

Town Hall - Ordinances

GENERAL

ORDINANCE # 2011-9

CONSTRUCTION AND PURCHASING POLICIES & PURCHASING RULES

OF CAMDEN, CARROLL COUNTY, INDIANA

REPEALING ORDINANCE #98-6

The Town Council of Camden, Indiana hereby adopts the following construction and purchasing policies & purchasing rules to comply with the Public Purchasing Laws of the State of Indiana.

PUBLICATION OF NOTICES:

- 1. Invitation for Bids:** all notices of invitation for bids shall be published in accordance

with I.C. 5-3-1 in the Carroll County Comet. If the newspaper maintains an internet website, a notice that is published in the newspaper must also be posted on the newspaper's website. The notice must appear on the website on the same day the notice is published in the newspaper.

The Camden Clerk-Treasurer, as purchasing agent, shall schedule the publication of notice to provide a reasonable amount of time for preparation and submission of bids. The notice will be published two times, at least one (1) week apart. The second publication must occur at least seven (7) days prior to the date the bids will be opened.

- 2. Request for Proposal:** all notices of request for proposals shall be published in accordance with I.C. 5-3-1 in the Carroll County Comet. If the newspaper maintains an internet website, a notice that is published in the newspaper must also be posted on the newspaper's website. The notice must appear on the website on the same day the notice is published in the newspaper.

The Camden Clerk-Treasurer, as purchasing agent, shall schedule the publication of notice to provide a reasonable amount of time for preparation and submission of bids. The notice will be published two times, at least one (1) week apart. The second publication must occur at least seven (7) days prior to the date the bids will be opened.

3. **Request for Specifications:** all notices of request for specifications shall be published in accordance with I.C. 5-3-1 in the Carroll County Comet. If the newspaper maintains an internet website, a notice that is published in the newspaper must also be posted on the newspaper's website. The notice must appear on the website on the same day the notice is published in the newspaper.

The Camden Clerk-Treasurer, as purchasing agent, shall schedule the publication of notice to provide a reasonable amount of time for preparation and submission of bids. The notice will be published two times, at least one (1) week apart. The second publication must occur at least seven (7) days prior to the date the bids will be opened.

4. **Electronic Notices:** whenever a notice or other material including specifications, an invitation for bids, request for proposals or request for specifications, is sent by mail, the purchasing agent may also send the notice or other material by electronic means, provided that the transmission of the information is at least as efficient as mailing the information.

PUBLIC WORKS PROJECTS:

CONSTRUCTION POLICIES: The following are the construction policies for Camden:

1. **General Rules:**
 - (A) plans and specifications are required for all public works projects
 - (B) a contract must be signed for each public works project
 - (C) project cost may not be artificially divided to avoid thresholds. Project cost includes the cost of materials, labor, equipment rental, and all other expenses incidental to the performance of the project.
 - (D) per Indiana Code, bids must be awarded to the lowest and most responsible bidder/quoter /offeror, regardless of who the bidder is
 - (E) the lowest bidder/quoter/offeror must be rejected if the bidder/quoter/offeror is not responsive or responsible
 - (F) a "responsive" bidder/quoter/offeror is the bidder or quoter who has submitted a bid or quote confirming in all material respects to the specifications

- (G) a “responsible” bidder/quoter/offeror is one who is capable of performing the contract requirements fully and who has the integrity and reliability that will assure good faith performance
- (H) all contracts for purchase and public works projects must: 1) include a provision requiring the contractor to use E-Verify, and 2) require the contractor to sign an affidavit affirming the contractor does not knowingly employ an unauthorized alien
- (I) non-collusion affidavit is required from every bidder and must be submitted on a form prescribed by the State Board of Accounts
- (J) all contracts for public work projects must comply with the wage scale provisions of I.C. 5-16-7 and the antidiscrimination provisions of I.C. 5-16-6

2. **Bidding Process**

- (A) Projects with an estimated cost of less than \$25,000:

The Council shall invite quotes from at least three persons known to deal in the class of work proposed to be done. These quotes may be solicited by fax or phone. There is no seven day waiting period. The Council may not require a person to submit a quote before the meeting at which quotes are to be received. The meeting for receiving quotes must be open to the public. All quotes received shall be opened publicly and read aloud at the time and place designated and not before. The Council shall award the contract for the public work to the lowest responsible and responsive quoter. The Council may reject all quotes received. If all quotes are rejected, the Council may negotiate and enter into agreements for the work in the open market without inviting or receiving quotes if the Council established in writing the reasons for rejecting the quotes.

