

# Introduction To The Public Procurement Process

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In these uncertain and difficult economic times, public works and contract services provide the private sector with a tremendous opportunity to compete for profitable work. Understanding the public procurement process is critical to keep you or your business in the game and eligible for the work.

All levels of government, including Federal, state, and local agencies select vendors through a competition open to vendors which qualify for the particular award. The focus of this series of articles will provide an overview and explanation of the public procurement process in Florida, from the advertisement of the job, and through challenges or “protests” to the agencies’ decisions.

There are many ways public agencies advertise, gather information, and accept offers to secure necessary goods and services. These methods include Invitations for Bid, Requests for Proposals, Requests for Qualifications, Requests for Letters of Interest, Requests for Quotations, and Invitations to Negotiate.

The agencies use different criteria to evaluate the responses to these methods, which range from a focus on price to qualifications and experience without price being the determinative factor. In responding to such advertised solicitations, it is critical that the vendor pay close attention to the information which is required for submission, licensure or other minimum qualifications, and submittal deadlines.

Under what’s known as the “home rule,” Florida municipalities and counties have the power to perform municipal functions, and render municipal services, such as procuring services for the municipality, or county.

There are common bidding mistakes. Paying close attention to the solicitation requirements and avoiding these common mistakes can be the difference between a successful bid and having your bid thrown out of the process.

After the public agency receives the bids or proposals, it will generally evaluate them. Where price is the most important factor, a bid tabulation may be the basis for the award. For other solicitations, the evaluation and award decision may be far more complex and involve some subjective analysis. In other words, the opinions of evaluators will be important. In these situations, vendors may be able to monitor the status of the evaluation and award process by way of Florida’s Public Records and Sunshine laws. For example, vendors can request information from the agencies which pertain to the analysis process, including the bids or proposals from the other vendors.

Once an award or recommendation for award decision has been made, unsuccessful bidders may have the opportunity to challenge or “protest” the decision. Generally, a protest is an administrative challenge to the award decision, and is a condition precedent to the filing of a lawsuit. Public agencies generally have short, but specified, timeframes in which a protest can be filed.

While public agencies are afforded wide discretion in making award decisions, the discretion is not unlimited. For example, an agency cannot make an award that would be illegal, arbitrary or capricious. It should also be noted that some agencies may have administrative procedures to challenge the terms of the solicitation itself. These are called “specification challenges” and generally must be raised within a short period of time after the advertisement.