

Finance 10: Responsible Contractors

Section 1 – Policy Statement

The Bucks County Free Library (“BCFL” or “Library”) recognizes there is a need to ensure that all work on public construction and maintenance contracts is performed by responsible, qualified firms that maintain the capacity, expertise, personnel and other qualifications and resources necessary to successfully perform public contracts in a timely, reliable and cost-effective manner.

To effectuate the purpose of selecting responsible contractors for public contracts and to protect the Library’s proprietary investments in such contracts, prospective contractors and subcontractors, should be required to meet pre-established, clearly defined minimum standards relating to contractor responsibility, particularly requirements concerning technical qualifications, competency, experience, adequacy of resources, including equipment, financial and personnel, and satisfactory records of past performance in terms of safety, law compliance and business integrity.

It is also critical to recognize that due to the substantial impact that skilled craft labor has on public works projects, and due to the limited availability of skilled construction craft labor and imminent craft labor skill shortages, it is necessary to require contractors and subcontractors to participate in established, formal apprenticeship training programs as a condition of bidding and performing work, for the purpose of both promoting successful project delivery and ensuring future workforce development needed for future projects.

Therefore, the Library shall require compliance with the provisions of this Policy by business entities seeking to provide services to the Library as specified herein. The requirements of this Policy are intended to supplement, not replace, existing contractor qualification and performance standards or criteria currently required by law, public policy or contracting documents. However, in the event that any of the provisions of this Policy conflict with any law, public policy or contracting documents of the Library, this Policy shall not apply.

Section 2 – Responsible Contractor Requirements

- A. Except as provided in Subsection B to this Section 2, below, this Policy shall apply to all public works projects undertaken by the Library for construction, demolition, alteration, renovation, repair, service and maintenance work valued at or above \$250,000.00 and shall apply to all contractors and subcontractors at any tier on such projects.

- B. All firms engaged in contracts covered by this Policy shall be qualified, responsible contractors or subcontractors that have sufficient capabilities in all respects to successfully perform contracts on which they are engaged, including the necessary experience, equipment, technical skills and qualifications and organizational, financial and personnel resources. Firms bidding on public contracts shall also be required to have a satisfactory record of past performance, law compliance and business ethics.

Section 3 – Contractor Responsibility Certifications

- A. As a condition of performing work on a public works contract subject to this Policy, a general contractor, construction manager or other lead or prime contractor seeking award of a contract shall submit a Contractor Responsibility Certification. Subcontractors used on the contract are likewise required to provide similar Subcontractor Responsibility Certifications as provided by Section 6 of this Policy.
- B. The Contractor Responsibility Certification shall be completed on a form provided by the Library and shall reference the project for which a bid is being submitted by name and contract or project number.
- C. In the Contractor Responsibility Certification the construction manager, general contractor or other lead or prime contractor shall confirm and certify the following facts regarding its past performance and work history and its current qualifications and performance capabilities:
1. The firm and its employees have all valid, effective licenses, registrations or certificates required by federal, state, county, or local law, including, but not limited to, licenses, registrations or certificates required to:
 - a) do business in the designated locale; and
 - b) perform the contract work it seeks to perform.

These shall include, but are not limited to, licenses, registrations or certificates for any type of construction or maintenance trade work or specialty work which the firm proposes to self-perform.

2. The firm meets the bonding requirements for the contract, as required by applicable law or contract specifications and any insurance requirements, as required by applicable law or contract specifications, including general

liability insurance, workers compensation insurance and unemployment insurance.

3. The firm has not been debarred or suspended by any federal, state or local government agency or authority in the past three (3) years.
4. The firm has not defaulted on any project in the past three (3) years.
5. The firm has not had any type of business, contracting or trade license, registration, or other certification revoked or suspended in the past three years.
6. The firm and its principals and/or owners have not been convicted of any crime relating to the contracting business in the past ten (10) years.
7. The firm has not, within the past three years, been found in violation of any law applicable to its contracting business, including, but not limited to, licenses laws, tax laws, prompt payment laws, wage and hour laws, prevailing wage laws, environmental laws or others, where the result of such violation was the payment of a fine, back pay damages or any other type of penalty in the amount of one thousand dollars (\$1,000.00) or more.
8. The firm will pay all craft employees that it employs on the project the current wage rates and fringe benefits as required under applicable federal, state or local wage laws.
9. All craft labor that will be employed by the firm for the project have completed at least the OSHA 10-hour training course for safety established by the U.S. Department of Labor, Occupational Safety & Health Administration.
10. The firm will employ craft employees in all classifications and individual trades required to successfully perform the work related to this project.
11. The firm participates in a Class A Apprenticeship Training Program, as defined below, for each separate trade or classification in which it employs craft employees. This apprenticeship requirement assures that workers in each trade or craft employed are graduates of an apprenticeship training program in each trade or craft in which their services are utilized.

