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## **I. PURPOSE**

To define responsibility criteria for construction-related procurement and to administer a prequalification process to provide fair and equitable evaluations of all entities seeking to do construction business with the County without regard to the contract or award amount.

## **II. SCOPE**

This policy shall apply to all construction, as defined herein, supported, in whole or in part, or under the County's authority, or where an appropriation has been made for the purpose of construction. This includes every expenditure related to construction by a county agency regardless of the amount of the expenditure and in accordance with all County Purchasing policies, including the County's Code of Ethical Conduct Policy. This includes all phases of construction including, but not limited to, construction, reconstruction, improvement, enlargement, alteration, demolition, repair, or maintenance of a building, highway, drainage system, water system, road, street, alley, sewer system, ditch, sewage disposal plant, water works, sanitary sewer pump stations, , elevated tanks, and any other structure or construction work of any nature on property owned or leased by the County. When the procurement involves the expenditure of federal and/or state assistance or contract funds, the procurement shall be conducted in accordance with all applicable federal and/or state laws and regulations. Nothing in this policy shall prevent any county agency from complying with the terms and conditions of any grant, gift or behest that is otherwise consistent with law.

## **III. DEFINITIONS**

As used in this policy:

- a) **Bidder.** An individual or business entity which expresses an interest in obtaining a county contract or award by responding to an invitation for bids.
- b) **Business Entity.** Any trade, occupation, or profession carried out by any of the following organizations existing under the laws of the State of Ohio, the United States, or any other state: a corporation, non-profit corporation, trust, association, general or limited partnership, sole proprietorship, joint stock company, joint venture, limited liability company, or any other private legal entity.
- c) **Construction.**
  1. Construction includes the following:
    - i. construction, reconstruction, improvement, enlargement, alteration, demolition, repair, or maintenance of a building, highway, drainage system, water system, road, street, alley, sewer system, ditch, sewage disposal plant, water works, sanitary sewer pump stations, ,

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elevated tanks, and any other structure or construction work of any nature on property owned or leased by the County.

- d) Contractor. Any individual or business entity which has a contract or is seeking to contract with a county agency for construction.
- e) Contract. Any agreement for the procurement of materials, supplies, equipment, construction, service or professional service made between a county agency and a contractor or business entity.
- f) Contributor. A person or entity that provides goods, services, or resources without direct monetary compensation, typically as a donation, sponsorship, or voluntary support, rather than through a formal procurement contract.
- g) County Agency. Any office, department, board, court, or commission of the government of Lucas County, Ohio.
- h) Director. The chief officer of any county agency.
- i) Employee. One who earns qualifying wages, commissions or other type of compensation from an employer.
- j) Employer. An individual, partnership, association, corporation, governmental body, unit or agency or any other entity whether or not organized for profit, that employs one (1) or more persons on a qualifying wage, commission, or other compensation basis.
- k) Executive Officer. As determined by the clerk of the board or designee, any of the following natural persons, based upon the organization of the business entity and provided that the individual's work is related to the business entity's industrial classification code as reported to the federal government: chair of the board, chief executive officer or other chief officer, president, general counsel, or vice president or equivalent in charge of a business unit or division of a corporation; sole proprietor; owner; managing partner, senior partner, administrative partner, member, manager or office of a general or limited partnership, or limited liability company; trustee; or the equivalent of the aforementioned.
- l) Full-Time Employees. For persons directly performing construction services work in Ohio, full-time employees means the product of the total number of hours worked by all construction employees of the entity in the previous fiscal year divided by one thousand two hundred eighty (1,280). For all other persons performing work in Ohio, full-time employees means the product of the total number of hours worked by all other employees of the entity in the previous fiscal year divided by two thousand eighty (2,080).
- m) Health Insurance. An adequate and affordable health insurance benefit provided by an employer to an employee. The employer must provide the benefit as part of an overall compensation plan and the benefit cannot be limited to a specific project. A health insurance benefit is "adequate and affordable" if it meets both the minimum value and affordability requirements established in rules promulgated pursuant to

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Public Law 111-148, The Patient Protection and Affordable Care Act or a successor to that law. The benefit must otherwise meet the requirements of a "bona fide" fringe benefit, as defined in 29 CFR 4.171 or a successor to that section. An employer may provide a health insurance benefit through the Small Business Health Options Program, pursuant to Public Law 111-148, so long as it otherwise meets the criteria of this definition. For the purposes of construction prequalification, the foregoing shall apply only to those persons performing construction service work, as defined by rule of the clerk of the board or designee.

