

# OHIO ASSOCIATION OF PUBLIC TREASURERS

FINANCE OFFICERS TRAINING INSTITUTE

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Sandusky, Ohio

1

## COMPETITIVE BIDDING AND DISPOSAL OF PUBLIC PROPERTY

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2

## R.C. CHAPTER 153

- R.C. 153.12
  - Construction, reconstruction, improvement, enlargement, alteration, repair, painting, or decoration of any public improvement
  - State, county, township, municipal corporation, school district, or other political subdivision authorized by law to and execute contracts
  - Open bids at time and place advertised
    - May be extended for one week upon notice of 72 hours excluding Saturdays, Sundays and legal holidays
  - Award and execute contract within 60 days or invalid
    - May extend by mutual agreement of owner and successful bidder
    -

3

## R.C. CHAPTER 153

- R.C. 153.12 (CONT.)
  - Estimate to be included in bid specifications
  - No bid awarded if in excess of 10% over estimate
  - Partial Payments and final compensation
    - Based on price stated in contract
    - Partial payments proposed by contractor and approved by owner
      - Up to 50% completion-pay 92%
      - Completion of 50% or more, pay 100%
    - R.C. 153.13 and 153.14 applicable to named subdivisions

4

## R.C. CHAPTER 153

- R.C. 153.13
  - Upon 50% completion, except contract for less than \$15,000, all funds placed in escrow account designated in R.C. 153.63
  - No further retention after 50% completion
  - Substantially completed, occupied, or in use or otherwise accepted
    - Release retainage to contractor withholding only amounts necessary to assure completion
    - Any additional amounts retained and interest paid to contractor within 30 days
  - R.C. 153.63 escrow account held under mutual agreement between contractor and owner in bank(s) or savings and loan company or companies subject to conditions set forth in statute

5

## R.C. CHAPTER 153 (CONT.)

- R.C. 153.31-Plans and estimates for county buildings and bridge supstructures
  - Erect or cause to be erected a public building or the substructure for a bridge, or an alteration or addition
  - Before entering into contract, secure registered architect or professional engineer to create:
    - Full and accurate plans
    - Accurate estimates of material
    - Full and complete specifications of the work
    - Full and complete estimate of each expense, and aggregate
    - Board may employ a construction manager or consultants

6

## R.C. CHAPTER 153 (CONT.)

- R.C. 153.311
  - Board of county commissioners may construct a public building in stages
    - May let contracts from time to time for various portions of work
    - Reasonable estimate of total cost of building may not exceed \$15 million

7

## R.C. CHAPTER 153 (CONT.)

- R.C. 153.36-County jail or court house
  - County building a jail or court house, or addition to or alteration, repair, or improvement thereof
    - Plans submitted to board of commissioners, clerk of the common pleas court, the sheriff, the probate judge, and one person appointed by the common pleas court judge
    - If approved by majority filed with county auditor

8

## R.C. CHAPTER 153 (CONT.)

- R.C. 153.38-Approval of plans for county bridge
  - Plans, drawings, representations, bills of material, specifications for work, and estimates for county bridge
    - Submitted to board of county commissioners, county engineer, and county auditor
    - If majority approve file with county auditor

9

## R.C. CHAPTER 153 (CONT.)

- R.C. 153.44-County contracts submitted to prosecuting attorney
  - Before work done or materials furnished, any county contract over \$1,000.00 shall be submitted to the prosecuting attorney
    - Certify compliance with R.C. 153.01 to 153.60 inclusive

10

## R.C. CHAPTER 153 (CONT.)

- R.C. 153.50
  - (A)(1) “Construction Manager at Risk” (R.C. 9.33[B][1])
    - Plan, coordinate, manage, direct, and construct all phases of a project in the construction, demolition, alteration, repair, or reconstruction of any public building, structure, or other improvement and who provides the public authority a guaranteed maximum price.
    - “Construction Manager” does not guarantee maximum price. (R.C. 9.33[A])
    - “Design build firm”-Integrated delivery system responsible for both design and construction, demolition, alteration, repair, or reconstruction of public improvement.

