

CHAPTER 2014-34

No. 400 AN ORDINANCE IN AMENDMENT OF CHAPTER 21, ARTICLE II, "CONTRACTS, PURCHASES AND SALES", IS HEREBY AMENDED TO ADD SECTIONS 21-28.1 (D) 6-8 - QUALIFICATIONS OF PARTIES DOING BUSINESS WITH THE CITY.

Approved August 8, 2014

Be it ordained by the City of Providence:

SECTION 1. The Code of Ordinances of the City of Providence, Chapter 21, "Revenue and Finance," Article II, "Contracts, Purchases and Sales," is hereby amended as follows:

Sec. 21-28.1. Qualifications of parties doing business with the city.

- (a) In awarding bids for purchase of materials or services by the City of Providence, the Board of Contract and Supply and the Purchasing Department of the City of Providence shall take into consideration, among other factors, the background and reputation for honesty and integrity of the parties who have bid on the particular materials or services.
- (b) No contract shall be awarded to any party who is not current with all taxes which have been levied against that party by the city, including, but not be limited to, property, excise and tangible taxes; provided, however, that this section shall not apply to any party who has disputed the taxes assessed pursuant to provisions of the State of Rhode Island, nor to any party who, while delinquent, has entered into an agreement with the city collector for the payment of its taxes and is current in that agreement. All bidders shall submit with each bid a certificate from the City Tax Collector certifying that there are no outstanding taxes due and owing to the City, or that any tax delinquency is subject to a properly filed tax dispute.
- (c) In order to assist the board of contract and supply and other departments of the City of Providence in considering the foregoing, the Mayor, the Finance Director of the City of Providence or the chairperson of the Finance Committee of the City Council of the City of Providence may request the Chief of the Providence Police Department to conduct a background check on any party bidding or submitting bids for sale of services or materials to the City of Providence and/or any owner, officer or director of any such party. Upon receipt of any such request, the chief of police shall conduct such an investigation including, without limitation, to determine whether any such bidding party or any officer, director or owner thereof has been convicted of any criminal offense and shall report his findings to the party requesting such information and to the board of contract and supply. The results of any such investigations shall be public records of the City of Providence.
- (d) Any construction project subject to subsection (a) that is or is budgeted to be one hundred thousand dollars (\$100,000.00) or more shall:
 - (1) Contain a provision requiring all contractors and subcontractors have or be affiliated with a state registered apprenticeship program as defined in 29 C.F.R. § 29 et seq.
 - (2) Require that not less than fifteen (15) percent of the total hours worked by the contractors' and subcontractors' employees on any one (1) project are completed by apprentices registered in state registered apprenticeship programs as defined.
 - (3) Subsequent to the City's award of the contract and prior to commencement of work, the prime contractor may petition the awarding agency to adjust the apprenticeship work hours requirements in subsection (2). The awarding agency may lower the fifteen (15) percent requirement only if it determines in writing that compliance is not feasible or that it would be unduly cost prohibitive to the project.

(4) Contain the following enforcement provisions:

- a. All contractors and subcontractors shall submit written reports documenting compliance with their apprenticeship obligations prior to approval and issuance of any periodic and/or final payments being made by the contracting party.
- b. Any contracting governmental subdivision or agency or its designee shall have the power to impose sanctions on any contractor or subcontractor found not to be in compliance with its obligations under this Ordinance. Such sanctions shall include, but not be limited to:
 - 1. Termination of contract.
 - 2. Debarment from future city projects.
 - 3. Recovery of any benefits which accrued to the business during the period of violation.
 - 4. Referral for civil sanctions and/or prosecution under the False Claims Act.

(5) Any and all bidders shall certify in writing, as a condition precedent for bidding on any City of Providence-sponsored project worth in excess of fifty-thousand dollars (\$50,000.00), that the bidder shall comply with the following: ("Bidder" shall include all construction managers, contractors, and subcontractors bidding on a construction, repair, or demolition contract).

- a. All bidders shall adhere to air quality protocols outlined in the Green During Construction initiative. These refer specifically to: (1) the implementation of dust controls - especially silica control measures - during construction; (2) the substitution of all gasoline, propane, and diesel-powered construction equipment - either stationary and mobile - with equipment designed to reduce toxic emissions, either through engine modification, the use of alternative fuels, or the implementation of electric or hybrid power systems; and (3) the prohibition of idling motors on gasoline and diesel vehicles as published by the Rhode Island Committee on Occupational Safety and Health.
- b. All bidders who are awarded or otherwise obtain contracts with the City of Providence shall comply with all obligations set forth in paragraph a. for the entire duration of the contract. Any bidder performing work pursuant to this initiative shall be obligated to immediately notify the City of Providence regarding any material changes relating to concurrence with this initiative. Failure to notify the city of any material change shall be considered a submission of false information and the city shall have the discretion to impose any and all sanctions authorized by this section.
- c. Any bidder who negligently or willfully fails or refuses to comply with any of the obligations set forth in paragraph a., above, for any period of time, shall be subject to sanctions at the discretion of the City of Providence, which may or may not include one (1) or more of the following: 1) cessation of work on the project until compliance is obtained; 2) withholding of payment due under any contract or subcontract until compliance is obtained; 3) permanent removal from any further work on the project; 4) debarment from eligibility to contract with the City of Providence; 5) declaration of any contract held by the bidder null and void.
- d. Each bidder shall be responsible for, and shall ensure that any and all subcontractors to the bidder shall comply with all the requirements of the section, and each bidder shall certify the compliance of any and all subcontractors with the provisions of this section in the manner provided in paragraph b. above.

