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# Sample Local Municipality Responsible Contractor Policy

A responsible contractor policy is a set of guidelines that a contractor must follow, and a set of qualifications a contractor must possess, in order to construct or renovate for _____. The purpose of this policy is to assist the Municipality in awarding municipal building construction contracts to the "lowest responsible bidder." The requirements of this Policy, including any obligation of contractors to respond to the Responsibility Criteria and other criteria as listed, shall be incorporated into all bid documents used to solicit construction project bids. The Municipality can refuse to hire any contractor who does not meet the requirements of this policy. Furthermore, the Municipality may reject any bid proposals, which, in the Municipality's opinion may contain inaccurate information. The Municipality reserves the right to accept or reject a bid or combination of bids.

The Municipality's role in selecting a contractor(s) on construction projects shall be determined from the lowest responsible bid on the construction project(s) that meet the requirements of this policy.

## Definitions

Construction Project – the labor and material necessary for the construction, renovation, repair or improvements to real property, except repair in emergency situations, which requires solicited bids so that the work, when complete, shall be ready for service for its intended purpose and shall require no other work to be a completed system or component.

Lowest Responsible Bidder – a responsible contractor with the lowest cost bid that satisfies the requirements of all local, state, and federal laws; this Policy; any bid documents used to solicit bids; and any other guidelines and specifications required for the construction project. Submitted bids must breakout labor costs from material and equipment costs.

Responsible Contractor – any contractor or sub-contractor who is sufficiently qualified to satisfactorily perform the construction project, or any relevant part of the construction project, as determined by the Municipality, based on:

a) contractor or sub-contractor evidence of qualifications or lack thereof, as described in this Policy;
b) the contractor or sub-contractor's compliance with all applicable local, state and federal laws; and
c) input from the Municipalities architect and/or construction manager if applicable.

All required contractor/sub-contractor financial and privileged information submitted to the Municipality shall be kept from public disclosure unless required by law.

Responsibility Criteria

The Municipality shall consider at least each of the Criteria listed herein in determining whether a contractor is a Responsible Contractor. The list set forth below shall in no way limit any additional criteria that the Municipality may deem relevant for purposes of making a determination of contractor responsibility. Any such criteria deemed relevant by the Municipality that is in addition to the items listed below shall be specified in the bid documents together with the requirements of this Policy.

The bid documents for a construction project shall require any contractor or sub-contractor bidding on the project or any part of the construction project, to submit with its bid, written responses and other information demonstrating its compliance (or noncompliance and the reason for such noncompliance) with the listed Responsibility Criteria and any other criteria declared pertinent by the Municipality and included in the bid documents. For each separate bid package of a construction project, the Municipality may accord such weight as it deems appropriate to the Responsibility Criteria and any other criteria included in the bid documents for purposes of determining whether a contractor is a Responsible Contractor.

The Municipality will consider the following information in determining whether a contractor is a Responsible Contractor. This list is not intended to be all inclusive or exhaustive:

1. General information about the bidder's company, its principals, and its history, including state and date of incorporation.
2. Trade categories and information regarding the state and local licenses and license numbers held by the applicant.
3. A confirmation that all sub-contractors, employees and other individuals working on the construction project will maintain current applicable licenses with the Michigan Bureau of Construction Codes and Fire Safety and as may otherwise be required by law for all licensed occupations and professions.
4. The ratio of masters or journeypersons to apprentices proposed to be used on the construction project job site.
5. Documentation that the bidder maintains, participates in, and contributes to a bona fide apprenticeship training program approved by the United States Department of Labor, Bureau of Apprenticeship and Training (BAT) if apprentices are used on the job site.
6. Verification that no illegal non-US citizens will work on the project nor will the fraudulent use of the federal government's H2B visa program for immigrant construction workers be allowed.
7. A statement of determination from the contractor/sub-contractor on what percentage of their work force can be drawn significantly from area residents because it's a goal of the Municipality to utilize, in its construction activities, local residents as much as is economically feasible while retaining the high quality of construction required for its construction activities. The Municipality will consider, in evaluating which bids best serve the interest of the Municipality, the extent to which bidders are able to achieve this goal.
8. A statement regarding the bidder's staffing capabilities and labor sources including sub-contractors and a verification from the bidder that construction workers will not be misclassified, nor will independent contractors be used on site in violation of state and federal law.
9. Documentation of an on-going MIOSHA-approved safety-training program for

employees used on the proposed job site.

