

CONTRACTOR RESPONSIBILITY

Cornell University or the ENTITY (hereinafter referred to as "Cornell", "Cornell University" or "Entity"), in determining the responsibility of the apparent lowest bidder, may require, and the apparent lowest responsible bidder shall provide, such information as the ENTITY deems necessary in order to ascertain the pecuniary and financial responsibility, accountability, operational responsibility, reliability, skill, capacity, ability, judgment, integrity and moral worth of the apparent lowest responsible bidder. In the event that the apparent lowest bidder shall be rejected or fails to furnish the requested information and thereby is disqualified and/or otherwise determined to be not responsible, the next lowest bidder shall become the apparent lowest responsible bidder.

The ENTITY may require the apparent lowest responsible bidder, in addition to other information, to furnish the following items:

a. Description of its experience with projects of comparative size, complexity, and cost within recent years, demonstration of Contractor's ability and capacity to perform a substantial portion of the project with its own forces;

b. Documentation from previous projects regarding: timeliness of performance; quality of work; extension requests; work, including fines and penalties imposed and payment thereof; liens filed; history of claims for extra work; contract defaults; together with explanations of same;

c. Identification and description of any projects within the previous five years that the apparent lowest bidder was determined by a municipality not to be a responsible bidder, the reasons given by such municipality therefore, together with an explanation thereof;

d. An adequate demonstration of financial responsibility, which may include, in the ENTITY's discretion, a Certified Financial Statement prepared by a Certified Public Accountant, to assure that the apparent lowest bidder possesses adequate resource and availability of credit and the means and ability to procure insurance and bonds required for the project;

e. Disclosure of any suspension or revocations of any professional license of any director, officer owner, or managerial employee of the apparent lowest bidder, to the extent that any work to be performed is within the field of such licensed profession;

f. Disclosure of any and all OSHA violations within the previous three years, as well as all notices of OSHA citations filed against the apparent lowest bidder in the same three year period, together with a description and explanation of remediation or other steps taken regarding such violations and notices of violation;

g. Disclosure of any and all violations within the previous five years pertaining to unlawful intimidation or discrimination against any employee by reason of race,

creed, color, disability, sex or natural origin and/or violations of an employee's civil rights or equal employment opportunities;

h. Certification and list of equipment owned and/or leased by the apparent lowest bidder that will be utilized on the project, together with maintenance records and such assurances regarding safety thereof as the County considers appropriate;

i. Disclosure of any litigation (including copies of pleadings) in which the apparent lowest bidder has been named as a Defendant or third party defendant in an action involving a claim for personal injury or wrongful death arising from performance of work related to any project in which it has been engaged within the previous five years;

j. Disclosure of violations of the Prevailing Wage and Supplement Payment Requirements of the Labor Law, and any other Labor Law provisions, including, but not limited to, child labor violations, failure to pay wages, or unemployment insurance tax delinquencies within the past five years;

k. Disclosure of violations of the Workmen's Compensation Law, including, but not limited to the failure to provide proof of Workmen's Compensation or Disability coverage and/or any lapses thereof;

l. Disclosure of any criminal convictions or criminal indictments, involving the apparent lowest bidder, its officers, directors, owners and/or managerial employees, within the past five years;

m. Disclosure of any violations within the past five years or pending charges concerning federal, state, or municipal environmental and/or health laws, codes, rules and/or regulations;

n. Identify all work to be subcontracted when requested by the ENTITY identifying the firm(s) to which the work will be subcontracted. All Subcontractors are subject to the approval of the ENTITY. The approval of the Subcontractors by the ENTITY, as provided in the general conditions, shall be subject to the same evaluation of responsibility.

Prior to a final determination that the apparent lowest bidder is not responsible, the ENTITY shall notify the party of same, in writing, stating the reasons causing concern, and setting forth a time, date and place for the apparent lowest bidder to appear and be heard, prior to a determination being made regarding its responsibility.

In the event the amount of the lowest bid appears disproportionately low when compared with estimates undertaken by or on behalf of the ENTITY and/or compared to other bids submitted, the ENTITY 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.

Notwithstanding the above, the ENTITY reserves the right to reject any and all bids as elsewhere provided herein.