- n) Local Bidder. A bidder or offeror who meets the definition of a local business, as determined by the clerk of the board or their designee.
- o) Local Business. A business entity that has a current and fixed local occupancy and is a taxpayer in good standing, as determined by the clerk of the board or designee.
  - 1. Current and Fixed Local Occupancy. A business entity that submits proof to the county demonstrating that it owns or leases office space within the geographical limits of Lucas County and that such office space meets all the following criteria:
    - i. Is occupied and used by at least one (1) executive officer of the business entity; and
    - ii. Has been owned or leased by the business entity for no less than twenty-four (24) consecutive months immediately preceding the date such proof is submitted; or if a business entity has relocated within Lucas County during the preceding twenty-four (24) months, it has owned or leased otherwise eligible office space for twenty-four (24) consecutive months immediately preceding the date such proof is submitted; and
    - iii. Is none of the following: Post office boxes or similar mailing addresses; moveable work sites, such as construction trailers or offices at a construction job site; locations zoned for residential use, unless such location is the sole office space owned and/or leased by the business entity; or locations occasionally rented or used by the business entity for temporary business functions, such as office meetings or teleconferences.
  - 2. Taxpayer in Good Standing. A business entity that submits proof to the county demonstrating that it has filed returns for both net profits and payroll taxes with local, state and federal taxing authorities.
- p) Local Workforce. A workforce whereby at least fifteen (15) percent of the business entity's full-time equivalent employees reside in Lucas County, as determined by the clerk of the board or designee.

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- q) Offeror. An individual or business entity which has expressed an interest obtaining construction services work by responding to informal requests for quotes, statement of qualifications, or request for proposals.
- r) Prequalified Not Responsible. An entity who has not met the requisite criteria and/or not received a score necessary to be deemed responsible by prequalification and, as result, is not approved to offer, bid, or subcontract on construction service work with the county.
- s) Prequalified Responsible. An entity who has met the requisite criteria and received a score necessary to be deemed responsible by prequalification and, as result, is approved to make an offer, bid, or subcontract on construction service work with the county.
- t) Procurement. The buying, purchasing, renting, leasing or acquisition by any other manner of any materials, supplies, equipment, construction, service or professional service.
- u) Professional Service. A service which usually requires advanced training and/or a significant degree of expertise to perform, and which often requires official certification or authorization by the state as a condition precedent to the rendering of such service. By way of example, professional services include the personal services rendered by architects, attorneys-at-law, certified public accountants, financial consultants, city and regional planners, management consultants and professional engineers.
- v) Quality Training. With respect to people performing construction trade work in Ohio, employees who have done at least one (1) of the following:
  - 1. Graduated from or are participating in a bona fide apprenticeship program that is approved by the Ohio State Apprenticeship Council, as defined in the Ohio Administrative Code Section 4101:9-4-02(C) or a successor to that section, or the United States Department of Labor, as defined in 29 CFR 29.2(f) or a successor to that section, if such apprenticeship programs are available; or
  - 2. Have at least five (5) years of documented experience in the specific trade for which a bid, quote or offer is submitted.
- w) Responsible Bidder. A bidder who has submitted a bid which demonstrates capability, integrity, experience, and financial ability based on the responsibility criteria set forth in this policy.
- x) Responsibility Prequalification. The annual process by which an entity is approved or disapproved of to offer, bid, or subcontract on construction contracts with the county, based on a uniform evaluation of objective criteria related to the responsibility of the entity.
- y) Responsibility Prequalification Application. A form prescribed by the clerk of the board whereby an entity may seek responsibility prequalification.

