



SPONSOR: Sen. Hocker & Rep. Collins

DELAWARE STATE SENATE
150th GENERAL ASSEMBLY

SENATE BILL NO. 51

AN ACT TO AMEND THE CHARTER OF THE TOWN OF MILLSBORO RELATING TO CONTRACTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

1 Section 1. Amend Section 15 of the Charter of the Town of Millsboro by making insertions as shown by underline
2 and deletions as shown by strike through as follows:

3 **Section 15.** Contracts.

4 (b) All contracts for the purpose of materials or for the furnishing of services authorized or permitted by this
5 Charter must be accomplished by competitive bidding and the awarding of contracts to the lowest responsible bidder who
6 ~~submits a responsive bid;~~ and responsive bidder.

7 (c) Notwithstanding subsection (b) of this section, a contract may be awarded to a bidder other than the lowest
8 responsible and responsive bidder if, in the opinion of the Town Council, the interests of the Town are better served by
9 awarding the contract to another bidder. The Town Council may make an award under this subsection only if the Council
10 makes a written determination of the award, describing the reasons why the award better serves the interest of the Town.
11 Reasons for making an award under this section include unsatisfactory performance on any previous awarded contract by
12 the rejected bidder.

13 (d) Determination of a Responsive and Responsible Bidder.

14 (1) The Town Council shall determine that a bidder is responsive before awarding a contract to the bidder. A
15 responsive bid must conform in all material aspects to the requirements and criteria set forth in the contract plans and
16 specifications.

17 (2) The Town Council shall determine that each bidder on any contract is responsive before awarding the
18 contract. The following factors are to be considered in determining if a bidder is responsive:

19 a. The bidder's financial, physical, personnel, or other resources, including subcontracts and the
20 availability of the bidder's representative to call on and consult with the Town.

21 b. The bidder's record of performance and integrity.

22 c. Whether the bidder is qualified legally to contract with the Town.

23 d. Whether the bidder supplied all necessary information concerning its responsiveness.

24 e. Any other specific criteria for a particular procurement, which the Town may establish. The criteria
25 must be set forth in the invitation to bid and be otherwise in conformity with state or federal law.

26 (e) The Town Council may reject all bids on any contract before the award of the contract for any reason it believes
27 to be in the best interest of the Town.

28 (f) PROVIDED, HOWEVER, that competitive Competitive bidding is not required in any of the following
29 circumstances:

30 (1) The aggregate amount involved is not more than ~~\$20,000~~50,000.

31 (2) The purchase or contract is for personal or professional services.

32 (3) The purchase or contract is for any service rendered by a university, college or other educational
33 institution.

34 (4) The purchase or contract is for any service to be rendered by the State of Delaware or any political
35 subdivision.

36 (5) The purchase or contract is for property or services for which it is impracticable to obtain competition.

37 (6) The public exigency, as determined by the Town Council, will not permit the delay incident to
38 advertising.

39 (7) The materials to be purchased are to be used to complete a project under the supervision of the Town
40 Manager.

41 (8) The purchase or contract is for property or services for which the Town Council determines the price
42 received after competitive bidding are unreasonable as to all or part of the requirement or not independently reached in
43 open competition.

44 (9) A public emergency as determined by the Town Council exists.

45 ~~(e)~~ (g) Notwithstanding subsections (a) through (f) of this section, and without complying with the competitive
46 bidding procedure of this section, the Town Council may enter into any contract necessary or desired in
47 connection with a special development district or tax increment financing district created or designated by
48 the Town Council under §34B of this Charter except a contract in which the Town Council is directly
49 contracting for the procurement of the labor or material for public improvements for the benefit of such
50 district, provided that the foregoing exception does not apply to development or similar type contracts
51 between the Town Council and an owner of real property in such district when the contract is generally

52 for the transfer by the owner to the Town Council of the work performed and the cost of labor or material
53 provided by such owner for the benefit of such district.

SYNOPSIS

The Town Council for the Town of Millsboro determined that the way they award contracts should be improved. The amount that initiates the process is increased from \$20,000 to \$50,000 to better reflect the current cost of ordinary purchases that the Town must make. This Act also allows the Town of Millsboro to have the ability to award a contract to a bidder other than the lowest bidder while also laying out the factors that the Town Council must use in determining who is a responsive and responsible bidder in accordance with their bid vetting process.

Author: Senator Hocker