



THE PAPER CHASE AND PERSISTENT MISCONCEPTIONS

TRACKING DATA THROUGH THE CONTRACT PROCESS

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THERE IS MORE THAN JUST THE CONTRACT...

(YES, YOU NEED A CONTRACT!)
(AND THIS IS LUCINDA'S FAULT!)

- **WHOSE JOB IS THIS? – SORRY, ITS BAD NEWS!**

MINN. STAT. 367.11 SAYS:

“IT SHALL BE THE DUTY OF THE TOWN CLERK:

(1) TO ACT AS CLERK OF THE TOWN BOARD AND KEEP IN THE CLERK'S OFFICE A TRUE RECORD OF ALL OF ITS PROCEEDINGS;

(2) UNLESS OTHERWISE PROVIDED BY LAW, TO HAVE CUSTODY OF THE RECORDS, BOOKS, AND PAPERS OF THE TOWN AND FILE AND SAFELY KEEP ALL PAPERS REQUIRED BY LAW TO BE FILED IN THE CLERK'S OFFICE;

(3) TO RECORD MINUTES OF THE PROCEEDINGS OF EVERY TOWN MEETING IN THE BOOK OF TOWN RECORDS AND ENTER IN THEM AT LENGTH EVERY ORDER OR DIRECTION AND ALL RULES AND REGULATIONS MADE BY THE TOWN MEETING; ...”

STARTING THE CONTRACTING PROCESS

- YOU NEED THE MINUTES OR RESOLUTION SHOWING:
 1. BOARD'S DECISION OF WHETHER THE CONTRACT IS SUBJECT TO THE MUNICIPAL CONTRACTING LAW AND WHAT PART – MINN. STAT. 471.345 – 20 SUBDIVISIONS TO CHOOSE FROM
 2. THE BOARD'S ESTIMATE OF THE TOTAL EXPECTED CONTRACT PRICE
 - EXPECTED PRICE IS NOT THE YEARLY PRICE – TOTAL PRICE OVER THE TOTAL POSSIBLE LENGTH OF THE CONTRACT
 3. BOARD'S DECISION OF WHETHER THEY WILL USE OPEN MARKET, WRITTEN QUOTES, OR SEALED BIDDING
 4. PERMISSIONS FOR INDIVIDUALS TO TAKE ACTION ON BEHALF OF THE BOARD

SPECIFICATIONS

- WHAT ARE YOU ASKING FOR?
- WHAT EXPERTS DID YOU RELY ON TO BUILD THE SPECS?
 - ENGINEERS; ACCOUNTANTS; FINANCIAL PLANNERS; ARCHITECTS & DESIGNERS; LAWYERS
 - HAS AN IMPACT ON LIABILITY AND IMMUNITIES AVAILABLE TO THE TOWNSHIP IF THERE IS A PROBLEM
- REQUIRED FOR SEALED BIDDING PROCESS BUT USEFUL FOR ANY CONTRACTING
 - GOOD SPECS REACH A BALANCE BETWEEN DESCRIBING WHAT IS ASKED FOR BUT ALLOWING COMPETITION – MINN. STAT. 471.35

SOLICITATIONS

- WHAT DID YOU DO TO GET OFFERS OR QUOTES FROM VENDORS?
- OPEN MARKET
 - SOME REPORT OF THE QUOTES OR OFFERS RECEIVED
- WRITTEN QUOTES
 - WHO DID YOU CONTACT AND HOW?
 - AT LEAST 2 WRITTEN QUOTES – KEEP ON FILE AT LEAST 1 YEAR

NEGOTIATIONS

- NEGOTIATION IS POSSIBLE IN OPEN MARKET OR WRITTEN QUOTE SYSTEMS. CANNOT NEGOTIATE IN SEALED BIDDING!
- ALL COMMUNICATIONS SHOWING THE COURSE OF NEGOTIATION
- BECOMES IMPORTANT IN LEGAL DISPUTES THAT ARE ABOUT THE PROBLEMS WITH A CONTRACT OR THINGS THAT ARE NOT IN THE CONTRACT AT ALL

