

New Public Bidding Resource

Cindy Buchko, General Counsel, Construction Business Group and Curt Witynski, Deputy Executive Director, League of Wisconsin Municipalities

When municipalities competitively bid public works, the award must go to the “lowest *responsible* bidder.” Determining whether a bidder is “responsible,” however, can be a near impossible task unless the local government has an extensive contractor prequalification process. A contractor prequalification process is beyond the resource capabilities of many local governments.

All too often, a local government awards work to a contractor only to find out later – after the project experiences delay, cost overruns, or poor quality – that the contractor previously failed to satisfactorily perform for other local governments. How can local governments better inform themselves on whether a bidder is truly responsible?

Construction Business Group (CBG) is a trade organization that monitors public and private construction projects throughout Wisconsin. CBG has compiled information on over 9,600 contractors and offers free access to the database to registered users. For each contractor, the database has links to judgments, tax liens, debarment records, OSHA violations, and more. The data is verifiable and reliable public information and provides local governments, other project owners, general contractors, and engineering firms with a convenient, easy-to-use research resource.

Recently, the League of Wisconsin Municipalities and CBG entered into a Memorandum of Agreement that will make

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Putting the “Responsible” Back into Low Bidders

Randy Reeg, City Administrator, Mauston

If you’ve worked in local government long enough, you know what it’s like to regret having awarded a public construction contract to the lowest bidder. State statutes require municipalities to award public construction contracts to the lowest responsible bidder, not the absolute lowest bidder. But most of us have gotten used to awarding contracts to the low bidder, no matter who it is. Whether due to the irrational fear of being sued for selecting a contractor without the lowest bid, or the misguided presumption that all contractors bidding on projects in Wisconsin should be regarded as equally “responsible,” virtually every municipality has awarded a large contract to a low bidder over a few thousand dollars and later regretted it. And even worse is hearing “That doesn’t surprise me!” or “I could have told you that!” when discussing these nightmare projects after the fact with engineers, attorneys, or other municipal officials.

So how can municipalities work together to share information and experiences proactively, to help each other avoid these pitfalls? At the annual conference last fall, I posed this question to League staff with the idea of developing a municipal equivalent to Yelp or Angie’s List –

creating a database of contractor reviews by municipalities with which the “responsibility” of bidders could be established. Fast forward to today, and we now have a tool we can begin to use.

The League partnered with the Construction Business Group to enhance a database they already had in place, but few knew about. This partnership and effort has been marked by the launch of a new website (responsiblewisconsin.com), which provides local government officials with exclusive access to a project evaluation form that may be completed for your public works projects. The project evaluations will be connected to the contractor (or subcontractor) who was evaluated and available to view by other local governments. The project evaluation survey form allows local government staff and officials to weigh in on whether the project was completed on time, within budget, and whether the quality of the work was satisfactory. I would encourage all municipal officials to check it out and begin to incorporate its use into your bidding process!

Contact Randy at cityadmin@mauston.com

the bidder database an even more powerful tool for local governments. Local government officials will have exclusive access to a project evaluation form that may be completed for your public works projects. The project evaluations will be connected to the contractor (or subcontractor) that was evaluated and available to view by other local governments. The project evaluation survey form allows local government staff and officials to weigh in on whether the project was completed on time, within budget, and whether the quality of the work was satisfactory. Taking 10 minutes to complete a survey could save a fellow local government from awarding work to a contractor that is not responsible.

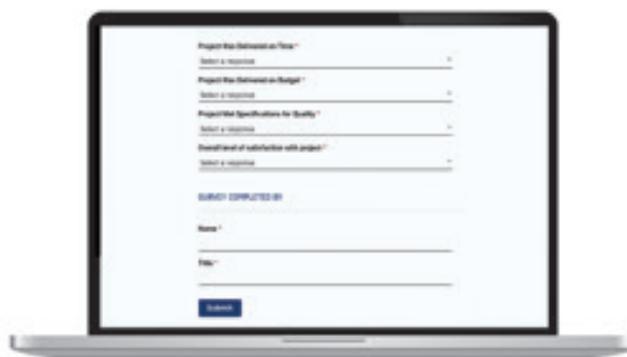
To register for and access the database, go to responsiblewisconsin.com. From the home page, you can request access if you are not a registered user or access the database if you are a registered user.



Once you are a registered user, you will have a username and password for accessing the database. Within the database, only credentialed local government officials will be able to access the project evaluation, which appears at the top right of the page.



The project evaluation is a short, easy-to-navigate digital questionnaire. You will be asked to provide basic project information, such as a description of the project, cost, start and end dates, and the awarded bidder. You will then be asked if the project was on time, on budget, and to project specifications. If the project was not on time, on budget, or to project specifications, additional dropdown questions allow you to provide additional information. You may also rate your overall satisfaction with the project. Once completed, click on the submit button.



Once submitted, the project evaluation becomes a PDF document that CBG staff will review for completeness and post within the bidder database for the applicable contractor. League staff will assist CBG if any questions arise as to the propriety of a submitted project evaluation.

The League strongly encourages its members to complete project evaluations for all public works projects. A few minutes of effort will allow your fellow local government officials to benefit from your contractor experience, whether it be positive or negative.

About the Authors

Cynthia (Cindy) Buchko is the General Counsel of Construction Business Group (CBG), a trade organization protecting the interests of 30,000 construction workers and 4,000 contractors. Cindy is a past Chair of the Construction and Public Contract Law section of the Wisconsin State Bar. Contact Cindy at c.buchko@cbgwi.com

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THURSDAY, OCTOBER 8
12:00 P.M.

Finding Lowest Responsible Bidders for Your Construction Projects - EPW PDH Eligible

Cynthia Buchko, *General Counsel, Construction Business Group* and Kail Decker, *City Attorney, City of West Allis*

All too often, a municipality awards work to a contractor only to find out later – after the project experiences delay, cost overruns, or poor quality – that the contractor previously failed to satisfactorily perform for other local governments. How can municipalities better inform themselves on whether a low bidder is truly responsible?

The speakers at this workshop will give a brief overview of the public construction bidding law, particularly focusing on how communities can determine if a low bid is from a “responsible bidder.” The process for qualifying bidders under the bidders proof of responsibility provision in state law will be discussed. Speakers will also highlight a new online public project evaluation tool, ResponsibleWisconsin.com, created by the Construction Business Group and sponsored by the League, which can help communities determine whether contractors are responsible bidders.

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- Racial Equity Local Government Action Steps
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- Roundtable: Small Communities
- How Secure is Your Municipality's Network? Assessing Cyber Risk
- Best Practices for Recruiting & Interviewing Your Next Hire
- Finding Lowest Responsible Bidders for Your Construction Projects
- Roundtable: Large Communities
- Ask the Attorneys
- Innovative and Affordable Ways to Comply with Phosphorus Standards
- Locally Sourced Downtowns: Supporting and Cultivating a Thriving District
- Useful Tools for Environmental Cleanup and Property Redevelopment
- Managing Conflict in Local Government
- How Some Rural Communities Thrive While Shedding Population: Learning to Shrink Smart
- Budget Strategies for Surviving the Recession and Thriving Post-Pandemic
- Three Feisty Clerks: Candid Feedback for Municipal Leaders

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