

Responsible Bidder Ordinance Example

1) Definitions. In this section, the following definitions shall apply.

- a) “Contractor” means a person, corporation, partnership or any other business entity that performs work on a public works contract as a general contractor, prime contractor or subcontractor at any tier.
- b) “Apprenticeship program” means a program that is approved by the U.S. Department of Labor or a state apprenticeship agency and has graduated apprentices to journeyperson status for three (3) years or a program that has been registered with the federal or state government within the last three (3) years, provided that such program graduates apprentices to journeyperson status within the indenture period excluded from the meaning of Apprenticeship program is any Industry-Recognized Apprenticeship Program.
- c) “Public works contract” means a contract for the construction, alteration, execution, repair, remodeling or improvement of a public work or building, where the contract is required to be bid pursuant to Wis. Stat. § 61.54 and 62.15(1) and (6).

2) Responsible Bidder Criteria. In order to be a responsible bidder for purposes of being awarded a public works contract, the contractor must meet the following criteria.

- a) The contractor maintains a permanent place of business.
- b) The contractor is authorized to do business in the State of Wisconsin.
- c) The contractor, or agent, partner, employee or officer of the contractor, is not debarred, suspended, proposed for debarment or declared ineligible from contracting with any unit of federal, state or local government.

- d) The contractor is in compliance with provisions of Section 2000e of Chapter 21, Title 42 of the United States Code and Federal Executive Order No. 11246 as amended by Executive Order No. 11375 (known as the Equal Opportunity Employer provisions).
- e) The contractor has general liability, workers' compensation, unemployment, and automobile insurance at levels sufficient to protect the village given the size of the public works.
- f) The contractor has complied with all provisions of Wisconsin prevailing wage law and federal Davis-Bacon related Acts, and all rules and regulations therein, for projects undertaken by the contractor that are covered by these laws, for the past five (5) years.
- g) The contractor participants in an Apprenticeship program for any contractor with more than 10 employees, the contractor participates in an Apprenticeship program or has a written alternative training program sufficient to ensure that its employees may safely perform the work required by the public works contract.
- h) The contractor has a written substance abuse prevention program meeting the requirements of Wis. Stat. § 103.503. As required by Wis. Stat. § 103.503, all employees must be subject to drug and alcohol testing before commencing work on the public works project, except that testing of an employee before commencing work on a project is not required if the employee has been participating in a random testing program during the 90 days preceding the date on which the employee commenced work on the public works project.
- i) The employees who will perform work on the project are properly classified as employees or independent contractors under all applicable state and federal laws.

- j) The contractor has not been the subject of any investigation, order or judgment from any state or federal agency or court concerning an employment practice, including but not limited to, classification of employees, unemployment insurance, or discrimination. If the contractor has been the subject of any investigation, order or judgment from any state or federal agency or court concerning an employment practice, the contractor must provide copies of the investigation, order or judgment. The village shall review the investigation, order or judgment and determine whether the facts and circumstances are such that the contractor is not a responsible bidder.
- k) The contractor's employees who will perform work on the project are:
 - i) Covered under a current workers' compensation policy; and
 - ii) Properly classified under such policy.
- l) The contractor's employees who will perform work on the project have the health insurance coverage required by the federal Affordable Care Act.
- m) The contractor possesses all applicable professional and trade licenses required for performing the public works.
- n) The contractor has adequate financial resources to complete the public works contract, as well as all other work the bidder is presently under contract to complete.
- o) The contractor is bondable for the terms of the proposed public works contract.
- p) The contractor has a record of satisfactorily completing at least five projects of similar size and complexity within the last five years. Criteria which will be considered in determining satisfactory completion of projects may include, but are not limited to:
 - i) Completion of contracts in accordance with drawings and specifications;

- ii) Diligent execution of the work and completed contracts according to the established time schedules unless extensions are granted by the owner; and
- iii) Fulfilled guarantee requirements of the contract documents.
- q) The contractor has, and diligently maintains, a written safety program.
- r) The contractor was not in OSHA's severe violator enforcement program in the previous two years.

3) No Restriction on Discretion. If information other than what must be disclosed by the contractor in subsection 3 is discovered by the village or the department, official or employee responsible for awarding the public works contract, and such information calls into question the contractor's capacity or competence to faithfully and responsibly comply with the terms of a public works contract, that information shall be considered in determining whether the contractor is a responsible bidder.

4) Affidavit of Compliance. The general or prime contractor bidding on a public works project must include in its sealed bid;

- a) its own affidavit swearing compliance with the criteria set forth in subsection 3) on the form required by the village; and
- b) an affidavit swearing compliance with the criteria set forth in subsection 3) on the form required by the village from every subcontractor at any tier who will perform work on the project.

Failure to submit the required affidavit, or providing incorrect, false, or misleading information shall automatically disqualify the contractor's bid.