SOLICITATIONS – SEALED BIDDING

- MINN. STAT. 365.37, SUBD 2 – “A CONTRACT LET ON BID MUST BE LET TO THE LOWEST RESPONSIBLE BIDDER.”
 - MAT DOC C-1000
- NOTICE: MUST GIVE AT LEAST 10 DAYS’ NOTICE OF THE TIME AND PLACE BIDS MUST BE GIVEN.
 - MAY BE PUBLISHED FOR AT LEAST 2 WEEKS IN THE LOCAL NEWSPAPER OR
 - MAY BE POSTED IN THE 3 MOST PUBLIC LOCATIONS IN THE TOWNSHIP
 - BEST PRACTICE: PUBLISH!
- AFFIDAVIT OF PUBLICATION: MINN. STAT. 331A.07 REQUIRES THE NEWSPAPER TO GIVE THE AFFIDAVIT OF PUBLICATION BEFORE THEY CAN BE PAID FOR THE SERVICE
- SCREEN PRINTS OR CAPTURES OF ANY ELECTRONIC NOTICE PROVIDED

SEALED BID OPENING

- KEEP ALL BIDS AND MATERIALS THAT CAME WITH THEM
- IF THE CONTRACT IS AWARDED - MINUTES OR RESOLUTION STATING:
 - WHO IS THE LOWEST BIDDER
 - THAT THE LOWEST BIDDER IS RESPONSIVE TO THE SPECIFICATIONS
 - THE CONTRACTOR IS A RESPONSIBLE BIDDER
 - THE AWARD, SHOWING HOW EACH SUPERVISOR VOTED ON THE MOTION
- IF THE CONTRACT IS AWARDED TO A VENDOR OTHER THAN THE LOWEST BIDDER, A RECORD OF WHY THE LOWEST BIDDER IS NOT RESPONSIBLE OR RESPONSIVE.
 - USE THE ATTORNEY TO HELP
- IF NO BIDDER WINS THE CONTRACT, A STATEMENT THAT THE BOARD REFUSES TO AWARD THE CONTRACT.
- BID BOND – KEEP A COPY OF THE PROOF OF COVERAGE

THE CONTRACT

- CONTRACT IS FORMED WHEN THERE IS:
 1. OFFER
 2. ACCEPTANCE
 3. CONSIDERATION – THE THING OF VALUE BEING EXCHANGED
- DOES NOT REQUIRE A WRITTEN DOCUMENT – CAN BE ORAL

• DO NOT RELY ON ORAL CONTRACTS!



SAMPLE CONTRACTS – JUST FOR YOU

- C 5000A – GENERIC CONTRACT FOR SERVICES

AIMED AT ANY NON-ROAD CONTRACTING SITUATION

- C 5000B – ROAD CONTRACTOR SERVICES

BUILT SPECIFICALLY FOR ROAD CONTRACTS. INCLUDES SPECIAL PROVISIONS REQUIRED FOR ROAD CONTRACTS.

IC – 134 FORM

WITHHOLDING AFFIDAVIT FOR CONTRACTORS

- MINN. STAT. 270C.66 SAYS TOWNSHIPS CANNOT MAKE FINAL PAYMENT ON A CONTRACT UNLESS THE CONTRACTOR HAS PROPERLY WITHHELD INCOME TAX FOR ITS EMPLOYEES.
- IC-134 FORM IS THE CONTRACTOR'S STATEMENT THEY HAVE PROPERLY WITHHELD INCOME TAXES
- CONTRACTOR SUBMITS THE AFFIDAVIT TO MN DEPT. REVENUE AND REVENUE SIGNS THE FORM
- TOWNSHIP MUST RECEIVE THE SIGNED OR APPROVED FORM TO ISSUE THE LAST PAYMENT ON THE CONTRACT
- MAT DOC C-2000

