A Policy to Establish Responsible Bidding Practices and Submission Requirements for Submitting Bids to Perform Construction Work

WHEREAS, New Prairie United School Corporation is required by law to award capital improvement contracts to the "lowest responsive and responsible" bidder;

WHEREAS, New Prairie United School Corporation, based upon its experience, has determined that quality workmanship, efficient operation, safety, and timely completion of projects requires all bidders meet certain minimum requirements in order to be a "responsive and responsible" bidder;

WHEREAS, applicable state law also requires that bidders meet certain minimum requirements in order to be a "responsive and responsible" bidder;

WHEREAS, New Prairie United School Corporation seeks to enhance its ability to identify "responsive and responsible" bidders on all School construction projects by institution of more comprehensive submission requirements which are in compliance with Indiana State law;

WHEREAS, the "Responsible Bidding Practices and Submission Requirements" Ordinance will preserve administrative resources by insuring that only qualified contractors and subcontractors are awarded contracts on public works construction projects; and,

WHEREAS, the "Responsible Bidding Practices and Submission Requirements" Ordinance will assure efficient use of taxpayer dollars, will promote public safety and is in the public interest; and,

WHEREAS, the "Responsible Bidding Practices and Submission Requirements" Ordinance will help ensure that no contractor awarded work under this Ordinance or any subcontractor at any tier working on a project awarded pursuant to this ordinance engages in payroll fraud, including the misclassification of employees as independent contractors to avoid paying state, federal or local payroll taxes, workers compensation insurance, unemployment insurance premiums and failing to pay overtime and wages as required by law.

SECTION 1. This Policy which is entitled "Responsible Bidding Practices and Submission Requirements for Submitting Bids to Perform Construction Work" is hereby adopted and shall read as follows:

I. Bid Submission Requirements

Contractors proposing to submit bids on any New Prairie United School Corporation ("School") project estimated to be at least one-hundred fifty thousand dollars ($150,000.00) or more must, prior to the opening of bids, submit a statement made under oath and subject to perjury laws, on a form designated by the School and must include:

(A) A copy of a print-cut of the Indiana Secretary of State’s on-line records for the bidder dated within sixty (60) days of the submission of said document showing that the bidder is in
existence, current with the Indiana Secretary of State’s Business Entity Reports, and eligible for
a certificate of good standing. If the bidder is an individual, sole proprietor or partnership, this
subsection shall not apply;

(B) A list identifying all former business names;

(C) Any determinations by a court or governmental agency for violations of federal, state, or
local laws including, but not limited to violations of contracting or antitrust laws, tax or licensing
laws, environmental laws, the Occupational Safety and Health Act (OSHA), or federal Davis-
Bacon and related Acts;

(D) A statement on staffing capabilities, including labor sources;

(E) Evidence of participation in apprenticeship and training programs, applicable to the work to
be performed on the project, which are approved by and registered with the United States
Department of Labor’s Office of Apprenticeship, or its successor organization. The required
evidence includes a copy of all applicable apprenticeship certificates or standards for these
training programs;

(F) A copy of a written plan for employee drug testing that: (i) covers all employees of the bidder:
who will perform work on the public work project; and (ii) meets, or exceeds, the requirements
set forth in IC 4-13-18-5 or IC 4-13-18-6;

(G) The name and description of the management experience of each of the bidder's project
managers and superintendents that bidder intends to assign to work on the project;

(H) 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, office or manager employed by the bidder;

(I) Evidence that the contractor is utilizing a surety company which is on the United States
Department of Treasury’s Listing of Approved Sureties; and

(J) A written statement of any federal, state or local tax liens or tax delinquencies owed to any
federal, state or local taxing body in the last five years.

(K) A statement that individuals who will perform work on the public work project on behalf of
the bidder will be properly classified as either (i) an employee or (ii) an independent contractor,
under all applicable state and federal laws and local ordinances; and

(L) A list of projects of similar size and scope of work that the bidder has performed in the State
of Indiana within three (3) years prior to the date on which the bid is due.

The School reserves the right to demand supplemental information from the bidder, (additional)
verification any of the information provided by the bidder, and may also conduct random
inquiries of the bidder’s current and prior customers.
II. Post-Bid Submissions from Subcontractors

All bidders shall provide a written list that discloses the name, address, and type of work for each
first-tier subcontractor from whom the bidder has accepted a bid and/or intends to hire on any
part of the public work project, including individuals performing work as independent
contractors, within five (5) business days after the date the bids are due.

In addition, each such first-tier subcontractor shall be required to adhere to the requirements of
Section I of this Ordinance as though it were bidding directly to the School, except that first-tier
subcontractors shall submit the required information (including the name, address, and type of
work for each of their first-tier subcontractors) to the successful bidder no later than five (5)
business days after the subcontractor’s first day of work on the public work project and the
bidder shall then forward said information to the School. Payment shall be withheld from any
first-tier subcontractor who fails to timely submit said information until such information is
submitted and approved by the School.

