

CHAPTER 147  
FORMERLY  
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):

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

**Section 15.** Contracts.

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

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

(d) Determination of a Responsive and Responsible Bidder.

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

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

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

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

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

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

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

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

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

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

- (2) The purchase or contract is for personal or professional services.
  - (3) The purchase or contract is for any service rendered by a university, college or other educational institution.
  - (4) The purchase or contract is for any service to be rendered by the State of Delaware or any political subdivision.
  - (5) The purchase or contract is for property or services for which it is impracticable to obtain competition.
  - (6) The public exigency, as determined by the Town Council, will not permit the delay incident to advertising.
  - (7) The materials to be purchased are to be used to complete a project under the supervision of the Town Manager.
  - (8) The purchase or contract is for property or services for which the Town Council determines the price received after competitive bidding are unreasonable as to all or part of the requirement or not independently reached in open competition.
  - (9) A public emergency as determined by the Town Council exists.
- ~~(e)~~ (g) Notwithstanding subsections (a) through (f) of this section, and without complying with the competitive bidding procedure of this section, the Town Council may enter into any contract necessary or desired in connection with a special development district or tax increment financing district created or designated by the Town Council under §34B of this Charter except a contract in which the Town Council is directly contracting for the procurement of the labor or material for public improvements for the benefit of such district, provided that the foregoing exception does not apply to development or similar type contracts between the Town Council and an owner of real property in such district when the contract is generally for the transfer by the owner to the Town Council of the work performed and the cost of labor or material provided by such owner for the benefit of such district.

Approved July 23, 2019