10. Evidence of a worker's compensation Experience Modification Rating ("EMR"). Preference will be given to contractors and subcontractors who exhibit an EMR of 1.1 or less.
11. A list of similar projects completed within the past five (5) years, including dates, clients, approximate dollar value, and size. Documentation from these previous projects of comparable size/complexity, including but not limited to all costs relating to the bidder's timeliness, performance, quality of work, extension requests, contractual fines and penalties imposed (including proof of such fines and penalties), liens filed, history of claims for extra work and any contract defaults with an explanation of the reason for the default and how the default was resolved.
12. Evidence of experience with construction techniques, trade standards, quality workmanship, project scheduling, cost control, management of projects of comparable size/complexity, and building codes by documenting the bidder's ability and capacity to perform the project. The bidder must identify those portions of the project it reasonably believes will be sub-contracted in the names of the sub-contractors.
13. Audited financial information current within the past twelve months, such as a balance sheet, statement of operations, and bonding capacity. Evidence that the applicant has financial resources to start up and follow through on the project(s) and to respond to damages in case of default as shown by written verification of bonding capacity equal to or exceeding the amount of the project. The written verification must be submitted by a licensed surety company rated ("B+" or better) in the current A.M. Best Guide and qualified to do business within the State of Michigan.
14. A list of all litigation and arbitrations currently, pending and within the past five (5) years, including an explanation of each. Evidence of satisfactory resolution of claims filed by or against the bidder asserted on projects of the same or similar size within the last five (5) years. Any claim against the bidder shall be deemed to have been satisfactorily resolved if final judgment is rendered in favor of the bidder or any final judgment rendered against the bidder is satisfied within ninety (90) days of the date the judgment became final.
15. Disclosure of any violations of any state, federal or local laws, including OSHA violations, violation of any state or federal prevailing wage laws, worker's compensation or unemployment compensation laws, rules or regulations, issued to or against the bidder within the past five years.
16. Disclosure of any debarment by any federal, state or local governmental unit and/or findings of non-responsibility or non-compliance with respect to any public or private construction project performed by the bidder.
17. Proof of insurance, including certificates of insurance, confirming existence and amount of coverage for liability, property damage, workers compensation, and any other insurances required by the proposed contract documents.
18. Provide references from individuals or entities the bidder has worked for within the last five (5) years including information regarding the records of performance and job site cooperation.
19. Verification of an existing Fitness for Duty Program (drugs and alcohol) of each employee working on the proposed jobsite.
20. Documentation as to whether the bidder provides health insurance and pension benefits to its employees.
21. A criminal records check for each employee the bidder proposes to use on the construction site.
22. A warranty statement regarding labor and materials.

23. Evidence of any quality assurance program used by the bidder and the results of any such program on the bidder's previous projects.
24. Have an existing Michigan School-to-Registered Apprenticeship Program partnership with a local school district, intermediate school district/secondary career technical center or community college within the boundaries of the municipality or regional workforce area.
25. Evidence of Equal Employment Opportunity Programs for minorities, women and small businesses.
26. Assurance that all construction work for this project shall proceed economically, efficiently, continuously and without interruption.

**Substantially Low Bid Review**

In the event the amount of the lowest bidder's bid appears disproportionately low when compared with estimates undertaken by or on behalf of the Municipality and/or compared to other bids submitted, the Municipality reserves the right to inquire further of the apparent lowest bidder to determine whether the bid contains mathematical errors, omissions, and/or erroneous assumptions, and whether the apparent lowest bidder has the capability to perform and complete the contract for the bid amount.

**Suspension or Revocation**

The Municipality may, for good cause, disqualify or suspend a contractor for a specified period of time or revoke the contract. Causes for disqualification, suspension or revocation shall include, but not be limited to, one or more of the following:

1. Inaccurate or misleading statements on the contractor's qualification statements.
2. Declared in default by the municipality.
3. Adjudged to be bankrupt.
4. Performance, in connection with contract work, becomes unsatisfactory to the Municipality, based on the Municipality asserting and recovering liquidated damages in an action against the contractor.
5. Contractor's license becomes suspended or revoked.

**Appeal**

A contractor whose contract with the Municipality has been suspended or revoked shall be given the benefit of reconsideration and appeal as follows:

1. The aggrieved contractor may, within ten (10) days after receiving notification of such action, request reconsideration in writing. The contractor may submit additional information at the time of appeal.
2. The Municipality shall act upon the contractor's request within thirty (30) calendar days after the filing and shall notify the contractor of its action to adhere, to modify, or reverse it original action. The Municipality may require additional information to justify the reconsideration.

Date adopted: _____