
RESPONSIBLE CONTRACTING RULES AND REGULATIONS

1. GENERAL PROVISIONS

The City of Bay City, to encourage responsible contracting, has established the following Rules and Regulations, pursuant to Chapter 2, Article VI, Division 2 of the Bay City Code of Ordinances and approved by the City Commission. These Rules and Regulations define and illustrate adopted policies and procedures that will be utilized for city construction contracts of more than \$25,000, in accordance with the Ordinance.

2. AUTHORITY

The Purchasing Department is responsible for managing the processes defined within and ensuring compliance with the ordinance and the procedures outlined in this document, as approved by the City Commission.

3. PRE-QUALIFICATION

All contractors must be deemed a Responsible Contractor prior to submitting bids on Bay City construction projects. If no bid is required, the contractor must be determined Responsible prior to execution of the contract.

a. PRE-QUALIFICATION QUESTIONNAIRE

- i. Contractors who wish to bid on a Bay City construction project must submit via mail or email, a Pre-Qualifying Screening Questionnaire, which is available on the City's Purchasing webpage.
- ii. The Pre-Qualifying Screening Questionnaire submittal must include answers to all questions, all documentation specified, and signed under penalty of perjury. The following documents must be used for the submittal. Additional required information may be attached on a separate sheet.
 1. Pre-Qualifying Screening Questionnaire
 2. Project Information and Owner Evaluation form (one form for each project)
 3. Fitness for Duty form
- iii. Submitted questionnaires will be available through the Freedom of Information Act process, except to the extent that such information is exempt from disclosure pursuant to applicable law.

b. DETERMINATION OF RESPONSIBLE CONTRACTOR PROCEDURE

- i. The determination of Contractor Responsibility will be evaluated by the Pre-Qualification Review Committee, which will consist of a minimum of three staff members to be designated by the Purchasing Department.
- ii. The committee will make the Responsibility determination after evaluating the questionnaires for completeness, patterns of safety negligence (based on EMR rating and other factors), absence of licensure, lack of qualifications, and patterns of nonperformance on past contracts. The committee may also rely on information from regulatory agencies, and/or independent

investigations. The composite evaluation will determine whether a contractor is determined to be Responsible or Non-Responsible. The evaluation forms will not be made public and will remain with the Purchasing Department.

- iii. The Purchasing Department will send a Notice of Determination to the contractor by certified mail, stating whether the contractor has been determined to be Responsible or Non-Responsible.
 1. If the committee determines that a contractor is Responsible, the Purchasing Department will notify the contractor of the determination, with the approval and expiration dates of pre-qualification.
 2. If the committee determines that a contractor is Non-Responsible, the Purchasing Department will notify the contractor of the determination and provide a summary of the information upon which the committee made such determination.
- iv. Contractors deemed Responsible will be pre-qualified to bid for a period not to exceed two years, unless the contractor makes changes that affects its original pre-qualification criteria. The Purchasing Department will maintain the list of Responsible Contractors that will be posted on the City's Purchasing webpage.
- v. A contractor that has been determined to be Non-Responsible by the committee may request a Responsibility Public Hearing to rebut adverse information and to present evidence that it has the necessary quality, fitness, and capacity to perform the work. The contractor must submit a Responsibility Public Hearing Request form, via email, to the Purchasing Department at citypurchasing@baycitymi.org within five calendar days of receipt of the Notice of Determination.
 1. Failure to submit the request within five calendar days will be deemed a waiver of the right to such hearing.
 2. If the contractor requests a Responsibility Public Hearing in the manner described above, the hearing will be scheduled on the next available regular City Commission meeting. The determination by the City Commission that the contractor is Responsible or Non-Responsible will be final and constitute exhaustion of the contractor's administrative remedies.
- vi. Contractors deemed Non-Responsible will be added to a list of Non-Responsible contractors for a period of no fewer than two years from the determination date. Bids will not be accepted from contractors that have been deemed Non-Responsible. The Purchasing Department will maintain the list of Non-Responsible Contractors.
 1. After two years, the contractor may submit a written request via email to the Purchasing Department to be removed from the Non-Responsible Contractors list.
 - a. The request must explain the changes that the contractor believes will change its Responsibility determination.
 - b. If the Purchasing Department approves the request, the contractor will be required to submit a new Pre-Qualification Questionnaire with the required attachments, as described in Section 3(a) of this document, and the Purchasing Department will follow the procedure for Pre-Qualification as described above.
 2. Unless otherwise removed from the list by the Purchasing Department, contractors must remain on the list for five years.
- vii. During the term of the Contractor's pre-qualification as a Responsible Contractor, the contractor must mail or email updates to the Purchasing Department within thirty calendar

