
RESOLUTION 07-16

**THE OHIO SCHOOL FACILITIES COMMISSION
FEBRUARY 15, 2007**

**APPROVING LOCAL SCHOOL DISTRICT AUTHORITY TO DETERMINE
CONTRACTOR QUALIFICATIONS FOR A PROJECT**

WHEREAS, the 122nd Ohio General Assembly established the Ohio School Facilities Commission (Commission) under Chapter 3318 of the Ohio Revised Code (ORC); and

WHEREAS, the Commission is committed to ensuring that schools are built by responsible bidders; and

WHEREAS, Section 3313.46 of the Ohio Revised Code requires school districts to award contracts to contractors submitting the lowest responsible bid after competitive bidding; and

WHEREAS, Section 3318.10 of the Ohio Revised Code provides discretion for a Board of Education, subject to Commission approval, to determine which contractor is the lowest responsible bidder; and

WHEREAS, Section 9.312 of the Ohio Revised Code sets forth factors that a public agency shall consider in determining whether a bidder on the contract is responsible; and

WHEREAS, subject to Commission approval, a School District participating in a Commission program may determine express criteria or qualification standards reasonably related to performance of the contract work within the statutory framework set forth in Section 9.312 of the Ohio Revised Code; and

WHEREAS, all criteria or qualification standards for the evaluation of a bidder on a project must be published as part of the bid documents so that the contractors bidding on the contracts are all aware of the qualification criteria at the time the bid is prepared and submitted;

NOW, THEREFORE BE IT RESOLVED THAT:

1. A School District participating in a Commission program shall have authority by resolution of the Board of Education to establish criteria or qualification standards reasonably related to assuring the Board of Education that bidders are responsible contractors.

2. The criteria or qualification standards adopted by the Board of Education are subject to Commission approval. All submissions by Boards of Education which contain criteria or qualifications set forth in Attachment A to this Resolution shall be considered approved by the Commission. The Commission authorizes its Executive Director to approve or disapprove of other criteria or qualifications submitted by a Board of Education to the Commission for approval.
3. Following the adoption of a Resolution of a Board of Education to establish responsibility criteria for bidders and following approval by the Commission, the Commission authorizes the Executive Director to permit a School District to include the criteria or qualifications in the contract documents.
4. The Executive Director is authorized to waive or amend provisions of a School District's Project Agreement to facilitate the implementation of this Resolution.
5. The provisions of this Resolution shall not be used to contravene Ohio's Encouraging Diversity Growth and Equity ("EDGE") Program as established by the Ohio General Assembly and implemented by the Commission.

In witness thereof, the undersigned certifies the foregoing Resolution was duly adopted at an open meeting held on February 15, 2007 by the members of the Ohio School Facilities Commission.

Chair

THE OHIO SCHOOL FACILITIES COMMISSION MODEL RESPONSIBLE BIDDER REQUIREMENTS

The following responsible bidder criteria or qualification standards may be added by a resolution of the Board of Education to the construction contracts for school building projects undertaken pursuant to Chapter 3318 of the Ohio Revised Code. These criteria or qualifications standards are reasonably related to performance of the contract work within the statutory framework set forth in Section 9.312 of the Ohio Revised Code.

1. As a condition precedent to contract award after bid, The Board of Education may undertake with the Bidder a Constructability and Scope review on projects of One Hundred Thousand Dollars (\$100,000.00) or more to verify that Bidder included all required work.
2. The Low Bidder whose bid is more than twenty percent (20%) below the next lowest bidder shall list three (3) projects that are each within seventy-five percent (75%) of the bid project estimate for similar projects and that were successfully completed by the bidder not more than five (5) years ago. This information shall be provided if necessary at the post-bid scope review.
3. The Bidder shall certify it will employ supervisory personnel on this project that have three (3) or more years in the specific trade and/or maintain the appropriate state license if any.
4. The Bidder shall certify it has not been penalized or debarred from any public contracts for falsified certified payroll records or any other violation of the Fair Labor Standards Act in the last five (5) years.
5. The Bidder shall certify it has not been debarred from public contracts or found by the state (after all appeals) to have violated prevailing wage laws more than three times in a two-year period in the last ten years.
6. The Bidder shall certify it has implemented an OSHA compliant Safety Program and will provide evidence of such upon request.
7. The Bidder shall certify it is in compliance with Ohio's Drug-Free Workplace requirements, including but not limited to, maintaining a substance abuse policy that its personnel are subject to on this project. The Bidder shall provide this policy or evidence thereof upon request.

8. The Bidder shall certify for a skilled trade contract or fire safety contract that Bidder is a state licensed heating ventilating and an air conditioning contractor, refrigeration contractor, electrical contractor, plumbing contractor or hydronics contractor, or licensed by the State Fire Marshal.
9. The Bidder shall certify it has not had a professional license revoked in the past five years in Ohio or any other state.
10. The Bidder shall certify it has no final judgments against it that have not been satisfied at the time of award in the total amount of fifty percent (50%) of the bid amount of this project.
11. The Bidder shall certify it has complied with unemployment and workers compensation laws for at least the nine months preceding the date of bid submittal.
12. The Bidder shall certify for a skilled contract (i.e., plumbing, electrical, HVAC, or fire safety) that it will not subcontract greater than seventy-five percent (75%) of its awarded contract.
13. The Bidder shall certify it does not have an Experience Modification Rating of greater than 1.5 (a penalty rated employer) with respect to the Bureau of Workers Compensation risk assessment rating.
14. The Bidder shall certify that it will provide a minimum health care medical plan for those employees working on this project.
15. The Bidder shall certify it will contribute to an employee pension or retirement program for those employees working on this project.
16. The Bidder certifies it shall only use skilled trade personnel with three years (3) years experience who were trained in a state or federally approved apprenticeship program, or workers who are currently enrolled in a state or federally approved apprenticeship program. Skilled trade is defined as those individuals in mechanical, electrical, plumbing, carpentry, and fire suppression trades. The labor classification is excluded, as there is no current apprenticeship program for this classification.
17. The Bidder shall certify it has not been debarred from any public contract; federal, state or local in the past five years.