

**TITLE 8  
PUBLIC WORKS**

- Chapter 40 Public Works
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**CHAPTER 40  
PUBLIC WORKS**

**SUBCHAPTER I  
PUBLIC WORKS ADMINISTRATION**

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**40.01 INTENT.** This chapter is intended to establish uniform procedure applicable to all public works projects, except highway projects, in which Dane County or its agencies may engage and to create regulations for the conduct and management of all business relating to public works projects and public works contracts which the County is authorized to let or make.

**40.02 AUTHORITY.** This chapter is created and adopted pursuant to the authority of sections 59.02, 59.51, 59.52(29), and 66.0901 and all amendments pertaining thereto.  
[History: 40.02 am., 2020 OA-58, pub. 01/28/21.]

**40.03 WORDS AND PHRASES.** In this chapter, the following words and phrases have the designated meanings unless a different meaning is expressly provided or the context clearly indicates a different meaning:

**(1) Agency** shall mean any arm of County government authorized to engage in public works projects pursuant to powers delegated by the board.

**(2) Bidder** shall mean all natural persons, corporations, partnerships, associations, joint ventures, trusts or any form of business association whatsoever.

**(3) Board** shall mean the Dane County Board of Supervisors.

**(4) Bond** shall mean the bond issued by a bonding company recognized by, and operating under the laws of the State of Wisconsin.

**(5) Certified check** shall mean a check certified by a bank.

**(6) Commission** shall mean any commission created by the board or by statute, including joint commissions, for which Dane County acts as fiscal agent, authorized to engage in public works projects.

**(7) Committee** shall mean the public works committee.

**(8) Department** shall mean the department of administration's division of public works.

**(9) Director** shall mean the director of the public works division of the department of administration.

**(10) Outside consulting services** shall include the services of architects, engineers or other technical or professional services related to public works projects.

**(11) Lowest responsible bidder** shall mean a person who has prequalified under the provisions of sec. 40.07(1) and who also shall have submitted the lowest price of all those so qualified. However, no bidder convicted of bid rigging or price fixing, involving a bid submitted to the county, shall, within 3 years of conviction be considered the lowest responsible bidder. This ordinance shall be applied only to violations occurring subsequent to the adoption and publication of this ordinance.

**(12) Public works** shall mean any work project for the construction, repair, remodeling or improvement of any public property, buildings or facilities, furnishing of supplies or materials of any kind, for which public funds may be lawfully expended when duly appropriated for such purposes by the board. A *public works project* shall also mean all component parts of a project including, but not limited to, both labor and materials.

**(13) Class 1 emergency** shall mean any situation where there exists immediate and substantial danger to the health, life or property of any person, or any situation where there exists potential for increased damage to county property if the situation is not immediately remedied. This definition applies only to emergencies where a public works project is

necessary to resolve the emergency and where the bid requirements of section 59.52(29), Wis. Stats., are applicable.

**(14) Class 2 emergency** shall mean any situation where the normal operation of any county department or agency is seriously impaired. This definition applies only to emergencies where a public works project is necessary to resolve the emergency and where the bid requirements of section 59.52(29), Wis. Stats., are applicable.

**State Law Reference:** Sections 59.52(29) and 66.0901, Wis. Stats.

**[History:** (11) am., Sub. 1 to OA 20, 2007-08, pub. 10/26/07, eff. 01/01/08; (8) and (9) am., 2021 OA-55, pub. 12/28/21.]

**40.04 ADMINISTRATION. (1)** Responsibility for compliance with the provisions of this chapter rests initially with the agency engaging in the particular public works project.

**(2)** The director's duties shall be to render assistance and give advice to agencies of the county engaged in public works projects. Such assistance shall include: prequalifying contractors; preparing specifications; obtaining cost estimates; preparing all forms and papers, except contract documents, to be used for such purposes; assisting in the appraisal of bids submitted; inspecting projects in progress in order to insure compliance with contract specifications when no architect or engineer is in charge; assisting agencies conducting public works projects in preauditing bills submitted by contractors for progress payments and final payments, before such bills are forwarded to the county clerk for final audit and payment; and rendering such other assistance as may be requested by agencies engaging in public works.

