

Pennsbury School District

School Board Policy

Effective Date	Supercedes Index No.	Index No.
5/12/16	823.1 of 11/12/15	823.1R1

Title: Responsible Contractors

Attachment: Contractor Responsibility Certification Form

Purpose: This policy is intended to establish clearly defined, minimum standards relating to contractor responsibility, including requirements and criteria concerning technical qualifications, competency, experience, adequacy of resources, including equipment, financial and personnel, and satisfactory records regarding past performance, safety, law compliance and business integrity, in selecting responsible contractors for public contracts, as hereinafter more specifically set forth.

Policy: Responsible Contractor Requirements

All contractors and subcontractors of any tier that perform work valued at over \$100,000.00 on any District property and facilities, including construction, alteration, renovation, repair, service or maintenance work, shall meet the requirements of this policy.

All firms engaged in contracts covered by this policy shall be qualified, responsible contractors or subcontractors that have sufficient capabilities in all respects to successfully perform contracts on which they are engaged, including the necessary experience, equipment, technical skills and qualifications and organizational, financial and personnel resources. Qualified, responsible firms shall also have a satisfactory past performance record and a satisfactory record of law compliance, integrity and business ethics.

Contractor Responsibility Certifications

As a condition of performing work on a public works contract subject to this policy, a general contractor, construction manager, or other lead or prime contractor seeking award of a contract, shall submit a Contractor Responsibility Certification **at the time it submits its bid for a contract.**

The Contractor Responsibility Certification shall be completed on a form provided by the Pennsbury School District, and the applicable departments within, and shall reference the project for which a bid is being submitted by name and contract or project number.

In the Contractor Responsibility Certification, the construction manager, general contractor, or other lead or prime contractor shall confirm the following facts regarding its past performance and work history and its current qualifications and performance capabilities:

1. The firm has all valid, effective licenses, registrations or certificates required by federal, state, county, or local law, including, but not limited to, licenses, registrations, or certificates required to:
 - a. do business in the designated locale; and
 - b. perform the contract work it seeks to perform including, but not limited to, licenses, registrations, or certificates for any type of trade work or specialty work which the firm proposes to self-perform.
2. The firm meets the bonding requirements for the contract, as required by applicable law or contract specifications and any insurance requirements, as required by applicable law or contract specifications, including general liability insurance, workers compensation insurance and unemployment insurance requirements.
3. The firm has not been debarred or defaulted on any project by any federal, state, or local government agency or authority in the past three years.
4. The firm has not had any type of business, contracting or trade license, registration or other certification suspended or revoked in the past three years.
5. The firm has not committed a willful violation of federal or state safety laws as determined by a final decision of a court or government agency in the past three years.

6. The firm and its owners have not been convicted of any crime relating to the contracting business by a final decision of a court or government agency for the past ten years.
7. The firm has not within the past three years been found by a final decision of court or government agency in violation of any law applicable to its contracting business, including, but not limited to, licensing laws, tax laws, prompt payment laws, wage and hour laws, prevailing wage laws, environment laws or others, where the result of such violation was the imposition of a fine, back pay damages or any other type of penalty in the amount of \$25,000.00 or more for any single incident or penalties amounting to \$50,000.00 or more for the previous three (3) years prior to submission of the certification form.
8. The firm will pay all craft employees that it employs on the project the current wage rates and benefits as required under The Pennsylvania Prevailing Wage Act for the duration of the referenced project.
9. The firm participates in the Class A Apprenticeship Program for each separate trade or classification in which it employs craft employees and shall continue to participate in such program or programs for the duration of the project. For purposes of this section, a Class A Apprenticeship Program is an apprenticeship program that is currently registered with and approved by the U.S. Department of Labor or a state apprenticeship agency and has graduated apprentices to journey person status for three of the past five years. To permit development of recently registered programs, the graduation requirement of this provision shall not apply to an apprenticeship program registered within the past ten years if the program provides apprenticeship training for a craft or trade by the U.S. Department of Labor or State Apprenticeship Council at the time the program was registered. Any program not required to meet the graduation requirements of this section may, in addition to providing proof that it is currently registered with federal or state government, be required to provide evidence that the program is actively engaged in bona fide apprenticeship training activity.
10. The firm has all other technical qualifications and resources, including equipment, personnel, and financial resources, to perform the referenced contract, or will obtain same through the use of qualified, responsible subcontractors.

Pennsbury School District and its designated departments may require any other additional information it deems necessary to evaluate a

prospective contractor's technical qualifications, financial capacity or other resources and performance capabilities. Pennsbury School District and its designated departments may require that such information be included in a separate Statement of Qualifications and Experience or as an attachment to the Contractor Responsibility Certification.

In the Contractor Responsibility Certification, the submitting firm shall stipulate that if it receives a Notice of Intent to Award Contract, it will provide a Subcontractor List and required subcontractor information as specified in this policy.

