
HOUSE BILL No. 1589

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-3-5; IC 5-16-11.1-4; IC 5-22; IC 5-23-5-3; IC 5-30-5-1; IC 8-17-1-10; IC 36-1-12.

Synopsis: Public works, procurements electronic notice. Allows a political subdivision to provide electronic notice regarding public works projects and procurements by publishing the notice on an official Internet web site instead of in a newspaper. Provides that if a political subdivision does not have an official web site, notices may be published on an official web site of the county government, if: (1) the county government has an official web site that complies with the statutory requirements; and (2) the county agrees to publish the notices electronically. Establishes requirements for the duration of the posting of a legal notice and proof of posting. Establishes requirements regarding availability and accessibility of the official web site. Requires a political subdivision or agency of a political subdivision to publish an advertisement in a newspaper once a week that states the Internet address of the official web site where the notice appears and contains information regarding Internet accessibility.

Effective: July 1, 2013.

Ober, Karickhoff, Friend

January 23, 2013, read first time and referred to Committee on Government and Regulatory Reform.

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First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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HOUSE BILL No. 1589



A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-3-5 IS ADDED TO THE INDIANA CODE AS
- 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2013]:
- 4 **Chapter 5. Electronic Notice by Political Subdivisions**
- 5 **Sec. 1. This chapter applies only to a political subdivision, as**
- 6 **defined in IC 3-5-2-38. The term includes any administration,**
- 7 **agency, authority, board, bureau, commission, committee, council,**
- 8 **department, division, institution, office, officer, service, or other**
- 9 **similar body of a political subdivision created or established under**
- 10 **law.**
- 11 **Sec. 2. This chapter applies to a notice that is required or**
- 12 **allowed to be provided in accordance with this chapter.**
- 13 **Sec. 3. As used in this chapter, "official web site" means the**
- 14 **Internet location designated by a political subdivision as its**
- 15 **primary source of information about the political subdivision on**
- 16 **the Internet.**
- 17 **Sec. 4. If a statute expressly allows a political subdivision to**



1 provide notice under this chapter as an alternative to providing
2 notice under IC 5-3-1, the political subdivision shall provide
3 electronic notice in compliance with the following:

4 (1) IC 5-3-1-2, regarding the required dates and frequency of
5 publication of notice for the particular event for which notice
6 is provided, unless the statute authorizing the political
7 subdivision to provide electronic notice establishes different
8 requirements, in which case those requirements prevail.

9 (2) This chapter.

10 Sec. 5. An official web site must prominently display a link to
11 the notices provided under section 4 of this chapter.

12 Sec. 6. A political subdivision may provide electronic notice
13 under this chapter only if:

14 (1) dial-up access to the Internet is available without
15 telephone toll charges generally throughout the jurisdiction of
16 the political subdivision;

17 (2) regular public Internet access is available without charge
18 within the jurisdiction of the political subdivision through the
19 public library or at some other location; and

20 (3) the political subdivision publishes a legal advertisement
21 once a week in at least one (1) newspaper of general
22 circulation within the political subdivision announcing that
23 legal notices are posted on a notice web site.

24 Sec. 7. (a) The legal advertisement described in section 6(3) of
25 this chapter must be published in the following form:

26 "Internet Posting of Public Notices: (name of political
27 subdivision)

28 The (name of political subdivision) announces that public
29 notices on the following matters (insert list of synopses of
30 notices posted) are posted on the (name of political
31 subdivision or, if IC 5-3-5-8 applies, name of county) legal
32 notice web site: http://www._____ (substitute
33 Internet address protocol in common usage if different).

34 Free public access to the Internet is available within the
35 (insert name of the political subdivision) at (list all known
36 locations). If you are unable to access the Internet, individual
37 copies of notices can be obtained by calling (insert
38 appropriate phone number of political subdivision or
39 agency).".

40 (b) The legal advertisement described in section 6(3) of this
41 chapter must also be published on a newspaper Internet web site
42 if IC 5-3-1-1.5 is applicable.

