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DEPARTMENT OF UTILITIES
ENGINEERING SERVICES DIVISION

CITY OF SACRAMENTO
CALIFORNIA

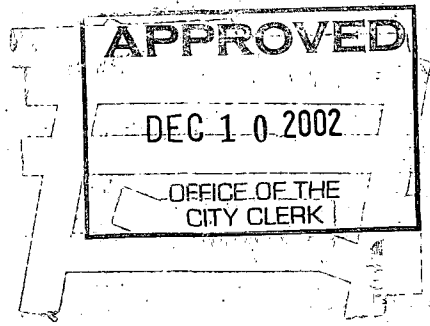
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November 20, 2002

City Council
Sacramento, California

Honorable Members in Session:



SUBJECT: AUTHORIZATION TO REVISE THE STANDARD MINIMUM QUALIFICATIONS FOR BIDDERS ON COMPETITELY BID CONTRACTS FOR PUBLIC PROJECTS

LOCATION AND COUNCIL DISTRICT: Citywide

RECOMMENDATION:

This report recommends that the City Council approve the attached resolution to authorize revisions to the Standard Minimum Qualifications established under an amendment to Section 3.60.020 of the City Code.

CONTACT PERSONS: Gary A. Reents, Engineering Services Manager, 264-1433
Candace McGahan, Supervising Engineer, 264-1416
Fran Halbakken, Project Delivery Manager, 264-7194

FOR COMMITTEE MEETING OF: December 10, 2002

SUMMARY

This report recommends approving the attached resolution revising the Minimum Qualifications Questionnaire.



CITY OF SACRAMENTO
DEPARTMENT OF UTILITIES

City Council
Revisions to the Minimum Qualifications Questionnaire
November 20, 2002

COMMITTEE/COMMISSION ACTION:

This item was reviewed by the Law and Legislative Committee on November 19, 2002. The Committee forwarded the resolution for revisions of the Standard Minimum Qualifications with a recommendation that it be adopted.

BACKGROUND INFORMATION

On May 14, 2002, the City Council adopted an amendment to City Code Section 3.60.020 in response to concerns of City Council regarding the qualifications of prime contractors bidding on public works projects and the quality of their work. The amendment authorized the concurrent adoption, by resolution, of Standard Minimum Qualifications for prime contractors that are determined by a bidder's answers to a short questionnaire accompanying each sealed proposal for competitively bid projects.

Since the City Council's May 14 action, staff met with the Sacramento-Sierra Building and Construction Trades Council (Trades Council) representing union construction workers. The Trades Council had suggestions for the City's questionnaire, particularly adding a requirement that the contractor use apprentices, and adding a question addressing prevailing wage violations. To accommodate their concerns, questions 12, 13, and 14 were added to address contractor compliance with California public works apprenticeship requirements and prevailing wage requirements. Question 14 was added after the Trades Council voiced further concerns at the Law and Legislative Committee on November 19 that Question 13 did not address those contractors who might have substantial prevailing wage penalties, but less than 3 violations.

Additional changes to the questionnaire are as follows:

- Minor word changes to clarify language.
- Question 6 - assessment of liquidated damages was changed to reflect the number of times a contractor has been assessed liquidated damages rather than the amount of days assessed.
- Question 9 was changed to a two part question allowing the contractor to choose between a total lost workday cases threshold or a Workers Compensation experience modification rate. Both are indicators of safety records but one is biased toward large contractors and the other towards smaller contractors. Additionally the total lost work day threshold was changed to 10 because the original 4.5 was an error and is actually below the national average.

A copy of the modified Minimum Qualifications Questionnaire has been sent to all Chamber of Commerces with jurisdictional boundaries within the City, the Association of General Contractors (AGC) representing union contractors, the Associated Builders and

City Council
Revisions to the Minimum Qualifications Questionnaire
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Contractors (ABC) representing non-union contractors, the Trades Council and all ESBD certified contractors.

FINANCIAL CONSIDERATIONS

No significant financial impacts resulted from the amendment to Section 3.60.020 adopted by the City Council on May 14, 2002.

POLICY CONSIDERATIONS

Requiring contractors competitively bidding on and performing the City's construction contracts to meet a standard minimum qualification level will help ensure the highest quality construction projects for the lowest cost by reducing the potential for cost overruns, delays and other adverse consequences of work by unqualified contractors.

ENVIRONMENTAL CONSIDERATIONS

Adoption of the revisions to the Standard Minimum Qualifications constitutes "general policy and procedure making" that is not a project for which environmental review is required, pursuant to Section 15378 (b)(2) of the CEQA Guidelines.

ESBD CONSIDERATIONS

Not applicable. There are no goods or services being purchased as a direct result of this report.