If the submitting firm has ever operated under another name or controls or is controlled by another company or business entity or in the past five years controlled or was controlled by another company or business entity, whether as a parent company, subsidiary or in any other business relation, it shall attach a separate statement to its Contractor Responsibility Certification that explains in detail the nature of any such relationship. Additional information may be required from such an entity if the relationship in question could potentially impact contract performance.

Contractor Responsibility Certifications shall be executed by a person who has sufficient knowledge to address all matters in the certification and shall include an attestation stating, under the penalty of perjury, that all information submitted is true, complete and accurate.

If a firm fails to provide a Contractor Responsibility Certification required by this section, it shall be disqualified from bidding. No action of any nature shall lie against Pennsbury School District and its designated departments because of its refusal to accept a bid for failing to provide information required by this section.

Notice of Intent to Award Contract

After it has received bids for a project, Pennsbury School District and its designated departments shall issue a Notice of Intent to Award Contract to the firm offering the lowest responsive bid.

Such Notice shall be issued immediately or as soon as practicable after bids are submitted and shall stipulate that the contract award will be conditioned on the issuance of a written Contractor Responsibility Determination, as required by this policy and any other conditions determined appropriate by Pennsbury School District and its designated departments.

Subcontractor Lists, Subcontractor Responsibility Certifications

Within 7 days from the date of Notice of Intent to Award Contract, a prospective awardee shall submit to Pennsbury School District and its designated departments a Subcontractor List containing the name of subcontractors that will be used for the referenced project, their addresses and a description of the work each listed subcontractor will perform on the project.

At the time a prospective awardee submits the Subcontractor List it shall also submit Subcontractor Responsibility Certifications for all listed subcontractors to Pennsbury School District or its designated departments. Subcontract Responsibility Certifications shall be executed by the respective subcontractors and contain the same information and representations required in the Contractor Responsibility Certifications.

Subcontract Responsibility Certifications shall be executed by persons having sufficient knowledge to address all matters in the certification and shall include an attestation stating, under the penalty of perjury, that all information submitted is true, complete and accurate.

Contract Responsibility Review and Determination

After a Notice of Intent to Award Contract has been issued, Pennsbury School District and its designated departments shall undertake a review process for a period of no more than thirty (30) days, from the date the Notice of Intent to Award Contract is issued, to determine whether the prospective awardee is a qualified, responsible contractor in accordance with the requirements of this policy and other applicable law and regulations and has the resources and capabilities to successfully perform the contract.

As part of this review process, Pennsbury School District and its designated departments shall ensure that the Contractor Responsibility Certification, the Subcontractor List and Subcontractor Responsibility Certifications, as required by this act, have been submitted and properly executed.

Pennsbury School District and its designated departments may conduct any additional inquiries to verify the prospective awardee and its subcontractors have the technical qualification and performance capabilities necessary to successfully perform the contract and that the firms have a sufficient record of law compliance and business integrity to justify the award of a public contract. In conducting such

inquiries, Pennsbury School District and its designated departments may seek relevant information from the firm, its prior clients or customers, its subcontractors or any other relevant source.

If at the conclusion of its internal review, Pennsbury School District and its designated departments determine that all responsibility certifications have been properly completed and executed and if the District concludes that the qualifications background and responsibility of the prospective awardee and the firms on its Subcontractor List are satisfactory, it shall issue a written Contractor Responsibility Determination verifying that the prospective awardee is a qualified, responsible contractor. In the event a firm is determined to be non-responsible, Pennsbury School District and its designated departments shall advise the firm of its finding in writing and proceed to conduct a responsibility review of the next lowest, responsive bidder or, if necessary, re-bid the project.

The Contractor Responsibility Determination shall be issued no more than thirty (30) days after the date of the Notice of Intent to Award Contract. The Responsibility Determination may be revoked or revised in any manner at any time in the event Pennsbury School District and its designated departments obtain relevant information warranting any such revocation or revisions.

Subcontractor Responsibility Review Requirements

A construction manager, general contractor or other lead or prime contractor shall not be permitted to use a subcontractor or any work performed for Pennsbury School District unless it has identified the subcontractor on its Subcontractor List and provided a Subcontractor Responsibility Certification in accordance with the requirements of this policy.

A subcontractor listed on a firm's Subcontractor List shall not be substituted unless written authorization is obtained from Pennsbury School District and its designated departments and a Subcontractor Responsibility Certification is provided for the substitute subcontractor.

In the event that Pennsbury School District and its designated departments determine that a prospective subcontractor listed by the apparent low bidder does not meet the responsibility standards of this section, it may, after informing the prospective awardee, exercise one of the following options:

1. Permit the awardee to substitute a qualified, responsible subcontractor in accordance with the requirements of this policy;
2. Require the awardee to self-perform the work in question if the firm has the required experience, licenses and other qualifications to perform the work in question; or
3. Disqualify the prospective awardee.

In the event that a subcontractor is disqualified under this policy, the general contractor, construction manager, or other lead or prime contractor shall not be permitted to make any type of contractual claim against the Pennsbury School District on the basis of a subcontractor disqualification.