11

## R.C. CHAPTER 153 (CONT.)

- R.C. 153.54-Bid guaranty to be filed with bid
  - Bidder for contract with state or any political subdivision
    - Except construction manager at risk and design build
    - Bid guaranty required
      - Bond
      - Certified check, cashier’s check, or letter of credit equal to 10% of bid
      - Guaranteeing, if awarded, will enter into contract
        - See R.C. 9.31, Erroneous Bids
        - Forfeiture of difference to next lowest bidder or 10% of bid amount whichever is less, or costs and expenses, if rebid

12

## R.C. CHAPTER 153 (CONT.)

- R.C. 153.61-Agreement for Joint Construction
  - County or counties and municipal corporation or municipal corporations may enter into joint construction, alteration, or improvement agreements by resolution or ordinance
    - Method and designation of one party to have exclusive charge of details
    - Title and interests
    - Manner of management, occupation, maintenance, and repair, and designated responsibility
    - Apportionment of cost
  - Each party may issue securities

13

## R.C. CHAPTER 153 (CONT.)

- PROFESSIONAL DESIGN SERVICES
  - R.C. 153.65(A)(1)-County, township, municipal corporation, school district, or other political subdivision
  - R.C. 153.65(C)-"Professional design services": architect, landscape architect, professional engineer or surveyor.

14

## R.C. CHAPTER 153 (CONT.)

### • Professional Design Services (cont.)

#### • R.C. 153.67

- Publicly announce all contracts available for PDS
  - General description of project
  - Specific services required
  - Description of qualifications
  - Method of submitting statements of qualifications
  - Sent to
    - Design build firms known to owner
      - Public authority may require firm to maintain current statement of qualifications on file, R.C. 153.68
      - News media
    - Other relevant publications, including electronic

15

## R.C. CHAPTER 153 (CONT.)

### • Professional Design Services (cont.)

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      - News media
    - Other relevant publications, including electronic

16



## R.C. CHAPTER 153 (CONT.)

- Professional Design Services (cont.)
  - R.C. 153.69-Evaluate statements of qualifications, and may discuss with firms
    - R.C. 153.69(A)-Select and rank top three unless fewer found qualified
    - R.C. 153.69(B)-Negotiate with top ranked firm for fair price
    - R.C. 153.69(D)-If negotiations fail notify firm in writing and repeat with next
    - R.C. 153.69(E)-If unsuccessful with all ranked firms may select and rank additional firms

17

## R.C. CHAPTER 153 (CONT.)

- Professional Design Services-R.C. 153.71
  - R.C. 153.66 to 153.70 do not apply to either of the following:
    - Estimated fees of less than \$50,000.00 if a professional design firm is selected from the maintained list of the public authority and a price is negotiated under R.C. 153.69 R.C. 153.71(A)(1) and (2), or
    - Determined by public authority in writing to be an emergency as to which immediate action required. R.C. 153.71(B)

18

## R.C. CHAPTER 153 (CONT.)

- Reducing Bond, R.C. 153.80
  - Contracting authority, in its sole discretion, may reduce performance bond by 25% after 50% complete. R.C. 153.80(B)(1)
  - Contracting authority, in its sole discretion, may reduce performance bond by 50% after 75% complete. R.C. 153.80(B)(1)
  - If contracting authority determines satisfactory completion, no disputed claims remain unresolved, the successful bid was not more than 10% below the next lowest bidder or not more than 10% below the cost estimate. R.C. 153.80(B)(1)(a), (b), and (c).

19

## LONG-TERM CARE INSURANCE

- R.C. 124.841-Political subdivisions, including municipal corporations, townships, counties, and school districts may negotiate with and contract for long-term care insurance for elected officials and employees. Competitive bidding is not required.
  - Subject to R.C. 124.84(C) limitations
  - “Long term care insurance”-R.C. 3923.41

20

## ABBREVIATED PUBLICATION

- R.C. 7.16
  - If publication of notice or advertisement required two or more times in a newspaper of general circulation and the requirement section refers to R.C. 7.16:
    - First publication made in its entirety
    - Second publication may be made in abbreviated form in newspaper and on newspaper's internet web site
    - No further publication required if:
      - Posted by publisher without additional cost on official public notice web site (R.C. 125.182
      - Contains title and summary, statement that it is on web site in its entirety. May also be posted on political subdivision's web site
      - If official public notice web site is not operational, shall comply fully with advertisement requirements

21

## CONTRACTS FOR UTILITY SERVICES

- Counties, municipal corporations, townships, schools and other public bodies may acquire public utilities at established rates without bidding if unavailable from alternate sources. R.C. 9.30.

