

IC 13-21-6

Chapter 6. Contracts and Agreements for Construction or Operation of Solid Waste Management Facilities

IC 13-21-6-1

Length, duration, and terms; amendments, extensions, and supplements; maximum term

Sec. 1. (a) Notwithstanding any other statute concerning the length, duration, and terms of contracts and agreements, a board may enter into a contract or an agreement with a person, upon terms and conditions as agreed upon, for the:

- (1) design;
- (2) construction;
- (3) operation;
- (4) financing;
- (5) ownership; or
- (6) maintenance;

of a facility for solid waste management in accordance with the requirements and conditions of this chapter.

(b) Before or after the expiration or termination of the term or duration of a contract or an agreement entered into under this chapter or IC 13-9.5-8 (before its repeal), the board, in accordance with the requirements and conditions of this chapter, may periodically enter into amended, extended, supplemental, new, or further contracts or agreements with the same person or any other person for any purpose referred to in this chapter.

(c) A contract, including all amendments, extensions, and supplements, may not exceed a term of forty (40) years.

As added by P.L.1-1996, SEC.11.

IC 13-21-6-2

Award of contract

Sec. 2. Notwithstanding any other statute, a contract entered into between a board and any person under this chapter may be awarded by the board by:

- (1) public bidding in compliance with IC 36-1-12; or
- (2) compliance with sections 3 through 8 of this chapter.

As added by P.L.1-1996, SEC.11.

IC 13-21-6-3

Request for qualifications and proposals

Sec. 3. (a) A board may, by resolution, require that a person that desires to submit a proposal in response to a request for proposals must prequalify as a proposer by submitting information, in response to a request for qualifications, relating to the following:

- (1) The experience of the proposer.
- (2) The basis on which the proposer purports to be qualified to carry out all work required by a proposed contract.

- (3) The financial condition of the proposer.
 - (b) The board may set minimum requirements regarding these qualifications in a request for qualifications.
- As added by P.L.1-1996, SEC.11.*

IC 13-21-6-4

Notice; time limitations

Sec. 4. (a) Before the issuance of a request for proposals under this chapter, the board must do the following:

- (1) Adopt a proposed request for proposals by resolution.
- (2) Publish a public notice that may contain a request for qualifications if a prequalification process has been adopted under section 3 of this chapter, including the criteria on which proposers may be selected.
- (b) The public notice must do the following:
 - (1) Include the intent to issue a request for proposals.
 - (2) Designate times and places where the proposed request for proposals may be viewed by the general public.
 - (3) State the time of commencement of the thirty (30) day period established in this section, which constitutes the event referred to in IC 5-3-1-2.
- (c) The board shall allow not more than a thirty (30) day period for the following:
 - (1) The submission of qualifications, if required.
 - (2) Comments on the proposed request for proposals.
- (d) After the thirty (30) day period described in subsection (c) expires, the board shall do the following:
 - (1) Select at least one (1) proposer.
 - (2) Adopt a request for proposals.
- (e) Comments may be addressed to the scope or contents of the proposed request for proposals.
- (f) The board shall do the following:
 - (1) Notify each proposer of their selection.
 - (2) Inform each proposer of the date and place proposals are to be submitted.
 - (3) Deliver to each proposer a copy of the request for proposal.

As added by P.L.1-1996, SEC.11.

IC 13-21-6-5

Final form

- Sec. 5. (a) The board may do the following:
- (1) Prescribe the form and content of proposals.
 - (2) In the request for proposals, set the maximum allowable cost limits that the board determines to be appropriate.
- (b) The proposer must submit sufficiently detailed information to permit a fair and equitable evaluation by the board of the proposal.
- As added by P.L.1-1996, SEC.11.*

IC 13-21-6-6**Receipt of proposals; time limitations**

Sec. 6. Proposals may not be received before thirty (30) days following notification to the proposers of their selection.

As added by P.L.1-1996, SEC.11.

IC 13-21-6-7**Criteria for consideration in evaluation of proposals**

Sec. 7. The board:

- (1) shall evaluate proposals received under this chapter with regard to net cost or net revenues; and
- (2) in the manner consistent with provisions set forth in the requests for proposals, may evaluate proposals on the basis of additional factors such as the following:
 - (A) The technical evaluation of facility design.
 - (B) Net energy efficiency.
 - (C) Environmental protection.
 - (D) Overall system reliability.
 - (E) Financial condition of the proposer.

As added by P.L.1-1996, SEC.11.

IC 13-21-6-8**Preliminary contract awards; public hearing; notice; final form**

Sec. 8. (a) The board may:

- (1) negotiate with the proposers; and
- (2) make a preliminary contract award to any responsible proposer.

(b) The board shall give public notice of a public hearing, which must designate the time and place of a public hearing at which the board will hear comments upon the preliminary contract to be awarded.

(c) Following the public hearing, the board shall make a final contract award to any responsible proposer selected under this chapter based on a determination that the selected proposal is the most responsive to the needs of the district. The final contract award must:

- (1) be in the form of a resolution; and
- (2) include particularized findings relative to factors evaluated under section 7 of this chapter indicating that:
 - (A) the district's needs are met by the final contract award; and
 - (B) the action is in the public interest.

As added by P.L.1-1996, SEC.11.

IC 13-21-6-9**Request for proposals; required information**

Sec. 9. Requests for proposals must include the following:

- (1) A clear identification and specification of all elements of

cost that will become charges to the district, in whatever form, in return for the fulfillment by the proposer of all tasks and responsibilities established by the request for proposals for the full lifetime of a proposed contract, including matters such as the following:

- (A) Proposals for project staffing.
 - (B) Implementation of all work tasks.
 - (C) Carrying out of all responsibility required by the proposed contract.
 - (D) The cost of planning, design, construction, operation, management, or maintenance of any facility.
 - (E) The cost of solid waste management.
- (2) A clear identification and specification of any revenues that would accrue to the district from the sale of any byproducts or from any other source.
- (3) Other information that the board determines to have a material bearing on the board's ability to evaluate a proposal in accordance with this chapter.

As added by P.L.1-1996, SEC.11.

IC 13-21-6-10

Contesting validity of contract awarded; time limitation on bringing action

Sec. 10. An action to contest:

- (1) the validity of a contract awarded; or
- (2) the procedure by which the contract was awarded;

must be brought within thirty (30) days following the final contract award. After that date, the contract is incontestable for any cause.

As added by P.L.1-1996, SEC.11.