

Chapter 13

PROCUREMENT

Art. I. Contractor Qualifications and Sanctions, §§ 13-1—13-5

**ARTICLE I. CONTRACTOR QUALIFICATIONS AND
SANCTIONS**

Sec. 13-1. Requirement.

All bidders and all subcontractors under the bidder for projects subject to General Laws Chapter 149, Section 44A(2) shall, as a condition for bidding, agree in writing that they shall comply with the following obligations:

- (1) The bidder and all subcontractors under the bidder must comply with the obligations established under General Laws Chapter 149 to pay the appropriate lawful prevailing wage rates to their employees.
- (2) The bidder and all subcontractors under the bidder must maintain or participate in a bona fide apprentice training program as defined by General Laws Chapter 23, subsection 11H and 11I for each apprenticeable trade or occupation represented in their work force that is approved by the Commonwealth of Massachusetts, Department of Labor and Workforce Development, Division of Apprentice Training, or its equivalent and must abide by M.G.L., the apprentice to journeymen ratio for each trade prescribed therein in the performance of the contract.
- (3) The bidder and all subcontractors under the bidder must furnish, at their expense, hospitalization and medical benefits for all their employees employed on the project and/or coverage at least comparable in value to the hospitalization and medical benefits provided by the health and welfare plans in the applicable craft recognized by General Laws Chapter 149, Section 26 in establishing minimum wage rates.

- (4) The bidder and all subcontractors under the bidder must maintain appropriate industrial accident insurance coverage for all the employees employed on the project in accordance with General Laws Chapter 152.
- (5) The bidder and all subcontractors under the bidder must properly classify employees as employees rather than independent contractors and treat them accordingly for purposes of worker's compensation insurance coverage, unemployment taxes, social security taxes and income tax withholding. (General Laws Chapter 149, Section 148B.

(Ord. No. D406, 1-16-97; Ord. No. D412, 11-13-97)

Sec. 13-2. Weekly certification.

All bidders and subcontractors under the bidder who are awarded or who otherwise obtain contracts on projects subject to General Laws Chapter 149, Section 44A(2) shall comply with the obligations numbered (1) through (6) as set forth in section 13-1 above for the entire 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 such obligations.

(Ord. No. D406, 1-16-97)

Sec. 13-3. Sanctions.

(a) Any bidder or subcontractor under the bidder who fails to comply with any one (1) of obligations (1) through (6) as set forth in section 13-1 above for any period of time shall be, at the discretion of the chief procurement officer or the mayor, subject to one or more of the following sanctions:

- (1) Cessation of work on the project until compliance is obtained;
- (2) Withholding of payment due under any contract or subcontract until compliance is obtained;
- (3) Permanent removal from any further work on the project;
- (4) Liquidated damages payable to the city in the amount of five (5) percent of the dollar value of the contract.

(b) In addition to the sanctions outlined in this section above, a general bidder or contractor shall be equally liable for the violations of its subcontractor with the exception of violations arising from work performed pursuant to subcontracts that are subject to General Laws Chapter 149, subsection 44F. Any contractor or subcontractor who has been determined to have violated any of the obligations set forth in sections 13-1 and 13-2 above shall be barred from performing any work on any future projects for six (6) months for a first violation, for three (3) years for a second violation, and permanently for a third violation.
(Ord. No. D406, 1-16-97)

Sec. 13-4. Exemptions.

The provisions of this section shall not apply to construction projects for which the low general bid was less than one hundred thousand dollars (\$100,000.00) or to work performed pursuant to subcontracts that are subject to General Laws Chapter 149, Section 44F and that were bid for less than twenty-five thousand dollars (\$25,000.00) or to re-bids for construction projects for which the city receives fewer than three (3) qualified contract bidders in the original bid.
(Ord. No. D406, 1-16-97)

Sec. 13-5. Savings clause.

The provisions of this article, or the application of such provision to any person or circumstances, shall be enjoined or held to be invalid, the remaining provisions of this article, or the application of such provisions to persons or circumstances, other than that which is enjoined or held invalid shall not be affected thereby.
(Ord. No. D406, 1-16-97)

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