NOTICE OF EMPLOYEES' RIGHTS: CONTRACTORS RESPONSIBILITIES

1. The Contractor and as applicable, all Subcontractors acknowledge and agree to establish and maintain a Bulletin Board at or near the established job site, Management office or at such site as the ENTITY directs, for the conspicuous posting of Notices including the New York State Department of Labor Schedules of Prevailing Wages and Supplements applicable to the Project, Worker's Compensation Law Notices, and all other notices which are required by law and such notices as the ENTITY may require the Contractor to post at the site. Such postings shall be secure from deterioration and/or obliteration by the elements, defacement, and acts of vandalism. Notices shall be maintained in a legible manner and shall be replaced if damaged, defaced, rendered illegible or removed for any reason. The posting of such notices shall be undertaken prior to commencement of work at the site, if practical and feasible, and shall be maintained until the project has been substantially completed. Said notice shall include the telephone number and address of the New York State Department of Labor, Bureau of Public Works.

Nothing herein shall be construed to relieve the Contractor from posting requirements otherwise required by law.

2. The Contractor and all subcontractors shall provide written notice to each employee that he or she is entitled to receive the prevailing wage and supplements for the occupation for which he or she has been hired. Such written notice shall be given to the employee at or before such individual commences work at the project site.

3. The Contractor and all subcontractors shall obtain from each employee a written acknowledgment that the employee has received a copy of such notice and is receiving the prevailing wage rate. For the purposes of this section, an employee includes, in addition to those immediately under the hire and/or supervision of the Contractor, employees of subcontractors engaged in work at the project site. The written acknowledgments of the employees required herein shall accompany each month's partial payment request.

Each Contractor and/or subcontractor, claiming that payments are being made into supplemental funds, shall set forth how payments that are claimed are actually being made on behalf of employees working on the job site for work performed on the job site, into the applicable health and/or pension fund.

4. The Contractor and all subcontractors shall maintain at the job site (or such place designated by the ENTITY of original payrolls, employee attendance records and/or transcripts thereof as are required to be maintained pursuant to Section 220 of the New York Labor Law and shall maintain the written acknowledgments of the employees as required above with the payrolls and transcripts.

5. The Contractor shall provide to the Resident Project Engineer, or other individuals designated by the ENTITY, upon application for payment an employment attendance sheet for all employees, including employees of subcontractors, for each day on which work is performed on the site, upon a form acceptable to the ENTITY, containing such information as the ENTITY deems appropriate, including job classification, hours or employment, wage rate and supplements payable and employer. A current attendance record shall be maintained at a location designated by the County.

6. The Contractor and all subcontractors shall provide the ENTITY on a weekly basis, copies of certified payrolls and certification of payment of wage supplements. Contractor shall also provide the ENTITY with such Subcontractor certified payrolls, affidavits, vouchers and receipts as to delivery and payment for materials (as the ENTITY deems necessary to substantiate claims and requests for payment).

7. Before the Contractor may request a progress payment for any item of work performed by Subcontractor, the Subcontractor's verified statement required by New York Labor Law §220-a. Before issuance of the final payment, the Contractor shall furnish the ENTITY with the original certifications and verified statements required by New York Labor Law Section 220-a.

8. Any Contractor or Subcontractor must be party to an apprentice program duly registered with the Commissioner of Labor in conformity with the provisions of Article 23 of the New York Labor Law.

9. The Contractor and all subcontractors shall pay all wages and supplements required by law. In the event that case payments in lieu of fringe benefits supplements are made upon the option of the Contractor, such payments shall be made by check, draft, or order payable to the employee. The Contractor shall maintain records of such payments and present such records for inspection upon request of the ENTITY.