Public Review Process

The Contractor Responsibility Certification for a firm identified in a Notice of Intent to Award Contract, Subcontractor List and Subcontractor Responsibility Certifications shall be made immediately available to the public for inspection through a publicly accessible website or other comparable means.

During the Public Review Period, any person or organization may protest a contractor or subcontractor for failing to meet applicable requirements of this policy or on any other relevant grounds by submitting a letter with supporting evidence to Pennsbury School District and its designated departments.

If Pennsbury School District determines that a Contractor or Subcontractor's Responsibility Certification contains false or misleading material information that was provided knowingly or with reckless disregard for the truth omits material information that was omitted knowingly or with reckless disregard of the truth, the firm for which the certification was submitted shall be prohibited from performing work for Pennsbury School District for a period of three years and subject to any other penalties and sanctions, including termination, available to Pennsbury School District under law. A contract terminated under these circumstances shall further entitle Pennsbury School District to withhold payment of any monies due to the firm as damages.

A procurement contract subject to this policy shall not be executed until all requirements of this policy have been fulfilled and until Contractor and Subcontractor Responsibility Certifications and

Subcontractor Lists have been made available for public inspection for at least ten (10) days. The Public Review Period shall be concluded no later than thirty (30) days after the Notice of Intent to Award Contract has been issued.

Severability, Effective Date

If any provision of this policy shall be held to be invalid or unenforceable by a court of competent jurisdiction, any such holding shall not invalidate any other provision of this policy and all remaining provisions shall remain in full force and effect.

This policy shall become effective upon Board approval.

The requirement of this policy shall not apply to contracts executed prior to the effective date of this act, except that the exercise of an option on a contract covered by this policy shall be deemed to create a new contract for purposes of this policy.

**Responsible
Administrator:** Business Administrator

CONTRACTOR RESPONSIBILITY CERTIFICATION FORM

Contractor Name: _____ Date: _____, 20____

Contractor Address: _____

_____, PA _____

Contact Name: _____

Phone No.: _____ Fax No.: _____

Project Name: _____

Contractor Certified By Checking All Appropriate Boxes:

- | | Yes | No |
|---|--------------------------|--------------------------|
| 1. The Contractor has not been debarred by any federal, state or local government agency or authority in the past three (3) years. | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. The Contractor has not defaulted on any project in the past three (3) years. | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. The Contractor has not had any type of business, contracting or trade license revoked or suspended by any government agency or authority in the past three (3) years. | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. The Contractor has not committed a willful violation of federal or state safety laws as determined by a final decision of a court or government agency or authority in the past three (3) years. | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. The Contractor has not been found in violation of any other law relating to its contracting business, including but not limited to wage or hour laws, environmental laws, antitrust laws, immigration laws, licensing laws or tax laws, by a final decision of a court or government agency or authority in the past three (3) years. | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. The Contractor participates in a Class A Apprenticeship Program for each trade in which it employs craft employees and shall continue to participate in such program or programs for the duration of the project. A Class A Apprenticeship Program is an apprenticeship program which is currently registered with the U.S. Department of Labor or a state apprenticeship agency and has graduated apprentices to journeyperson status for three of the past five (5) years. The Contractor shall provide proof of this qualification standard by submitting appropriate documentation as an attachment to the Responsible Contractor Certification. To permit development of recently registered programs, the graduation requirement of this provision shall not apply to: | <input type="checkbox"/> | <input type="checkbox"/> |

- (a) An apprenticeship training program registered within the past ten (10) years;
or
- (b) An apprenticeship program registered within the past ten (10) years if the program provides apprenticeship training for a craft or trade that was not recognized as an apprenticeship craft or trade by the U.S. Department of Labor or State Apprenticeship Council at the time the program was registered.

Any program not required to meet the graduation requirements of this section shall, in addition to providing proof that it is currently registered with federal or state government, provide evidence that the program is actively engaged in bona fide apprenticeship training activity.

- 7. The Contractor has all technical qualifications and resources, including equipment, personnel and financial resources, to perform the referenced contract, or will obtain same through the use of qualified, responsible subcontractors.
- 8. The Contractor maintains all documents necessary to ensure that all employees are United States citizens or properly documented legal aliens entitled to work under existing Federal law.
- 9. The Contractor has been incorporated and conducting business in the trade or craft for which they are bidding on for at least three (3) years. The term conducting business shall mean having completed projects either the same or substantially similar to the project for which they are bidding. If queried on this paragraph, the Contractor shall produce legal documents, photographs and references as to the longevity of their business. This review shall be conducted by the District Superintendent or the Board of Directors or their designee.

Upon receipt of a Notice of Intent to Award Contract, the Contractor will provide the District with subcontractor list and subcontractor information as specified in the Pennsbury School District Responsible Contractor Resolution.

ATTACH ADDITIONAL SHEETS IF NECESSARY.

Signature of Bidder's Authorized Representative: _____

Title: _____

Date: _____