
THE VILLAGE OF TINLEY PARK
Cook County, Illinois
Will County, Illinois

ORDINANCE
NO. 2019-O-079

**AN ORDINANCE AMENDING TITLE V OF THE TINLEY PARK MUNICIPAL CODE
AND ESTABLISHING CHAPTER 54 ENTITLED "RESPONSIBLE BIDDER
REQUIREMENTS ON PUBLIC WORK PROJECTS"**

JACOB C. VANDENBERG, PRESIDENT
KRISTIN A. THIRION, VILLAGE CLERK

CYNTHIA A. BERG
WILLIAM P. BRADY
WILLIAM A. BRENNAN
DIANE M. GALANTE
MICHAEL W. GLOTZ
MICHAEL G. MUELLER
Board of Trustees

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Peterson, Johnson, & Murray Chicago, LLC, Village Attorneys
200 W. Adams, Suite 2125 Chicago, IL 60606

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WHEREAS, Section 6(a) of Article VII of the 1970 Constitution of the State of Illinois provides that any municipality which has a population of more than 25,000 is a home rule unit, and the Village of Tinley Park, Cook and Will Counties, Illinois, with a population in excess of 25,000 is, therefore, a home rule unit and, pursuant to the provisions of said Section 6(a) of Article VII, may exercise any power and perform any function pertaining to its government and affairs, including, but not limited to, the power to tax and to incur debt; and

WHEREAS, pursuant to the Illinois Procurement Code (30 ILCS 500/1-1 *et seq*) and section 65 ILCS 5/8-9-1 of the Illinois Municipal Code (“Responsible Bidding Requirements”), the Village of Tinley Park is required to follow certain mandates pertaining to the advertising of bids prior to the Corporate Authorities of the Village of Tinley Park’s approval of public work contracts; and

WHEREAS, the Village of Tinley Park (“Village”) has previously adopted a Purchasing Policy by Ordinance 1979-O-048 on December 11, 1979; and

WHEREAS, the Purchasing Policy was amended by Ordinance 1981-O-024 on September 11, 1981; and

WHEREAS, the Village previously established criteria for the determination of a Responsible Bidder pursuant to Ordinance 2009-O-002; and

WHEREAS, the Purchasing Policy previously adopted and incorporated by reference under section 36.03 of the Village of Tinley Park Municipal Code was further updated pursuant to Ordinance No: 2017-O-012, which recapitulated the aforementioned Responsible Bidding Requirements pertaining to public works contracts as defined in section 7.2 of the Purchasing Policy; and

WHEREAS, the purchasing policy was further amended and restated by ordinance 2019-O-033; and

WHEREAS, the Village now desires to codify certain Responsible Bidding Requirements into its Village of Tinley Park Municipal Code in an effort to promote further transparency in

regards to competitive bidding for public works contracts and to more adequately notify prospective bidders of the Village's competitive bidding requirements ("Amendments"); and

WHEREAS, the Corporate Authorities of the Village of Tinley Park, Cook and Will Counties, Illinois, have determined that it is in the best interest of the Village of Tinley Park and its residents to approve said Amendments; and

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF TINLEY PARK, COOK AND WILL COUNTIES, ILLINOIS, STATE AS FOLLOWS:

SECTION 1: The foregoing recitals shall be and are hereby incorporated as finding of fact as if said recitals were fully set forth herein.

SECTION 2: That Ordinance 2009-O-002 and Section 7.2 of the Village's Purchasing Policy shall be and is hereby repealed and incorporate by reference Title V Chapter 54 as provided herein.

SECTION 3: That Title V Chapter 54 entitled "RESPONSIBLE BIDDING REQUIREMENTS ON PUBLIC WORKS CONTRACTS," is hereby be created by adding the following underlined language:

CHAPTER 54: RESPONSIBLE BIDDER REQUIREMENTS ON PUBLIC WORKS CONTRACTS

§54.01 Public Works

§54.02 Bid Submission Requirements

§54.03 Incomplete Submissions by Bidders and Subcontractors

§54.04 Lower Bidder Not Chosen

§54.05 Multiple Low Bids

§54.06 Public Records

§54.07 Materiality

§54.01 PUBLIC WORKS

For purposes of this chapter, the term "public works" shall mean the following: any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintenance, landscaping, improving, moving, wrecking, painting, decorating, demolishing, and adding to or subtracting from any public building, structure, airport facility, highway, roadway, street, alley, bridge, sewer, drain, ditch, sewage disposal plant, water work, parking facility, railroad, excavation, or other project, development, real property, or improvement, or to do any part thereof, whether or not the performance of the work herein described involves the addition to, or fabrication into, any structure, project or development, real property, publicly owned property, or improvement herein

described of any material or article of merchandise, which is paid for out of a public fund or out of a special assessment. The term also includes any public works leased by a political subdivision under a lease containing an option to purchase.