Upon request, the School may require any second and lower-tier subcontractors to provide the
required information (including name, address, type of work on the project and the name of the
higher-tier subcontractor). Payments shall be withheld from any second or lower-tiered
contractor who fails to timely submit this information until this information is submitted and
approved by the School. Additionally, the School may require the successful bidder and relevant
subcontractor to remove the second or lower-tier subcontractor from the project and replace it
with a responsive and responsible subcontractor.

Failure of a subcontractor to submit the required information shall not disqualify the successful
bidder from performing work on the project and shall not constitute a contractual default and/or
breach by the successful bidder. However, the School may withhold all payments otherwise due
due to work performed by a subcontractor, until the subcontractor submits the required information
and the School approves such information. The School may also require that successful bidder to
remove the subcontractor from the project and replace it with a responsive and responsible
subcontractor.

The disclosure of a subcontractor (“Disclosed Subcontractor”) by a bidder or a subcontractor
shall not create any rights in the Disclosed Subcontractor. Thus, a bidder and/or subcontractor
may substitute another subcontractor (“Substitute Subcontractor”) for a Disclosed Subcontractor
by giving the School written notice of the name, address, and type of work of the Substitute
Subcontractor. The Substitute Subcontractor is subject to all of the obligations of a subcontractor
under this Ordinance.

III. Validity of Pre-Qualification Classification

Upon designation by the School that a contractor's or subcontractor's submission in anticipation
of a bid is complete and timely, and upon any further consideration deemed necessary by the
School, the contractor or subcontractor may be pre-qualified for future School public works
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 "pre-qualified" standing, on a form provided by the School, (also
referred to as the "short form") by December 31st for the upcoming calendar year. Failure by any
pre-qualified contractor or subcontractor to timely submit its complete application for
continuation of "pre-qualified" standing shall result in automatic removal of the designation,
effective January 1 of the upcoming year. However, the "removed" contractor or subcontractor
shall still be permitted to bid on School public works projects.

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

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 or losing pre-qualification status
may request reconsideration of the decision by submitting such request in writing to the School
within five (5) business days of receipt of notice of denial.

IV. Incomplete Submissions by Bidders

It is the sole responsibility of the potential bidder to comply with all submission requirements
applicable to the bidder in section I above by no later than the public bid opening. Post-bid
submissions must be submitted in accordance with section II above. Submissions deemed
inadequate, incomplete, or untimely by the School may result in the automatic disqualification of
the bid.

IV. Responsive and Responsible Bidder Determination

The School, after review of complete and timely submissions, shall, in its sole discretion, after
taking into account all information in the submission requirements, determine whether a bidder is
responsive and responsible. The School specifically reserves the right to utilize all information
provided in the contractor or subcontractor's submission or any information obtained by the
School through its own independent verification of the information provided by the contractor.

V. Certified Payroll

For projects in which the cost is at least $250,000, the successful bidder and all subcontractors
working on a public work project shall submit a certified payroll report utilizing the federal form
now known as a "WH-347" which must be prepared on a weekly basis and submitted to the School
within ten (10) calendar days after the end of each week in which the bidder or subcontractor
performed its work on the public work project. These certified payroll reports shall identify the
job title and craft of each employee on the project, e.g. journeyman electrician or apprentice
electrician. In the event any contractor or subcontractor uses independent contractors to perform work on the project, such individual must be identified on the WH-347 form with the same information as is required for employees.

The School may withhold payment due for work performed by a bidder if the bidder fails to timely submit its certified payroll reports until such time as such certified payroll reports are submitted. The School may also withhold payment due for work performed by a subcontractor if the subcontractor fails to timely submit its certified payroll reports until such time as such certified payroll reports are submitted. The School shall not withhold payment to a bidder for work performed by the bidder or for work performed by subcontractors who have submitted their certified payroll reports, because one or more other subcontractors failed to timely submit their certified payroll reports.

VI. Public Records

All information submitted by a bidder or a subcontractor pursuant to this Ordinance, including certified payrolls, are public records subject to review pursuant to the Indiana Access to Public Records law (IC 5-14-2).

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

Any bidder that willfully makes, or willfully causes to be made, a false, deceptive or fraudulent statement, or willfully submits false, deceptive or fraudulent information in connection with any submission made to the School shall be disqualified from bidding on all School projects for a period of three years.

IX. Conflicting Policies

Any Policy or provision of any Policy in conflict with the provisions of this Policy is hereby repealed.

X. Severability

If any provision of this Policy is found to be invalid, the remaining provisions of this Policy shall not be affected by such a determination. These other provisions of this Policy shall remain in full force and effect without the invalid provision.
This Policy, which is entitled "Responsible Bidding Practices and Submission Requirements for Submitting Bids to Perform Construction Work," is hereby enacted by the New Prairie United School Corporation School Board on the 28th day of March, 2016.

Richard Shail, School Board President

Al Williamson, Vice-President

Phillip King, Member

Dale Groves, Secretary

William Romstadt, Member