

***NO. 07-26-OR***

**ORDINANCE**

An ordinance of the County of Allegheny, Commonwealth of Pennsylvania, amending and supplementing the Administrative Code of Allegheny County through the amendment of Article 902, entitled “Formal Procurement Process” and through the creation of a new Article 903A, entitled “Formal Procurement – Large Contracts,” in order to clarify standards governing selection of bidders for certain County contracts through the formal procurement process.

**WHEREAS**, pursuant to the Commonwealth of Pennsylvania’s County Code, 16 P.S. § 1802, most public works contracts must be competitively bid and contracts must be awarded only to the lowest “*responsible*” and responsive bidder submitting a bid in conformity with the specifications approved by the various counties; and

**WHEREAS**, notwithstanding the importance of the “*responsible*” bidder requirement, there is very limited guidance for defining the term “*responsible*” in relevant statutes, regulations or case law, and, therefore, prudent procurement and contracting policy dictates that this term should be more specifically defined; and in doing so, available guidance regarding the general meaning of the “*responsible*” contractor term should be followed, which typically relates to the technical qualifications and other capabilities relating to a contractor’s ability to successful delivery public works projects; and

**WHEREAS**, statutory provisions governing Allegheny County’s existing formal procurement process, found within Article 903 of the Administrative Code, provide specific guidelines for the determination of “*responsible*” bidders only in the context of goods manufactured in sweatshop conditions (at §5-903.02); and

**WHEREAS**, in undertaking its infrastructure and other public works projects, Allegheny County seeks to utilize reliable and efficient procurement procedures that will help ensure that its projects are delivered with reasonable certainty, in a safe, timely manner, and in accordance with contract specifications and applicable industry codes at the lowest overall cost and best value; and

**WHEREAS**, securing successful delivery of projects in the construction industry is particularly difficult due to the unique, complex, unpredictable and inherently dangerous nature of the industry, wherein errors in project planning or execution can result in serious health and safety risks to project workers and/or the general public, significant and avoidable cost overruns, flawed or inferior projects, and disruptions in performance schedules that delay the availability and use of critical government facilities; and

**WHEREAS**, to protect its financial and proprietary interests in these projects, and to offset performance risks inherent to public works contracting, Allegheny County desires to use efficient procurement procedures that adequately protect and promote these interests, including clearly defined, pre-established evaluation criteria to address the unique challenges of capital construction and to result in the selection of qualified, reputable contractors and subcontractors that are committed to Allegheny County's goals of safe, timely, cost-effective project delivery; and

**WHEREAS**, to establish efficient procurement procedures, Allegheny County specifically seeks to require that its public works contracts are to be performed by qualified "responsible" contractors and subcontractors that meet essential performance criteria, including: (a) satisfactory records of past performance, including compliance with applicable laws and industry regulations; and (b) adequate present performance capabilities, including contractor and subcontractor competency and availability of skilled craft personnel; and

**WHEREAS**, in seeking to ensure the adequate development of trained, skilled personnel for the construction industry, as well as other industries, the United States Congress passed the Fitzgerald Act, Pub. L. No. 75-308, 50 Stat. 664, which created a system in which workers could be properly trained in construction skills and safety procedures through organized, formally registered apprenticeship training programs that meet established quality, safety and performance standards, and such programs are approved and monitored by the U.S. Department of Labor and state labor agencies, including the Pennsylvania State Apprenticeship Council; and

**WHEREAS**, Allegheny County wishes to establish procurement standards for public works construction to address these findings and considerations, limit project delivery risks and protect its financial and proprietary interests, and better ensure efficient procurement and successful delivery of these projects;

***The Council of the County of Allegheny hereby enacts as follows:***

***SECTION 1. Incorporation of the Preamble***

The provisions of the preamble to this Ordinance are hereby incorporated in their entirety by reference herein.

## ***SECTION 2. Amendment of the Code, Article 903***

Article 903 of the Administrative Code of Allegheny County, entitled "Formal Procurement," §5-903.02, entitled "Purchases over \$30,000," is hereby amended as follows:

### **§ 5-903.02. Purchases over \$30,000.**

A. Except as provided below and pursuant to the terms of Article 903A of this Administrative Code (governing certain formal procurement contracts), all contracts or purchases in excess of \$30,000 shall be in writing after being published at least one time, not less than seven days prior to the date fixed for opening of bids. The successful bidder shall be the lowest responsible responsive bidder meeting specifications, with full consideration of cost, quality and performance. In the event that the County receives two completely identical responsive responsible bids, the award shall be made in accordance with the Purchasing Manual.