22

## POLITICAL SUBDIVISION CREDIT CARDS

- “Political subdivision”-Any body corporate and politic that is responsible for government activities in a geographic area smaller than the state. Does not include counties. R.C. 9.21(H)
- Adopt written policy for credit card accounts (R.C. 9.21[A])
  - Officers or positions authorized to use
  - Types of expenses
  - Procedures for acquisition, use, and management
  - Procedure for itemized receipt submission
  - Procedure for issuance, reissuance, cancellation, and reporting lost or stolen
  - Maximum credit limits
  - Actions or omissions constituting misuse

23

## SUBDIVISION CREDIT CARDS (CONT.)

- Name of subdivision shall appear on cards and instruments. R.C. 9.21(B)
- If fiscal officer does not retain possession of credit card, a compliance officer must be appointed who cannot be the fiscal officer or use the card. R.C. 9.21(C)
- At least quarterly review of accounts, R.C. 9.21(D)
- Annual report to legislative authority, R.C. 9.21(G)

24

## POLITICAL SUBDIVISION DEBIT CARDS

- R.C. 9.22
- Counties, townships, municipal corporations, or any other body politic that is responsible for governmental functions within an area smaller than the state.
- No political subdivision may hold or utilize a debit card except for “law enforcement purposes.”
- Does not apply to debit card accounts related to the receipt of grant moneys.

25

## PURCHASE OF SURPLUS COMMODITIES

- R.C. 9.25-Any political subdivision which determines that surplus commodities may be acquired from the Federal government at lower cost than pursuant to direct purchase and bidding, may make such purchases without the necessity of advertising and bidding regardless of cost.

26

## PROCEDURE FOR WITHDRAWAL OF BID

- R.C. 9.31-Contract with any subdivision, district, institution, or other agency of the state for construction, demolition, alteration, repair, or reconstruction of any public building, structure highway, or other improvement may withdraw if price substantially lower than other bids due to clerical error, unintentional and substantial arithmetic error.
- Notice within 2 days after bid opening
- If withdrawn no compensation as contractor or subcontractor without approval of public authority
- If contested, hearing within 10 days of bid opening and decision within 5 days

27

## LOWEST RESPONSIVE AND RESPONSIBLE BIDDER

- R.C. 9.312-Political subdivision may award contract to lowest responsive and responsible bidder if responds to bid specifications in all material respects without irregularity or deviation which affects amount of bid or gives competitive advantage.
- Political subdivision may request financial information in addition to bond submission (Not public record.)
- If apparent low bidder found not to be responsive and responsible notify in writing via certified mail, or internet plus regular mail
- If determined to award to other than apparent low bidder, may protest within 5 days of notice, and meeting held
- Municipal corporation, township, school district, board of commissioners or other political subdivision may adopt policy requiring award to lowest responsive and responsible.

28

## PURCHASE BY REVERSE AUCTION

- “Political subdivision”-R.C. 9.314(A)(2)-Municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities in an area smaller than the state.
- “Reverse auction”-R.C. 9.314(A)(3)-Purchasing process in which offerors submit proposals in competing to sell services or supplies
- Not permitted for design, construction, alteration, repair, reconstruction or demolition of building, highway, road, street, alley, drainage system, water system, waterworks, ditch, sewer, sewage disposal plant, or other structure or works. R.C. 9.314(B)(2)
- Requests for proposal under rules adopted. Award to most advantageous. Satisfies competitive bidding. R.C. 9.314(E), (G).

29

## COUNTY OR TOWNSHIP CONTRACTS FOR CONSULTANTS

- R.C. 9.36-The board of county commissioners of any county or the township trustees of any township may contract for the services of fiscal and management consultants. Exempt from any competitive bidding requirements of the ORC.
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30

## JOINT PURCHASING PROGRAMS, R.C. 9.48

- Any municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities in a geographic area smaller than the state.
- May do any of the following:
  - Permit any other subdivision to participate in any contract for acquisition equipment, materials, supplies, or charges, and may charge a reasonable fee
  - Participate in a joint purchasing program offered by national or state association of political subdivisions as to which it is eligible for membership
  - Participate in Federal contract offerings, including GSA without bidding
  - Exempt from further competitive bidding if bid originally by association or other subdivision
  - May purchase from another party if available lower price

31

## STATE PURCHASING PROGRAMS

- R.C. 125.04-DAS may permit political subdivisions to participate in contracts which DAS has entered into for the purchase of supplies and services.
- DAS may charge a reasonable fee
- Political subdivision shall file with DAS a resolution or ordinance requesting authorization to participate
- No competitivfe bidding required of local subdivision

32



## FIREFIGHTING AND EMS AGREEMENTS

- R.C. 9.60-Any governmental entity may contract with any firefighting agency, private fire company, or emergency medical service organization of this state or another jurisdiction to obtain fire protection or emergency medical services, on a regular basis or only in times of emergency.
- R.C. 9.60(F)-Organization providing services under this section to a governmental entity or another jurisdiction has the same defenses and immunities to a civil action under R.C. 2744.02, and the employees have the same defenses and immunities under R.C. 2744.03.