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- z) **Responsive Bidder.** A bidder who has submitted a bid which conforms in all material respects to the requirements set forth in an invitation for bids.
- aa) **Retirement or Pension Plan.** A retirement or pension benefit provided by an employer to an employee as part of an overall compensation plan and not as a benefit limited to a specific project. The plan must meet the requirements of a "bona fide" fringe benefit, as defined in 29 CFR 4.171 or a successor to that section. For the purposes of construction prequalification, the foregoing shall apply only to those persons performing construction service work, as defined by rule of the clerk of the board or designee.
- bb) **Subcontractor.** Any business entity who performs or is seeking to perform any portion of construction work on a county project under a contract with an entity other than a county agency.
- cc) **Unsatisfactory Judgment.** A final decision, order, or verdict in a judicial, quasi-judicial or administrative proceeding, after all available appeals have either been exhausted or waived, in which a determination of civil liability, criminal conviction, or administrative penalty was imposed upon the individual or entity for violating any applicable federal, state, or local laws, rules, or regulations.
- dd) **Vendor.** A person or entity that sells or offers to sell supplies, services, or construction.

#### **IV. INFORMAL PROCUREMENT AND NON-COMPETITIVE BIDDING**

This policy shall apply to all procurement activities, including instances where competitive bidding is not required, and informal procurement methods are utilized. Even in cases where formal bidding procedures are waived or not mandated, the principles of responsible contracting must be upheld to ensure ethical, fair, and fiscally responsible procurement. When utilizing informal procurement methods such as direct procurement or competitive quotes, the following guidelines shall be observed:

- a) All contractors and vendors must be prequalified responsible prior to the commencement of any construction services work below the competitive bidding threshold established in ORC 307.86.
- b) If a contractor or vendor is not prequalified responsible, the contractors or vendors may submit a prequalification application and request that the County expedite the review process.
- c) Documentation of the selection process shall be maintained by the County Agency, including justification for selecting a particular contractor or vendor and the steps taken to verify compliance with this policy.
- d) While price shall be considered, the County's decision to engage a contractor or vendor must also include a determination of whether the entity is both responsive and responsible.
- e) Contracts executed under informal procurement methods shall include provisions affirming adherence to this policy, and any identified noncompliance will result in

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the contract being deemed voidable or other appropriate actions.

## **V. COMPETITIVELY BID CONSTRUCTION CONTRACTS**

Pursuant to the Lucas County Purchasing Policy Manual, all construction services work at or above the competitive bidding threshold established in ORC 307.86, must be competitively bid, with the exceptions noted in ORC 307.86 (outlined within the Lucas County Purchasing Policy Manual).

All construction projects, as defined in the Administrative Policy - Project Labor Agreement, Attachment C in the Lucas County Purchasing Policy Manual: estimated to be \$100,000 or greater, supported, in whole or in part, under the County's authority, or where an appropriation is made for the purpose of construction, shall require the execution of a project labor agreement between the successful bidder, recipient of funds, and all of the bidder's or recipients contractors and subcontractors, and the Northwest Ohio Building and Construction Trades Council and its affiliated local unions.

All construction-related procurement must comply with all provisions of the Lucas County Purchasing Policy Manual and must include the same responsibility criteria as defined in this Responsible Contractor Policy.

## **VI. PROCESS FOR DETERMINATION OF RESPONSIBILITY PREQUALIFICATION**

a) The clerk of the board or designee must propose and apply a process for responsibility prequalification. The clerk of the board or designee shall utilize the established process to deem an applicant pre-qualified not responsible or prequalified responsible, whichever is applicable. Such a process shall use a quantified point system which does all the following:

1. Allocates specific maximum and minimum points for each responsibility factor listed herein, provided that one (1) or more factors may be used to screen applicants for the purpose of summarily deeming an applicant prequalified not responsible;
2. Establishes criteria for uniformly assigning points based on an objective evaluation of the application for each responsibility factor;
3. Conducts an objective evaluation of the information provided in the application and any supporting evidence that has been received by the county or adduced as a result of an investigation by the county;
4. Based on the aforementioned objective evaluation and based on the aforementioned criteria, assigns points to each responsibility factor considered in the application;
5. Provide a score for the application by totaling the points assigned to each responsibility factor; and