**(3)** In performance of their responsibilities and duties, the director shall exercise supervisory control over all matters of procedure and administration relating to public works, and may take whatever action they deem necessary to insure compliance with the provisions of this chapter and all matters concerned therewith.

**(4)** The committee, in addition to its other powers and duties, is hereby designated as the committee responsible for supervising and enforcing this chapter. All matters concerning noncompliance with the provisions of this chapter shall be referred to the committee for appropriate action.

**(5)** The committee shall also be responsible for determining matters of policy and procedure within the scope of this chapter. The director may consult with or refer to the committee any

matter relating to their assigned duties and responsibilities.

**(6)** It shall be the duty of the purchasing agent to advertise for and solicit bids for all public works projects wherever the cost of the project is expected to exceed the amount specified in section 59.52(29), Wis. Stats.

**(7)** All contract documents not of a routine nature shall be subject to review by the corporation counsel.

**[History:** (2) am., Sub. 1 to OA 20, 2007-08, pub. 10/26/07, eff. 01/01/08; (1), (3), and (5) am., 2020 OA-58, pub. 01/28/21.]

**40.05 APPLICABILITY.** The provisions of this chapter hereby established shall apply to, and be complied with by, all Dane County institutions, departments, committees or commissions authorized to engage in and contract for public works except contracts for highway construction and maintenance which the highway committee or department is authorized by law to let or make. This ordinance shall also apply to joint commissions or public agencies engaging in public works projects established by agreement between Dane County and any other municipality where the contracting municipality consents thereto.

**40.06 PROCEDURES. (1)** On each project of public works, the particular agency involved shall determine need for the project and formulate a proposal for the project.

**(2)** After the determination specified in sub. (1) above is made, the matter shall be referred to the committee. The committee shall evaluate the proposals presented, form any alternative solutions and make its recommendations to the agency, and to the board if board action is required by this chapter.

**(3)** The procedure specified in this section shall apply to all public works projects where bids are required by state law, and to all purchases of outside consulting services.

#### **40.07 PUBLIC WORKS PROJECTS, BIDS, CONTRACTS.**

**(1) Best value contracting.**

**(a) Policy.** When entering into contracts for public construction that exceed the minimum amount specified in sub (b), Dane County requires bidders to prequalify pursuant to the provisions of Wis. Stats. sec. 66.0901, and procedures set forth in this section. The Dane County Board of Supervisors finds that using the Best Value Contracting procedures set forth in

this section will provide the County with the best value for its public construction while also meeting requirements that contracts be awarded to the lowest responsible bidder, and that the requirements of this ordinance are for the protection and welfare of the public in the performance of public contracts.

**(b) Prequalification requirement.** As a condition of performing work on a public works contract for Dane County that exceeds \$50,000 for a single-trade project or \$100,000 for a multi-trade project, a contractor shall first be prequalified in accordance with the provisions of this ordinance. This section shall apply to general contractors, prime contractors and (subject to the limitations for subcontractors in secs. (i)3. and 4. and (k) of this ordinance) subcontractors of any tier.

**(c) Additional qualification information.** In addition to information specified in this ordinance, the director may request, in prequalification applications or separately on a project by project basis, any other information they determine necessary to ensure that prospective contractors meet the contractor responsibility standards established by this ordinance and otherwise possess sufficient qualifications and capabilities in all respects to successfully qualify for and perform public works contracts.

**(d)** Once a contractor's prequalification application is approved by the director under this ordinance, it shall remain valid for a period of three years, unless suspended or revoked pursuant to this section.

**(e) Renewal and disclosure.** It shall be the obligation of the contractor to timely renew their prequalification and to report information regarding any material changes to the business or operations that are relevant to the prequalification application, including information that would affect their ability to make the certifications required by this ordinance. Any such information must be reported within fifteen (15) days of the contractor's knowledge of the information. Failure to report information under this subsection may result in suspension or revocation of the contractor's prequalification, debarment from County contracts for a period of up to three years and other sanctions available under applicable law.

**(f) Prequalification approval.** The director shall review contractor prequalification applications and approve applications that comply with the requirements of this ordinance and other applicable standards developed by the director. If a contractor has been certified as a targeted

business as defined by sec. 19.51(22), and the director determines that the contractor fails to meet the prequalification requirements under this section, the director will notify and discuss the determination with the Contract Compliance Officer prior to issuing any notice of non-qualification.