33

## PURCHASES OF MACHINERY, MATERIALS AND SUPPLIES

- R.C. 5513.01(B)-Director of Transportation may permit any political subdivision to participate in contracts into which the Director has entered for the purchase of machinery, materials, supplies, or other articles. Purchases are exempt from competitive bidding by the political subdivision.

34

## COUNTY COMPETITIVE BIDDING AND COMPETITIVE SEALED PROPOSALS

- R.C. 307.86-Anything to be purchased, leased, leased with option to purchase, or constructed at a cost in excess of \$50,000 shall be obtained through competitive bidding. Not required when:
  - Board of commissioners, by a unanimous vote (unanimous 3 or 2 when only two present), determines that a real and present emergency exists and reasons are recorded in the minutes if the estimated cost is less than \$100,000, there is actual physical disaster to structures, radio communications equipment, or computers, or the purchase is of personal protective equipment during effect of Executive Order 2020-01(D) issued March 9, 2020.
  - If emergency for \$50,000 or more, but less than \$100,000 three informal estimates. Keep record for at least one year. R.C. 307.86(A)(3)

35

## COUNTY COMPETITIVE BIDDING (CONT.)

### EXCEPTIONS (CONT.)

(B)(1) Supplies or replacement or supplemental parts for product or equipment owned by county and sole source

(B)(2) Propriety or sole source information technology

(C) Purchase from Federal government, another county, a board of education, an educational service center, township, or municipal corporation

(D) Purchase by county JFS for family services or workforce development, or by county board of DD for client services, child care, case management, residential services, or family resource services

(E) Criminal justice services, social services, family services, workforce development services from nonprofit for program funded by Federal government or state grant

36

## COUNTY COMPETITIVE BIDDING (CONT.)

- Exceptions (cont.)
  - (F) Insurance policy or contract authorized under Title XXXIX of the ORC or any form of health plan authorized to be issued under R.C. Chapter 1751
    - Determine bidding compliance would increase cost
    - Requests and secures proposals
    - Negotiate lowest possible cost
  - (G) Computer hardware, software, or consulting services necessary to implement a computerized case management project administered by OPAA and funded by Federal grant
  - (H) Child care services for county employees

37

## COUNTY BIDDING (CONT.)

- Exceptions (cont.)
  - (I)(1) Land, buildings, or other real property leased for offices, storage, parking, or other purposes and all of the following apply:
    - County authorized to lease the property
    - Requests for proposal specifying criteria, size, and preferred location
    - Notice similar to R.C. 307.87
    - Negotiates for best and lowest price
    - May utilize services of real estate appraiser

38

## COUNTY BIDDING (CONT.)

- Exceptions (cont.):
  - (J) Programs or services related to management, treatment, or prevention services provided to juvenile court
  - (K) Purchase by children services for family services or ancillary services programs
  - (L) Obtaining services of emergency medical services organization under contract with joint EMS district
  - (M) County determines that use of competitive sealed bids would be advantageous and complies with R.C. 307.862
  - (N) Purchase of used supplies at public auction

39

## COUNTY BIDDING (CONT.)

- Listed statutory exceptions-R.C. 307.86
  - R.C. 713.23(D)-Contract with regional planning commission
  - R.C. 9.48-Joint purchasing programs
  - R.C. 125.04-State purchasing contracts
  - R.C. 125.60-Procurement from community rehab programs
  - R.C. 307.022-Lease, easement, license, or sale of correctional facility
  - R.C. 307.041-Contracts to analyze reducing energy consumption in county buildings
  - R.C. 307.861-Renewals of leases for electronic data processing equipment services or systems or radio communication systems

40

## COUNTY BIDDING (CONT.)

- Listed statutory exceptions: R.C. 307.86
  - R.C. 339.05-Purchases for county hospitals
  - R.C. 340.036-ADAMH contracts
  - R.C. 5119.44-Mental health and addiction services contracts
  - R.C. 5543.19-Force Account usage
  - R.C. 5713.01-Assessment of real estate for tax purposes
  - R.C. 6137.05-Drainage improvement maintenance fund contracts.

