

# City of Whitewater Memorandum

**To:** Whitewater Common Council  
**From:** Attorney Jonathan K. McDonell  
**Date:** 11/22/2024  
**Re:** Competitive Bidding Requirements Under Wisconsin Law

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## Introduction

This memo provides an overview of the competitive bidding requirements under Wisconsin law. The information below is based on the Wisconsin Statutes and is intended to clarify when competitive bidding is required and when exceptions apply.

## General Rule for Competitive Bidding

Under **Wisconsin Statute § 62.15(1)**, municipalities must generally let public construction contracts exceeding **\$25,000** to the lowest responsible bidder through a competitive bidding process. However, there are several exceptions to this rule, which are detailed below.

## Exceptions to Competitive Bidding

### 1. Public Construction Contracts Below \$25,000

Contracts for public construction projects costing **\$25,000 or less** are not subject to competitive bidding under **Wis. Stat. § 62.15(1)**. Municipalities may choose to adopt local policies for handling such contracts.

### 2. Professional Services

Contracts for professional services, such as legal, architectural, engineering, or consulting work, are exempt from bidding requirements. These services are not considered "public construction" under **Wis. Stat. § 62.15(1)**, and selection is typically based on qualifications rather than cost.

### 3. Emergency Repairs

Contracts for emergency repairs that address immediate threats to public health, safety, or welfare are exempt from bidding requirements. This exception allows municipalities to act swiftly in situations such as water main breaks or structural collapses.

#### 4. Work Performed by Municipal Employees

Municipalities are not required to competitively bid projects performed by their own workforce using municipal equipment under **Wis. Stat. § 62.15(1)**. This is often referred to as "force account" work.

#### 5. Equipment Purchases

The purchase of equipment, supplies, or materials is not governed by the competitive bidding rules for public construction. Municipalities may establish local procurement policies for these transactions.

#### 6. Contracts for Public Utilities

Contracts related to the management, operation, or maintenance of public utilities are exempt from competitive bidding under **Wis. Stat. § 62.15(1)** and other specific statutes governing utilities.

#### 7. Intergovernmental Agreements

Contracts between municipalities or between a municipality and another governmental body are exempt from bidding requirements. These agreements are governed by **Wis. Stat. § 66.0301**, which authorizes intergovernmental cooperation.

#### 8. Specialized or Proprietary Equipment

When specific equipment or systems are required and are only available from a sole source, competitive bidding is not required. Municipalities should document the justification for sole sourcing in such cases.

#### 9. Economic Development Projects

Contracts related to economic development projects, including Tax Increment Financing (TIF) agreements, are typically not subject to competitive bidding.

#### 10. Real Estate Transactions

The purchase, sale, lease, or other disposition of real estate is not subject to competitive bidding requirements under **Wis. Stat. § 62.15**.

#### 11. Revenue-Generating Contracts

Contracts where the municipality receives revenue (e.g., facility leases, concessions, or management agreements) are not subject to competitive bidding under **Wis. Stat. § 62.15**.