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1 **Sec. 8. (a) If a political subdivision does not have an official web**
 2 **site, notices of the political subdivision may be published on an**
 3 **official web site of the county government in which the political**
 4 **subdivision is located, if the county government:**

5 **(1) has an official web site that meets the requirements of this**
 6 **chapter; and**

7 **(2) agrees to publish the notices on the county government**
 8 **official web site.**

9 **(b) This subsection applies to a political subdivision that is**
 10 **located in more than one (1) county. A political subdivision that**
 11 **elects to electronically publish notice on an official county web site**
 12 **shall do one (1) of the following:**

13 **(1) If all counties in which the political subdivision is located**
 14 **have official web sites that meet the requirements of this**
 15 **chapter, the political subdivision may electronically publish**
 16 **notice on all the official county web sites.**

17 **(2) If at least one (1) county in which the political subdivision**
 18 **is located has an official web site that meets the requirements**
 19 **of this chapter and any other county in which the political**
 20 **subdivision is located does not have an official web site that**
 21 **meets the requirements of this chapter, the political**
 22 **subdivision may:**

23 **(A) electronically publish notice on one (1) official county**
 24 **web site in a county in which the political subdivision is**
 25 **located that meets the requirements of this chapter; and**

26 **(B) publish in a newspaper the legal advertisement**
 27 **described in section 7 of this chapter.**

28 **(c) This chapter does not require a county to establish or alter**
 29 **an official web site.**

30 **Sec. 9. Notices must remain available on an official web site**
 31 **until at least the later of the following:**

32 **(1) The last posting date required by law has expired.**

33 **(2) The event described in the notice has taken place.**

34 **Sec. 10. (a) The political subdivision shall:**

35 **(1) create; and**

36 **(2) keep on file;**

37 **proof of publication of the notice verified by the representative**
 38 **designated under section 11 of this chapter.**

39 **(b) The proof of publication must state that the notice was**
 40 **posted on the official web site from the initial date through the**
 41 **later of the following:**

42 **(1) The last posting date required by law.**

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1 (2) The date when the event described in a notice takes place.

2 **Sec. 11. The political subdivision shall designate a representative**
 3 **of the political subdivision who is responsible for the publication of**
 4 **electronic notices on the official web site. The representative's**
 5 **name and contact information shall be posted on the official web**
 6 **site.**

7 **Sec. 12. Proof of publication of an electronically published**
 8 **notice for the purpose of complying with public notice**
 9 **requirements is satisfied and considered conclusive upon the**
 10 **provision of the proof of publication described in section 10 of this**
 11 **chapter that:**

12 (1) is executed by the representative designated as responsible
 13 for the electronic publication under section 11 of this chapter;
 14 and

15 (2) states that the notice was posted from the initial date until
 16 the last posting date required by law.

17 **Sec. 13. IC 5-3-1-2.3 and any other provision regarding an error**
 18 **or omission in a notice published in a newspaper also apply to the**
 19 **provision of an electronic notice under this chapter.**

20 SECTION 2. IC 5-16-11.1-4 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) When
 22 professional services are required for a project, a public agency may:

23 (1) publish notice in accordance with IC 5-3-1;

24 **(2) publish electronic notice under IC 5-3-5;**

25 ~~(2)~~ **(3) provide for notice (other than notice in accordance with**
 26 **IC 5-3-1 or IC 5-3-5) as it determines is reasonably calculated to**
 27 **inform those performing professional services of a proposed**
 28 **project;**

29 ~~(3)~~ **(4) provide for notice in accordance with both any**
 30 **combination of subdivisions (1) and (2); through (3); or**

31 ~~(4)~~ **(5) determine not to provide any notice.**

32 (b) If the public agency provides for notice under subsection (a)(1),
 33 (a)(2), ~~or~~ (a)(3), **or (a)(4)**, each notice must include:

34 (1) the location of the project;

35 (2) a general description of the project;

36 (3) the general criteria to be used in selecting professional
 37 services firms for the project;

38 (4) the place where any additional project description or
 39 specifications are on file;

40 (5) the hours of business of the public agency; and

41 (6) the last date for accepting statements of qualifications from
 42 interested parties.