41

## COUNTY BIDDING (CONT.)

- R.C. 307.862-Procedure for competitive sealed proposals
  - (1) Develop factors and criteria, specify relative importance, and describe evaluation procedures
  - (2) Solicit proposals through request for proposals
  - (3) Include all information described in subsection (B)
  - (4) Give notice in same manner as R.C. 307.87. May use uniform interactive system consistent with R.C. Chapter 1306
  - (5) Open so as not to disclose contents
  - (6) Rank using factors and criteria
  - (7) If necessary, conduct discussions
  - (8) and (9) Negotiate by rank and negotiate with only one proposer at a time

42

## COUNTY BIDDING (CONT.)

- R.C. 307.87-Notice
  - Published once a week for not less than two consecutive weeks in a newspaper of general circulation. May also insert notice in trade papers or other publications, or via electronic means, and post on web site.
  - May eliminate second publication if:
    - First notice published at least two weeks before bid opening
    - Contains statement that posted on web site
    - Includes internet address of contracting authority
    - Includes instructions as to how to access full notice
    - Notices must include information described in subsection (B)
    - Also post and maintain ojn bulletin board

43

## COUNTY BIDDING (CONT.)

- R.C. 307.88-Bid contents
  - May be accompanied by a bond or certified check, cashier's check, or money order in a reasonable amount designed in the notice not to exceed 5% of the total bid conditioned on the successful bidder's entering into a contract.
  - The board of county commissioners by unanimous vote of the entire board may exempt the bidders from all or or any of the requirements of R.C. 153.54 if the estimated cost is \$100,000 or less

44

## MUNICIPAL BIDDING

- R.C. 721.03-Real estate authorization, advertisement for bids
  - No contract except as provided in R.C. 721.28 (urban development) made for sale or lease of municipal real estate unless
    - Unless approved by 2/3 vote of legislative body and by board or officer having supervision or management of the property
    - Written contract
    - Highest bidder except transfer of hospital property to county (R.C. 721.27) or sale of unneeded real estate to county (R.C. 721.29)
    - Advertisement once each week for five consecutive weeks or as provided in R.C. 7.16

45

## VILLAGE BIDDING

- R.C. 731.14-Contracts by legislative authorities of villages
  - Executed in the name of the village
  - Signed by mayor and clerk
  - Except as otherwise exempted, if exceeds \$50,000, in writing and to lowest and best bidder
  - Advertise once a week not less than two consecutive weeks in a newspaper of general circulation
  - May also insert in trade papers, on internet, and on village web site
  - May eliminate second publication if published two weeks before opening, statement posted on web site, internet address, access instructions

46

## VILLAGE BIDDING (CONT.)

- R.C. 731.14-Contracts by legislative authority of village (cont.)
  - Open bids date, time, and place set out in notice
  - May extend opening date upon notice to all bidders at least 96 hours before original time and date fixed. Does not apply to villages which have appointed a village administrator under R.C. 735.271.
  - Exceptions to bidding requirement:
    - Contracts with regional planning commission, R.C. 713.23(D)
    - DAS Joint Purchasing, R.C. 125.04
    - Materials and supplies from ODOT cooperative purchasing, R.C. 5513.01
    - Products of persons with disabilities, R.C. 4115.31 to 4115.35
    - Contracts with community rehabilitation programs, R.C. 125.60 to 125.602

47

## VILLAGE BIDDING (CONT.)

- R.C. 731.141-Village administrator to make contracts and purchases.
  - Villages with village administrator (R.C. 735.271) :
    - Administrator enter into contracts under supervision for not more than \$50,000
    - Expenditures over \$50,000 except for compensation authorized by ordinance
    - Exceptions: R.C. 713.23(D), 125.04, 5513.01, 4115.31 to 4115.35, 125.60 to 125.6012
      - Administrator make contract
      - Lowest and best bidder
      - Publication not less than two nor more than four consecutive weeks or R.C. 7.16
      - Bids opened at date, time, and place noticed, but may be extended by 96 hour notice
      - Contracts executed by administrator and clerk in name of village

48



## VILLAGE BIDDING (CONT.)

- R.C. 731.15-Bids and proceedings
  - Full name of every person interested in bid
  - Construction, demolition, alteration, repair, or construction of an improvement-R.C. 153.54 applicable
  - Any contract not covered by R.C. 153.54
    - Sufficient bond or cashier's check or money order to ensure entry into contract
    - All bids may be rejected
    - Contract paid in cash
    - If bonus offered for completion prior to specified date, bonus may be prorated for each day beyond
    - Evidence of collusion or combination among bidders-Reject bids

49

## VILLAGE BIDDING (CONT.)

- R.C. 731.16-Alterations or modifications of village contracts
  - Made only by ordinance of village legislative body or administrator, if appointed, in writing
  - No payment to or recovery by contractor on change or alteration unless so approved

50

## CITY BIDDING

- R.C. 735.05-Contracts for material or labor
  - Director of Public Service may contract for not more than \$50,000
  - Expenditure of over \$50,000, other than compensation, authorized by ordinance
    - Written contract with lowest and best bidder after advertisement of not less than two nor more than four consecutive weeks
    - Or R.C. 7.16