**(g) Prequalification list.** The director shall publicly post a list of prequalified contractors which shall include the names, addresses and prequalification numbers of contractors and applicable dates of prequalification approval. This list shall be updated on a monthly basis.

**(h) Prequalification review.** The director shall periodically, but at least once a year, review the performance of contractors prequalified according to this section to determine whether contractors are performing satisfactorily. This review shall examine all relevant areas of contractor performance including, but not limited to, project cost and schedule, compliance with plans and specifications, quality of workmanship and compliance with applicable laws and regulations. For good cause shown, the director may suspend or revoke a contractor's prequalification status at any time after providing the contractor with notice and the opportunity to be heard by the director.

**(i) Prequalification enforcement.** The director shall:

1. Take the necessary actions to ensure that all contractors and subcontractors on public works contracts subject to this section are properly prequalified in accordance with the requirements of this ordinance;

2. Require general contractors or prime contractors to verify their prequalification as a condition of being awarded bids on public works contracts;

3. Further require general contractors or prime contractors to submit a list of the subcontractors they intend to use in the performance of the contract, with the names and prequalification numbers of such subcontractors. This information may be submitted at the time of the bid, but must be submitted by no later than the time specified in sub. (k). Firms identified on the subcontractor list may be substituted only for good cause shown and with the written approval of the director; and

4. Notify subcontractors that they may apply for prequalification under this ordinance.

**(j) Required certifications.** Prequalification applications submitted pursuant to this ordinance shall include all information as determined

necessary and appropriate by the director. Such applications shall, at a minimum, require a sworn certification by the applicant attesting to the facts specified in this subsection. In submitting a prequalification application, the applicant shall certify that for any project they seek to perform for the County during the term of prequalification, it shall:

1. Maintain a verifiable permanent place of business.
2. Authorized to do business in the State of Wisconsin.
3. Possess all technical qualifications and resources, including equipment, personnel and financial resources, necessary to perform the work required for the project or obtain the same through the use of responsible, qualified subcontractors.
4. Possess all valid, effective licenses, registrations or certificates required by federal, state, county or local law, which are necessary for the type of work to be performed including, but not limited to, those for any type of trade work or specialty work.
5. Meet all bonding requirements as required by applicable law or contract specifications.
6. State whether the contractor has been subject to any order or judgment from any governmental agency or court concerning an employment practice, including but not limited to classification of employees, unemployment insurance, payroll fraud or workplace safety. If the contractor has been subject to any order or judgment from any court or governmental agency concerning an employment practice or workplace safety, the contractor must provide all copies of the order or judgment or may be disqualified. As determined appropriate and necessary by the director, the contractor may be required to provide copies of any documents related to an investigation regarding employment practices or workplace safety.
7. Meet all insurance requirements as required by applicable law or contract specifications, including general liability insurance, workers compensation insurance and unemployment insurance requirements, and that all employees are properly classified and covered by said insurance policies.
8. If the contractor provides health insurance to its employees, that all of contractor's employees who will perform work on the project have such health insurance coverage available to them.

9. Maintain a substance abuse policy for employees hired for public works contracts that complies with Wis. Stats. sec. 103.503.

10. Participate in a Class A Apprenticeship Program for each separate trade or classification in which they employ craft employees and continue to participate in such program or programs for the duration of the project. As used herein, Class A Apprenticeship Program means a program that is approved by the U.S. Department of Labor or a state apprenticeship agency, provided that such program graduates apprentices to journeyman status within the indenture period.

11. Fully abide by the equal employment opportunity and affirmative action requirements of all applicable laws, including County ordinances.

12. Provide in the prequalification application a detailed statement regarding related companies if, at any time during the past three (3) years, the contractor has controlled or has been controlled by another corporation, partnership or other business entity operating in the construction industry. This statement shall be included in the prequalification application and shall explain the nature of the contractor relationship.

13. The contractor has a written safety program.

14. The employees who will perform the work are properly classified as employees or independent contractors under all state and federal laws.