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1 SECTION 3. IC 5-22-5-5 IS AMENDED TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) The procedure described in
 3 this section may be used by a purchasing agent when both of the
 4 following are satisfied:

5 (1) The purchasing agent makes a written determination that the
 6 development of specifications by the governmental body is not
 7 feasible.

8 (2) The executive of the governmental body approves of the use
 9 of this section.

10 (b) The purchasing agent may issue a request for specifications that
 11 must include the following:

12 (1) The factors or criteria that will be used in evaluating the
 13 specifications.

14 (2) A statement concerning the relative importance of evaluation
 15 factors.

16 (3) A statement concerning whether discussions may be
 17 conducted with persons proposing specifications to clarify the
 18 specification requirements.

19 (c) The purchasing agent **of a state agency** shall give notice of the
 20 request for specifications under IC 5-3-1. **The purchasing agent of a**
 21 **political subdivision shall give notice of the request for**
 22 **specifications by publication under IC 5-3-1 or by electronic notice**
 23 **under IC 5-3-5.**

24 (d) As provided in the request for specifications, the purchasing
 25 agent may discuss proposed specifications with persons proposing
 26 specifications to clarify specification requirements.

27 (e) Persons proposing specifications must be accorded fair and
 28 equal treatment with respect to any opportunity for discussion and
 29 revisions of proposed specifications.

30 SECTION 4. IC 5-22-7-5, AS AMENDED BY P.L.177-2005,
 31 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2013]: Sec. 5. (a) The purchasing agency **for a state agency**
 33 shall give notice of the invitation for bids in the manner required by
 34 IC 5-3-1

35 (b) ~~The purchasing agency for a state agency~~ **and** shall also provide
 36 electronic access to the notice through the computer gateway
 37 administered by the office of technology.

38 (c) ~~(b)~~ The purchasing agency for a political subdivision may **give**
 39 **notice of the invitation for bids by:**

40 (1) **publication under IC 5-3-1; or**

41 (2) ~~also provide~~ **providing** electronic access to the notice **under**
 42 **IC 5-3-5** through:

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1 (1) **(A)** the computer gateway administered by the office of
2 technology; or

3 (2) **(B)** any other electronic means available to the political
4 subdivision **that meets the requirements of IC 5-3-5.**

5 SECTION 5. IC 5-22-9-3, AS AMENDED BY P.L.177-2005,
6 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2013]: Sec. 3. (a) The purchasing agency **for a state agency**
8 shall give public notice of the request for proposals in the manner
9 required by IC 5-3-1 **and**

10 (b) ~~The purchasing agency for a state agency~~ shall also **provide**
11 electronic access to the notice through the computer gateway
12 administered by the office of technology.

13 (c) ~~(b)~~ The purchasing agency for a political subdivision may **give**
14 **notice of the request for proposals by:**

15 (1) **publication under IC 5-3-1; or**

16 (2) ~~also provide~~ **providing** electronic access to the notice **under**
17 **IC 5-3-5** through:

18 (A) the electronic gateway administered by the office of
19 technology; or

20 (B) **any other electronic means available to the political**
21 **subdivision that meets the requirements of IC 5-3-5.**

22 SECTION 6. IC 5-22-10-16 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 16. (a) A purchasing
24 agent may acquire supplies if the purchasing agent determines that the
25 governmental body can obtain the transfer of the supplies from the
26 federal government under IC 4-13-1.7 at a cost less than would be
27 obtained from purchase of the supplies by soliciting for bids or
28 proposals.

29 (b) A governmental body may not make a purchase under this
30 section if title to the property will be transferred to the governmental
31 body before a sufficient appropriation to pay the costs of the purchase
32 is appropriated. However, if the supplies will be transferred to the
33 governmental body upon conditional sale or under a lease, a lease with
34 option to purchase, or a contract for the use of the supplies, the
35 governmental body may make the purchase under this section if there
36 are sufficient funds appropriated to pay the consideration required for
37 one (1) year of the agreement.