51

## CITY BIDDING (CONT.)

- R.C. 735.051-Emergency conditions obviate formal bidding and advertising
  - Real and present emergency related to public service, including utilities
    - Two thirds vote of legislative body authorize entry into contract for work to be done or for the purchase of supplies and materials without formal bidding and advertising

52

## CITY BIDDING (CONT.)

- R.C. 735.052-Purchasing used equipment without bidding
  - Legislative authority of city or village authorize, by ordinance, without advertising or bidding, purchase of used equipment or supplies at an auction open to the public or by submission of sealed bids
    - Ordinance must:
      - Designate officer or entity making contract
      - Set forth maximum bid amount
      - Designate type of used equipment or supplies
      - Appropriate sufficient funds to cover bid cost

53

## CITY BIDDING (CONT.)

- R.C. 735.053-Purchasing from other political subdivision without bidding
  - Legislative authority of any city or village authorize, by ordinance, enter into a contract, without advertising or bidding for services, for purchase of material, equipment, or supplies from any department, division, agency, or political subdivision of the state, or with a regional planning commission (R.C. 713.23[D])
  - Ordinance must:
    - Designate officer or entity to enter into contract
    - Set forth the maximum purchase price
    - Describe type of services, material, equipment, or supplies
    - Appropriate sufficient funds to cover purchase price

54

## CITY BIDDING (CONT.)

- R.C. 735.06-Proceedings on opening of bids
  - Bids opened on date, and at time and place in notice. Date may be extended on notice of not less than 96 hours prior to original date
    - Each bid
      - Full name of each person interested in it
      - Accompanied by sufficient bond, or certified check, cashier's check or money order to assure entry into contract
      - Construction, demolition, alteration, repair, or reconstruction of public improvement must comply with R.C. 153.54
      - Contracts for labor and material state each separately with amount
      - Reject any bid on basis of collusion or cooperation.

55

## CITY BIDDING (CONT.)

- R.C. 735.07-Contract alterations or modifications
  - Contract between the city and successful bidder
  - City pay contract cost in cash
  - If bonus offered for completion by certain date city may prorate for each date thereafter
  - Alterations or modifications agreed upon in writing and ordered by city

56

## TOWNSHIP BIDDING

- R.C. 505.08-Emergency services of less than \$50,000
  - Resolution declaring a real and present danger adopted by unanimous vote
    - May then, by resolution, without advertising or bidding, enter into a contract for the provision of services, equipment, materials, or supplies to meet the emergency at an estimated contract price of less than \$50,000
  - During the (COVID) emergency declared by Executive Order 2020-01(D) issued on March 9, 2020, purchase personal protective equipment in any amount to meet emergency

57

## TOWNSHIP BIDDING (CONT.)

- R.C. 505.104-Exchange, transfer, or acquisition of real property
  - By resolution, without advertising or bidding, may exchange and transfer any real property of the township if all of the following apply
    - The current market value of the property acquired is equal to or greater than the real property given up, and the county auditor so certifies
    - The property received is improved to the township's specifications
    - The property acquired is to be used for a public purpose the same or similar to the use of the property given up.

58

## TOWNSHIP BIDDING (CONT.)

- R.C. 505.1010-Purchase of real or personal property at public auction
  - Resolution passed by trustees to acquire real or personal property at auction
    - Designate officer or employee to represent township and tender bids
    - Maximum purchase price set forth in resolution or or an appraisal obtained before the auction
    - Purchase complies with R.C. 5705.41(D)-Certificate

59

## TOWNSHIP BIDDING (CONT.)

- R.C. 505.11-Leases of real property, minerals
  - Township trustees may execute and deliver contracts or leases to mine iron ore, stone, coal, petroleum, gas, salt, or other minerals on township land
    - As deemed advantageous by the township trustees to the township
    - Conditions as prescribed by the board
    - Consideration payable at least once a year
    - Petroleum or gas-40 year limit
    - Iron ore, stone, coal, salt, or other minerals-15 year limit

60

## TOWNSHIP BIDDING (CONT.)

- R.C. 505.264-Contracts for energy conservation measures
  - “Energy conservation measures”-Installation or modification of an installation in or remodeling of an existing building to reduce energy consumption including specifically listed functions. R.C. 505.264(A)
    - Advertise once a week for two consecutive weeks or pursuant to R.C. 7.16
      - Requests for proposals mailed out at least ten days after the second publication
      - Notify township of interest no later than noon of the day of mailing
    - Township analyze all proposals received and select proposal most likely to result in the greatest energy savings considering the cost of the project and the township’s ability to pay
    - May enter into installment payment contract

61

## TOWNSHIP BIDDING (CONT.)

- R.C. 505.27-Solid waste contracts
  - Boards of township trustees, either severally or jointly, may provide, maintain, and operate facilities for the collection, transfer, recycling, and disposal of solid wastes, or may enter into written contracts with the proper municipal or county authorities, or with independent contractors for such services for the township or for a waste disposal district as provided in R.C. 505.28.
    - Independent contractor may be designated as the exclusive provider within the township or the waste disposal district
      - Contract must be entered into by competitive bidding
      - No other independent contractor or other person or entity shall provide services agreed to under the contract in the township or waste disposal district during the contract term.

