

STATE OF NEW MEXICO
PURCHASING GUIDELINES FOR
COMMUNITY DITCH ASSOCIATION (ACEQUIAS) PROJECTS

Community Ditch Associations (Acequias) are subdivisions of state government and are required to follow certain prescribed procedures for purchasing and contracting. Chapter 13, Public Purchases and Property, New Mexico Statutes Annotated 1978 as amended, governs all expenditures of public funds by the State of New Mexico and its agencies.

A purchase is the procurement of goods or services in exchange for a certain price. A contract is a written agreement between two (or more) parties in which it is stated exactly what goods and services would be delivered in exchange for the agreed-upon price. A contract is legally binding upon both the contractor and the client. All contracts must be between the applicant organization and the contractor and must not name the State of New Mexico as a responsible party. All applicant cost records are subject to audit by the New Mexico Office of the State Engineer and /or the State Auditor.

Up to \$9,999.99

Purchases for goods or services with a value less than \$10,000.00 may be made after obtaining, or attempting to obtain, three or more oral price quotations. This may be done over the telephone or person-to-person, as long as the price quote from each vendor or contractor is for exactly the same thing.

Community ditch association commissioners may request that vendors quote a price for the whole bill of goods, or may have vendors itemize prices. Purchases may be split between two or more vendors if no single vendor can supply everything or if there are significant price differences between vendors for certain items. The sale or contract goes to the lowest bidder.

The community ditch association commissioners must keep a written record of the oral quotations that were obtained. If a vendor or contractor declined to quote a price, the community ditch association commission may count that as one of the three quotes if so desired. As before, invoices, receipts, and cancelled checks should be kept as proof of authorized expenditure, and records are subject to audit.

Between \$10,000 and \$20,000

Purchases for goods and services falling between \$10,000.00 and 20,000.00 are handled the same way as for under \$10,000.00 except that written and signed price quotations are required. Oral quotations are not sufficient.

The community ditch association commission should prepare written specifications of what is required and deliver the list to contractors or vendors in the area who provide the needed service. The community ditch association commission should keep a list of when and to whom the specifications are sent. These are not formal sealed bids, just written quotations. After allowing a reasonable length of time for response, the purchase or contract should be awarded to the lowest bidder.

The community ditch association commission should keep all written quotations as proof of having followed this procedure. As before, the community ditch association commission must save all invoices and other paperwork for cost documentation and audit.

Over \$20,000.00

Procedures for procuring goods and services costing over \$20,000.00 are somewhat more complicated. Competitive sealed bids are required to assure that all interested and qualified parties have an equal opportunity to bid on the work.

The community ditch association commission must prepare bid specifications (“bid specs”) based on the work that is called for and should place a legal ad in at least one newspaper serving the area to run at least once, followed by a ten-day waiting period. The ad should contain the following information:

- ❖ The bid specs (or state where a copy of the bid specs may be obtained)
- ❖ Location of the jobsite
- ❖ Statement that bidders may visit the jobsite (or are required to visit the jobsite)
- ❖ Whom to contact for further information
- ❖ Name and address of the applicant organization
- ❖ Cutoff date for receiving bids, and address to deliver bids (at least ten days after the ad is published)
- ❖ Date, time, and place where bids will be opened
- ❖ Requirement that bid envelopes be marked “Sealed Bid, _____ Job”, or words to that effect
- ❖ Requirement that bid total include all taxes and other fees

At the stated time and place, a special meeting of the community ditch association commission should be convened (with minutes kept) for the purpose of opening the bids. When all bids are opened, they should be scanned to be sure that all items under the bid specs are included. Any bidder that fails to bid on all requested items should be set aside as unresponsive. The remaining bids should be read aloud and the bids recorded in the minutes. There is no minimum number of bids that must be received. It is permissible that there be only one bid.

If the applicant is satisfied that all requirements are met and that the low bid falls within the budget, the contract may be awarded. The contractor should draw up the contract for signature by the community ditch association three ditch commissioners.

If the community ditch association commission has any question as to the ability of the low bidder to do the work, or if the low bid exceeds the amount budgeted, the award of the contract may be suspended pending consultation. The community association commission may meet with the bidder to be sure that they fully understand what is required and can deliver what they promise. If the low bid exceeds the budgeted amount, it may be necessary to re-bid the job.

The community ditch association commission must furnish proof of advertising the call for bids, a record of the bid opening, and a copy of the apparent low bid for review. These may be sent by FAX to expedite the review process.

SAMPLE LEGAL AD

The _____ Ditch Association of _____, NM, will be accepting sealed bids for restoration work located on the _____ river near _____, NM. Copies of the bid specifications may be obtained at the ditch address given below. Any contractor licensed in the State of New Mexico interested in this job can call _____ for further information and to make an appointment to view the work site. Bids should be delivered to _____ Ditch Association, (address), _____, NM, _____. No bids will be accepted after (time), (day), (date), at which time all sealed bids will be opened and read by the Ditch Commissioners at (location), _____, NM. The public is invited to attend. Bids should include all applicable taxes and fees and should be marked "Sealed Bid, _____ Job" on the envelope.