38 (c) A purchasing agent **for a state agency** who purchases or leases
39 surplus federal materials shall, at the time of the purchase or lease, or
40 immediately thereafter, give public notice in accordance with IC 5-3-1.

41 (d) **A purchasing agent for a political subdivision who purchases**
42 **or leases surplus federal materials shall, at the time of the purchase**

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or lease, or immediately thereafter, provide:

- (1) notice by publication in accordance with IC 5-3-1; or**
- (2) electronic notice under IC 5-3-5.**

SECTION 7. IC 5-22-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) Whenever public notice is required by this article, notice shall be given **as follows:**

- (1) In the case of a purchasing agent of a state agency, by publication in the manner prescribed by IC 5-3-1.**
- (2) In the case of a purchasing agency of a political subdivision by:**
 - (A) publication in the manner prescribed by IC 5-3-1; or**
 - (B) providing electronic notice under IC 5-3-5.**

(b) The purchasing agent may give notice other than as required in IC 5-3-1 that the purchasing agent considers will increase competition.

(c) The purchasing agent shall schedule all notices given under this section to provide a reasonable amount of time for preparation and submission of responses after notification. The period between:

- (1) the last publication, mailing, or posting of notices required by this section; and
- (2) the final date set for submitting offers;

must be at least seven (7) calendar days.

SECTION 8. IC 5-23-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. **(a) This subsection applies only to the state.** Notice of the request for proposals shall be given by publication in accordance with IC 5-3-1.

(b) This subsection applies only to a political subdivision. Notice of the request for proposals shall be given by:

- (1) publication in accordance with IC 5-3-1; or**
- (2) electronic notice in accordance with IC 5-3-5.**

SECTION 9. IC 5-30-5-1, AS AMENDED BY P.L.166-2011, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) Except as provided in subsection (c), when design-build contracting is used for a public project, a public agency shall ~~publish a~~ **provide** notice of a request for qualifications **as follows:**

- (1) A state agency shall provide notice by publication under IC 5-3-1.**
- (2) An agency of a political subdivision shall provide notice by:**
 - (A) publication in accordance with IC 5-3-1; or**
 - (B) electronic notice in accordance with IC 5-3-5.**

The notice must allow at least fourteen (14) days for potential

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1 design-builders to respond to the request for qualifications.
 2 (b) Subsection (c) applies to a public project for which a public
 3 agency uses design-build contracting if:
 4 (1) the public agency is a state educational institution; or
 5 (2) the public agency is not a state educational institution and the
 6 preliminary estimated cost of the public project does not exceed
 7 five million dollars (\$5,000,000).
 8 (c) A public agency that undertakes a public project to which this
 9 subsection applies may publish a notice of a combined request for
 10 qualifications and proposals ~~under IC 5-3-4~~ **in the manner provided**
 11 **by subsection (a)(1) in the case of a state agency, and in the manner**
 12 **provided by subsection (a)(2) in the case of an agency of a political**
 13 **subdivision** that includes:
 14 (1) the information otherwise required by this chapter; and
 15 (2) a request for proposals as otherwise provided under IC 5-30-6.
 16 The notice must allow at least thirty (30) days for potential
 17 design-builders to respond to the combined request for qualifications
 18 and proposals.
 19 SECTION 10. IC 8-17-1-10 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. When any highway
 21 or part of a highway is constructed, reconstructed, or improved, the
 22 county executive shall order the auditor to give notice:
 23 (1) **by publication**, in accordance with IC 5-3-1; **or**
 24 (2) **by electronic notice in accordance with IC 5-3-5;**
 25 that, on a day to be named by the executive in an order, sealed
 26 proposals will be received by the executive for the improvement in
 27 accordance with IC 36-1-12. However, if the proposed improvement
 28 includes any bridge having a total span of more than twenty (20) feet,
 29 the executive shall receive separate bids for the bridge, and shall enter
 30 into a separate contract to build the bridge.
 31 SECTION 11. IC 36-1-12-3, AS AMENDED BY P.L.172-2011,
 32 SECTION 138, IS AMENDED TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) The board may purchase or
 34 lease materials in the manner provided in IC 5-22 and perform any
 35 public work, by means of its own workforce, without awarding a
 36 contract whenever the cost of that public work project is estimated to
 37 be less than one hundred fifty thousand dollars (\$150,000). Before a
 38 board may perform any work under this section by means of its own
 39 workforce, the political subdivision or agency must have a group of
 40 employees on its staff who are capable of performing the construction,
 41 maintenance, and repair applicable to that work. For purposes of this
 42 subsection, the cost of a public work project includes:

