shall be purchased by public bidding at least once every three years in a limit of not less than one hundred thousand dollars to cover the bodily injury or injuries of one person and, subject to the limitation to one person, one million dollars to cover bodily injury or injuries to more than one person in the same accident and one hundred thousand dollars to cover property damage. The insurance policy may, in the discretion of the county board, contain a deductible provision for up to one thousand dollars of any claim in which event the county shall be considered a self-insurer for that amount. The insurance and bidding requirements of this section shall not apply to a county which is a member of a risk management pool formed pursuant to the Intergovernmental Risk Management Act. Any judgment against any employee shall not be collectible in whole or in part from any member of the county board.

Source:Laws 1957, c. 61, § 1, p. 279; Laws 1969, c. 138, § 24, p. 636; Laws 1993, LB 66, § 1; Laws 1998, LB 376, § 1.

39-810. Bridges; culverts; construction and repair; road improvements; contracts; letting; procedures.

The county board of each county may erect and repair all bridges and approaches thereto and build all culverts and make improvements on roads, including the purchase of gravel for roads, and stockpile any materials to be used for such purposes, the cost and expense of which shall for no project exceed one hundred thousand dollars. All contracts for the erection or repair of bridges and approaches thereto or for the building of culverts and improvements on roads, the cost and expense of which shall exceed one hundred thousand dollars, shall be let by the county board to the lowest responsible bidder. All contracts for materials for repairing, erecting, and constructing bridges and approaches thereto or culverts or for the purchase of gravel for roads, the cost and expense of which exceed twenty thousand dollars, shall be let to the lowest responsible bidder, but the board may reject any and all bids submitted for such materials. Upon rejection of any bid or bids by the board of such a county, such board shall have power and authority to purchase materials to repair, erect, or construct the bridges of such county, approaches thereto, or culverts or to purchase gravel for roads. All contracts for bridge erection or repair, approaches thereto, culverts, or road improvements in excess of twenty thousand dollars shall require individual cost-accounting records on each individual project. The total costs of each such separate project shall be included in the annual reports to the Board of Public Roads Classifications and Standards as required by section 39-2120. All bids for the letting of contracts shall be deposited with the county clerk of such a county, opened by him or her in the presence of the county board, and filed in such clerk's office.

Source:Laws 1905, c. 126, § 1, p. 540; Laws 1911, c. 111, § 1, p. 391; R.S.1913, § 2956; C.S.1922, § 2714; C.S.1929, § 39-801; Laws 1931, c. 84, § 1, p. 222; C.S.Supp.,1941, § 39-801; R.S.1943, § 39-810; Laws 1955, c. 159, § 1, p. 462; Laws 1969, c. 328, § 1, p. 1173; Laws 1975, LB 115, § 1; Laws 1988, LB 429, § 1; Laws 2013, LB623, § 1.

39-1407. County road improvement projects; lettings; procedure; county board may authorize Department of Roads to conduct; contractors' bonds.

Whenever contracts are to be let for road improvements it shall be the duty of the county board to cause to be prepared and filed with the county clerk an estimate of the nature of the work and the cost thereof. After such estimate has been filed, bids for such contracts shall be advertised by publication of a notice thereof once a week for three consecutive weeks in a legal newspaper of the county prior to the date set for receiving bids. Bids shall be let to the lowest responsible bidder. The board shall have the discretionary power to reject any and all bids for sufficient cause. If all bids are rejected, the county board shall have the power to negotiate any contract for road improvements, but the county board shall adhere to all specifications that were required for the initial bids on contracts. The board shall have the discretionary power to authorize the Department of Roads to take and let bids on behalf of the county at the offices of the department in Lincoln, Nebraska. When the bid is accepted the bidder shall enter into a sufficient bond for the use and benefit of the county, precinct, or township, for the faithful performance of the contract, and for the payment of all laborers employed in the performance of the work, and for the payment of all damages which the county, precinct, or township may sustain by reason of any failure to perform the work in the manner stipulated. It shall be the duty of the county to determine whether or not the work is performed in keeping with such contract before paying for the same.

Source:Laws 1957, c. 155, art. I, § 7, p. 510; Laws 1972, LB 1058, § 12; Laws 1975, LB 114, § 2.

73-101. Public lettings; how conducted.