MISCELLANEOUS ITEMS

- CHANGE ORDERS – CHANGES TO SEALED BIDDING SPECS
- PERMISSIONS FROM OTHER GOVERNMENTS OR AGENCIES – DNR; ARMY CORPS; COUNTY;
- CONFLICT OF INTEREST WAIVERS & AFFIDAVITS – MINN. STAT. 365.37 & 471.87
 - MAT DOC C-6000
- RETAINAGE – CARRYOVER FROM 1 FISCAL YEAR TO THE NEXT
- CLAIMS FOR PAYMENT AND SOME RECORD OF PAYMENTS
- BACKUP COPIES OF MATERIALS - ELECTRONIC OR HARDCOPY

PERSISTENT MISCONCEPTIONS

SOMETIMES, YOU JUST CAN'T REMEMBER THE ANSWER
DON'T WORRY – THAT HAPPENS TO EVERYONE

SHAWN GETS THE YIPS –

I CAN NEVER REMEMBER HOW THIS EPISODE OF PSYCH
ENDS – NO MATTER HOW MANY TIMES I WATCH IT. I'VE
SEEN IT A DOZEN TIMES ... AT LEAST.



TIE-BREAKING

- IS THE CLERK THE TIE-BREAKER VOTE?
- NO, THE CLERK NEVER SERVES AS THE TIE-BREAKER.
 - SMARTY PANTS IN THE ROOM ... JUST WAIT ... I'LL GET TO WHAT YOU'RE THINKING ABOUT!
- IF THE SUPERVISORS CANNOT GET A MAJORITY, THE MOTION FAILS.

VACANCY IN OFFICES

- IF THE SUPERVISOR POSITION IS VACANT – REMAINING SUPERVISORS AND CLERK ACT AS THE APPOINTMENT COMMITTEE. THEY APPOINT A PERSON ELIGIBLE TO BE ELECTED TO THE OFFICE TO SERVE UNTIL THE NEXT ELECTION.
 - RULES CHANGE IF THE APPOINTMENT IS TOO NEAR THE NEXT ELECTION TO ALLOW THE POSITION TO BE PUBLISHED
- IF THE VACANCY IS IN CLERK OR TREASURER – SUPERVISORS APPOINT A NEW CLERK OR TREASURER WHO SERVES UNTIL THE NEXT ELECTION.

MESSING UP THE ELECTION

- ERRORS AND OMISSIONS – MINN. STAT. 204B.44
- ABSENTEE BALLOTS – HOW MANY ENVELOPES?

WHO SHOT THE DEPUTY NOT CLAPTON

- WHO APPOINTS THE DEPUTY?
 - MINN. STAT. 367.12 (CLERK) & 367.161 (TREASURER)
 - WHAT ABOUT OPTION B GOVERNMENTS (APPOINTED CLERK OR TREASURER)
- WHEN DOES A DEPUTY'S TERM END?
- IS THE DEPUTY CLERK A NOTARY EX OFFICIO (AUTOMATIC NOTARY), JUST LIKE THE CLERK?
 - MINN. STAT. 358.15
- WHEN DO THEY GET PAID? CAN THEY BE PAID AT THE SAME TIME AS THE CLERK / TREASURER?
- CAN THE CLERK AND TREASURER SHARE A DEPUTY?

DONATIONS

- CAN THE VOTERS CONSIDER DONATIONS OR CONTRIBUTIONS AT THE ANNUAL MEETING?
- MAT DOC F-1000 – HAS A LIST OF THE DONATIONS OR CONTRIBUTIONS WE KNOW ABOUT

WHOSE JOB IS THIS?

- TAKING MINUTES
- DOING PAYROLL
- ELECTIONS
- WRITING OUT CHECKS
- RECEIVING THE MAIL
- POSTING MEETINGS
- CREATING THE AGENDA
- STATEMENT OF ACCOUNTS FOR THE ANNUAL MEETING

CREATIVE FINANCING

- CAN WE TRANSFER MONEY FROM ONE ACCOUNT INTO ANOTHER ACCOUNT?