15. Describe all projects of similar size and scope that the contractor has satisfactorily completed. If the contractor has not completed a similar project, the contractor will provide a statement explaining why the contractor is qualified to perform the contract.

16. Disclose whether for the past three years:

a. they have had any type of business, contracting or trade license, certification or registration revoked or suspended.

b. they have been debarred by any federal, state or local government agency.

c. they have defaulted on any project in the past three years.

d. they have committed a willful violation of federal or state safety laws as determined by a final decision of a court or government agency authority.

**e.** they have been found by a final decision of a court or government agency to be in violation of any other law relating to their contracting business including, but not limited to, wage and hour laws, prevailing wage laws, environmental laws, antitrust laws or tax laws, where the penalty for such violation resulted in the imposition of a fine, back pay damages or any other type of penalty in the amount of more than \$10,000.

**17.** Certify that the contractor prequalification application has been executed by a principal or person employed by the applicant who has sufficient knowledge to address all matters in the prequalification application and shall include an attestation stating, under the penalty of perjury, that all information submitted is true, complete and accurate.

**18.** Certify that all subcontractors shall be properly qualified in accordance with sub. (k).

**(k) Subcontractors.** Subcontractors may, but are not required to, apply for and obtain prequalification status under this ordinance. At least ten (10) days prior to commencing work under any Dane County Public Works contract subject to this section, a subcontractor, the value of whose work exceeds \$50,000 for a single-trade project or \$100,000 for a multi-trade project, shall submit the information required under this ordinance to be qualified, and no such subcontractor may begin work on a Dane County Public Works project until the director determines that such subcontractor meets the qualification requirements herein.

**(L) Conditional approval.** The director may issue conditional approvals of any application for prequalification and shall set out the conditions thereof in writing.

**(m) Best value contracting in county supported projects.** In order to achieve the goals set out in this ordinance, it shall be a condition of any county financial support of a development project, as designated by the Board of Supervisors in the resolution granting such assistance, in an amount that exceeds \$50,000 for a single-trade project or \$100,000 for a multi-trade project, that the developer utilize for construction those firms that have met the prequalification requirements of this ordinance. This provision will be included as a developer obligation in any agreement between the County and the developer.

**(n) Appeal.** Any applicant, contractor or subcontractor aggrieved by a determination of the director under this ordinance has the right to appeal the director's determination to the committee. The appeal shall be taken by delivery of a letter to the director within fifteen (15) days of the determination to be appealed. The committee will schedule a hearing on the appeal promptly.

**(o) Report by director.** After this ordinance has been in effect for two years, the director shall prepare a report to the Board of Supervisors on the effects of the ordinance.

**(2)(a)** All contracts for public works projects, and addendums thereto, that are estimated to exceed \$100,000, and any contract designated in writing to the Controller by the County Board Chairperson or Personnel and Finance Committee Chairperson, shall be subject to the approval by the County Board and County Executive.

**(b)** All public works projects, where the cost is estimated to be less than \$100,000 may be contracted for directly by the department, in conformance with Wis. Stat. s. 59.52(29), provided that funds for such purpose have been specifically appropriated therefor in annual budgets or have been provided through authorized budget transfers by the finance committee. If the contract is less than the amount specified in Wis. Stat. s. 59.29(29), the provisions of this subsection shall not preclude obtaining competitive bids for such work where deemed feasible or in the best interest of the county, and the contract may be awarded to the bidder deemed best qualified to perform the work, in the discretion of the department.

**(3)** The provisions of subsection (1) are not mandatory for the repair or reconstruction of public facilities when damage or threatened damage thereto creates an emergency, as defined in sections 40.03(13) or section 40.03(14) of this chapter. Whenever the county board by majority vote at a regular or special meeting determines that an emergency no longer exists, this subsection shall no longer apply.

**(4)** The board may, by a three-fourths vote of all members entitled to a seat, provide that any class of public work or any part thereof may be done directly by the county without submitting the same for bids. When the board authorizes the work to be done directly by the county, county employees, equipment, machinery and materials from existing stocks or sources of supply under contract may be utilized subject to

the supervision of the agency authorized to undertake the project. Materials and supplies needed for such projects and not available from existing stocks or sources of supply, shall be purchased through the office of the purchasing agent according to established procedures.