Whenever the State of Nebraska, or any department or any agency thereof, any county board, county clerk, county highway superintendent, the mayor and city council or commissioner of any municipality, any entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act, or the officers of any school district, township, or other governmental subdivision, shall advertise for bids in pursuance of any statutes of the State of Nebraska, on any road contract work or any public improvements work, or for supplies, construction, repairs, and improvements, and in all other cases where bids for supplies or work, of any character whatsoever, are received for the various departments and agencies of the state, and other subdivisions and agencies enumerated in this section, they shall fix not only the day upon which such bids shall be returned, received, or opened, as provided by other statutes, but shall also fix the hour at which such bids shall close, or be received or opened, and they shall also provide that such bids shall be immediately and simultaneously opened in the presence of the bidders, or representatives of the bidders, when the hour is reached for the bids to close. If bids are being opened on more than one contract, the officials having in charge the opening of such bids may, if they deem it advisable, award each contract as the bids are opened. Sections 73-101 to 73-106 shall not apply to sections 39-2808 to 39-2823.

Source:Laws 1923, c. 131, § 1, p. 324; C.S.1929, § 73-101; Laws 1935, c. 145, § 1, p. 539; C.S.Supp.,1941, § 73-101; R.S.1943, § 73-101; Laws 1959, c. 181, § 18, p. 662; Laws 1999, LB 87, § 84; Laws 2016, LB960, § 28.

Effective Date: April 19, 2016

73-101.01. Resident bidder, defined; preference.

When a public contract is to be awarded to the lowest responsible bidder, a resident bidder shall be allowed a preference over a nonresident bidder from a state which gives or requires a preference to bidders from that state. The preference shall be equal to the preference given or required by the state of the

nonresident bidder. Resident bidder as used in sections 73-101.01 and 73-101.02 shall mean any person, partnership, foreign or domestic limited liability company, association, or foreign or domestic corporation authorized to engage in business in the State of Nebraska and which has met the residency requirement of the state of the nonresident bidder necessary for receiving the benefit of that state's preference law on the date when any bid for a public contract is first advertised or announced or has had a bona fide establishment for doing business within this state for the length of time established by the state of the nonresident bidder necessary for receiving the benefit of that state's preference law on the date when any bid for a public contract is first advertised or announced. Any contract entered into without compliance with sections 73-101.01 and 73-101.02 shall be null and void.

Source:Laws 1967, c. 471, § 1, p. 1465; Laws 1993, LB 121, § 462.

73-101.02. Resident bidder; preference; exception.

The provisions of section 73-101.01 shall not apply to any contract for any project upon which federal funds would be withheld because of the provisions of sections 73-101.01 and 73-101.02.

Source:Laws 1967, c. 471, § 2, p. 1466.

73-102. Fair labor standards; statement of compliance required.

All governing authorities of the State of Nebraska, and governmental subdivisions thereof, and every person acting as purchasing agent for the State of Nebraska, or any governmental subdivision thereof, shall, in awarding contracts for public works, require all contractors bidding on public works to file with such authority a statement that he is complying with, and will continue to comply with, fair labor standards in the pursuit of his business and in the execution of the contract on which he is bidding. The governing authorities shall also require to be written into each and every contract for public works, in addition to such other provisions as are necessary and prescribed by law, a provision that in the execution of such contract fair labor standards shall be maintained; *Provided*, no agency or department of the State of Nebraska shall make any requirements, because of the provisions of sections 73-101 to 73-104, that will increase the cost to the state of merchandise, materials, supplies or services. This section shall not apply to such governing authorities that prescribe, in the terms of their contracts for public works, provisions governing the hours of labor, rates of pay, and conditions of employment.

Source:Laws 1939, c. 55, § 1, p. 227; C.S.Supp.,1941, § 73-102; R.S.1943, § 73-102.

73-103. Fair labor standards; low bidder; disqualification.

A showing in a public hearing by interested parties, to the satisfaction of the awarding authority, that any contractor bidding upon public works, and having filed the statement as required by section 73-102, has not complied with fair labor standards in the pursuit of his business or occupation, shall be the basis for the disqualification of the low bid, in which case the awarding authority shall let the bid to the next lowest responsible bidder.

Source:Laws 1939, c. 55, § 2, p. 227; C.S.Supp.,1941, § 73-103; R.S.1943, § 73-103.