- a) For purposes of this Policy, a Class A Apprenticeship Program is an apprenticeship program that is currently registered with and approved by the U.S. Department of Labor or a state apprenticeship agency and has graduated apprentices to journey person status for at least three of the past five years. This may be an apprenticeship program that is subject to the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq. (“ERISA”), or a non-ERISA program.
 - b) To demonstrate compliance with this section, the firm shall provide, with this certification, a list of all trades or classifications of craft employees it will employ on the project and documentation verifying it participates in a Class A Apprenticeship Program for each trade or classification listed.
12. The firm has all other technical qualifications and resources, including equipment, personnel and financial resources, to perform the referenced contract, or will obtain same through the use of qualified, responsible subcontractors.
13. The firm will maintain all qualifications, resources and capabilities referenced in this certification throughout the duration of the project.
14. The firm shall notify the Library within seven (7) days of any material changes to all matters attested to in this certification.
15. The firm understands that the Contractor Responsibility Certification required by this section shall be executed by a person who has sufficient knowledge to address all matters in the certification and shall include an attestation stating, under the penalty of perjury, that the information submitted is true, complete and accurate.
- D. Execution of the Contractor Responsibility Certification required by this Policy shall not establish a presumption of contractor responsibility and the Library may require any additional information it deems necessary to evaluate a firm’s status as a responsible contractor, including technical qualifications, financial capacity or other resources and performance capabilities. BCFL may require that such information be included in a separate Statement of Qualifications and Experience or as an attachment to the Contractor Responsibility Certification.



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- E. The submitting firm shall stipulate in its Contractor Responsibility Certification that, if it receives a Notice of Intent to Award Contract, it will provide a Subcontractor List and required subcontractor information as specified in Section 6 of this Policy.
- F. If the submitting firm has ever operated under another name or is controlled by another company or business entity or in the past five years controlled or was controlled by another company or business entity, whether as a parent company, subsidiary or in any other business relation, it shall attach a separate statement to its Contractor Responsibility Certification that explains in detail the nature of any such relationship. Additional information may be required from such an entity if the relationship in question could potentially impact contract performance.
- G. If a firm fails to provide a Contractor Responsibility Certification required by this section, it shall be disqualified from bidding. No action of any nature shall lie against the Library because of its refusal to accept a bid for failing to provide information required by this section.

Section 4 – Pre-Qualification Requirements

Each firm subject to the requirements of this Policy must submit a Contractor Responsibility Certification at least fourteen (14) calendar days before the specified bid submission deadline. Failure to submit a Contractor Responsibility Certification by the aforesaid deadline will automatically disqualify any firm from submitting a bid or proposal for a contract.

Upon the receipt of the pre-qualification Contractor Responsibility Certification, the Library shall determine whether the firm meets the requirements set forth in this Policy. Notice of the Library's determination shall be sent to the proposed firm no less than seven (7) calendar days before the specified bid submission deadline. All firms that are determined by BCFL to meet the qualification requirements of this Policy shall be entitled to submit a bid or proposal for the project.

Section 5 – Waiver of Requirements

Upon a determination by four or more members of the Board of Directors ("Board") that any public funding requirement for a specific project limits or precludes the application of any specific provisions of this Policy, such provisions may be waived by a majority vote by the Board.

Section 6 – Notice of Intent to Award Contract

- A. After it has received bids for a project, the Library shall issue a Notice of Intent to Award Contract to the firm offering the lowest responsible bid.
- B. Such Notice shall be issued immediately or as soon as practicable after bids are opened and Notice of Intent to Award Contract. The Notice shall stipulate that the contract award is conditioned on the issuance of a written Contractor Responsibility Determination, as required by Section 7 of this Policy and any other conditions deemed appropriate by BCFL.

Section 7 – Subcontractor Lists, Subcontractor Responsibility Certifications

- A. A prospective awardee shall submit to the Library a Subcontractor List containing the names of any subcontractors that will be used for the referenced project, their addresses and a description of the work each listed subcontractor will perform on the project.
- B. At the time a perspective awardee submits the Subcontractor List it shall also submit Subcontractor Responsibility Certifications for all listed subcontractors to the Library. Subcontractor Responsibility Certifications shall be executed by the respective subcontractors on forms prepared by the Library and shall contain the same information and representations required in Contractor Responsibility Certifications, including verification of apprenticeship qualifications as required by Section 3(c)(11), above, for each trade or classification of craft workers it will employ on the project.
- C. Subcontractor Responsibility Certifications shall be executed by person having sufficient knowledge to address all matters in the certification and shall include an attestation stating, under the penalty of perjury, that all information submitted is true, complete and accurate.

