

Bids And Construction Contracts



If a municipality is receiving financial assistance from the Clean Water Fund Program (CWFP) or the Safe Drinking Water Loan Program (SDWLP), the municipality must comply with local, state and federal laws applicable to the project when procuring professional services and construction contracts, per chapters [NR 162.08](#) and [NR 166.11](#), Wis. Adm. Code. Municipalities should work with their attorneys to ensure compliance with all bidding laws.

Reminder: Prior to commencing construction for any CWFP or SDWLP project, the municipality must obtain the necessary DNR approvals for any engineering reports/facility plans, selected sites, and plans and specifications, in accordance with ch. [NR 108](#), Wis. Adm. Code.

Before executing a financial assistance agreement for any project, a DNR loan project manager must complete a bid review based on submission of the required documentation listed under chapters [NR 162.06\(1\)\(d\)](#) or [NR 166.10\(1\)\(c\)](#), Wis. Adm. Code, for **each** prime contract, including all of the following:

- A complete copy of the executed construction contract (also known as issued for construction documents) with up-to-date copies of all addenda, attachments, appendices, appropriate Davis-Bacon or other wage rate information, and all other applicable documentation that makes the contract complete. If available, the contract submittal should be a copy of the conformed contract.
- A copy of each of the following items unless the document is included in the aforementioned executed construction contract:
 - The proposal of the successful bidder.
 - An engineer's evaluation of the bids, including bid tabulation and an award recommendation.
 - If an applicant awards a construction or equipment contract to a contractor other than the lowest bidder, any of the following:
 - Written documentation of the reasons why the lowest bidder is considered nonresponsive or not responsible.
 - A legal opinion stating that the award to a contractor other than the lowest responsive, responsible bidder meets the requirements of municipal bidding law.
 - Solicitation and utilization information regarding Disadvantaged Business Enterprises (DBEs) (dnr.wi.gov/aid/documents/eif/guide/dbe.html), which may be the DBE Direct Solicitation Worksheet (Form 8700-294A) (apps.dnr.wi.gov/doclink/forms/8700-294a.pdf) or other format and/or a contractor bid advertisement requesting DBEs to submit subcontractor proposals.
 - Evidence of bid advertisement, including a copy of the affidavit of publication and a copy of the advertisement, which should include appropriate language regarding DBEs

submitting bid proposals, American-made product requirements, and wage rates, when applicable.

- American Iron and Steel (AIS) (dnr.wi.gov/aid/uais.html)
- Build America, Buy America (BABA) (dnr.wi.gov/topic/aid/baba.html)
- Davis-Bacon and Related Acts (DBRA) (dnr.wi.gov/sites/default/files/topic/aid/loans/pubs/CF0074.pdf)
- A copy of the bid bond and the performance bond.
- Evidence of award of the construction contract by the municipality, which may be a notice of award, a municipal resolution, or minutes from the municipal meeting at which the determination of award was made.
- Documentation of the construction start date and expected substantial and final completion dates. Note: A notice of award and a notice to proceed are preferred but not required for this documentation.
- All negotiated pending change orders and all executed change orders (dnr.wi.gov/aid/documents/eif/guide/change.html).
- Up-to-date copies of all addenda, changes to plans and specifications, attachments, appendices, and all other applicable documentation that makes the contract complete.

Procurement Guidance

In general, state law requires local units of government to competitively bid for “public construction” when the estimated cost exceeds the bidding threshold. However, bidding laws are complicated, with different requirements for cities, towns, villages, and counties. The DNR does not approve the bids or the bidding process. If legal questions arise during the procurement or bidding processes, the municipality should discuss the issues with its attorney.

Preconstruction Meeting Reminder

If CWFP/SDWLP financial assistance will be sought for a project, contact the regional DNR construction management engineer (CME) to confirm their availability **at least one week prior to scheduling** the preconstruction meeting. If the meeting is rescheduled or canceled, promptly notify the CME. For details, refer to the Construction Management webpage at dnr.wi.gov/aid/documents/eif/guide/construct.html.

Contact Information

Direct questions about the required documentation for CWFP and SDWLP projects to the assigned DNR loan project manager or construction management engineer, refer to the Environmental Loans Staff Directory webpage at dnr.wi.gov/aid/documents/eif/guide/managers.html.

For more information on the CWF and SDWLP, visit our website at dnr.wi.gov/aid/eif.html.

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Legal Notices: This document is intended solely as guidance and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. Any regulatory decisions made by the Wisconsin Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts. The Wisconsin Department of Natural Resources provides equal opportunity in its employment, programs, services and functions under an Affirmative Action Plan. If you have any questions, please write to Equal Opportunity Office, Department of Interior, Washington, D.C. 20240. This publication is available in alternative format (large print, Braille, audio tape, etc.) upon request. Please call 608-235-7105 for more information.