73-104. Fair labor standards, defined.

Fair labor standards, as used in sections 73-102 and 73-103 shall be construed to mean such a scale of wages and conditions of employment as are paid and maintained by at least fifty percent of the contractors in the same business or field of endeavor as the contractor filing such statement.

Source:Laws 1939, c. 55, § 2, p. 227; C.S.Supp.,1941, § 73-103; R.S.1943, § 73-104.

73-105. Violations; penalties.

Any officer or person who may be in charge of any such bids prior to the time fixed for the simultaneous opening, who shall open prior to such time, or otherwise disclose to any bidder the contents, amount or other details of any rival bid, shall be guilty of a Class IV misdemeanor. Any person violating any of the provisions of sections 73-101 to 73-104 shall be guilty of a Class IV misdemeanor.

Source: Laws 1923, c. 131, § 1, p. 324; C.S.1929, § 73-101; Laws 1935, c. 145, § 1, p. 539; C.S.Supp.,1941, § 73-101; R.S.1943, § 73-105; Laws 1977, LB 39, § 181.

81-161. Competitive bids; award to lowest responsible bidder; elements considered; energy star certified appliances.

(1) All purchases, leases, or contracts which by law are required to be based on competitive bids shall be made to the lowest responsible bidder, taking into consideration the best interests of the state, the quality or performance of the personal property proposed to be supplied, its conformity with specifications, the purposes for which required, and the times of delivery. In determining the lowest responsible bidder, in addition to price, the following elements shall be given consideration:

- (a) The ability, capacity, and skill of the bidder to perform the contract required;
- (b) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;
- (c) Whether the bidder can perform the contract within the time specified;
- (d) The quality of performance of previous contracts;
- (e) The previous and existing compliance by the bidder with laws relating to the contract;
- (f) The life-cycle costs of the personal property in relation to the purchase price and specific use of the item;
- (g) The performance of the personal property, taking into consideration any commonly accepted tests and standards of product usability and user requirements;
- (h) Energy efficiency ratio as stated by the bidder for alternative choices of appliances or equipment;
- (i) The information furnished by each bidder concerning life-cycle costs between alternatives for all classes of equipment, evidence of expected life, repair and maintenance costs, and energy consumption on a per-year basis;
- (j) The results of the United States Environmental Protection Agency tests on fleet performance of motor vehicles. Each bidder shall furnish information relating to such results; and
- (k) Such other information as may be secured having a bearing on the decision to award the contract.

(2) Any appliance purchased or leased pursuant to this section shall be energy star certified, except that the materiel administrator may exempt the purchase or lease of an appliance from this subsection if he or she determines that the cost of compliance would exceed the projected energy cost savings.

(3) All political subdivisions may follow the procurement principles set forth in this section if they are deemed applicable by the official authorized to make purchases for such political subdivision.

(4) For purposes of this section, energy star certified means approval of energy usage by the United States Environmental Protection Agency and the United States Department of Energy. Such approval may be signified by the display of the energy star label.

Source:Laws 1943, c. 215, § 17, p. 709; R.S.1943, § 81-161; Laws 1963, c. 508, § 9, p. 1619; Laws 1969, c. 780, § 3, p. 2955; Laws 1975, LB 359, § 8; Laws 1980, LB 954, § 60; Laws 1992, LB 1241, § 17; Laws 2000, LB 654, § 13; Laws 2010, LB978, § 1.

81-3445. State and political subdivisions; construction projects.

Except as otherwise provided in this section and sections 81-3449 and 81-3453, the state and its political subdivisions shall not engage in the construction of any public works involving architecture or engineering unless the plans, specifications, and estimates have been prepared and the construction has been observed by an architect, a professional engineer, or a person under the direct supervision of an architect, professional engineer, or those under the direct supervision of an architect or professional engineer. This section shall not apply to any public work in which the contemplated expenditure for the complete project does not exceed one hundred thousand dollars. The board shall adjust the dollar amount in this section every fifth year. The first such adjustment after August 27, 2011, shall be effective on July 1, 2014. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the five-year period preceding the adjustment date. The amount shall be rounded to the next highest one-thousand-dollar amount.

Source:Laws 1997, LB 622, § 45; Laws 1999, LB 253, § 2; Laws 2004, LB 599, § 2; Laws 2011, LB45, § 11.