(5) In the case of equal bids, preference shall be given to the equal bidder whose main place of business is located in Dane County.

**State Law Reference:** Sections 59.52(29) and 66.0901, Wis. Stats.

**[History:** (1) and (4) am., Sub. 1 to OA 20, 2007-08, pub. 10/26/07, eff. 01/01/08; (1) am., Sub. 1 to OA 49, 2007-08, pub. 10/02/08; (1)(a)-(e), (j), (k), and (m) am., 2020 OA-58, pub. 01/28/21; (2) am., 2021 OA-55, pub. 12/28/21; (2) am., 2023 OA-30, pub. 07/27/23.]

#### **40.08 OUTSIDE CONSULTING SERVICES. (1)**

No outside consulting service, where the contracted amount exceeds \$100,000, shall be hired or contracted for without prior approval of the board and appropriation of funds for such purpose. Nothing contained herein shall preclude the appropriate agency from conferring with or consulting with and recommending to the board for selection of outside consultants for a particular public works project provided such interviews for conferences do not create an obligation to the county to pay therefore.

(2) Where outside consulting services are to be recommended to the board for a particular project, such recommendation shall be submitted in the form of a resolution and shall, if approved and passed, include authority to contract for such services by the agency concerned on behalf of the county with authority for the county executive and county clerk to execute the necessary contract on behalf of Dane County. The resolution may include authority for preparation of preliminary plans, feasibility studies and cost estimates and payments for such services.

(3) No contract with outside consulting services, for an amount in excess of \$100,000, shall be authorized without specific approval by the board, but where deemed advisable by the agency, ready-made plans for the purpose of establishing specifications, may be purchased or procured directly for the proposed project in order to permit proper competitive bidding. Responsibility for the technical correctness, adequacy and completeness of plans and specifications procured hereunder and used as a basis for actual construction shall rest with the agency approving the same. Reasonable cost for procured plans shall be determined by the committee and shall be charged to funds allocated for the proposed project.

(4) Where outside consulting services for the proposed project are not hired under a contract authorized by the board, the agency responsible for the project is authorized to hire expert technical advice or service, in order to obtain the necessary information to prepare preliminary cost estimates as accurately as possible and available. Agencies proposing public works projects and requesting appropriations therefore shall endeavor to make cost estimates as accurately as possible and may, where free estimates are not available, pay reasonable fees to qualified persons to obtain such estimates if funds are available for such purpose within applicable budgets.

(5) Where expert technical advice or service is obtained for the purpose of preparing specifications under existing appropriations, fees for such service shall be charged to the appropriations for the proposed project.

**[History:** (1) and (3) am., OA 19, 2005-06, pub. 12/27/05; (1) and (3) am., 2020 OA-58, pub. 01/28/21.]

#### **40.09 APPROVAL OF PLANS, AWARDS OF CONTRACTS.**

(1) After preliminary plans, studies and cost estimates have been approved by the department, the same shall be referred to the board for concurrence where the estimated cost of the project exceeds \$100,000, unless the board directs otherwise.

(2) If the board approves preliminary plans and cost estimates as submitted, approval of the same shall be indicated by a resolution which shall include authority for preparation of final plans and specifications, solicitation of bids, a report of the results of said bid-letting to the board and recommendation for award of a contract to the lowest bidder pursuant to statute, or non-award with reasons therefor.

(3) Adoption by the board, of the resolution reporting the bids and awarding a contract or contracts to the lowest responsible bidder or bidders, shall constitute authority to execute the necessary contract documents by the county executive and the county clerk on behalf of Dane County, after all preliminary contract conditions have been met by the bidder and after bonding and insurance requirements have been approved by the corporation counsel.

(4) The resolution awarding the contract shall contain provisions authorizing and directing the department to supervise and be responsible for the proper execution of the terms of the contract, with the assistance of the architects or engineers where applicable.

(5) Any change order of \$50,000 or more shall be approved by the county board. Any change order for less than \$50,000 but more than \$10,000 shall be approved by the committee. Any change order for less than \$10,000 may be approved by the director but shall be reported to the committee at its next meeting.