62

## TOWNSHIP BIDDING (CONT.)

- R.C. 505.37-Fire protection powers and duties
  - When the estimated cost to purchase fire apparatus, mechanical resuscitators, underwater rescue and recovery equipment, or other fire equipment, appliances, materials, fire hydrants, buildings, or fire-alarm communications equipment or services exceeds \$50,000, the contract shall be let by competitive bid.
    - Advertise once a week for not less than two consecutive weeks
    - May insert in trade papers and other publications, electronic as well
    - May post on web site
    - May eliminate second publication under certain specifications in section, R.C. 505.37(A)(1) through (4)

63

## TOWNSHIP BIDDING (CONT.)

- R.C. 505.44-Contract for ambulance or EMS
  - Townships may contract for ambulance services of medical service organizations, or, if the township is located in a county with a population of 40,000 or less, to obtain non-emergency transport services
    - One or more state agencies, townships, municipal corporations, counties, nonprofit corporations, joint emergency medical services districts, or private ambulance owners located within or outside the state.
    - Terms agreed to by them

64



## TOWNSHIP BIDDING (CONT.)

- R.C. 505.82-Emergency powers to clear roads and stream banks
  - The board of township trustees by a unanimous vote, or, in the event of the unavoidable absence of one trustee, by an affirmative vote of two trustees may adopt a resolution declaring that an emergency exists that threatens life or property within the unincorporated areas of the township for a period of not more than 6 months
    - Removal from an undedicated road or stream bank with snow, ice, debris, or other obstructions
    - Board may contract for the immediate acquisition, replacement or repair of equipment needed for the emergency situation without following the bidding requirements of R.C. 5549.21

65

## TOWNSHIP BIDDING (CONT.)

- R.C. 5549.21-Purchase of machinery, materials, and supplies
  - Township may purchase or lease such machinery and tools necessary for construction, reconstruction, maintenance, and repair of township roads and culverts, and provide suitable places for housing and storing
    - Except as provided under R.C. 505.08 (emergency contracts), 505.101 (contracts with state or public agencies), and 5513.01 (participation in ODOT contracts), all purchases, of materials, machinery, and tools of over \$50,000 shall be made to the lowest responsible bidder after advertising as provided in R.C. 5575.01 (maintenance and repair of roads by contract or force account.)
    - If value of old machinery, equipment, or tools is does not exceed \$50,000 may trade-in
    - If value exceeds \$50,000 the board may give notice to bidders of its willingness to accept offers

66

## TOWNSHIP BIDDING (CONT.)

- R.C. 515.01-Lighting unincorporated districts
  - If the board of trustees determines to procure lighting by contract and the total estimated cost of the contract exceeds \$50,000, the board shall prepare plans and specifications for lighting equipment, and shall
    - Advertise for two weeks either by posting the advertisement in three conspicuous places in the township, or by publication once a week for two consecutive weeks
    - Contract to lowest and best bidder
    - See also R.C. 515.07, 515.08

67

## FORCE ACCOUNTS

- R.C. 5543.19-Employment of labor and materials by force account (county).
- County engineer, when authorized by county commissioners, may use county employees and property, lease implements and tools, and purchase materials for construction, reconstruction, improvement, maintenance, or repair of roads by force account.
  - Utilize force account estimate of cost created by auditor of state (R.C. 117.16)
  - Estimated cost over \$30,000 per mile, competitive bids

68

## FORCE ACCOUNTS (CONT.)

- R.C. 5543.19-County force accounts (cont.)
  - County engineer, with approval of commissioners, may use county employees and property, lease implements and tools, and purchase materials necessary for construction, reconstruction, improvement, maintenance, or repair of bridges and culverts by force account.
    - Estimate on force account project assessment form
    - If total estimated cost exceeds \$100,000.00, competitive bidding
      - First day of June of every odd-numbered year starting wth 2021, the threshold amounts increased by amount not to exceed 3% or the percentage amount of increase in the ODOT construction cost index for prior two calendar years

