

Responsible Bidder Criteria

Section 1. Purpose.

Pursuant to Wisconsin Statutes Sections 66.0901 and 59.52(29), all public works contracts, including any contract for the construction, repair, remodeling or improvement of any public work, building, or furnishing of supplies or material of any kind where the estimated cost of such work will exceed \$25,000, shall be let by contract to the lowest responsible bidder. What constitutes a "responsible bidder" is a determination that requires the exercise of discretion by the county and its departments, officials and/or employees under reasonably consistent responsible bidder criteria, and this Ordinance is intended to provide that criteria.

Section 2. Definitions.

In this section, the following definitions shall apply.

1. "Contractor" means a person, corporation, partnership or any other business entity that performs work on a public works contract as a general contractor, prime contractor or subcontractor at any tier.
2. "Registered Apprenticeship Program" means an apprenticeship program that is currently registered with either a State or Federal governmental entity and that has a graduated apprentices to journeyman job classification system process as well as a bonafide training program.
3. "Public Works Contract" includes any contract for the construction, repair, remodeling or improvement of any public work, building, or furnishing of supplies or material of any kind where the estimated cost of such work will exceed \$25,000.

Section 3. Responsible Bidder Criteria.

In order to be considered a responsible bidder by the Town of Sherman for purposes of being awarded a public works contract, the following criteria must be met:

1. The contractor must maintain a permanent place of business;
2. The contractor must be authorized to do business in the State of Wisconsin;
3. The contractor, agent, partner, employee and/or officer of the contractor, must not be debarred, suspended, or declared ineligible from contracting with any unit of federal, state or local government;
4. The contractor must be in compliance with the provisions of Section 2000e of Chapter 21, Title 42 of the United States Code, and Federal Executive Order No. 11246, as amended by Executive Order No. 11375 (known as the Equal Opportunity Employer provisions);

5. The contractor must have adequate and appropriate:
 - a) general liability insurance;
 - b) automobile insurance, except when a licensed motor vehicle is not used in the performance of the contract; and
 - c) workers' compensation and unemployment insurance, except when the contractor does not have employees.
6. The contractor must have complied with all provisions of any prevailing wage laws and federal Davis-Bacon related Acts, and the rules and regulations therein, for projects undertaken by the contractor that are covered by these laws, for the past five (5) years;
7. Regarding a Public Works Contract estimated to be in excess of two million dollars, and if determined to be appropriate in the discretion of the Town of Sherman Town Board of Supervisors at the time a Request for Bids or Request for Quotes is issued, then in order to be considered a responsible bidder, the contractor must participate in a Registered Apprenticeship Program;
8. The contractor must have a written substance abuse prevention program meeting the requirements of Wisconsin Statutes Section 103.503;
9. The employees who will perform work on the project for the contractor must be properly classified as employees or independent contractors under all applicable laws;
10. If the contractor has been the subject of any order or judgment from any state or federal agency or court concerning an employment practice, the contractor must provide copies of the investigation, order or judgment for the county to consider as a factor in determining whether the contractor is a responsible bidder. The contractor may be disqualified for failing to provide said documentation;
11. The contractor's employees who will perform work on the project must be covered under a current workers' compensation policy and must be properly classified under such policy;
12. The contractor must be in compliance with all laws regarding health insurance coverage for employees;
13. The contractor must possess all applicable professional and trade licenses required for performing the public works;
14. The contractor must have adequate financial resources to complete the public works contract, and to complete all other work the bidder is presently under contract to complete;
15. The contractor must be bondable for the terms of the proposed public works contract;
16. If required in the discretion of the Town of Sherman Board of Supervisors at the time a Request for Bids or Request for Quotes regarding a contract of any amount is issued,

then in order to be considered a responsible bidder, the contractor must have a record of satisfactorily completing a specific number of projects of similar size and complexity within the last specific number of years, with the required specific number of projects and years to be determined by the Board of Supervisors prior to the Request for Bids or Request for Quotes being issued;

17. The contractor must have a history of satisfactorily completing projects. Criteria which will be considered in determining whether the contractor is a responsible bidder regarding satisfactorily completing projects may include, but are not limited to, whether the contractor has an acceptable past history of:

- a) completing contracts in accordance with drawings and specifications;
- b) diligently performing work and completing contracts in accordance with established time schedules, including any granted extensions of time; and
- c) fulfilling guarantee requirements of the contract documents; and

18. The contractor must have, and diligently maintain, a written safety program.

Section 4. No Restriction on Discretion.

If information is discovered or comes into the possession of the county or a county department, official and/or employee responsible for awarding the public works contract, and if such information calls into question the contractor's abilities or competence to faithfully and responsibly comply with the terms of a public works contract and is considered to be both credible and verifiable, then that information shall be considered in determining whether the contractor is a responsible bidder.

This ordinance is effective on 11/07/24, 2024. The Town Clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. Stats.

Adopted this 6 day of Nov, 2024.

William Goehring William Goehring, Town Chair

Kris Klein Kris Klein, Town Supervisor

Patricia Horne Patricia Horne, Town Supervisor

Shawn Kultgen Shawn Kultgen, Town Supervisor

Howard C Mitchell Howard Mitchell, Town Supervisor

Attest: Rhonda J. Klatt Rhonda J. Klatt, Town Clerk