(6) Subject to section 40.04(6) of the Dane County Ordinances, all bids for public works projects shall be advertised through the office of the purchasing agent in such media as is deemed appropriate by the agency charged with the project in order to provide the widest possible solicitation of bids.

(7) No public works project shall be undertaken or commitment made therefor, unless specific appropriations have been made in annual budgets. For proposed projects not authorized in budgets or supported by specific appropriation, if the need therefor is approved by the finance committee, such committee may transfer unexpended funds in annual budgets to an appropriate account pursuant to board rule and authorize expenditure for such projects where the estimated cost does not exceed \$5,000.

[History: (4) am., OA 6, 1991-92, pub. 09/27/91; (4) am., OA 15, 2002-03, pub. 11/19/02; (1), (4) and (5) am., OA 52, 2007-08, pub. 04/10/08; (1), (4), and (5) am., 2023 OA-30, pub. 07/27/23.]

#### **40.10 REQUIREMENTS OF BID SPECIFICATIONS.**

(1) Bid specifications shall contain, wherever practicable, maximum available guarantees or warranties for products, supplies, materials or workmanship as the custom of the particular trade permits, to protect the county from defects attributable thereto and to prevent, insofar as possible, costs for future repairs or replacements not otherwise covered by contractor's performance bonds.

(2) Contract performance bonds to guarantee work of the principal contractor and sub-contractors, obtained pursuant to statute, shall cover as long a period as is obtainable and shall be from approved surety companies authorized and licensed to do business in the State of Wisconsin.

(3) Bid specifications shall contain specific reference to statutory requirements for contracting for public works and specific reference to applicable county ordinances, so that all prospective bidders and contractors are fully apprised of such requirements when dealing with Dane County.

(4) Forms for specifications, bonds and contracts setting forth conditions and requirements in accordance with the statutes and this

ordinance may be prepared and utilized by the director to standardize and expedite bidding procedures, the same to be drafted with the advice of the corporation counsel as to all legal conditions contained therein.

(5) All specifications, other than technical specifications utilized for solicitation of bids, shall be submitted to the corporation counsel for approval as to form and content before the same are used, if not on standard forms. All executed bids, insurance certificates, bonds or other allied papers constituting contract documents, shall be submitted to the corporation counsel for approval as to form and content before the same are signed by the designated county officials, after contract awards are made.

#### **40.11 BONDING AND INSURANCE REQUIREMENTS.**

(1) Whenever the amount of the project is expected to exceed the amount specified in section 59.52(29), Wis. Stats., or whenever the director otherwise determines, bid specifications shall require a bid bond or certified check or cash, in an amount not less than 5% of the total bid, to be submitted by prospective bidders as assurance that the bidder, if granted a contract, will execute the same or forfeit the amount of the bid bond as damages for failure to enter the contract.

(2) All contracts involving more than the amount specified in section 779.14, Wis. Stats., or any amendments thereto, for the performance of labor or furnishing of materials, when the same pertains to any public improvement or public work of whatever kind, shall contain a provision for the payment by the contractor of all claims for labor performed and materials furnished, used or consumed in such project including, without limitation because of enumeration, fuel, lumber, building materials, machinery, vehicles, gasoline, motor and lubrication oil, greases and the premiums for worker's compensation insurance and the contributions for unemployment compensation and no such contract shall be made unless the contractor gives a bond issued by a surety company licensed to do business in this state, the penalty of which shall not be less than the contract price, conditioned for the faithful performance of the contract, and the payment of every person entitled thereto of all claims for labor performed and materials furnished under the contract. Such bond shall be approved by the corporation counsel. No assignment, modification or change of the contract or change in the work covered thereunder, nor any

extending of time for completion of the contract, shall release the sureties of said bond. Neither the invitation for bids nor the person having the power to approve the contractor's bond shall require that such bond be furnished by a specified insurance company, or through a specified agent or broker. All provisions of sections 779.14, 779.15, 779.155, 779.16 and 779.17, Wis. Stats., and acts amendatory thereto, not specifically described above, shall be deemed to be incorporated herein.

(3) Contractors, and subcontractors where required, shall provide proof of insurance coverage providing public liability, property damage, automobile, worker's compensation and unemployment compensation insurance to protect Dane County from any and all claims attributable thereto in such amounts as are prescribed in the bid specifications for the particular work.