1. The term "lowest responsible responsive bidder" shall not include any bidder who has obtained any goods or products offered for sale, lease, rental or consignment to the County which were made under sweatshop conditions, as defined under this Section.
  - a. Goods and products are not made in sweatshop conditions if all of the following conditions apply in the manufacturing facility in which the goods were made:
    1. Wages and Benefits. The manufacturer or employer must pay wages which enable its workers to meet their basic needs for food, shelter, clothing and medical care. The manufacturer or employer also must provide all benefits required by law in their country and must compensate workers for overtime. Vendors and their subcontractors shall ensure that workers work overtime hours only voluntarily.
    2. Hours of Work. Workers must not be required to work more than forty-eight (48) hours per week, or less if the law of the country in which the manufacturer or employer is located sets a shorter work week.
    3. Worker's Rights. Workers must have the right to speak about and/or protest conditions in the factories in which they work without fear of retaliation and must have the right to form and join unions of their own choosing without fear of retaliation.

4. Health and Safety. The manufacturer or employer must provide a safe and healthy working environment.
  5. Treatment of Workers. No worker may be subjected to physical, sexual or verbal harassment. No worker may be discriminated against in employment in any way on the basis of sex, race, religion, age, disability, sexual orientation, national origin, political opinion or social or ethnic origin.
  6. Child Labor. The manufacturer or employer must not employ any individual younger than the legal age for children to work in the country in which the facility is located, and, regardless of legal age, must not employ any individual younger than the age of fifteen (15).
  7. Forced Labor. The manufacturer or employer must not use forced labor (including, but not limited to, prison labor, indentured labor, or bonded labor) of any kind.
  8. Legal Compliance. Vendors and subcontractors shall comply with all applicable local laws and workplace regulations in force in the jurisdiction in which their facilities are located, including those regarding wages and benefits, workplace health and safety, environmental safety and freedom of association.
- b. For the purposes of this section, a manufacturing facility shall be deemed to be a factory, shop, or any other location, whether indoors or not, in which goods or products are either manufactured from raw materials or assembled from component parts manufactured at another location.
  - c. The requirements of this section shall be satisfied by the execution of a signed statement by the vendor, in a form prescribed by the Chief Purchasing Officer and submitted with any bid packet tendered to the County, that the vendor is unaware of any circumstance or fact that lead it to believe that any of the conditions proscribed in §5-903.02.A.1.a. exist in any of the facilities involved in its manufacturing process. The signed statements required by this subsection shall be retained by the Division of Purchasing and supplies for a period of at least five years.

- B. The Purchasing Officer, in advertising the bids, shall have discretion to let bids on an item-by-item basis and/or on a total package basis in order to obtain the most favorable bid proposals for the County.
- C. The Controller shall receive all bids in a timely fashion and deliver same to the Purchasing Officer. The Purchasing Officer shall announce all bid figures publicly, and all bids thereafter shall be referred to the Division of Purchasing and Supplies for tabulation. The Purchasing Officer shall keep a record of all bids received. Whenever, for any reason, the bid opening shall not be held, the same business may be transacted at the identical time on the next business day or at any time and place announced at the time of the scheduled bid opening. The County shall reserve the right to reject any and all bids and to rebid a contract or purchase.
- D. The Purchasing Officer may require, after consultation with the Manager, that bids shall be accompanied by a cashier's check or money order, in an amount not exceeding 5% of the bid, by a bond with corporate surety in an amount not exceeding 5% of the amount bid, or by an irrevocable letter of credit in such form as previously approved by the Purchasing Officer issued by a bank or other financial institution duly recognized and authorized to do business in the Commonwealth in an amount not exceeding 5% of the bid. The good faith deposits by cashier's check or money order, bond or letter of credit, shall be held by the Purchasing Officer to be returned to the unsuccessful bidders when the contract is awarded or when the County determines that it is necessary to reject all bids. In the event that any bidder shall, upon award of the contract, fail to comply with the requirements hereinafter stated as to a bond guaranteeing the performance of a contract, or fail or refuse to enter into a contract, or otherwise fail or refuse to render the services required, the good faith deposit, cashier's check or money order, bond or letter of credit shall be forfeited to the County as liquidated damages, and the contract subsequently may be awarded to the next lowest responsive responsible bidder, who shall manifest acceptance of such contract by giving a good faith deposit in the amount and manner set forth in this subsection above on or before the third business day after the award of the contract to such bidder and otherwise comply with the provisions of this section.
- E. The successful bidder, when advertising is required herein, may be required to furnish a bond with suitable reasonable requirements guaranteeing performance of the contract, with sufficient surety in the amount of 100% of the amount of the contract, within 30 days after the contract has been awarded, unless the Purchasing Officer shall prescribe a shorter period or unless the Purchasing Officer shall waive the bond requirement in the bid specification. Upon failure to furnish any required bond within such time, the previous awards shall be void, and the contract may be awarded to the next lowest responsible responsive bidder meeting specifications.
- F. The Purchasing Officer shall combine requisitions for similar contracts and purchases of materials, supplies, furnishings, equipment, insurance, and other

