

ORDINANCE 204 - 2002

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**AMENDING CHAPTER 180 OF THE OREGON MUNICIPAL CODE
(ENTITLED CONTRACTS GENERALLY) SECTION 180.01 ENTITLED
“BEST BID CRITERIA” AND ENACTING NEW SECTION 180.01
HEREINAFTER TITLED “BEST BID CRITERIA AND SUBMISSION
REQUIREMENTS”**

WHEREAS, the City of Oregon is required by law to award capital improvement contracts to the lowest and best bidder;

WHEREAS, the City of Oregon, based upon its experience, has determined that quality workmanship, efficient operation, safety, and timely completion of projects are not necessarily insured by awarding a construction contract to the lowest bidder;

WHEREAS, the City of Oregon passed ORDINANCE 164 –1999, entitled “Best Bid Criteria,” which requires consideration of several factors in addition to the dollar amount of the bid, thus enabling the city to identify the “lowest and best” bidders on all City of Oregon public works construction projects;

WHEREAS, the City of Oregon seeks to enhance its ability to identify the “lowest and best” bidders on all City of Oregon public works construction projects by instituting more comprehensive submission requirements;

WHEREAS, the “Best Bid Criteria and Submission Requirements” will preserve administrative resources by insuring that only qualified contractors and sub-contractors are awarded contracts on certain City of Oregon public works construction projects;

WHEREAS, the “Best Bid Criteria and Submission Requirements” will assure efficient use of taxpayer dollars and will promote public safety; NOW THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OREGON, THAT:

SECTION 1. Oregon Municipal Code Section 180.01 (Best Bid Criteria) is hereby repealed.

SECTION 2. New Oregon Municipal Code Section 180.01 entitled “Best Bid Criteria and Submission Requirements” is hereby enacted.

SECTION 3. New Oregon Municipal Code Section 180.01 “Best Bid Criteria and Submission Requirements” shall be enacted and read as follows:

I. Submission Requirements:

Contractors proposing to submit bids on any City of Oregon project, the value of which meets or exceeds the threshold levels set by the State of Ohio for prevailing wage compliance, must, prior to the opening of bids, submit a statement made under oath on a form designated by the city and must include:

- (A) A list identifying all former business names, if applicable. Bidder must identify any businesses which any owner, officer, director, manager or principal shareholder has at least a 25% interest, and must disclose the number of years the bidder has been in the construction business.
- (B) A statement as to past performance, which shall give an accurate and complete record of all public work completed in the past (3) three years by the contractor, giving the names and addresses of the projects, original contract price, final contract price, and the names of all subcontractors used, if applicable, and a statement as to compliance with completion deadlines.
- (C) A statement identifying and indicating the status of any litigation pending in state or federal court involving any governmental agency; also a statement identifying and indicating the status of any state or federal administrative proceeding or investigation including but not limited to matters involving the National Labor Relations Board, the United States Department of Labor, or the Wage and Hour Division of any state; and disclosure of any and all unsatisfied judgments, injunctions or liens obtained by a governmental agency against bidder;
- (D) Disclosure of any determination for violations of federal, State or local laws, including OSHA violations, violations of any state prevailing wage laws, rules or regulations, or the federal Davis-Bacon Act, including a list of all citations, orders, or recommendations issued to or against the bidder within the previous six (6) years by any court, administrative or governmental tribunal. Bidder must include any and all federal, State or local debarments and findings of “non-responsibility;”
- (E) A statement on staffing capabilities, including labor sources; staffing plans which verify the bidder’s ability to comply with the ratio requirements set forth on the prevailing wage rate schedule attached to the bid specifications; and confirmation that all apprentices to be used on the project are registered with an apprenticeship

training program approved by the State of Ohio or United States Department of Labor, Bureau of Apprenticeship and Training;