Respectfully submitted,

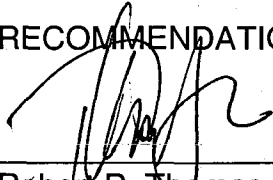


Jim Sequeira
Director of Utilities



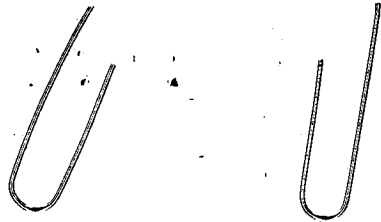
Mike Kashiwagi
Director of Public Works

RECOMMENDATION APPROVED:



Robert P. Thomas
City Manager

2.14
2002-814



RESOLUTION NO. 2002-814

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

APPROVED
DEC 10 2002
OFFICE OF THE
CITY CLERK

A RESOLUTION REVISING THE STANDARD MINIMUM QUALIFICATIONS FOR BIDDERS ON COMPETITIVELY BID CONTRACTS FOR PUBLIC PROJECTS

WHEREAS, Section 3.60.020 of the Sacramento City Code authorizes the City Council, by resolution, to adopt standard minimum qualifications for bidders on competitively bid contracts for public projects; and

WHEREAS, on May 14, 2002, the Sacramento City Council adopted Resolution No. 2002-280 establishing such standard minimum qualifications; and

WHEREAS, this resolution revises the standard minimum qualifications adopted by Resolution No. 2002-280.

NOW, THEREFORE, BE IT RESOLVED BY THE SACRAMENTO CITY COUNCIL THAT:

1. The standard minimum qualifications for bidders on competitively bid contracts for public projects that are set forth in the Minimum Qualifications Questionnaire attached hereto as Exhibit A are hereby adopted. The Minimum Qualifications Questionnaire attached hereto as Exhibit A shall supercede and replace the Minimum Qualifications Questionnaire that was attached as Exhibit A to Resolution No. 2002-280.
2. Bidders on competitively bid contracts for public projects shall demonstrate compliance with the standard minimum qualifications by completing all of the questions contained in the attached Minimum Qualifications Questionnaire. If a bidder answers "yes" to any single question, fails to submit a fully completed Questionnaire, or submits false information, this will result in a determination that the standard minimum qualifications are not met, and the bidder shall not be considered a responsible bidder, pursuant to Sacramento City Code Section 3.60.020. If two or more entities submit a bid on a contract as a Joint Venture, each entity within the Joint Venture must separately meet the standard minimum qualifications for the Joint Venture to be considered a responsible bidder.

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____

DATE ADOPTED: _____

3. Should any part of the attached Minimum Qualifications Questionnaire be declared invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of the Questionnaire shall remain in full force and effect.

MAYOR

ATTEST:

CITY CLERK

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____

DATE ADOPTED: _____

EXHIBIT A
MINIMUM QUALIFICATIONS QUESTIONNAIRE

Sacramento City Code section 3.60.020 authorizes the Sacramento City Council to adopt standard minimum qualifications for bidders on competitively bid public works construction projects, and requires, among other provisions, that a bidder meet such minimum qualifications at the time of bid opening to be considered responsible. On _____, the City Council adopted Resolution No. _____, establishing these standard minimum qualifications. Pursuant to City Code section 3.60.020, a bidder failing to meet these minimum qualifications at the time of bid opening shall not be considered a responsible bidder.

All bidders must demonstrate compliance with the minimum qualifications established by Resolution No. _____ by completing all of the questions contained in this questionnaire. If a bidder answers "yes" to any single question, fails to submit a fully completed questionnaire, or submits false information, this will result in a determination that the minimum qualifications are not met, and the bidder shall not be considered a responsible bidder for purposes of bidding on this contract. If two or more entities submit a bid on a contract as a Joint Venture, each entity within the Joint Venture must separately meet these minimum qualifications for the Joint Venture to be considered a responsible bidder.

The City of Sacramento ("City") shall make its determination on the basis of the submitted questionnaire, as well as any relevant information that is obtained from others or as a result of investigation by the City. While it is the intent of this questionnaire to assist the City in determining whether bidders possess the minimum qualifications necessary to submit bids on the City's competitively bid public works construction contracts, the fact that a bidder submits a questionnaire demonstrating that it meets these minimum qualifications shall not in any way limit or affect the City's ability to: (1) review other information contained in the bid submitted by the bidder, and additional relevant information, and determine whether the contractor is a responsive and/or responsible bidder; or (2) establish pre-qualification requirements for a specific contract or contracts.

By submitting this questionnaire, the bidder consents to the disclosure of its questionnaire answers: (i) to third parties for the purposes of verification, investigation, and ; (ii) in connection with any protest, challenge or appeal of any action taken by the City; and (iii) as required by any law or regulation, including without limitation the California Public Records Act (Calif. Gov't Code sections 6250 et seq.). Each questionnaire must be signed under penalty of perjury in the manner designated at the end of the form, by an individual who has the legal authority to bind the bidder submitting the questionnaire. If any information provided by a bidder becomes inaccurate, the bidder shall immediately notify the City and provide updated accurate information in writing, under penalty of perjury.

QUESTIONNAIRE

NOTICE: All of the following questions regarding “your firm” refer to the firm (corporation, partnership or sole proprietor) submitting this questionnaire, as well as any firm(s) with which any of your firm’s owners, officers, or partners are or have been associated as an owner, officer, partner or similar position within the last five years.