personal property and nonprofessional services without regard to the potential total cost of the contract or purchase. Contracts and the purchase shall not be divided into separate contracts and purchases to avoid the financial threshold for the competitive bidding process.

- G. The Chief Purchasing Officer, in cooperation with the Division of Veterans Services, shall create a procedure which incorporates a five-percent government-wide goal for participation in the formal procurement process by small business concerns owned and controlled by veterans.
- (1) For the purposes of this subsection, a "veteran" is an individual who is currently serving or has served on active or reserve duty in the United States Army, Navy, Air Force, Marines, Coast Guard or Merchant Marine, and who has not been dishonorably discharged from that service.
  - (2) For the purposes of this subsection, "owned and controlled by veterans" means a business:
    - (a) Not less than 51% of which is owned by one or more veterans or, in the case of any publicly owned business, not less than 51% of the stock of which is owned by one or more veterans; and
    - (b) The management and daily business operations of which are controlled by one or more veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of a veteran.
  - (3) The Chief Purchasing Officer shall define "small business" in any fashion he or she deems appropriate for effective administration of this requirement.
  - (4) The policy created by the Chief Purchasing Officer shall require that a copy of United States Department of Defense Form DD214 or current service identification card(s) for any veteran(s) establishing any business as owned and controlled by veterans under this subsection must be submitted with any bid proposal, together with any proof of business ownership deemed appropriate by the Chief Purchasing Officer.
  - (5) In the event that the Chief Purchasing Officer determines that the five-percent participation goal is unattainable in the context of a particular procurement transaction, the remaining formal procurement requirements will still be applicable to that transaction.
  - (6) For the purposes of this subsection, "Chief Purchasing Officer" shall mean only the individual designated to exercise direct supervisory authority over the Division of Purchasing and Supplies or any successor County office or division, and shall not include the Director of any County department or any individual holding elected County office.

### ***SECTION 3. Amendment of the Code, Establishment of Article 903A***

The Administrative Code of Allegheny County is hereby amended and supplemented through the creation of a new Article 903A, entitled “Formal Procurement – Large Contracts,” and comprised as follows:

#### ARTICLE 903A

#### **Formal Procurement Process**

##### **§5-903A.01. Purpose and Construction**

- A. Legislative Intent. Allegheny County recognizes that there is a need to ensure that all construction work on public buildings is performed by responsible, qualified firms that maintain the capacity, expertise, personnel and other qualifications and resources necessary to successfully perform the contracts in a timely, reliable and cost-effective manner. In accordance with these principles:
1. To effectuate the purpose of selecting responsible contractors for contracts for construction work on public buildings and to protect the County’s investments in such contracts, prospective contractors and sub-contractors should be required to meet pre-established, clearly defined, minimum standards relating to contractor responsibility, including requirements and criteria concerning technical qualifications, competency, expertise, adequacy of resources, including equipment, financial and personnel, and satisfactory records regarding past project performance, safety, law compliance and business integrity.
  2. Further, due to the critical impact that skilled construction craft labor has on contracts for construction work on public buildings, and due to the limited availability of skilled construction craft labor and imminent craft labor skill shortages, it is necessary to require contractors and subcontractors to participate in established, formal apprenticeship training programs as a condition of bidding, for the purpose of both promoting successful project delivery and ensuring future workforce development and availability. It is important that skilled workers performing construction projects for the County have proper safety training. Allegheny County also recognizes that it is beneficial to the local community to ensure that firms receiving contracts for construction work on public buildings provide adequate wages and benefits to their employees and utilize fair business, employment and training practices that have a positive impact on local communities affected by such contracts.

