

Resolution 2023-5

Board Resolution to Establish Responsible Bidding Practices and Submission Requirements for Submitting Bids to Perform Construction Work

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

WHEREAS, Kankakee Valley School Corporation, based upon its experience, has determined that quality workmanship, efficient operation, safety, and timely completion of projects require all bidders to 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, Kankakee Valley School Corporation seeks to enhance its ability to identify "responsive and responsible" bidders on all School construction projects by the institution of more comprehensive submission requirements which are in compliance with Indiana State law;

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

WHEREAS, the "Responsible Bidding Practices and Submission Requirements" Resolution 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" Resolution will help ensure that no contractor awarded work under this Resolution or any subcontractor at any tier working on a project awarded pursuant to this Resolution 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 Resolution 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 Kankakee Valley 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 or agent and must include:

- (A) A copy of a print-out of the Indiana Secretary of State's online records for the bidder dated within sixty (60) days of the submission of the 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 is approved by and registered with the United States Department of Labor's Office of Apprenticeship, or its successor organization: and evidence that any applicable apprenticeship program has graduated at least five (5) apprentices in each of the past five (5) years for each of the construction crafts the bidder will perform on the project. Evidence of graduation rates is not required for apprentice-able crafts dedicated exclusively to the transportation of material and equipment to and from the public works project.

The required evidence includes but is not limited to a copy of all applicable apprenticeship standards and Apprenticeship Agreement (s) for any apprenticeship (s) who will perform work on the public works project: and documentation from each applicable apprenticeship program certifying that it has graduated at least five (5) apprentices in each of the past five (5) years for each construction craft the bidder will perform on the project. Additional evidence of participation and graduation requirements may be requested by the school at its discretion.

- (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 the 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 the 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 that is on the United States Department of Treasury's Listing of Approved Sureties;
- (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;
- (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; and
- (M) For contracts estimated to cost at least three hundred thousand dollars (\$300,000), a certification that all contractors and subcontractors are qualified under IC 4-13.4 or IC 8-23-10.
- (N) A written list that discloses the name, address, and type of work for each subcontractor the bidder intends to employ on any part of the public works project, including individuals performing work as independent contractors.

The School reserves the right to demand supplemental information from the bidder, (additional) verification of 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

Each subcontractor of any tier shall be required to adhere to the requirements of Section I of this Resolution, but subcontractors shall submit the required information to the successful bidder, who shall then submit said information to the School prior to the subcontractor's first day of work on the School construction 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, the School may withhold all payments otherwise due for work performed by a subcontractor, until the subcontractor submits the required information and the School approves such information. The School may also require that the successful bidder remove the subcontractor from the project and replace it with a responsive and responsible subcontractor.

The disclosure of a 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 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 Resolution.

III. Validity of Pre-Qualification Classification

Upon designation by the School that a bidder or subcontractor's submission is complete and timely, and upon any further consideration deemed necessary by the School, the bidder or subcontractor may be pre-qualified for future School construction projects. Pre-qualification shall exempt the bidder or subcontractor from the comprehensive submission requirements contained herein for a period of twelve (12) months. Thereafter, bidders or subcontractors who are pre-qualified must submit a complete application for continuation of pre-qualified standing, on a form provided by the Schools or designee, (i.e. a "short form") by December 31st for the upcoming calendar year. Failure

by any pre-qualified bidder or subcontractor to timely submit its complete application for continuation of pre-qualified standing shall result in the automatic removal of the designation effective January 1 of the upcoming year. However, the "removed" bidder or subcontractor shall still be permitted to bid on School 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 herein no later than the public bid opening. Submissions deemed inadequate, incomplete, or untimely by the School may result in the automatic disqualification of the bid.

V. Responsive and Responsible Bidder Determination

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

VI. Certified Payroll

For projects in which the cost is at least \$250,000, the successful bidder and all subcontractors working on a construction 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 successful bidder or contractor for failure to timely submit their respective certified payroll reports until such time as the reports are submitted. The School may also withhold payment to a successful bidder or subcontractor for the failure of the successful bidder or one or more other subcontractors to timely submit their certified payroll reports.

VII. Public Records

All information submitted by a bidder or a subcontractor pursuant to this Resolution, including certified payrolls, are public records subject to review pursuant to the Indiana Access to Public Records law (IC 5-14-3).

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

Any bidder or subcontractor 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 (3) years.

IX. Conflicting Policies

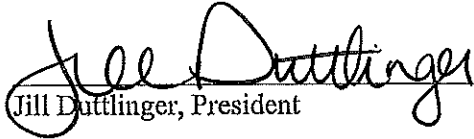
Any Resolution or provision of any Resolution in conflict with the provisions of this Resolution is hereby repealed.

X. Severability

If any provision of this Resolution is found to be invalid, the remaining provisions of this Resolution shall not be affected by such a determination, such provisions shall remain in full force and effect.

SECTION 2. It is hereby found and determined that all formal actions of the Board relating to the passage of this Resolution were adopted in the open meeting(s) of the Board and that all deliberations of the Board and its committees that resulted in such formal actions, were meetings open to the public, in compliance with all legal requirements and that the reading and adoption of this Resolution comply with Indiana Code, as amended.

SECTION 3. This Resolution, which is entitled "Responsible Bidding Practices and Submission Requirements for Submitting Bids to Perform Construction Work," is hereby enacted by the Kankakee Valley School Corporation on the 24th day of July 2023.




Jill Duttlinger, President

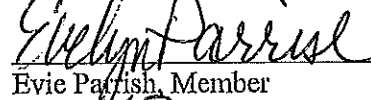
Kristy Stowers, Vice President



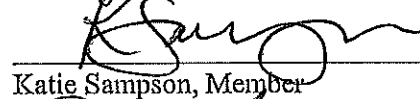
Jeff Groen, Secretary




Tim Helton, Assistant Secretary



Evie Parrish, Member



Katie Sampson, Member



Bill Waither, Member

ATTEST:

Jeff Groen, Secretary