



State Procurement Manual

Department of Administration, State Bureau of Procurement

Number
PRO-602

Section	Effective	Replaces
ADMINISTRATIVE POLICY	9/16/19	PRO-C-4, C-28 Various
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NON-COLLUSION AND DISCLOSURE OF CONFLICTS OF INTEREST	1 of 4	

SCOPE: The purpose of this policy is to establish requirements related to prohibited collusion activity and the need to disclose conflicts of interest in state contracting.

POLICY: To ensure fair and transparent competitive procurements, the state requires attestations to be included with all bids and proposals that no collusion has occurred between bidders and that any conflicts of interest have been disclosed. To ensure compliance with these rules, the State Bureau of Procurement (Bureau), state agencies, and bidders/proposers have certain responsibilities as outlined herein.

Non-Collusion

Bidders and proposers must certify that they have not directly or indirectly participated in collusion or otherwise taken any action in restraint of free competition. To simplify the certification process, the Bureau has provided standard non-collusion declarations on required bidding forms and as such, by signing and submitting a bid or proposal, such declarations are made a part of the response and become automatic with the bidder/proposer's signature. Notarization is not required.

Disclosure of Conflicts of Interest

Bidders/proposers must disclose potential conflicts of interest as prescribed by section II herein. No disclosure is required if state or federal law prohibits the disclosure, or the relationship does not create a conflict of interest and loss of independence, or the disclosure is improper under standards of professional conduct adopted by, or administrative rules of, the state agency or agency of the judicial branch that is responsible for regulating or licensing the occupational group of which the bidder or proposer is a member.



Legal Authority

Wis. Stats. 16.705(5); 16.71; 16.72(1)(a), (b), (c); 16.72(4);
16.77(2); 19.45(6);
Wis. Adm. Code Chapter Adm 10.10

Authorized:

Sara Redford, Director
State Bureau of Procurement

Agencies Affected: All, unless otherwise noted



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All contracts will provide that if the bidder/proposer failed to disclose, the contract may be declared void by the Bureau and any amounts paid under the contract may be recovered per §16.77 (2), Wis. Stats. See PRO-106, Prior Approval of Purchases/Unauthorized Purchases.

Independence of Relationship

In addition to non-collusion and disclosure requirements, all contractual services procurements must also meet the requirements of independence of relationship, as provided in PRO-204, Contractual Services Procurement.

PROCEDURE:

- I. Agency Responsibilities
 - A. Agencies will use forms, required for use by the Bureau, for solicitation of bids and proposals. By using required forms, agencies ensure they are meeting their requirement to include non-collusion and disclosure provisions in their solicitations.
 - B. Non-collusion certification is contained in the Bidder Required Form, DOA-3832. Disclosure provisions are contained in the State Standard Terms and Conditions, form DOA-3054 and Supplemental Standard Terms and Conditions for Services, form DOA-3681.
 - C. The procuring agency reviews bidder/proposer statements and prepares a written determination whether the information disclosed interferes with fair competition and whether, despite the information disclosed, the awarding of the contract to the bidder or proposer will be in the best interest of the state.

II. Bidder/Proposer Responsibilities



Legal Authority

Wis. Stats. 16.705(5); 16.71; 16.72(1)(a), (b), (c); 16.72(4); 16.77(2); 19.45(6);
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- A. Any bidder or proposer, other than a political subdivision of the state, includes with the bid or proposal a written statement that discloses and provides relevant information on any of the following conditions should they exist:
 - 1. An officer or an employee of the contracting or procuring agency, or his or her immediate family owns or controls, directly or indirectly, at least 10 percent of the outstanding equity, voting rights, or outstanding indebtedness, or is otherwise associated with the bidder or proposer;
 - 2. The bidder or proposer currently employs, or has offered or agreed to employ, any person who is or has been an officer or employee of the contracting or procuring agency within the 12-month period preceding the bid or proposal;
 - 3. The bidder or proposer agree as part of the contract for services that during performance of the contract, the contractor will neither provide contractual services nor enter into any agreement to provide services to a person or organization that is regulated or funded by the contracting agency or has interests that are adverse to the contracting agency. The Department of Administration may waive this provision, in writing, if those activities of the contractor will not be adverse to the interests of the state.
- B. If none of the above conditions exist, the bidder/proposer includes, with its response, a written statement to that effect.

III. Bureau Responsibilities



Legal Authority

Wis. Stats. 16.705(5); 16.71; 16.72(1)(a), (b), (c); 16.72(4); 16.77(2); 19.45(6);
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- A. Upon request, the Bureau will review the determination by the contracting or procuring agency. If the Bureau does not concur in that determination, the contract cannot be approved.



Legal Authority

Wis. Stats. 16.705(5); 16.71; 16.72(1)(a), (b), (c); 16.72(4);
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