

3358:11-4-24 Construction purchasing policy.

- (A) Threshold for competitive bidding. A capital improvement project, whether local or state funded, with a project cost of two hundred thousand dollars and above must follow a formal competitive bidding process, including advertising, in accordance with section 9.312, section 3358.10 and Chapter 153. of the Revised Code.
- (1) Improvement projects with a total project cost equal to or greater than two hundred thousand dollars shall be advertised after the notice calling for bids has been published once a week for three consecutive weeks in at least one newspaper of general circulation within the Owens community college district where the work is to be done.
 - (2) The board of trustees shall approve the contract of the recommended lowest responsive and responsible bidder. Such contracts shall be accompanied by or shall refer to plans and specifications for the work to be done. Such contracts shall be signed by the board of trustees chairperson and by the contractor.
 - (3) The treasurer/chief financial officer shall certify there are sufficient funds for the project in accordance with section 3358.10 of the Revised Code.
 - (4) The college shall obtain a bid bond and performance and payment bond for all projects with a total project cost equal to or greater than two hundred thousand dollars.
 - (5) A project may not be divided into separate projects to avoid competitive bidding.
 - (6) Thresholds are based on total project cost, not contract cost, regardless of the source of funds.
- (B) Project below threshold. A capital improvement project with a total project cost less than two hundred thousand dollars is not required to follow the formal competitive bidding process. A project below the threshold shall be in accordance with the rule 3358:11-4-12 of the Administrative Code (purchasing policy).

The college will make a case-by-case decision as to when a bid bond and performance and payment bond will be required for construction projects that cost less than two hundred thousand dollars. In general, a bond will be required for all projects for which the total cost is equal to or greater than two hundred thousand dollars, and for all projects of any cost involving demolition, excavation, utility work, hazardous materials, specialized work, or roofing.

- (C) Prevailing wage projects. All prevailing wage projects shall be managed by the college's prevailing wage coordinator.
 - (1) For improvement projects with a total project cost equal to or greater than seventy-five thousand dollars (or other threshold as determined under Chapter 4115. of the Revised Code,) the project administrator must include prevailing wage rates in the bidding specifications and in the contract.
 - (2) For all parking lot, road, street, alley, sewer, or ditch related projects that exceed prevailing wage thresholds determined biennially by the Ohio department of commerce, the project administrator must include prevailing wage rates in the bidding specifications and in the contract consistent with Chapter 4115. of the Revised Code.
 - (3) If a project involves any federal funds, legal counsel should be consulted to determine whether federal prevailing wage rates apply.
- (D) Documentation and process for all construction projects. For all construction projects, regardless of size, the following are required:
 - (1) Debarment list. Review the state of Ohio debarment list to ensure that none of the contractors are barred from doing business with the state.
 - (2) Findings for recovery. Ensure that each contract includes a provision for findings for recovery.
 - (3) Secretary of state. Ensure with the Ohio secretary of state office that each contractor is properly registered to do business.

- (4) Drug-free safety program. Require proof that each contractor has a valid drug-free safety policy approved by the Ohio bureau of worker's compensation.
 - (5) Notice of commencement. Issue a notice of commencement for all projects of any size that involve construction or construction-related work. A copy of the notice shall be sent to all contractors and to all subcontractors of whom the college is aware. The notice shall be posted at the college's website or other publicly visible space.
 - (6) Contract form and time of completion. Use a contract form and include the estimated time for completion of the project.
 - (7) Non-discrimination clause. The contract shall contain the non-discrimination clause provided for in section 153.59 of the Revised Code.
 - (8) Release form. A signed payment release affidavit form from each contractor that affirms payment of prevailing wages and release of all potential lien claims is required before the college can release the final payment to the contractor.
 - (9) Certification of contract completion form. A certified contract completion form from each contractor is required before the college can release the final payment to the contractor.
- (E) Insurance requirements. For projects equal to or greater than two hundred thousand dollars, and for all projects of any size involving demolition, excavation, utility work, hazardous materials, specialized work, or roofing, insurance coverage will be required. Such insurance shall be written by a company or companies authorized to engage in the business of general liability insurance in the state of Ohio with an a.m. best rating of at least "a" or be otherwise approved in writing by the college. Any insurance policy required hereunder shall include an endorsement naming the college and the state of Ohio as additional insured. Coverage amounts are as follows:
- (1) Five hundred thousand dollars on account of bodily injury to or death of one person; and

- (2) One million dollars on account of bodily injuries or death of more than one person as a result of any one accident or disaster; and
 - (3) Two hundred fifty thousand dollars for property damage in any one accident or disaster.
- (F) Sole source specifications. The college shall follow the state's rules as published by the Ohio facility construction commission regarding the use of sole source specifications, which include but are not limited to the following requirements.
- (1) The performance requirements of a given product cannot be so narrow as to restrict competition. Any component of other manufacturer's or vendor's product which meets the performance requirements of the procurement documents may be considered equally acceptable provided the component is submitted to the architect/engineer as a substitution request prior to the bid opening with sufficient time for the architect/engineer to review, and approve, and to notify all bidders by issuing an addendum.
 - (2) Proprietary specifications may call for a particular brand and model to be used. Whenever any product is specified by brand name (such as the manufacturer's or supplier's name or trade name and catalog or model number or name), the intent is to establish a standard of quality which the architect/engineer has determined is necessary. In order to foster competition, the architect/engineer is required to develop specifications such that a minimum of three manufacturers are named. If less than three manufacturers are named, the architect/engineer must submit a waiver request. When the architect/engineer lists components produced by specific manufacturers to denote kind, quality, or performance requirements, the component listed first in the specifications is the basis of design component.
 - (3) Note that sole source specifications have the effect of eliminating competitive bidding and the instances in which its use is permitted have been limited. Under some circumstances, the specifications may call for patented materials, articles, or items which may not be offered by two or three manufacturers. An owner has the authorization to include a sole source specification only when it is

clearly in the public interest to do so, after carefully considering the serviceability and cost of the material or article for which the contract is made.

- (4) Instances that may support an exception are cases where a specified material must match an existing material in appearance or a system or component must match an existing system or components for functional reasons (such as for hardware keying systems). The specification of a limited number of manufacturers may in some cases be justified in order to achieve specific design intent provided that the value of the specified goods is insignificant in relation to the overall project. In all cases, the scope of work that is covered by a sole source specification should be as minimal as necessary to achieve the intended benefit (such as, lock cylinders instead of door hardware).
- (G) State term purchasing of construction services. Construction services may not be purchased from state term schedules, the inter-university council purchasing group, or other purchasing consortiums for projects with a total project cost greater than one hundred ninety-nine thousand dollars.
- (H) This rule supplements and supports the Owens community college rule 3358:11-1-12 of the Administrative Code (financial standards); rule 3358:11-4-12 of the Administrative Code (purchasing policy); rule 3358:11-4-28 of the Administrative Code (procurement for federal award procedures). College administration shall adhere to the contracting manual provided through the legal services office.
- (I) The treasurer/chief financial officer has the authority to promulgate procedures consistent with this rule.

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