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- 1 (1) the actual cost of materials, labor, equipment, and rental;
 2 (2) a reasonable rate for use of trucks and heavy equipment
 3 owned; and
 4 (3) all other expenses incidental to the performance of the project.

5 (b) This subsection applies only to a municipality or a county. The
 6 workforce of a municipality or county may perform a public work
 7 described in subsection (a) only if:

- 8 (1) the workforce, through demonstrated skills, training, or
 9 expertise, is capable of performing the public work; and
 10 (2) for a public work project under subsection (a) whose cost is
 11 estimated to be more than one hundred thousand dollars
 12 (\$100,000), the board:

13 (A) publishes a notice under IC 5-3-1 **or provides electronic**
 14 **notice under IC 5-3-5** that:

- 15 (i) describes the public work that the board intends to
 16 perform with its own workforce; and
 17 (ii) sets forth the projected cost of each component of the
 18 public work as described in subsection (a); and

19 (B) determines at a public meeting that it is in the public
 20 interest to perform the public work with the board's own
 21 workforce.

22 A public work project performed by a board's own workforce must be
 23 inspected and accepted as complete in the same manner as a public
 24 work project performed under a contract awarded after receiving bids.

25 (c) When the project involves the rental of equipment with an
 26 operator furnished by the owner, or the installation or application of
 27 materials by the supplier of the materials, the project is considered to
 28 be a public work project and subject to this chapter. However, an
 29 annual contract may be awarded for equipment rental and materials to
 30 be installed or applied during a calendar or fiscal year if the proposed
 31 project or projects are described in the bid specifications.

32 (d) A board of aviation commissioners or an airport authority board
 33 may purchase or lease materials in the manner provided in IC 5-22 and
 34 perform any public work by means of its own workforce and owned or
 35 leased equipment, in the construction, maintenance, and repair of any
 36 airport roadway, runway, taxiway, or aircraft parking apron whenever
 37 the cost of that public work project is estimated to be less than one
 38 hundred thousand dollars (\$100,000).

39 (e) Municipal and county hospitals must comply with this chapter
 40 for all contracts for public work that are financed in whole or in part
 41 with cumulative building fund revenue, as provided in section 1(c) of
 42 this chapter. However, if the cost of the public work is estimated to be

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1 less than fifty thousand dollars (\$50,000), as reflected in the board
2 minutes, the hospital board may have the public work done without
3 receiving bids, by purchasing the materials and performing the work by
4 means of its own workforce and owned or leased equipment.

5 (f) If a public works project involves a structure, an improvement,
6 or a facility under the control of a department (as defined in
7 IC 4-3-19-2(2)), the department may not artificially divide the project
8 to bring any part of the project under this section.

9 SECTION 12. IC 36-1-12-4, AS AMENDED BY P.L.67-2012,
10 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2013]: Sec. 4. (a) This section applies whenever the cost of a
12 public work project will be:

13 (1) except as provided in subdivision (2), at least one hundred
14 fifty thousand dollars (\$150,000); or

15 (2) in the case of a board of aviation commissioners or an airport
16 authority board, at least one hundred thousand dollars (\$100,000).

17 (b) The board must comply with the following procedure:

18 (1) The board shall prepare general plans and specifications
19 describing the kind of public work required, but shall avoid
20 specifications which might unduly limit competition. If the
21 project involves the resurfacing (as defined by IC 8-14-2-1) of a
22 road, street, or bridge, the specifications must show how the
23 weight or volume of the materials will be accurately measured
24 and verified.