days after any change to the responses previously provided, if such change would affect the determination of Responsibility.

1. The Purchasing Department will re-evaluate the Responsibility determination of the Contractor within no fewer than 14 calendar days and send a new Notice of Determination to the contractor.
2. The pre-qualification period of the contractor will re-start on the date of the new Notice of Determination, based on the Responsibility decision by the Purchasing Department.
3. If determined Responsible, the Contractor will be pre-qualified for up to two years.
4. If determined Non-Responsible, the procedure will follow Section 3(b)(v) of this document.

4. BIDDING PROCESS

a. BID ADVERTISEMENT

- i. Bid advertisements will be listed on the City's Purchasing webpage, as well as online at www.bidnetdirect.com.
- ii. Projects will be advertised for no fewer than six (6) weeks.
- iii. Requests for information or questions about the project must be sent via email to the Purchasing Department, no later than 3:00 p.m., one week prior to bid opening. City staff will not discuss projects with contractors during the bid advertisement.
- iv. The Purchasing Department will review requests for information and questions and post responses and addenda (when appropriate) on www.bidnetdirect.com, which will be available to all bidders.

b. BID SUBMITTAL

- i. Only bids from pre-qualified contractors that are on the Responsible Contractors list may submit a bid.
- ii. The Purchasing Department retains the right in its discretion to reject any and all bids.
- iii. The bid package will consist of the completed bidding form, documents required in the bidding form, and additional information required in the advertisement. The bidding form and required submittals may vary from project to project at the discretion of the Purchasing Department.
- iv. Bid packages that do not include ALL required information and documentation will be deemed non-responsive, and the bid will be rejected.
- v. The Contractor must submit a hard copy of the sealed bid package, by the date and time in the advertisement of the project, to the Purchasing Department. Faxed and electronic submittals will not be accepted.

c. BID OPENING

- i. Bid Openings will occur on Wednesdays at 2:00 pm at City Hall, unless otherwise noted.
- ii. Bid Openings are open to the public,
- iii. Bids will be opened at the meeting and reviewed for responsiveness.

- iv. Once the bid is determined to be responsive, bid prices will be read aloud. However, overall bid evaluation scores will not be determined at the meeting, as they will be reviewed and evaluated by the Bid Evaluation Committee.

d. BID EVALUATION

- i. The Purchasing Department will form a Bid Evaluation Committee that consists of the Purchasing Manager, the Director of the department managing the project, and the Project Manager. Staff and/or consultants may be substituted or added at the discretion of the Purchasing Department.
- ii. The committee will use the Bid Evaluation form to score each bid. Evaluation categories consist of Price, Corporate Accountability, Workplace Safety, Social Equity, and the submission of Workforce Development Information. The composite scores assigned by the committee in each category, based on the point system on the Bid Evaluation form and this ordinance, will determine the Best Bid.

