

Revised 3/23/10

CITY OF AURORA, ILLINOIS
ORDINANCE NO. 010-10
DATE OF PASSAGE March 23, 2010

AN ORDINANCE AMENDING CHAPTER 2 ARTICLE V, DIVISION 2, SECTION 2-331 ENTITLED "DEFINITIONS" OF THE CITY OF AURORA CODE OF ORDINANCES

WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals and welfare; and

WHEREAS, the City Council has determined that it is appropriate to amend the definitions section of the City of Aurora bidding statute in order to make clear it's expectations for responsible bidders for contracts involving the City.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Aurora, Illinois, as follows:

Section One: That Chapter 2, Article V, Division 2, Section 2-331, entitled "Definitions" of the Aurora Code of Ordinances be and is hereby amended as follows:

Sec. 2-331. Definitions.

In this division and in the city's bidding documents for all contracts except public works project contracts, "lowest responsible bidder" means the lowest bidder whose offer best responds in quality, fitness and capacity to the requirements of the proposed work or usage. "Lowest responsible bidder" means highest responsible bidder in those instances where the highest rather than the lowest price is desired.

"Responsible bidder" for public works project contracts means a bidder who meets all of the job specifications and who submits evidence of compliance with the following applicable criteria:

- (1) All applicable laws prerequisite to doing business in Illinois;
- (2) Evidence of compliance with:
 - (a) Federal Employer Tax Identification Number or Social Security Number (for individuals);
 - (b) Equal Opportunity Employer provisions of Section 2000(e) of Chapter 21, Title 42 of the United States Code and Federal Executive Order No. 11246 as amended by Executive Order No. 11375;
- (3) Certificates of insurance indicating the following coverages: general liability, worker's compensation, completed operations, automobile, hazardous occupation and product liability;
- (4) Compliance with all provisions of the Illinois Prevailing Wage Act, including wages, medical and hospitalization insurance and retirement for those trades covered in the Act;
- (5) The bidder for all such contracts in excess of \$25,000 must participate in active apprenticeship and training programs approved and registered with the United States Department of Labor's Bureau of Apprenticeship and Training;
- (6) All bidders are required to turn in certified payroll records as specified in Illinois Public Act 94-0515, and follow all provisions of the Employee Classification Act, 820 ILCS 185/1 et seq.;
- (7) All bidders must demonstrate a good faith effort toward providing equal employment opportunities for residents to work as craftspersons, consistent with the racial, ethnic, and gender demographics of the labor force available in the city;
- (8) All bidders must provide evidence of relevant experience that indicates the necessary capacity to perform the project and must provide adequate reference(s) verifying the quality of work performed.

Section Two: That this ordinance shall be in full force and effect, and shall be controlling, upon its passage and approval.

Section Three: That all ordinances or parts of ordinances thereof in conflict herewith are hereby repealed to the extent of any such conflict.

Section Four: That any Section or provision of this ordinance that is construed to be invalid or void shall not affect the remaining Sections or provisions which shall remain in full force and effect thereafter.

PASSED by the City Council of the City of Aurora, Illinois, on 03-23-10.

AYES 11 NAYES 1

APPROVED AND SIGNED by the Mayor of the City of Aurora, Illinois, on 03-23-10.

Thomas Weiser

Mayor

ATTEST:

Cheryl M. Donhoff
City Clerk

City of Aurora
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City of Aurora

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Thomas J. Weisner
Mayor

MEMORANDUM

TO: Committee of the Whole

FROM: Mayor Thomas J. Weisner 

DATE: March 1, 2010

RE: An Ordinance Amending Chapter 2, Article V, Division 2, Section 2-331 Entitled "Definitions" of the City of Aurora Code of Ordinances

PURPOSE:

Attached is an ordinance amending Chapter 2, Article V, Division 2, Section 2-331 "Definitions" of the City of Aurora Code of Ordinances to better define "responsible bidder" for public work contracts.

BACKGROUND:

In early 2009, the City was contacted by the Indiana-Illinois-Iowa Foundation for Fair Contracting (III Foundation), a not-for-profit labor-management organization, regarding our responsible bidding ordinance. This organization put forward several persuasive arguments why and how our ordinance could be made to better protect the safety and financial value our residents receive for their tax dollars spent on public works contracts.

Additionally, the Minority and Women Business Opportunities Taskforce, which was convened in August of 2008 and given the charge to research and make recommendations to the city on ways to increase opportunities for minorities and women, recommended that one of the first steps the City should take would be to amend our ordinance regarding responsible bidding in order to include not only a definition of "responsible bidder" but also to include specific criteria to be met by bidders to ensure such responsibility.

DISCUSSION:

The III Foundation's stated goal in endorsing responsible bidder provisions is to promote fair contracting by providing a "level playing field" in the public construction arena for taxpayers, contractors and workers, and they had several changes in mind with regard to our ordinance. They recognized that, while the City is mandated by the State to utilize only "responsible bidders" at the same time, no comprehensive definition was provided by the State to determine what is a "responsible bidder." Additionally, not only does defining "responsible bidder" for purposes of public works contracts assist public officials in making sense of the responsible bidding requirements, it also helps to ensure that a responsible contractor performs the work in our community.

Likewise, the Taskforce recommended that the city amend its ordinance to ensure that when bidding, only "responsible bidders" are selected to provide goods and services to the City. It was the belief of the Taskforce that bids awarded under the City's current definition of "lowest responsible bidder" does not require bidders to be concerned with diversity objectives, safety issues and compliance with the law. Furthermore, we believe that amending the responsible bidder provision offers the City an additional layer of protection against legal challenges.

RECOMMENDATION

I recommend the City Council approve the amendment to Chapter 2, Article V, Division 2, Section 2-331 "Definitions" of the City of Aurora Code of Ordinances in order to amend the responsible bidder provisions of the Code.