25 (2) The board shall file the plans and specifications in a place
26 reasonably accessible to the public, which shall be specified in the
27 notice required by subdivision (3).

28 (3) Upon the filing of the plans and specifications, the board shall
29 publish notice in accordance with IC 5-3-1 **or provide electronic**
30 **notice under IC 5-3-5** calling for sealed proposals for the public
31 work needed.

32 (4) The notice must specify the place where the plans and
33 specifications are on file and the date fixed for receiving bids.

34 (5) The period of time between the date of the first publication
35 and the date of receiving bids shall be governed by the size of the
36 contemplated project in the discretion of the board. The period of
37 time between the date of the first publication and receiving bids
38 may not be more than:

39 (A) six (6) weeks if the estimated cost of the public works
40 project is less than twenty-five million dollars (\$25,000,000);
41 and

42 (B) ten (10) weeks if the estimated cost of the public works

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- 1 project is at least twenty-five million dollars (\$25,000,000).
- 2 (6) The board shall require the bidder to submit a financial
- 3 statement, a statement of experience, a proposed plan or plans for
- 4 performing the public work, and the equipment that the bidder has
- 5 available for the performance of the public work. The statement
- 6 shall be submitted on forms prescribed by the state board of
- 7 accounts.
- 8 (7) The board may not require a bidder to submit a bid before the
- 9 meeting at which bids are to be received. The meeting for
- 10 receiving bids must be open to the public. All bids received shall
- 11 be opened publicly and read aloud at the time and place
- 12 designated and not before. Notwithstanding any other law, bids
- 13 may be opened after the time designated if both of the following
- 14 apply:
- 15 (A) The board makes a written determination that it is in the
- 16 best interest of the board to delay the opening.
- 17 (B) The day, time, and place of the rescheduled opening are
- 18 announced at the day, time, and place of the originally
- 19 scheduled opening.
- 20 (8) Except as provided in subsection (c), the board shall:
- 21 (A) award the contract for public work or improvements to the
- 22 lowest responsible and responsive bidder; or
- 23 (B) reject all bids submitted.
- 24 (9) If the board awards the contract to a bidder other than the
- 25 lowest bidder, the board must state in the minutes or memoranda,
- 26 at the time the award is made, the factors used to determine which
- 27 bidder is the lowest responsible and responsive bidder and to
- 28 justify the award. The board shall keep a copy of the minutes or
- 29 memoranda available for public inspection.
- 30 (10) In determining whether a bidder is responsive, the board may
- 31 consider the following factors:
- 32 (A) Whether the bidder has submitted a bid or quote that
- 33 conforms in all material respects to the specifications.
- 34 (B) Whether the bidder has submitted a bid that complies
- 35 specifically with the invitation to bid and the instructions to
- 36 bidders.
- 37 (C) Whether the bidder has complied with all applicable
- 38 statutes, ordinances, resolutions, or rules pertaining to the
- 39 award of a public contract.
- 40 (11) In determining whether a bidder is a responsible bidder, the
- 41 board may consider the following factors:
- 42 (A) The ability and capacity of the bidder to perform the work.

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- 1 (B) The integrity, character, and reputation of the bidder.
- 2 (C) The competence and experience of the bidder.
- 3 (12) The board shall require the bidder to submit an affidavit:
- 4 (A) that the bidder has not entered into a combination or
- 5 agreement:
- 6 (i) relative to the price to be bid by a person;
- 7 (ii) to prevent a person from bidding; or
- 8 (iii) to induce a person to refrain from bidding; and
- 9 (B) that the bidder's bid is made without reference to any other
- 10 bid.
- 11 (c) Notwithstanding subsection (b)(8), a county may award sand,
- 12 gravel, asphalt paving materials, or crushed stone contracts to more
- 13 than one (1) responsible and responsive bidder if the specifications
- 14 allow for bids to be based upon service to specific geographic areas and
- 15 the contracts are awarded by geographic area. The geographic areas do
- 16 not need to be described in the specifications.

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