

Chapter 140

RESPONSIBLE CONTRACTOR

[Adopted 4-6-2004 ATM by Art. 49]

§ 140-1.

All general bidders and filed sub-bidders (including sub-sub-bidders) for construction projects in the Town of Plymouth and funded by the or in part by the Town of Plymouth and subject to Massachusetts General Laws, Chapter 149, Section 44A(2) and as hereinafter described subject to Massachusetts General Laws, Chapter 30, Section 39M shall as a condition for bidding, agree in writing that they shall comply with the following obligations, and such obligations hereby are incorporated by reference into the specifications for the construction project and that any general bidder, filed sub-bidder or sub-sub bidder, deemed to be in non-compliance with Section 1 subsection 2 C, E, F, and H at the time of the bid shall be rejected.

CRITERIA: The following provisions shall apply to Massachusetts General Laws, Chapter 149, Section 44A projects in excess of \$750,000 issued or awarded by the Town of Plymouth or any agency or entity thereof, and Massachusetts General Laws Chapter 30, Section 39M projects in excess of \$200,000.

ENFORCEMENT: The duties of enforcement of this bylaw shall be assigned to the awarding authority.

COMPLIANCE: The bidder and all subcontractors under the bidder shall comply with the Town of Plymouth Responsible Contractor bylaw as it currently exists and as it may, from time to time, be amended.

PREVAILING RATE: The bidder and all subcontractors under the bidder shall comply with provisions of the M.G.L.A. c149, c30 and Section 3 of this act, and shall pay the appropriate lawful prevailing wage rates to their employees

TRAINING: The bidder and all subcontractors under the bidder shall maintain and participate in a bona fide apprentice training program as defined in Massachusetts General Laws, Chapter 23, sections 11H and 11I for each apprenticeable trade or occupation represented in their work force that is approved by the Division of Apprentice Training of the Department of Labor and Workforce Development and shall abide by the apprentice to journeymen ratio for each trade prescribed therein in the performance of the contract.

HIRING

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a.) In a manner that is consistent with applicable law and regulations, any bidder or subcontractor under a bidder awarded a project subject to this bylaw shall give special consideration to recruiting workers who are residents of the Town of Plymouth and who are qualified by craft for each apprenticeable trade or occupation represented in their workforce that is approved by the Division of Apprentice Training of the Department of Labor and Workforce Development.

In a manner that is consistent with applicable law and regulations, any bidder or subcontractor under a bidder awarded a project subject to this bylaw shall as a goal make a good faith effort to employ women, minorities and apprentices on the project.

HEALTH INSURANCE: The bidder and all subcontractors shall furnish at their own expense hospitalization and medical benefits at least equivalent to the hospitalization and medical benefits provided by the health and welfare plans in the applicable craft recognized by Massachusetts General Laws, Chapter 49, section 26 in establishing minimum wage rates for all their employees employed on the project. This provision shall not apply to employees who are currently covered under an existing Health insurance plan. The decision to not participate can only be made by the employee with verification of an existing plan and at no time can be made by the employer.

EMPLOYEE CLASSIFICATION: The bidder and all subcontractors under the bidder shall properly classify employees as employees rather than independent contractors and shall treat said employees accordingly for purposes of workers' compensation insurance coverage, employment taxes, social security taxes and income tax withholding pursuant to Massachusetts General Laws, Chapter 149, section 148B.

COMPLIANCE: All bidder and all subcontractors under the bidders who are awarded contracts or who otherwise obtain contracts on projects subject to Massachusetts General Laws, Chapter 149, section 44A(2) and Chapter 30, section 39M, shall comply with the provisions of this bylaw for the duration of their work on the project, and an officer of each such bidder or subcontractor under the bidder shall certify under oath and in writing on a weekly basis that they are in compliance with said bylaw.

PENSION: The bidder or subcontractor under the bidder must maintain a bona fide pension plan for all their employees employed on the project.

The bidder and all subcontractors shall submit on a weekly basis certified payroll records for all employees on the project.

§ 140-2.

A. Any bidder or subcontractor under a bidder who fails to comply with any of the obligations described in Section 1 for any period of time shall be subject to one or more of the following sanctions;

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- (a) Temporary suspension of work on the project until compliance is obtained; or
- (b) Withholding by the Town of payment due under the contract until compliance is obtained; or
- (c) Permanent removal from any further work on the project

B. In addition to these sanctions a general bidder or contractor shall be equally liable for any violation of these obligations described in section 1 committed by any of its subcontractors or sub bidders, excepting only those violations which arise from work performed by subcontractors governed by Massachusetts General Laws, Chapter 149 section 44F and or Chapter 30, section 39M. Any contractor, subcontractor or principal officer of the said companies who has been determined to have violated any of the provisions of this bylaw shall be barred from performing any work on future contracts awarded by the Town of Plymouth for six months for the first violation, three years for the second violation, and permanently for the third violation.

§ 140-3.

Any employer who willfully hinders or delays the enforcement agent in the performance of his/her duties in the enforcement of this bylaw, or fails to make, keep, and preserve any records as required under the provisions of this bylaw, or falsifies any such record, or refuses to furnish a sworn statement of such record or any other information required for the proper enforcement of this bylaw to the enforcement agent upon demand, or pays, or agrees to pay wages at a rate less than the rate applicable or otherwise violates any provision of this bylaw shall, in addition to any other penalties prescribed by Massachusetts General Laws, be subject to a fine of not less than \$100.00 nor more than \$300.00. Each week, in any day in which a worker is paid less than the rate applicable to him under this bylaw and each worker so paid, shall constitute a separate offense.

§ 140-4.

If any provision of this bylaw or the application of such provision to any person or circumstances shall be enjoined or held to be invalid, the remaining provisions of this bylaw and the application of such provisions to persons or circumstances, other than that which is enjoined or held invalid, shall not be affected thereby.

§ 140-5.

This bylaw shall be subject to a five year review.