69

## FORCE ACCOUNTS (CONT.)

- R.C. 5575.01-Maintenance and repair of township roads by contract or force account
  - If force account contemplated estimate from county engineer on force account assessment form
  - If estimate exceeds \$45,000.00, let to lowest responsible bidder after advertisement for bids once, not later than two weeks prior to bid opening
  - If \$45,000.00 or less force account

70

## FORCE ACCOUNTS (CONT.)

- R.C. 5575.01-Township force accounts (cont.)
  - Construction or reconstruction of a township road
    - County engineer estimate for any project of \$15,000.00 or more -Labor, material, freight, fuel, hauling, use of machinery and equipment, and all other items of cost
    - If board finds in best interests of township may proceed by force account
    - If estimated cost exceeds \$15,000.00 per mile competitive bidding
    - When bids received, considered, and rejected may proceed by force account
    - Increase of threshold of not more than 3% per year in odd years beginning with 2021

71

## FORCE ACCOUNTS (CONT.)

- R.C. 723.52-Municipal force accounts
  - Before letting contract for construction, reconstruction, widening, resurfacing, or repair of street or other public way estimate on R.C. 117.16 form
  - If estimate exceeds \$30,000 competitive bidding
    - Consider and may reject all bids and proceed by force account
    - Limit subject to biennial increases

72

## FORCE ACCOUNTS (CONT.)

- R.C. 117.16-Force account projects, audit, force account limits
  - Auditor of State's force account project assessment form include costs of employee salaries and benefits, any other labor costs, materials, freight, fuel, hauling, overhead expense, workers' compensation premiums, and all other costs and expenses, including reasonable allowance for tools and equipment.
  - Auditor of State when conducting regular audits will sample force account records, and may audit on basis of complaint
  - If violation:
    - County limits for one year reduced to \$10,000 per mile for construction or reconstruction of a road and \$40,000 for bridge or culvert
    - Township reduced to \$15,000 per mile for road maintenance and repair and \$5,000 per mile for road construction and reconstruction
    - Municipal \$10,000 for street work

73

## FORCE ACCOUNTS (CONT.)

- R.C. 117.16
  - Second violation-Two year reduction
  - Third or subsequent violation-Notify tax commissioner to withhold from subdivision 25% of force account expenditure from any amounts due the subdivision
    - If funds due insufficient to make withholding certify deficiency to county auditor who will withhold
    - Joint projects-Impose reductions as to all participants

74

## SCHOOL BIDDING (CONT.)

- R.C. 3313.46-Procedure for bidding and letting contracts
  - In addition to any other applicable requirements, when board of education determines to build, repair, enlarge, improve, or demolish any school building, the cost of which will exceed \$50,000, except in case of urgent necessity, or for the security and protection of school property, the school board shall:
    - Cause to be prepared plans and specifications
    - Advertise once each week for two consecutive weeks or as provided in R.C. 7.16. May post on web site. Process to eliminate second advertisement set forth.
    - Bids opened at time and place noticed unless extended by board
    - Each bid meet R.C. 153.54 standards
    - Lowest responsible bid accepted
    - Contract between bidder and board

75

## SCHOOL BIDDING (CONT.)

- R.C. 3313.46(B)(1) through (4)-No competitive bidding required;
  - Acquisition of educational material used in teaching
  - Two-thirds vote of all members approves contract for energy conservation (R.C. 3313.372 or R.C. 133.06[G][1])
  - Acquisition of computer software for instructional purposes and computer hardware for instructional purposes pursuant to R.C. 3313.37(B)(4)
  - Two-thirds vote of all members declares single source

76

## SCHOOL BIDDING (CONT.)

- R.C. 3327.08-School bus purchases, competitive bidding
  - May purchase on individual contract school buses and other equipment used to transport children to and from school and for to other functions
    - Competitive bidding pursuant to R.C. 3313.46
    - No bid bond required unless board so directs
  - May also use any system of centralized purchasing established by the state department of education

77

## SCHOOL PROPERTY

- R.C. 3313.41-Sale or donation of real or personal property
  - Generally real or personal property valued over \$10,000 sold at public auction after giving at least 30 notice by publication or by publication as provided in R.C. 7.16, or by posting notices in 5 of the most public places in the district in which the real property is located, or, if personal property, in district of owner
    - Real estate may be offered as an entire parcel or in tracts
    - If property offered once and does not sell may sell by private sale
  - May transfer property, regardless of value, to public entities listed in subsection (C)
  - May trade in personal property against purchase price of replacement
  - Property may be donated to 501(a) or 501(c)(3) entity if fair market value is \$2,500 or less

78

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