Section 8 – Contractor Responsibility Review and Determination

- A. After a Notice of Intent to Award Contract has been issued, BCFL shall undertake a review process to determine whether the prospective awardee is a qualified, responsible contractor in accordance with the requirements of this Policy and other applicable laws and regulations and has the resources and capabilities to successfully perform the contract. The time of the review process shall be as determined necessary by the Library.

- B. As part of this review process, BCFL shall ensure that the Contractor Responsibility Certification, the Subcontractor List and the Subcontractor Responsibility Certifications, as required by this Policy, have been submitted and properly executed.
- C. BCFL may conduct any additional inquiries to verify that the prospective awardee and its subcontractors have the technical qualifications and performance capabilities necessary to successfully perform the contract and that the firms have a sufficient record of law compliance and business integrity to justify the award of a public contract. In conducting such inquiries, the Library may seek relevant information from the firm, its prior clients or customers, its subcontractors or any other relevant source.
- D. If at the conclusion of the review process the Library determines that all responsibility certifications have been properly completed and executed and if it concludes that the qualifications, background and responsibility of the prospective awardee and the firms on its Subcontractor List are satisfactory, it may issue a formal written Contractor Responsibility Determination verifying that the prospective awardee is a qualified, responsible contractor. In the event a firm is determined to be non-responsible, the Library shall proceed to conduct a responsibility review of the next lowest, responsive bidder or, if necessary, rebid the project.
- E. A Contractor Responsibility Determination may be issued after the conclusion of the review process under Section 5 of this Policy. A Responsibility Determination may be revoked or revised in any manner at any time if the Library obtains relevant information warranting any such revocation or revisions.

Section 9 – Subcontractor Responsibility Review Requirements

- A. A construction manager, general contractor or other lead or prime contractor shall not be permitted to use a subcontractor on any work performed for the Library unless it has identified the subcontractor on its Subcontractor List and provided a Subcontractor Responsibility Certification in accordance with the requirements of Section 6 of this Policy.
- B. A subcontractor listed on a firm's Subcontractor List shall not be substituted unless written authorization is obtained from BCFL and a Subcontractor Responsibility Certification is provided for the substitute subcontractor.

C. In the event that BCFL determines that a prospective subcontractor listed by the apparent low bidder does not meet the responsibility standards of this Section, it may, after informing the prospective awardee, exercise one of the following options:

1. permit the awardee to substitute a qualified, responsible, subcontractor in accordance with the requirements of this Section;
2. require the awardee to self-perform the work in question if the firm has the required experience, licenses and other qualifications to perform the work in question; or
3. disqualify the prospective awardee.

In the event that a subcontractor is disqualified under this Policy, the general contractor, construction manager or other lead or prime contractor shall not be permitted to make any type of contractual claim against the Library the basis of a subcontractor disqualification.

Section 10 – False or Misleading Responsibility Certification

If BCFL determines that a Contractor or Subcontractor Responsibility Certification contains false or misleading material information that was provided knowingly or with reckless disregard for the truth or omits material information knowingly or with reckless disregard of the truth, the firm for which the certification was submitted shall be prohibited from performing work for the Library for a period of three (3) years and shall be subject to any other penalties and sanctions, including contract termination, available to the Library under law. A contract terminated under these circumstances

shall further entitle the Library to withhold payment of any monies due to the firm as damages.

Section 11 – Execution of Final Contract

- A. A contract subject to this Policy shall not be executed until all requirements of this Policy have been fulfilled and until Contractor and Subcontractor Responsibility Certifications have been issued by the Library under Section 6(d) of the Policy. Upon completion of all requirements under this Policy, the Library may execute a final contract based upon the Notice of Intent.
- B. Prior to the execution of a final contract under this Section, the Library shall publicly post the Notice of Intent to Award, Contractor and Subcontractor



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Responsibility Certifications, Subcontractor Lists and Contractor Responsibility Determination on the Library website for public inspection for a period of five (5) calendar days after the issuance of the Contractor Responsibility Determination.

Section 12 – Repealer

Any and all other policies or parts of policies in violation or in conflict with the terms, conditions and provisions of this Policy are hereby repealed to the extent of such irreconcilable conflict.

Section 13 – Severability

The terms, conditions and provisions of this Policy are hereby declared to be severable, and, should any portion, part or provision of this Policy be found by a court of competent jurisdiction to be invalid, enforceable or unconstitutional, the Board of Directors hereby declares its intent that the Policy shall have been enacted without regard to the invalid, enforceable or unconstitutional portion, part or provision of this Policy.

Section 14 – Effective Date

This Policy shall become effective immediately after enactment.

Adopted by Board of Directors December 17, 2024