- (B) Projects with an estimated cost of less than \$50,000:

The Council shall invite quotes from at least three persons known to deal in the class of work proposed to be done by mailing them a notice stating that plans and specifications are on file at the Camden Town Office. The notice must be mailed not less than seven days before the time fixed for receiving quotes. The Council may not require a person to submit a quote before the meeting at which quotes are to be received. The meeting for receiving the quotes must be open to the public. All quotes received shall be opened publicly and read aloud at the time and place designated and not before. The Council shall award the contract for the public work to the lowest responsible and responsive quoter. The Council may reject all quotes submitted. If the Council rejects all quotes, the Council may negotiate and enter into agreements for the work in the open market without inviting or receiving quotes if the Council establishes in writing the reasons for rejecting the quotes.

- (C) Projects with an estimated cost of \$50,000 - \$150,000:

The Council shall invite quotes from at least three persons known to deal in the class of work proposed to be done by mailing them a notice stating that plans and specifications are on file at the Camden Town Office. The notice must be mailed not less than seven days before the time fixed for receiving quotes. The Council may not require a person to submit a quote before the meeting at which quotes are to be received. The meeting for receiving the quotes must be open to the public. All quotes received shall be opened publicly and read aloud at the time and place designated and not before. The Council shall award the contract for the public work to the lowest responsible and responsive quoter. The Council may reject all quotes submitted.

(D) Use of Town's Workforce on Routine Projects:

The Town Council may elect to assign the town employees to perform public work on projects with an estimated cost of less than \$150,000. The employees must be capable of performing the construction, maintenance and repairs applicable to that work. The cost of the public work project includes: 1) actual cost of materials, labor, equipment; 2) rental, reasonable rate for use of trucks and heavy equipment owned; and 3) all other expenses incidental to the performance for the project. If the project is greater than \$100,000, the Council must publish notice in accordance with IC 5-3-1 and determine at a public meeting that it is in the public interest to perform the public work with the town's own workforce.

All public works projects costing more than \$100,000 will require a financial and qualification statement. These documents must be submitted on the State Board of Accounts prescribed form and must accompany the bid.

(E) Routine Projects:

Routine projects include: routine operation, routine repair or routine maintenance of existing structures, buildings, or real property if the estimated cost of the public work is less than \$150,000. Routine project contracts may be awarded in the same manner prescribed in purchasing contract in I.C. 5-22.

(F) Projects with an estimated cost of greater than \$150,000:

All projects with an estimated cost of greater than \$150,000 shall follow the competitive bidding process.

All public works projects costing more than \$200,000 will require a bid bond or certified check in an amount set by the Council but not to exceed 10% of the total contract price. Checks from unsuccessful bidders will be returned to them upon selection of successful bidder. Checks of successful bidders shall be held until delivery of the performance bond equal to the contract price.

PURCHASING:

PURCHASING POLICIES: The following are purchasing policies for Camden:

1. GENERAL RULES - METHODS FOR PURCHASING

All purchases of supplies must be bid unless another method or process is available. Purchases may not be artificially divided so as to constitute a small purchase.

2. Purchasing Process

(A) Purchases Less Than \$50,000: purchasing agent may make a purchase of less than \$50,000 on the open market without inviting formal quotes or bids process.

(B) Purchases Between \$50,000 and \$150,000: purchasing agent is to invite quotes from at least three persons known to deal in the lines or classes of supplies to be purchased. Invitations to quote shall be mailed at least seven days before time fixed for receiving quotes. Contract shall be awarded to the lowest responsible bidder. All quotes may be rejected. If no quotes are received by a responsible and responsive offer, supplies may be purchased by the “special purchase” method.

(C) Purchases Greater Than \$150,000: competitive bid process is to be used.

- 1) Invitation to bid shall be issued state purchase description, all contractual terms and conditions, state of evaluation criteria, time and place for opening bids, financial proof requirements, and a statement on condition under which a bid may be cancelled or rejected in whole or in part.
- 2) Public notice requirements must be met – two notices must be published at least one week apart with the second notice published at least 10 days prior to deadline for receiving bids.
- 3) Bids must be opened publicly in the presence of at least one or more witnesses at the time and place designated in the invitation for bids.
- 4) Contract is to be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder.

RECEIVING OFFERS:

1. **Opening of Offers:** bids received in response to an invitation for bids must be opened publicly in the presence of at least one or more witnesses at the time and place designated in the invitation for bids.