- (F) A good faith estimate of the percentage of the bidder's project workforce that resides in the City of Oregon, Northwest Ohio and/or Southeast Michigan. For the purpose of this ordinance, Northwest Ohio is defined as Lucas, Wood, Williams, Defiance, Fulton, Henry, Ottawa, Sandusky, Seneca, Hancock, Putnam, Paulding and Erie Counties. For the purpose of this ordinance, Southeast Michigan is defined as the townships of Erie, Bedford and Whiteford in Monroe County, Michigan and Riga Townships in Lenawee County, Michigan; also, verification as to whether the construction workers on the job are entitled to hospitalization and retirement benefits; and, verification as to whether bidder maintains a substance abuse policy that governs all employees on the project;
- (G) Disclosure of the name and address of each subcontractor from whom the bidder has accepted a bid and/or intends to hire on any part of the project for which the value of the work performed by the subcontractor is at least fifteen thousand dollars (\$15,000.00); each such subcontractor shall be required to adhere to the submission requirements set forth herein as though it were bidding directly to the City of Oregon at least 10 days prior to commencement of work by the subcontractor.
- (H) The name and description of the management experience of each of bidder's project managers and superintendents that bidder intends to assign to work on the project;
- (I) Proof of any professional or trade license required by law for any trade or specialty area in which bidder is seeking a contract award; and disclosure of any suspension or revocation within the previous five years of any professional or trade license held by the company, or of any director, officer or manager employed by the bidder; and,
- (J) A signed statement that the bidder has reviewed the applicable prevailing wage law, that the bidder has reviewed and agrees to pay the applicable prevailing wage rate as set forth in the prevailing wage rate schedule attached to the bid specifications, and that the bidder will strictly comply with O.R.C. 4115 and OAC 4101:9-4 (or federal Davis-Bacon and related requirements).

The City of Oregon reserves the right to demand supplemental information, verify any of the information provided in advance of the bid date, and may also conduct random inquiries of the bidder's prior customers.

II. Validity of Pre-Qualification Classification

Upon designation by the Public Service Director that a contractor or sub-contractor's submission in anticipation of bid is complete and timely, and upon any further consideration deemed necessary by the Public Service Director, the contractor or sub-contractor may be pre-qualified for future City of Oregon Public Improvement Projects. A contractor's classification as "qualified" shall exempt the contractor or sub-contractor from the comprehensive submission requirements contained herein for a period of twelve (12) months. Thereafter, contractors or subcontractors who are pre-qualified must submit a complete application for continuation of "qualified" standing, on a form provided by the City of Oregon, (also referred to as the "short form") by December 30 for the upcoming calendar year. Failure by any pre-qualified contractor or sub-contractor to timely submit its complete application for continuation of "qualified" standing shall result in automatic removal of the designation, effective January 1 of the upcoming year.

Any material changes to the contractor's status, at any time, must be reported in writing within ten (10) days of its occurrence. The pre-qualification designation is solely within the discretion of the Public Service Director and the City of Oregon specifically reserves the right to change or revoke the designation for cause.

Denial of pre-qualification shall be in writing and shall be forwarded to the contractor within seven (7) working days of such decision. Any contractor denied pre-qualification status may request reconsideration of the decision by submitting such request in writing to the City of Oregon Public Service Director within five (5) business days of receipt of notice of denial.

III. Penalties for False, Deceptive or Fraudulent Statements / Information

Any bidder that willfully makes, or causes to be made, a false, deceptive or fraudulent statement, or submits false, deceptive or fraudulent information in connection with its application for pre-qualification shall be permanently disqualified from bidding on all City of Oregon projects and shall be charged with a fourth degree misdemeanor, which carries a maximum term of imprisonment of thirty (30) days and a maximum fine of \$250.

IV. Incomplete Submissions by Bidders and Sub-Contractors

It is the sole responsibility of the potential bidder to comply with all submission requirements including all information on the bidder's sub-contractors, signed and notarized, no later than the public bid opening. Submissions deemed inadequate or incomplete by the Public Service Director may result in automatic disqualification of the bid.

Any undisclosed sub-contractors hired after an award is made to a pre-qualified general contractor must submit all information required herein to the Public Service Director at least ten (10) days prior to the date the sub-contractor is set to commence work on-site. No sub-contractor the value of whose work exceeds \$15,000.00 can work on any City of Oregon public improvement project unless all submission requirements set forth herein are timely met and they are deemed to be “qualified” by the Public Service Director.

V. Lowest and Best Determination

The City of Oregon, after review of complete and timely submissions, shall, in its sole discretion, after taking into account all information in the submission requirements, determine which contractor has submitted the lowest and best bid. The City of Oregon specifically reserves the right to utilize all information provided in the contractor or sub-contractor’s submission, or any information attained by the City of Oregon as a result of any related investigation, in consideration of contract awards.

SECTION 4. It is hereby found and determined that all formal actions of this Council and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and its committees that resulted in such formal actions, were meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Revised Code of Ohio and that the reading and adoption of this Ordinance complies with Article III Section 9 of the City Charter, as amended.

SECTION 5. This Ordinance shall be in full force and effect from and after the earliest date allowed by law and the Charter and Ordinances of the City of Oregon.

Passed this 23rd day of September, 2002. Yeas 7 Nays 0 Abstentions 0.

/s/ Michael P. Sheehy
President of Council

ATTEST:

APPROVED:

/s/ Mary E. Finger
Council Clerk

/s/ Marge Brown
Mayor