#### **40.12 PAYMENTS TO CONTRACTORS.**

Contractors shall be paid according to payment schedules set forth in contracts and the agency responsible for the work may authorize periodic progress payments for portions of the work satisfactorily completed according to such schedules. Notwithstanding guarantees made under contract performance and payments bonds, the agency responsible for the work may require lien releases from contractors and/or subcontractors for all claims for labor, materials or supplies provided either before any periodic progress payment or final payment is made under applicable contracts.

**40.13 EMERGENCY SITUATIONS.** (1) Any member of the committee shall have the authority to determine the existence of, and to declare, either a Class I emergency or a Class II emergency. In the event no committee member can be contacted promptly, the director is authorized to act in their stead and after consultation with the county executive, if at all possible. In any event, if a committee member is so acting, consultation with the director and the county executive shall be made, and with other committee members if at all possible.

(2) In the event a Class I emergency is declared, the person declaring the same shall also have the authority to resolve the emergency without reference to bidding procedures and without reference to other procedures normally required by this chapter.

(3) In the event a Class II emergency is declared, the declarant shall forthwith consult

with the chairman of the finance committee to determine the best method of resolving the emergency. Determination of the necessity of complying with normal procedures mandated by this chapter shall rest with the committee member and the finance committee chairperson acting jointly.

(4) Where an emergency is found to exist, the finance committee is authorized to provide funds to meet the cost of the necessary repairs either by transfer of funds within budget appropriations or transfer from the contingency fund, if created, pursuant to sec. 65.90(5), Wis. Stats.

(5) Absent its finding that there has been an abuse of discretion, the committee shall approve the findings and actions of the person declaring the emergency and shall report its approval to the board at its meeting. In determining whether there has been an abuse of discretion, the committee shall consider only the process used in arriving at the decision that an emergency existed and not the actual decision itself.

(6) Bonding and insurance requirements shall be made a part of emergency contracts hereunder as for all other public works contracts made pursuant to regular bidding procedures.

(7) Wherever possible in an emergency situation, the person authorized to declare an emergency shall attempt to obtain informal bids or estimates in order to have repairs done at the lowest possible cost. Such informal bids or estimates shall be obtained by telephone or other appropriate means.

#### **40.14 KEEPING OF RECORDS AND DOCUMENTS OF PUBLIC WORKS PROJECTS.**

Copies of all public works records shall be kept in suitable files in the office of the director and shall be properly indexed by him or her. The official copy of the public works contract shall be kept by the county clerk. Copies of change orders shall be kept by the county clerk and the director.

[History: 40.14 am., 2020 OA-58, pub. 01/28/21.]

#### **40.15 EFFECT ON THE ORDINANCES.**

(1) Provisions of other ordinances or resolutions of Dane County inconsistent herewith are hereby repealed and superseded except that no repeal or other effect whatsoever is intended as to Chapter 25 of the Dane County Ordinances other than as expressly stated herein.

(2) As to public works projects and as to emergencies of a public works nature, this chapter shall control in the event of a conflict with



any other chapter, including Chapter 25 of the Dane County Ordinances.

**(3)** Except as to emergencies of a public works nature, all public works contracts shall be subject to the equal benefits requirement of s. 25.016.

**[History:** (3) cr., Sub. 1 to OA 13, 2008-09, pub. 10/03/08, eff. 12/01/08.]

**40.16 AFFIRMATIVE ACTION REQUIRED. (1)**

On each project of public works and prior to the purchase of any goods or services the purchasing agent shall notify any known minority business, dealing in such goods or services, of Dane County's need to purchase such goods or services and encourage them to submit an estimate of cost for such items.

**(2)** It shall be the duty of the affirmative action officer to determine whether or not a prospective bidder is an equal opportunity employer and which businesses are minority businesses in accordance with general policies set forth in the board's affirmative action plan.

**[History:** Subchapter II – Minimum Wage Ordinance; sections 40.17 through 40.27 rescinded, 2020 OA-58, pub. 01/28/21.]

*[40.17 – 40.99 reserved]*

**END OF CHAPTER**