Proposals received in response to a request for proposals must be opened so as to avoid disclosure of the contents to competing offerors during the process of negotiation.

Proposals received in response to a request for specifications may be opened as specified in the request for specifications.

2. **Electronic Receipt of Offers:** the purchasing agency may receive electronic offers in response to an invitation to bid, request for proposal or request for specifications.

An electronic offer may only be received if:

- (A) the solicitation includes the procedure for the electronic transmission of the offer; and
- (B) the purchasing agency receives the offer on a fax machine or other system with a security feature that protects the contents of an electronic offer with the same degree of protection as provided to an offer not transmitted electronically.

3. **Correction and Withdrawal of Bids:** an offeror may correct inadvertent errors in a bid up to the time at which bids will be opened by supplementing the erroneous bid and submitting a revised bid. A bidder may not supplement an inadvertently erroneous bid after the time at which the bids were opened.

A bidder may withdraw a bid containing inadvertent errors up to the time which bids will be opened and for a period of not more than 24 hours after the time at which the bids were opened.

4. **Cancellation of Solicitation:** when the purchasing agent makes a written determination that it is in the Town's best interests, the purchasing agent may cancel a solicitation or reject all offers, provided that the solicitation included information concerning the procedure for cancellation.

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PURCHASING RULES:

The following are the purchasing rules for Camden, Indiana:

PROTECTION OF OFFERS; STATUS OF DOCUMENTS AS PUBLIC RECORDS:

1. **Protection of Offers prior to Opening:** the Clerk-Treasurer of the Town of Camden, as

purchasing agent under the Act, shall retain all offers received in a secure location prior to the date and time at which offers will be opened in order to prevent disclosure of the contests prior to the opening of the offers.

2. **Unobstructed Evaluation of Offers:** after offers have been opened, the purchasing agent shall be responsible for maintaining the offers in such a manner as to permit evaluation of the offers by the persons responsible for evaluating the offers.
3. **Public Records Status of Bids:** bids submitted in response to an invitation for bids must be made available for public inspection and copying after the time of the bid opening, unless the bid opening is delayed, as authorized in this ordinance or any other status or ordinance.
4. **Register of Proposals:** the purchasing agent shall prepare a register of proposals for each request for proposals issued which shall contain information concerning the proposals available for public inspection and copying. Proposals may not be disclosed.

DISCUSSION WITH OFFERORS RESPONDING TO A REQUEST FOR PROPOSALS:

The purchasing agent may conduct discussions with, and best and final offers may be obtained from responsible offerors who submit proposals determined to be reasonably susceptible of being selected or a contract awarded.

PURCHASING PREFERENCES

Indiana Code 5-22-15 outlines certain price preferences that shall be given to certain offerors. Offerors, persons submitting a proposal or being considered for a purchasing contract, are allowed to claim only one preference and must indicate in the offer what supply item in the offer is a preferred supply. The contract shall be awarded to the offeror whose total adjusted offer is lower than the total adjusted offer of each other offeror, as long as it meets the other requirements set forth in the Indiana Code as the “best bidder” or “most responsible and responsive bid”.

DELAY OF OPENINGS OF OFFERS:

When the Town Council makes a written determination that is in the Town’s best interest, offers may be opened after the time stated in the solicitation. The date, time and place of the rescheduled opening must be announced at the time and place of the originally scheduled opening.

EVIDENCE OF FINANCIAL RESPONSIBILITY:

1. **Purchases Less than \$50,000.00:** the purchasing agent may not require evidence of financial responsibility when the estimated cost of a purchase is less than \$50,000.00
2. **Purchases Between \$50,000.00 and \$150,000.00:** the solicitation may include a requirement that an offeror provide evidence of financial responsibility. If evidence of financial responsibility is required, the solicitation must indicate the kind of evidence that will be acceptable. If a bond or certified check is required, it may not exceed ten percent (10%) of the estimated cost of the purchase.
3. **Purchases Over \$150,000.00:** the solicitation shall include a requirement that an offeror provide evidence of financial responsibility and must indicate the kind of evidence that will be acceptable. If a bond or certified check is required, it may not exceed ten percent (10%) of the estimated cost of the purchase.
4. **Small Business Set-Asides:** the purchasing agent may determine that no evidence of financial responsibility shall be required for a small business set-aside purchase.

USE OF REQUEST FOR PROPOSAL (RFP) FOR PURCHASES OF DESIGNATED

TYPES OF SUPPLIES:

The Camden Town Council may determine that it is either not practicable or not advantageous to purchase certain types of supplies by sealed competitive bidding. In some instances (to be determined by the Council) the preferred method for purchasing supplies may be by receiving proposals.