1. Price (25%)

- a. Scores will be determined based on the percent over or under the Engineer's Estimate, per the chart below:

Points	% Based on Original Engineer's Estimate
25	≥ 25% under Engineer's Estimate
21	20% ≥ < 25% under Engineer's Estimate
18	10% ≥ < 20% under Engineer's Estimate
15	0 > < 10% under Engineer's Estimate
12	Engineer' Estimate
9	0 > < 10% over Engineer's Estimate
6	10% ≥ < 20% over Engineer's Estimate
3	20% ≥ < 25% over Engineer's Estimate
1	≥ 25% over Engineer's Estimate

- b. Local Purchasing Preference Policy: If the following conditions are met, the Bay City based bidder will receive the same score in this category as the low bid.

- i. A bidder is a Bay City based business, in accordance with the Local Purchasing Preference Policy
- ii. If the bidder is not the low bidder,
- iii. The submitted bid price is within \$5,000 and 5% of the low bid,
- iv. The bidder agrees to reduce its bid to match the bid of the lowest bidder.

2. Corporate Accountability (25%)

- a. Qualifications of management and supervisory personnel will be scored based on years of previous experience, past projects, and training. Scores will range from 1 to 10 points.

- b. Quality Assurance Program: Bidders will receive 8 points if a quality assurance program is submitted. An additional 2 points will be awarded for providing a summary of any results of the program from other projects.
 - c. 5 points will be awarded if bidder certifies all construction work for this project will proceed economically, efficiently, continuously, and without interruption.
 - 3. Workplace Safety (25%)
 - a. If the project requires apprentices to be used, a bidder with a higher ratio of masters or journeypersons to apprentices will receive more points than bidders with a lower ratio. A total of 5 points may be awarded. If apprentices are not required on the project, the bidders will receive 5 points.
 - b. 5 points will be awarded for bidders that certify that the workers to be employed on the proposed project will have completed the relevant hazardous materials awareness trainings prior to entering the job site, if the project will involve workers handling hazardous materials.
 - c. Bidders with an EMR of 1.0 or less will be awarded 10 points. Bidders with an EMR of above 1.0 will be awarded 1 point.
 - d. 5 points will be awarded to bidders certifying that all workers on the project site employed by the bidder or subcontractor have completed the OSHA 30-hour training course.
 - 4. Workforce Development (15%)
 - a. 8 points will be awarded for documentation of pay rates and whether the bidder provides health insurance, pension, or other retirement benefits to its employees.
 - b. 7 points will be awarded for either of the following:
 - i. Documentation that the bidder has participated in a Class A Apprenticeship Program for the past three years for each separate trade or classification.
 - ii. Documentation of how the bidder assesses the skills and qualifications of any employees who do not have master or journeyperson certification or status or are not participants in a registered apprenticeship program.
 - 5. Social Equity (10%)
 - a. 4 points will be awarded for documentation of a Local Hiring Policy based on project location.
 - b. 3 points will be awarded for documentation of an Equal Employment Opportunity program or procedure for minorities, women, veterans, returning citizens, and small businesses.
 - c. 3 points will be awarded for certification that the bidder is an equal opportunity employer and does not discriminate.
- iii. The committee will evaluate and score the bids within 21 days and submit the recommendation to the commission.
- iv. If additional information or explanation is required from any bidder regarding any criteria, the Purchasing Department will request the information from the bidder in writing via email.

1. The bidder will be allowed five business days to submit via email, the requested information to be included in the consideration of its bid.
 2. If the bidder does not submit the requested information, its bid will be evaluated based on the information originally submitted or rejected due to lack of information, explanation, or clarity, at the discretion of the Purchasing Department.
- v. Bid evaluation forms will remain with the Purchasing Department and will not be made public. However, final composite scores, along with submitted bid prices and final scores for each category, will be provided with the recommendation of award when submitted to the City Commission.
 - vi. Once the committee determines the Best Bid, city staff will submit the recommendation to the City Commission for contract approval.