For purposes of this Chapter, the term “public works” shall not include landscaping that is not performed in conjunction with or as part of work otherwise covered under the Prevailing Wage Act (“Act”), 820 ILCS 130/1 *et seq.* When no other covered work such as "hardscape" is involved, such landscaping work is not covered work under the Act and shall not be subject to the requirements contained herein.

§54.02 Bid Submission Requirements

In determining whether a bidder is a “responsible bidder” for the award of a public works contract, the bidder must submit the following information and supporting documentation verified under oath on a form designated by the Village of Tinley Park, in order for the bid to be accepted:

- A. A copy of the Illinois Secretary of State’s Department of Business Services online records evidencing that the bidder has a current corporate annual report on file. If the bidder is an individual, sole proprietor, or partnership, this subsection shall not apply;
- B. Documents evidencing current registration with the Illinois Department of Revenue if bidder has employees (e.g. document with account number, Illinois Business Tax number).
- C. Documents evidencing current registration with the Illinois Department of Employment Security if bidder has employees (e.g. document with UI account number).
- D. Disclosure of any federal, state or local tax liens or tax delinquencies against the contractor or any officers of the contractor in the last five (5) years.
- E. Compliance with:
 - 1. Submittal of Federal Employer Tax Identification Number or Social Security Number (for individual); and
 - 2. Provision of Section 2000e of Chapter 21, Title 42 of the United States Code and Federal Executive Order No. 11246 as amended by Federal Executive Order No. 11375 (known as the Equal Employment Opportunity Provisions)
- F. A statement and certificates indicating that all employees are (i) covered under a current general liability, workers’ compensation, completed operations, automobile, hazardous occupation, and product liability and professional liability insurance policy(ies) and (ii) properly classified under such policy(ies). If the bidder is insured with a carrier, the evidence of workers’ compensation insurance shall be a copy of the “Information Page” of the bidder’s workers’ compensation policy and any continuation of that Information Page which include the name and address of the insured, as well as the class codes the compensation premium is based on and the total estimated remuneration per class code.

G. Furnishing certification that the bidder is not barred from bidding or contracting as a result of a violation of Section 720 ILCS 5/33E of the Illinois Compiled Statutes.

H. A statement of compliance with all provisions of the Illinois Prevailing Wage Act (820 ILCS 130/1 et seq.) and all rules and regulations therein including wages, medical and hospital insurance and retirement for those trades covered by the Act, for the past five (5) years. Such statement shall also provide that the contractor has reviewed the Prevailing Wage Act or federal Davis-Bacon and Related Acts, has reviewed and agrees to pay the applicable prevailing wage rates attached to the bid specifications, and will strictly comply with the Prevailing Wage Act or federal Davis-Bacon and Related Acts and related requirements. A contractor who has been found by the Illinois Department of Labor to be in violation of the Prevailing Wage Act twice within a three (3) year period shall be deemed not to be a Responsible Bidder for two (2) years from the date of the latest finding.

I. A copy of the written program for the prevention of substance abuse to be filed with a public body pursuant to the Substance Abuse Prevention on Public Works Projects Act (820 ILCS 265/1 et seq.).

J. A copy of the written sexual harassment policy to be filed with the Village pursuant to the Illinois Human Rights Act (775 ILCS 5/2-105 et seq), that includes (i) the illegality of sexual harassment, (ii) the definition of sexual harassment under Illinois law, (iii) a description of sexual harassment, utilizing examples, (iv) an internal complaint process including penalties, (v) the legal recourse, investigative and complaint process available through the Department of Human Rights and Human Rights Commission, (vi) direction on how to contact the Department of Human Rights and Human Rights Commission, and (vii) protection against retaliation, and a certificate of compliance with Title 7 of the 1964 Civil Rights Act and the Illinois Human Rights Act.

K. A copy of the written program promoting a drug-free workplace to be filed with the Village pursuant to the Illinois Drug Free Workplace Act (30 ILCS 580/3 et seq.), establishing that all employees engaged in the performance of work under the contract shall comply with the requirements of the Illinois Drug Free Workplace Act.

L. A statement that individuals who will perform work on the public works project on behalf of the contractor are properly classified as either (i) an employee or (ii) an independent contractor under all applicable state and federal laws and local ordinances, for the project being bid.

M. Documents evidencing any professional or trade license required by law or local ordinance for any trade or specialty area in which the contractor is seeking a contract award. Additionally, the contractor must disclose any suspension or revocation of such license held by the company, or of any director, officer or manager of the company.

N. 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 but is not limited to a copy of all applicable apprenticeship standards or Apprenticeship Agreement(s) for any apprentice(s) who will perform work on the public works project.

O. Bidder shall certify that all employees expected to perform work on the project have completed a 10-hour or greater OSHA safety program. Only workers that have satisfactorily completed a 10-hour or greater OSHA safety program will be allowed to participate on the project. The bidder must have copies of employee OSHA cards on file, and Village of Tinley Park may request the bidder provide copies of employees OSHA cards; failure to produce an employee's OSHA card may result in a determination that the bidder is not a responsible bidder.