The firm submitting this questionnaire shall not be considered a responsible bidder if the answer to any of these questions is “yes”, or if the firm submits a questionnaire that is not fully completed or contains false information.

1. **Classification & Expiration Date(s) of California Contractor’s License Number(s)** held by firm:

2. Has a contractor's license held by your firm and/or any owner, officer or partner of your firm been revoked at anytime in the last five years?
 Yes No
3. Within the last five years, has a surety firm completed a contract on your firm's behalf, or paid for completion of a contract to which your firm was a party, because your firm was considered to be in default or was terminated for cause by the project owner?
 Yes No
4. At the time of submitting this minimum qualifications questionnaire, is your firm ineligible to bid on or be awarded a public works contract, or perform as a subcontractor on a public works contract, pursuant to either California Labor Code section 1777.1 (prevailing wage violations) or Labor Code section 1777.7 (apprenticeship violations)?
 Yes No
5. At any time during the last five years, has your firm, or any of its owners, officers or partners been convicted of a crime involving the awarding of a contract for a government construction project, or the bidding or performance of a government contract?
 Yes No

6. Answer either subsection A or B, as applicable:

A. Your firm has completed three or more construction contracts for the City within the last five years: Within those five years, has the City assessed your firm liquidated damages on three or more contracts for failure to complete contract work on time?

NOTE: If there is a pending court action challenging the City's assessment of liquidated damages on a City contract within the last five years, you need not include that contract in responding to this question.

Yes No Not applicable

B. Your firm has not completed at least three construction contracts for the City within the last five years: Within the last three years, has your firm been assessed liquidated damages on three or more government construction contracts for failure to complete contract work on time?

NOTE: If there is a pending administrative or court action challenging an assessment of liquidated damages on a government contract within the last three years, you need not include that contract in responding to this question.

Yes No Not applicable

7. In the last three years has your firm been debarred from bidding on, or completing, any government agency or public works construction contract for any reason?

NOTE: If there is a pending administrative or court action challenging a debarment, you need not include that debarment in responding to this question.

Yes No

8. Has CAL OSHA assessed a total of three or more penalties against your firm for any "serious" or "willful" violation at any time within the last three years?

NOTE: If there is a pending administrative or court action appealing a penalty assessment, you need not include that penalty assessment in responding to this question.

Yes No

9. Answer either subsection A or B, as preferred:

A. In the last three years has your firm had a three year average Workers' Compensation experience modification rate exceeding 1.1?

Yes No

- B. In the last three years has your firm had a three year average incident rate for total lost workday cases exceeding 10?

NOTE: Incident rates represent the number of lost workday cases per 100 full-time workers and is to be calculated as: $(N/EH) \times 200,000$, where

N = number of lost workday cases (as defined by the U.S. Dept. of Labor, Bureau of Labor Statistics)
EH = total hours worked by all employees during the calendar year
200,000 = base for 100 equivalent full-time working (working 40 hours per week, 50 weeks per year)

Yes No

10. In the past three years, has the federal EPA, Region IX or a California Air Quality Management District or Regional Water Quality Control Board assessed penalties three or more times, either against your firm, or against an owner for a violation resulting in whole or in part from any action or omission by your firm on a project on which your firm was a contractor?

NOTE: If there is a pending administrative or court action appealing a penalty assessment, you need not include that penalty assessment in responding to this question.

Yes No

11. In the past three years, has the federal EPA, Region IX or a California Air Quality Management District or Regional Water Quality Control Board assessed a single penalty of \$100,000 or more, either against your firm, or against an owner for a violation resulting in whole or in part from any action or omission by your firm on a project on which your firm was the contractor?

NOTE: If there is a pending administrative or court action appealing a penalty assessment, you need not include that penalty assessment in responding to this question.

Yes No

12. In the past three years, have civil penalties been assessed against your firm pursuant to California Labor Code 1777.7 for violation of California public works apprenticeship requirements, three or more times?

NOTE: If there is a pending administrative or court action appealing a penalty assessment, you need not include that penalty assessment in responding to this question.

Yes No

13. In the past three years, has a public agency in California withheld contract payments or assessed penalties against your firm for violation of public works prevailing wage requirements, three or more times?

NOTE: If there is a pending administrative or court action appealing a withholding or penalty assessment, you need not include that withholding or penalty assessment in responding to this question.

Yes No

14. Has your firm been assessed penalties for violation of public works prevailing wage requirements in California, in an aggregate amount for the past three years of \$50,000 or more?

NOTE: If there is a pending administrative or court action appealing a penalty assessment, you need not include that penalty assessment in responding to this question.

Yes No

VERIFICATION AND SIGNATURE

I, the undersigned, certify and declare that I have read all the foregoing answers to this Minimum Qualifications Questionnaire, and know their contents. The matters stated in these Questionnaire answers are true of my own knowledge and belief, except as to those matters stated on information and belief, and as to those matters I believe them to be true. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signed at _____, on _____
(Location) (Date)

Signature: _____

Print name: _____

Title: _____

NOTE: If two or more entities submit a bid on a contract as a Joint Venture, each entity within the Joint Venture must submit a separate Minimum Qualifications Questionnaire.