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- 6. Establishes the minimum and maximum score ranges by which an applicant shall be deemed prequalified not responsible or prequalified responsible based on the applicant's score.
- b) The clerk of the board or designee shall prescribe the form of the bi-annual (every other year) responsibility prequalification application and may prescribe a standardized questionnaire for objectively evaluating such application.
- c) The clerk of the board or designee shall make a determination regarding a responsibility prequalification application pursuant to this policy and shall notify applicants of the determination in writing. The notification must state the reasons for the determination and inform the applicant of any available administrative review or appeal.
- d) An applicant may appeal to the county administrator or designee, in writing, the determination regarding the applicant's responsibility prequalification. After reasonable notice to the business entity involved and reasonable opportunity for that business entity to be heard, the county administrator or designee shall make a determination regarding the appeal. The county administrator or designee shall issue a written decision and shall send a copy of the decision to the business entity involved. The decision shall state the reasons for the determination. The decision of the county administrator or designee shall be final absent an appeal to the Board of Lucas County Commissioners pursuant to this section.
- e) After reasonable notice to the business entity involved and reasonable opportunity for that business entity to be heard, the county administrator or designee may, for good cause shown and in consultation with the county prosecutor, revoke any entity's prequalification as responsible. Such revocation may not exceed two (2) years. The county administrator or designee shall issue a written decision and shall send a copy of the decision to the business entity involved. The decision shall state the reasons for the action taken. The decision of the county administrator or designee shall be final absent an appeal to the Board of Lucas County Commissioners pursuant to this section.
- f) The failure of an individual or entity to appeal a prequalification or revocation determination after notice constitutes a waiver of the right to contest the county administrator or designee's decision on prequalification or revocation. The county administrator or designee's decision shall become final.
- g) Within ten days, an individual or entity may appeal, in writing on a form determined by the county administrator or designee, a determination of prequalification denied by the county administrator or designee under division (d) or a determination of revocation exercised by the county administrator or designee under division (e). A failure by an individual or entity to exercise this right to appeal shall constitute a waiver of such right.
  - 1. Notification of the opportunity to appeal must be provided in writing and an individual or entity shall have at least ten (10) days to submit an appeal.

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2. Upon receipt of an appeal, the Board of Lucas County Commissioners shall determine whether to uphold the appeal.
3. The Board of Lucas County Commissioners' decision on prequalification or revocation shall be in writing.
4. The failure of an individual or entity to appeal a prequalification or revocation determination after notice constitutes a waiver of the right to contest the county administrator or designee's decision on prequalification or revocation. The county administrator or designee's decision shall become final.

- h) You are hereby notified that you have a right to appeal the decision of the Board of County Commissioners to the Common Please Court pursuant to Ohio Revised Code Chapter 2506. The appeal must be filed within 30 days of the Commissioners' decision. You must file a notice of appeal with both the Clerk of Common Pleas Court and the County Commissioners.
- i) In order to be prequalified responsible, all contractors or vendors wishing to perform construction services work on behalf of Lucas County must submit to the clerk of the board, or designee, a full and complete application for responsibility prequalification on a bi-annual basis (every other year), pursuant to this section. Entities currently prequalified responsible shall sign an affidavit in the intervening years stating there has been no material changes to their previous application. Any material changes will require the submission of a new, full and complete application. The clerk of the board or designee may promulgate a renewal application for business entities currently prequalified responsible, which shall satisfy the requirements of this section.
- j) If a potential construction bidder is deemed not responsible, they may not be awarded a county construction contract or perform any portion of work on any construction project until they apply for responsibility prequalification as outlined by this policy and are determined to be prequalified responsible by the clerk of the board or designee.

## **VII. RESPONSIBILITY CRITERIA**

Responsibility prequalification shall be determined using the following criteria:

- a) No business entity may be deemed prequalified responsible unless it affirmatively meets all of the following mandatory criteria:
  1. Whether the applicant provides health insurance as defined in Section III.
  2. Whether the applicant provides a retirement or pension plan as defined in Section III.
  3. Whether the applicant's employees meet the quality training criteria as defined in Section III.