P. Disclosure of the name and address of each subcontractor from whom the contractor has accepted a bid and/or intends to hire on any part of the project. Further, each such subcontractor shall be required to adhere to the requirements set forth herein as though it were bidding directly to Village of Tinley Park. Each contractor shall submit all subcontractor information and supporting documentation to Village of Tinley Park prior to the subcontractor commencing work on the project.

Q. Statements as to past performance, which shall give an accurate and complete record of all public works projects completed in the past three (3) years by the contractor. Such statements shall include the name of the public body and the project, original contract price, final contract price, and the names of all subcontractors used, if applicable, and a statement as to compliance with completion deadlines.

R. Furnishing of required performance and payment bonds.

S. Any determinations by a court or governmental agency for violations of federal, state, or local laws, including but not limited to serious, willful or repeated violations of the Occupational Safety and Health Act (OSHA), violations of contracting or antitrust laws, tax or licensing laws, environmental laws, or the Federal Davis-Bacon and Related Acts.

T. Furnishing evidence that the bidder has not only the final responsibility but also the ability to respond to the needs of the Village by the discharge of the contractor's obligations in accordance with what is expected or demanded under the terms of the contract.

The bidder and subcontractor(s) have a continuing obligation to report any material changes to their status as it pertains to any of the items contained in this Section, at any time. Such changes must be reported in writing to Village of Tinley Park within fourteen (14) days of its occurrence. Failure to comply with this requirement is grounds for the contractor to be deemed a non-responsible bidder.

§54.03 Incomplete Submissions by Bidders and Subcontractors

It is the sole responsibility of the contractor to comply with all submission requirements at the time it submits its bid to Village of Tinley Park. Contractor submissions deemed inadequate or incomplete may result in a determination that the contractor is not a responsible bidder.

The submission requirements also apply to all subcontractors, except that the contractor shall submit all subcontractor submissions to Village of Tinley Park prior to the subcontractor commencing work on the project. 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, Village of Tinley Park may withhold all payments otherwise due for work performed by a subcontractor, until the subcontractor submits the required information and Village of Tinley Park approves such information. Further, where Village of Tinley Park deems necessary, Village of Tinley Park may also require that the successful bidder remove the subcontractor from the project and replace it with a responsive and responsible subcontractor.

§54.04 Lower Bidder Not Chosen

When the award is not recommended to be given to the lowest bidder, a statement of the reason for such recommendation shall be prepared by Village of Tinley Park.

§54.05 Multiple Low Bids

When two or more responsible bidders submit the same low bid, the contract award shall be determined by drawing lots at a public meeting of Village of Tinley Park Board of Trustees unless one bidder is a local contractor and one is a non-local contractor, in which event the local contractor shall be awarded the contract.

§54.06 Public Records

All information submitted by a contractor or subcontractor pursuant to this Ordinance are public records subject to review pursuant to the Illinois Freedom of Information Act (5 ILCS 140/1 et seq.).

§54.07 Applicability

This Ordinance shall apply to all public works projects that must be competitively bid pursuant to 65 ILCS 5/8-9-1 or any other applicable Illinois law or, if competitive bidding is not required pursuant to Illinois law, where the Village chooses to award the public works contract via competitive bidding.

§54.08 Materiality

The requirements of this Ordinance are a material part of the bid documents and the contract and the successful bidder shall insert this Ordinance in all subcontracts.

SECTION 4: Any policy, resolution, or ordinance of the Village that conflicts with the provisions of this Ordinance shall be and is hereby repealed to the extent of such conflict.

SECTION 5: That this Ordinance shall be in full force and effect from and after its adoption and approval.

SECTION 6: That the Village Clerk is hereby ordered and directed to publish this Ordinance in pamphlet form, and this Ordinance shall be in full force and effect from and after its passage, approval, and publication as required by law.

PASSED THIS 3rd day of December, 2019.

AYES: Berg, Brennan, Galante, Glotz, Mueller

NAYS:

ABSENT: Brady

APPROVED THIS 3rd day of December, 2019.

ATTEST:


VILLAGE CLERK


VILLAGE PRESIDENT PRO-TEM

STATE OF ILLINOIS)
COUNTY OF COOK) SS
COUNTY OF WILL)

CERTIFICATE

I, KRISTIN A. THIRION, Village Clerk of the Village of Tinley Park, Counties of Cook and Will and State of Illinois, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 2019-O-079, "AN ORDINANCE AMENDING TITLE V OF THE TINLEY PARK MUNICIPAL CODE AND ESTABLISHING CHAPTER 54 ENTITLED "RESPONSIBLE BIDDER REQUIREMENTS ON PUBLIC WORK PROJECTS"," which was adopted by the President and Board of Trustees of the Village of Tinley Park on December 3, 2019.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Village of Tinley Park this 3rd day of December, 2019.


KRISTIN A. THIRION, VILLAGE CLERK