



The Paper Chase and Persistent Misconceptions

Spring Short Course 2019 – Clerks & Treasurers

Checklist of Contracting Related Paperwork and Data

A. Pre-Contract Stage

- Minutes or Resolution indicating:
 - Whether purchase or sale is subject to Municipal Contracting Law (471.345)
 - Estimate of expected total cost of the contract – must include all possible extensions or additional costs that could be charged on the contract
 - Board's selection of Open Market contract; Written Quotes; or Sealed Bidding
 - Permissions for individuals to act on behalf of the township in the contract process, including any restrictions on the individual's authority
- Permissions from other agencies, owners, or stakeholders
- Contract Specifications
 - Required for sealed bidding, but useful for any contract
- Financing records if any borrowing or special assessments are to be used

B. Contracting Process

Process used depends on which method of contracting is used.

1. *Open Market / Written Quotes*

- Advertisements or calls made for quotes or offers
- Affidavits of Publishing if published at all
- For Written Quotes:
 - At least 2 Written quotes, or a statement of why 2 quotes could not be obtained.
- Records of any communication of negotiation on the contract
- Conflict of Interest Waivers if any township officer has a statutory conflict of interest in the contract
- Written Contract

2. Sealed Bidding

- Advertisement placed in the township's local newspaper
- Affidavit of publication from the newspaper
- Notice of Meeting where the bids will be opened
- All Bids Received
 - Even those that are rejected should be kept
- Bid Bonds – if requested in the solicitation and specifications
- If the contract is Awarded, Minutes or resolution indicating:
 - a. Who is being awarded the contract, with each Supervisor's vote on the motion
 - b. The winning bidder is a responsible bidder – The winner can complete the job properly
 - c. The winning bidder was responsive to the specifications – provided everything required in the specifications
- If the lowest bidder's offer is rejected for any reason, such as no being responsible or responsive, a statement of why that bidder is being rejected. USE THE TOWNSHIP ATTORNEY.
- If all bids are rejected, a statement that no one is awarded the contract.
- Written Contract
- Performance and Payment Bonds

C. During the Contract

- Claims for payment
- Conflict of Interest Affidavits, if needed
- IC-134 Form
- Change Orders
- Progress reports if any progress evaluations are completed by the board or employees

Persistent Misconceptions

1. Tie-Breaking

- There is no tie-breaking vote in a township. No matter how important the matter, or the difficulty the board of supervisors face – clerks and treasurers cannot vote! That means the supervisors could have a deadlock they cannot resolve until they have an odd number of supervisors vote on the matter, or one of them agrees to vote the other way.

2. Vacancy in Office

- The only time the clerk has a vote is when there is a supervisor vacancy. See Minn. Stat. § 367.03

3. Fixing Election Problems

- Errors and Omissions Statute – Minn. Stat. § 304B.44
- Absentee Envelopes – there are 3 – keep them all

4. Deputies

- Only the clerk and treasurer can appoint the deputy. That appears to remain true even in Option B governments with appointed clerk /treasurers.
- Term ends when the appointing clerk's or treasurer's term ends.
- Deputy clerk is not automatically a notary. Get them an appointment and stamp.
- They are paid based on the Board's discretion, but they can be paid at the same time as the clerk or treasurer.
- They should be allowed to attend trainings so they are ready to serve when needed.
- Unclear if the clerk and treasurer can share a deputy. Safe answer and best practice is, no, they should not share the deputy. If they choose to share, the person could serve only one function on any matter.

5. Loans

- Townships cannot take a loan out at the bank. Its simply not allowed by law.
- Instead, they can use bonding, certificates of indebtedness, and special assessments.

6. Donations

- Only the township board can spend money. Voters do not have any spending power or authority to direct the board to spend in a certain way. The voters can take up anything they like at the annual meeting, but that does not turn their action into any binding action, unless a statute requires it.
- Since only the board may spend money, such spending is possible only at a board meeting – not at the annual meeting.
- Use MAT Document F-1000 for help identifying what donations or contributions may be allowed.

7. Whose Job is This

- Taking Minutes: Supervisors Job! That's right – clerks are responsible only to ensure minutes are filed. See Minn. Stat. § 367.11(3) – The clerk is responsible for town meeting minutes, not board meeting minutes.
- Payroll: processing is not the clerk's or treasurer's duty. They are responsible for recoding data produced in the payroll process.
- Elections: Clerk's duty to carry out most election functions.

- Writing out Checks: this appears to be a treasurer duty under Minn. Stat. § 367.16(1), but it's not entirely clear.
- Receiving the mail: people fight about this! Clerk and treasurer must eventually receive the records but that does not mean they must go first to the clerk or treasurer.
- Posting Board Meetings: No one is specified in the law as being responsible for this task
- Posting & Publishing the Annual Meeting: Clerk's job. Minn. Stat. § 365.51, subd. 2.

8. Transferring Money

- A town board by unanimous vote may transfer a surplus beyond the needs of the current year in a town fund to any other town fund to supply a deficiency. Minn. Stat. § 366.04.
- Not allowed for restricted funds, like road and bridge funding received from gas tax.

9. Pre-Signing Checks

- Township officers cannot pre-sign any checks! The claims process is not made for township officer convenience and there is no exception for townships that do not hold meetings frequently enough to consider the claims.

10. Labor Law Posters

- Townships should post labor law posters but there is no need to purchase them from any vendor.
- Free copies of required postings are available online from the Minnesota Department of Labor and Industry and US Department of Labor.

11. Unapproved Minutes

- Townships subject to the Data Practices Act likely need to provide draft minutes when requested.
- Townships not subject to the Data Practices Act do not need to provide draft minutes. Whether they do should be a board of supervisor's decision.
- The concern with draft minutes is that they are not an official record of the meeting. The board may not even have seen them and even if they have, may reject them completely. Unapproved Minutes are one person's understanding of what happened during the meeting.
- If draft minutes are released, they should be clearly marked as "DRAFT" in some way.