- (6) In the performance of any contract with the City of Providence or an agency or department thereof, all contractors or subcontractors shall agree as follows. The contractor or subcontractor shall not:
- a. Refuse to hire any applicant for employment or otherwise discriminate because of race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin; or
 - b. Because of such reasons, to discharge an employee or discriminate against him or her with respect to hire, tenure, compensation, promotion, terms, conditions, or privileges of employment, or any other matter directly or indirectly related to employment; or
 - c. In the recruiting of individuals for employment or in hiring them, to utilize any employment agency, placement service, training school or center, labor organization, or any other employee referring source which such employer knows, or has reasonable cause to know, discriminates against individuals because of their race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, or country of ancestral origin;
 - d. To treat disabilities caused or contributed to by pregnancy, miscarriage, childbirth or recovery therefrom, differently than other temporary disabilities under any health or temporary disability insurance, or sick leave plan available in connection with employment. Pay, tenure, benefits, seniority, and re-instatement shall be afforded in the same manner for medically necessary pregnancy-related absences as they are for other medically necessary absences.
- (7) A contractor or subcontractor shall be deemed to have breached the nondiscrimination provisions of this Chapter upon a finding by the Director of Public Property that the contractor or subcontractor has willfully violated such nondiscrimination provisions. Upon such finding by the Director of Public Property, the awarding authority shall notify the contractor or subcontractor that unless the contractor or subcontractor demonstrates to the satisfaction of the Director within a reasonable period of time that the violation has been corrected, the breach of contract shall be the basis for sanctions including but not limited to:
- a. Termination of contract.
 - b. Debarment of future city projects.
 - c. Recovery of any benefits which accrued to the business during the period of violation.
- (8) Nothing contained in this chapter shall be construed in any manner so as to prevent the City from pursuing any other remedies that may be available at law, equity or under any contract.
- (e) As part of any bid to provide services or goods of \$100,000 or greater for any City of Providence-sponsored project, the bidder (referred to below as "the Business") shall submit a "Bidder's Affidavit" which shall contain "Reportable Contributions" (as defined below) for "Business Contributors" (as defined below) covering the twelve (12) month period immediately preceding the date on which the bid is submitted ("Reporting Period"):

- (1) For the purpose of this subsection, the term "City Contribution" shall mean all campaign contributions to:
 - a. Members of the Providence City Council
 - b. Candidates for election or re-election to the Providence City Council
 - c. The Mayor of Providence
 - d. Candidates for election or re-election to the office of Mayor of Providence
- (2) For the purposes of this subsection, the term "Executive Officer" means any person who is appointed or elected as an officer of a business entity by either the incorporators, stockholders, or directors of the business entity who is in charge of a principal business unit, division, or function of the business entity, or participates or has authority to participate other than in the capacity of a director in major policymaking functions of the business entity or who is actively engaged in soliciting business from the state or conducting, other than in a ministerial capacity, business with the City; provided, that officers of the business entity who are located outside the state of Rhode Island, are not residents of the State, and do not participate in the business of the business entity within this State shall be exempted from the requirements of this chapter;
- (3) For the purpose of this subsection, the term "Business" shall mean any Business as defined by R.I.G.L. §36-14-2.
- (4) For the purpose of this subsection, the term "Business Contributors" shall be defined to include contributions made by the following:
 - a. The Business;
 - b. Any political action committee whose name includes the name of the Business;
 - c. All persons holding a ten percent (10%) or greater equity interest or five thousand dollars (\$5,000) or greater cash value interest in the Business at any time during the Reporting Period;
 - d. All Executive Officers of the Business;
 - e. Any spouse or dependent child of any individual identified in subsections (a) through (d) above.
- (5) For the purpose of this subsection, the term "Reportable Contributions" shall mean all City Contributions (as defined above) named by Business Contributors.
- (6) The Affidavit described shall identify each and all Reportable Contributions, including in the description of each contribution
 - a. the date and amount of the contribution;
 - b. the recipient of the contribution; and
 - c. the name and address of the Business Contributor and the basis on which the contributor qualifies as a Business Contributor.
- (7) The Affidavit shall include a certification by the chief executive officer of the Business's or other individual authorized to act on the Business's behalf that all of the information in the Affidavit is substantially true and accurate, and a material failure to comply with this requirement provides grounds for termination of the contract.

- (8) The Affidavit shall be a public record.
- (9) Prior to executing any contract with the City of Providence to provide goods or services of a value of \$100,000 or greater, and as a condition for entering into such a contract, all prospective vendors will submit a "Vendor's Affidavit" supplementing the information set forth in subsection (d) for the period between the time of the submission of the initial Certificate and the execution of the contract.

SECTION 2. This ordinance shall take effect upon passage.

IN CITY COUNCIL
AUG 04 2014
FIRST READING
READ AND PASSED
Lori L. Hayes CLERK
ACTING

IN CITY COUNCIL
AUG 07 2014
FINAL READING
READ AND PASSED
Mr. [Signature] PRESIDENT
Lori L. Hayes CLERK
ACTING

I HEREBY APPROVE.

Azul Taveler
Mayor
Date: 8/8/14