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- 4. Whether the applicant has a current and valid worker's compensation insurance policy or is legally self-insured.
- 5. Whether the applicant has a current and valid unemployment compensation insurance policy.
- 6. Whether the applicant has signed an affidavit agreeing to make the business entity's financial statement for the most recently completed fiscal year available to the county for viewing upon request.
- 7. Whether the applicant is currently compliant and not debarred or otherwise disqualified from bidding on or completing work on any government agency or public works project.
- 8. Whether the applicant maintains any licensure(s) or registrations, issued by the Ohio Construction Industry Licensing Board, Ohio State Fire Marshall, and/or other applicable state or local entities.
- 9. Whether the applicant's employees possess licensure(s) required by any state or local laws.
- 10. Whether the applicant maintains liability insurance.

b) If a business entity affirmatively meets the requirements of subsection (a), the following criteria shall be used to determine responsibility prequalification:

- 1. Whether the applicant has a local workforce.
- 2. Whether the applicant is a local business.
- 3. Whether the applicant has been debarred or otherwise disqualified from bidding on or completing work on any government agency or public works project within the last five (5) years.
- 4. Whether the applicant has received an unsatisfactory judgment, as defined in Section III, in which a conviction was imposed for any crime related to its business conduct within the last ten (10) years.
- 5. Whether the applicant has received an unsatisfactory judgment, as defined in Section III, in which civil liability was imposed concerning the applicant's bid for and/or work on any public or private construction project within the last five (5) years.
- 6. Whether the applicant has a history of breach of contract, or inferior or substandard performance on projects that have resulted in litigation being brought forth by the county within the last five (5) years.
- 7. Whether the applicant has a record of claims against bonds secured on any public construction project within the last five (5) years.

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8. Whether the applicant has been assessed or paid liquidated damages for any construction project with either a public or private owner within the last five (5) years.
9. Whether the applicant has a record of unsatisfactory judgments, as defined in Section III, with regard to any applicable federal, state and local laws and regulations prohibiting discrimination in the workplace within the last five (5) years.
10. Whether the applicant has a record of unsatisfactory judgements deemed "willful" or "serious", as defined in Section III, relating to safety violations or settlement agreements between it and the Occupational Safety & Health Administration or a state-based agency of similar jurisdiction within the last five (5) years.
11. Whether the applicant has a record of penalties assessed by OSHA.
12. Whether the applicant has a record of unsatisfactory judgements, as defined in Section III, relating to the violation or settlement agreement, of any wage and hour laws, at the local, state, or federal level, within the last five (5) years.
13. Whether the applicant has any Environmental Protection Agency, state or federal complaints within the last five (5) years.
14. Whether the applicant has a record of unsatisfactory judgments, as defined in this policy, with Ohio's Drug-Free Workplace requirements, pursuant to Ohio Revised Code Section 153.03 or a successor to that section, within the last five (5) years.
15. Whether the applicant demonstrates relevant experience, including the number of years in business under its present and any former business names.
16. Whether the applicant provides a complete listing of all ongoing and completed public and private construction projects of the applicant in the last three (3) years, including the nature and value of each contract and the name, address, and phone number/email for a representative of the owner of the projects.
17. Whether the applicant demonstrates management experience of the applicant's project manager(s) and superintendent(s).
18. Whether the applicant provides a Certificate of Good Standing from the Ohio Secretary of State demonstrating its right to conduct business in the state of Ohio and/or any applicable local authorities.
19. Whether the applicant provides an adequate description of the applicant's Occupational Safety and Health Administration compliant safety program.

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20. Whether the applicant demonstrates the existence of an active and compliant Ohio Drug Free Workplace policy issued by the State of Ohio. Additional Criteria
21. Whether the applicant has a health and safety plan as required by OSHA standards.
22. Whether the applicant has an OSHA 300 log under OSHA-29 CFR 1904.
23. Whether the applicant has average Bureau of Workers' Compensation (BWC) Experience Modification Rating (EMR) of 1.5 or less.
24. Whether the applicant has no record of unsatisfactory judgement with Ohio's Drug-Free Workplace requirements within the last five (5) years.

Board of Lucas County Commissioners



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Approved by:

A blue ink signature of "Julia Bates" followed by a handwritten "B2" and "sas".

Julia Bates, Lucas County Prosecutor

9/15/25

Date

A black ink signature of "Jessica M. Ford".

Jessica M. Ford, County Administrator

9/18/25

Date