5. SUBCONTRACTOR COMPLIANCE

a. CONTRACTOR RESPONSIBILITIES

- i. The awarded contractor must verify all subcontractors scheduled for the project meet the pre-qualification requirements in Section 3 of this document and the Ordinance. At the discretion of the Purchasing Department, documentation may be required.
- ii. Contractors on the Non-Responsible Contractors list will not be allowed to be subcontractors.
- iii. The awarded contractor must submit a list of subcontractors that will be used on the project, prior to the preconstruction meeting. The Notice to Proceed will not be granted prior to the approval of the subcontractors by the Purchasing Department.
- iv. Once subcontractors have been approved by the Purchasing Department, they must not be substituted unless the Purchasing Department provides written authorization.

b. PURCHASING DEPARTMENT RESPONSIBILITIES

- i. The Purchasing Department will review the list of subcontractors and accept or deny the contractor's determination of Responsibility for the subcontractors. The Purchasing Department may request additional information or documentation in order to make the approval decision.
- ii. If the purchasing department determines a prospective subcontractor does not meet the pre-qualifying requirements, after informing the awardee, it may exercise one of the following options:
 1. Permit awardee to substitute a qualified, responsible subcontractor
 2. Require the awardee to self-perform the work in question, if the contractor has experience, licenses, and other qualifications to perform work in question
 3. Disqualify the awardee. If a subcontractor is disqualified, the awarded contractor must not be permitted to make any type of contractual claim against the city based on a subcontractor disqualification.

6. SUBSTANTIALLY LOW BID

The Purchasing Department reserves the right to inquire when a contractor's bid appears to be disproportionately low when compared with estimates undertaken by or on behalf of the City and/or compared to other bids.

- a. If the Purchasing Department determines further information is needed to determine whether the contractor has the capability to perform and complete the contract for the bid amount, it will submit a request for additional information or clarification to the contractor via email.
- b. The contractor must submit a response and/or additional documentation via email, to the Purchasing Department within two (2) business days of the request.
- c. The Purchasing Department will use the contractor's response to the inquiry to determine whether the bid contains mathematical errors, omissions, and/or erroneous assumptions and whether the contractor has the capability to perform and complete the contract for the bid amount.
- d. If the Purchasing Department determines the contractor does not have the capability to perform and complete the project for the bid amount, it will reject the bid.
- e. If the Purchasing Department determines the contractor has the capability to perform and complete the project for the bid amount, the bid will be considered and evaluated with the other bids.

7. NOTICE TO PROCEED

A Notice to Proceed will be issued after the following items are complete:

- a. Contract Execution
- b. Bond Submittals
- c. Certificate of Insurance
- d. Approved Subcontractor List
- e. Approved Progress Schedule
- f. Preconstruction Meeting, including all submittals required at the preconstruction meeting
- g. Any additional submittals required by the contract or Project Manager

8. ENFORCEMENT

a. VIOLATION TERMS

Violations of this Ordinance may constitute a material breach, termination of the contract, and/or other legal remedies, per Sec. 2-290.

b. REPORTED VIOLATIONS AND PUBLIC INPUT

- i. The Contractor Compliance Violation form will be available on the City's Purchasing webpage and in the City Clerk's office.
- ii. Members of the public may at any time submit the Contractor Compliance Violation form to the Purchasing Department for investigation.
- iii. The Purchasing Department will investigate violation claims and respond to the complainant within 21 calendar days.
- iv. If the Purchasing Department determines that a contractor has violated any provision of this Ordinance, the Purchasing Department will issue a written notice to the contractor via certified mail, that the violation is to be corrected within 10 calendar days from receipt of notice.
- v. In the event the contractor has not corrected the violation or taken reasonable steps to correct the violation, as determined by the Purchasing Department, within 10 calendar days, the Purchasing Department may:

1. Request the City Commission to declare a material breach of the contract and exercise its contractual remedies thereunder, which include but are not limited to termination of contract.
2. Request the City Commission to declare the contractor to be Non-Responsible in accordance with the procedures set forth in this Ordinance.