10. Recognizing the need for uninterrupted performance of work under this contract, and the need to avoid disruption of classroom activity, research activity, counseling services, and all other university functions, Contractor and all Subcontractors agrees that, once they have started work pursuant to a contract, there will be no interruption in the performance of the work under said this contract. Once Contractor and all such Subcontractors have started work pursuant to this contract, to avoid interruption of this work and disruption of university functions, the Contractor and any Subcontractor agree not to employ any labor or means in connection with work done under this contract whose employment or utilization during the course of the contract may tend to, or in any way cause, or result in, the interruption of work due to strikes, work stoppages, delays, suspension of work or similar troubles by labor employed by the Contractor or Subcontractors, or by any of the trades working in or about the job sites where work is being performed under this contract, or any other contract on the job site. Further, Contractor and all Subcontractors shall, while working under this contract, agree not to employ any labor or means in connection with work done under this contract whose employment or utilization during the course of the contract may tend to, or in any way cause, or result in, the disruption of classroom activity, research activity, or any other university

function. Upon a written finding and determination by the representative designated by the entity that the Contractor and/or Subcontractor is in violation of this paragraph, the Contractor and/or Subcontractor shall be provided with written notice and (3) three days opportunity to cure. Upon finding by a designated representative of the Entity that the Contractor and/or Subcontractor has been provided with such written notice and has failed to cure, the contract may be terminated and cancelled without any penalty to Cornell University and Cornell University shall be entitled to recover any damages from the Contractor and/or the Subcontractor that may have been caused by such violation.

11. The Contractor shall ensure that all employees on the job site shall have received appropriate training and possess all required state and county licenses for specialty, craft, skill trade or other professional or licensed trades.

12. All bonding must be with an insurance company licensed to do business in New York.

13. The Contractor and all Subcontractors under the contractor must properly classify employees as employees rather than as independent contractors and treat them accordingly for purposes of Workers Compensation, insurance coverage, unemployment taxes, social security taxes and income tax withholding.

14. The Contractor hired must perform an amount of work, as specified by the public owner, on the job site.

15. The submission of any false or misleading information with respect to the submission made by any contractor or subcontractor in connection with these contractor responsibility requirements may, upon notice and hearing subject to contractual and legal provisions result in immediate disqualification. Likewise the failure to submit complete or accurate information may result in immediate disqualification.

16. To the extent not previously provided for herein, and on an ongoing basis throughout the course of the project, a Contractor/Subcontractor shall be required to provide information including but not limited to the following: any debarments or suspensions by any jurisdiction or contracting agency (federal, state or local) ; any findings that the Contractor/ Subcontractor has been determined to be non-responsive or otherwise ineligible to submit bids/proposals on any project; any findings of default in any project by a Contractor/Subcontractor; any termination or removal from a project of a Contractor/Subcontractor; any liens, lawsuits, arbitration claims or legal claims filed against the Contractor/ subcontractor in connection with any project; any declaration of bankruptcy or receivership by a Contractor/Subcontractor; any findings subsequent to initial submission that this Contractor/ Subcontractor has been found to be in violation of any statute, regulation or other law by any local, state or federal administrative agency or that any Contractor/Subcontractor has been accused of, investigated for or charged with any such alleged violations; advice with respect to the revocation of any license, permit or certification; any bond denial; or any issue that might give rise to a conflict of interest that an individual is engaged in managerial or advisory capacity for the Contractor/Subcontractor

and also has a relationship with an individual employed by an entity soliciting bids or solicitations for the contract work.

For the purposes of this paragraph, the term "Contractor/Subcontractor" shall mean:

The Contractor or Subcontractor submitting the bid/proposal; any persons related to the Contractor/ Subcontractor through common ownership, common management or common officers or directors; and firms which any of the owners, officers, directors of the submitting Contractor/Subcontractor previously participated in as an owner, officer or director.

SANCTIONS

Any Contractor or Subcontractor under the Contract who fails to maintain throughout the entire duration of the construction project compliance with any of the conditions set forth above may be subject to one or more of the following sanctions (upon notice and subject to any other contractual or legal requirements):

1. Cessation of work until compliance is obtained.
2. Removal from project altogether.
3. Withholding of payment until compliance is obtained.
4. Liquidated damages based on the value of the contract.

In addition to the sanctions outlined above, a general contractor shall be liable for any violations by its subcontractors.

The determination with respect to sanctions hereunder, together with the procedures and guidelines to be followed with respect to determining whether sanctions are appropriate under the circumstances, shall be determined by a duly authorized representative of the public owner.