MODIFICATION AND TERMINATION OF CONTRACTS:

1. **Price Adjustments:** the Camden Clerk-Treasurer, as purchasing agent, may include provisions to permit price adjustments in a purchase contract. The following provision for price adjustment may be included:
 - (A) price adjustment must be computed by agreement on a fixed price adjustment before the beginning of the pertinent performance or as soon after the beginning of performance as possible;
 - (B) price adjustment must be computed by unit prices specified in the contract or subsequently agreed upon;

- (C) price adjustments must be computed by costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;
 - (D) price adjustments must be computed in such other manner as the contracting parties may mutually agree upon;
 - (E) in the absence of agreement by the parties, price adjustments must be computed by unilateral determination by the Town of Camden of the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as computed by the Town of Camden in accordance with applicable ordinances adopted by the Town of Camden.
2. **Adjustments in Time of Performance:** the purchasing agent may include provisions in a purchase contract concerning adjustments for time of performance under the contract.
 3. **Unilateral Rights of Town of Camden:** the purchasing agent may include in a purchase contract provision dealing with the unilateral right of the Town of Camden, the purchasing agent, or the President of the Camden Town Council, to order changes in the work within the scope of the contract or to order temporary work stoppage or delays in time of performance.
 4. **Quantity Variation:** the purchasing agent may include in a purchase contract provisions dealing with variations between the estimated quantities of work in a contract and the actual quantity delivered.

PURCHASE OF SERVICES:

The Town Council determines that each purchasing agent and department may purchase services except for the services of attorneys in whatever manner the purchaser determines to be reasonable.

SMALL BUSINESS SET-ASIDE PURCHASES:

The Town Council hereby determines to establish criteria for determination qualifications as a small business and to identify specific supplies for small business set-aside purchases.

1. **Qualifications:** a business qualifies as a small business if it qualifies as a small business under standards established by the Indiana Department of Commerce.

2. **Businesses That Are Not Small Businesses:**

- (A) a wholesale business, if its average annual sales for its most recently completed fiscal year exceeds \$4 million;
- (B) a construction business, if its average annual receipts for the preceding three fiscal years exceeds \$4 million;
- (C) a retail business or business selling services, if its annual sales and receipts exceed \$500,000.00; and
- (D) a manufacturing business, if it employs more than 100 persons

3. **Specific Supplies Eligible for Small Business Set-Aside:** the Camden Town Council will determine on a case by case basis if a purchase will be designated as a Small Business Set-Aside. Small Set-Aside purchases will follow I.C.-5-22-14.

PURCHASE OF SUPPLIES MANUFACTURED IN THE UNITED STATES:

1. Supplies manufactured in the United States shall be specified for all Town of Camden purchases and shall be purchased unless the Camden Town Council determines that:
- (A) the supplies are not manufactured in the United States in reasonably available quantities;
 - (B) the prices of the supplies manufactured in the United States exceeds by an unreasonable amount the price of available and comparable supplies manufactured elsewhere;
 - (C) the quality of the supplies manufactured in the United States is substantially less than the quality of comparably priced available supplies manufactured elsewhere; or
 - (D) the purchase of supplies manufactured in the United States is not in the public interest

LOCAL INDIANA BUSINESS PREFERENCE:

Indiana Local Business Preference applies to both purchasing and public works contracts. An “affected” county is Carroll County or an adjacent county. A business can claim this preference, if it meets one of the following criteria:

- 1. Principal place of business is located in “affected county”
- 2. Majority of employees are residents of “affected counties”

3. Majority of payroll amount goes to residents of ‘affected counties’
4. Makes a significant capital investment in “affected counties”. The Town of Camden hereby declines to define “significant capital investments”: under I.C. 5-22-15-20.9.
5. Has a positive, substantial economic impact in counties. The Town of Camden hereby declines to define any criteria for the determination for “substantial positive economic impact” under I.C. 5-22-15-20.9.

A business may only be able to claim one preference and must state such in the bid process.

This Ordinance is effective upon passage and signing by the presiding officers.

Adopted by the Town Council of the Town of Camden, Indiana, the 13th day of October, 2011.

CAMDEN TOWN COUNCIL:

Pete Wagoner, President

Richard Fite, Vice-President

Jeffrey “Andy” Kelly, Member

ATTEST:

Patricia Casserly, Clerk-Treasurer

