

RESPONSIBLE BIDDER

The Rochester City School District has developed the following guidelines for the determination of public works contract responsibility consistent with the duties of contracting agencies and the court interpretations of State law and regulations governing competitive bidding in the belief that the public interest will be served by the uniform application of these guidelines on District public works contracts:

1. In determining the responsibility of a bidder for a public works contract, the Director of Procurement and Supply may consider the following items:
 - a. Lack of proper certification, adequate expertise, prior experience with comparable projects, or financial resources to perform the work of the contract in a timely competent, and acceptable manner. Evidence of such a lack of ability to perform may include, but shall not be limited to, evidence of suspension or revocation for cause of a professional license of any director or officer, or any holder of five percent (5%) or more of the bidder's stock or equity; one or more negative performance evaluations by the bidder or other evidence of poor performance on a District project; failure to submit satisfactory evidence of insurance, surety bonds or financial responsibility; the status of bankruptcy petitions; suspension or debarment by state or federal government; or a history of termination of prior contracts for cause.
 - b. Bidder's non-discrimination policies, regulations and practices; and demographic information regarding a bidder's full time work force.
 - c. Criminal conduct in connection with government contracts or business activities. Evidence of such conduct may include a judgment of conviction or information obtained as a result of a formal grant of immunity in connection with a criminal prosecution of the bidder, any director or officer, or holder of five percent (5%) or more of the shares or equity of the bidder, or any affiliate of the bidder.
 - d. Violations of safety and/or training standards as evidenced by a pattern of OSHA violations or the existence of willful OSHA violations.
 - e. Willful noncompliance with the prevailing wage and supplements payment requirements of the Labor Law by the bidder or any affiliate of the bidder.
 - f. Any other significant Labor Law violations, including, but not limited to, child labor law violations, failure to pay wages, or unemployment insurance tax delinquencies.
 - g. Any significant violation of the Workers' Compensation Law, including, but not limited to, the failure of a bidder to provide proof of workers' compensation or disability benefits coverage.
 - h. Any criminal conduct involving violations of the Environmental Conservation Law or other federal or state environmental statutes or regulations.
 - i. Any criminal conviction concerning formation of, or any business association with, an allegedly false or fraudulent Women's or Minority Business Enterprise (W/MBE), or any denial, decertification, revocation or forfeiture of W/MBE status by New York State.

- j. Any determination in a final order of the Commissioner of the New York State Division of Human Rights, other State or Federal agency, or dispositive decision or order of a court of law that the bidder engaged in discriminatory or unlawful conduct under the Age Discrimination in Employment Act (the "ADEA"), Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 1981, 1983, 1985 and 1988, the Rehabilitation Act of 1973, the Americans With Disabilities Act, the Equal Pay Act, the New York Human Rights Law, Civil Service Law, Social Services Law or any other State or Federal statute or regulation intended to protect the civil rights of individuals.
- k. Any other cause of so serious or compelling a nature that it raises questions about the responsibility of a bidder, including, but not limited to submission to the District of a false or misleading statement on a sworn statement of bidder qualifications, or in some other form, in connection with a bid for or award of a contract.
- l. In addition to the factors specified above, the Director of Procurement and Supply may also give due consideration to any other factors considered to bear upon bidder responsibility, including, but not limited to, any mitigating factors brought to the District's attention by the bidder.
- 2. The District shall require that all bidders complete a sworn statement on all public works contracts. The sworn statement shall require that the bidder provide, among other things, information regarding its: ownership, management and affiliation; demographic information with regard to its full-time work force; prior judgments, violations and penalties; prior contracts and subcontracts; current construction projects and prior experience and skills.
- 3. If a bidder's sworn statement or credible information obtained from other sources available to the District causes the Director of Procurement and Supply to conclude that there is reasonable cause to believe that the bidder is not a responsible bidder, the Director of Procurement and Supply shall direct that a hearing be conducted to determine whether the bidder does not qualify as a responsible bidder under this Policy and the General Municipal Law, and shall so notify the bidder. The bidder shall be notified in writing of the date of the hearing and the bidder and the District shall be permitted to offer witnesses and other evidence. The hearing shall be conducted by a hearing officer or arbitrator ("Arbiter") selected by the District who shall issue a written decision after the completion of the hearing. In determining whether the bidder is not a responsible bidder, the Arbiter shall rely on the criteria set forth in this Policy and the requirements of the General Municipal Law. If the Arbiter determines that the bidder is not a responsible bidder, the Arbiter shall determine the period of time that the bidder shall be ineligible for work on public works projects of the District.
- 4. This policy is to take effect immediately.

Notes: Adopted June 5, 1997; Amended October 23, 2008 pursuant to Resolution No. 2008-2009: 364; Amended April 29, 2010 pursuant to Resolution 2009-2010: 820; Amended August 23, 2012 pursuant to Resolution No. 2012-13: 104; Amended October 28, 2021 pursuant to Resolution 2021-22: 243

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