- B. Construction. The requirements of this Article shall supplement, not replace, existing contractor qualifications and performance standards or criteria currently required by applicable Federal, Commonwealth, or County law, public policy or contracting documents.
- C. Continued Applicability of General Purchasing Provisions. Nothing contained herein shall be read, interpreted or otherwise construed to alter contracting or purchasing requirements established elsewhere in this Administrative Code, including (but not limited to) Article 903 (governing all formal procurement purchases of over \$30,000 in value), Article 905 (governing nonformal procurement, including procurement of processional services), and Article 911 (establishing requirements for County contracts).

#### **§5-903A.02. Scope.**

- A. The provisions of this Article shall apply only to construction projects undertaken directly by Allegheny County for construction, demolition, alteration, renovation, modernization, service or maintenance of buildings, structures or facilities valued at \$75,000 or more in total. All contractors and subcontractors of any tier that perform work on such projects, regardless of value of individual contract or subcontract packages shall meet the requirements of this Article.
- B. Notwithstanding any other provision of this Section or Article, the provisions of this Article shall not be applicable to any procurements exempted from the formal procurement process under the terms of §5-903.04 and/or §5-903.05 of the Administrative Code of Allegheny County.
- C. The provisions of this Article shall not apply in any fashion to construction projects undertaken by municipal or other authorities, the Allegheny County Parks Foundation, or any other individual, unit of government, or corporate entity.

#### **§5-903A.03. Responsible Contractor Requirements.**

- A. All firms, companies, or other entities engaged in public works contracts subject to this Article, including general contractors, construction managers, other lead or prime contractors, and subcontractors at any level, shall be qualified, responsible contracting firms that have sufficient capabilities in all respects to successfully perform contracts on which they are engaged, including the necessary experience, equipment, technical skills and qualifications and organizational, financial and personnel resources. Firms bidding or otherwise participating in public works contracts shall also be required to have a satisfactory past performance record and a satisfactory record of legal compliance, integrity and business ethics.

- B. The firm will pay all craft employees performing work on any project subject to the terms of this Article, at a minimum, the applicable wage and fringe benefit rates, as established for the classification in which the worker is employed, in accordance with the Pennsylvania Prevailing Wage Act, 43 P.S. § 165-1 *et. seq.* Fabrication shall also include items specific for a project subject to the terms of this Article that are not standard building materials but that are typically purchased for unspecified projects. Fabrication shall also include the fabrication, assembly or other production of components or structures prefabricated to specification for a particular project subject to the terms of this Article.

**§903A.04. Contractor Responsibility Certifications.**

- A. As a condition of performing work on a public works contract subject to this Article, a general contractor, construction manager or other lead or prime contractor seeking award of a contract shall submit a Contractor Responsibility Certification as specified within this Section.
- B. The Contractor Responsibility Certification shall be completed on a form provided by Allegheny County and reference the project for which a bid is being submitted by name and contract or project number, and submitted as part of the bid packet for that project.
- C. In the Contractor Responsibility Certification, the construction manager, general contractor or other lead or prime contractor shall confirm the following facts regarding its past performance and work history and its current qualifications and performance capabilities:
  - 1. The firm and its employees have all licenses, registrations, certificates or other credentials required by federal and state law and the laws of Allegheny County with respect to the contract work it seeks to self-perform.
  - 2. The firm meets the bonding requirements for the contract required by law or contract specifications, as well as applicable insurance requirements for the contract, including general liability, workers compensation and unemployment insurance.
  - 3. The firm has not been debarred or suspended by any federal, state or local government agency or authority in the past three years.
  - 4. The firm has not defaulted on any project in the past three years.
  - 5. The firm has not had any type of business, contracting or trade license, registration or certification revoked or suspended in the past three years.

6. The firm and its principals/owners have not been convicted of any crime relating to its contracting business in the past ten years.
7. Within the past three years, the firm has not been found in violation of any law applicable to its contracting business, including, but not limited, to licensing laws, tax laws, wage and hour laws, prevailing wage laws, environmental laws or others, where the result of such violation was the payment of a fine, back pay damages or any other type of penalty in the amount of \$2,500 or more.
8. The firm will employ a sufficient number of craft labor personnel required to successfully perform any project work it self-performs or shall use qualified subcontractors to meet this requirement.
9. The firm shall ensure that all craft labor it employs on the project will have completed, prior to working on the project the OSHA 10-hour training course for safety established by the U.S. Department of Labor and at least one person with OSHA 30 training.
10. The firm participates in a Class A Apprenticeship Training Program, as defined below, for each separate trade or classification in which it employs craft employees.
  - A. For purposes of this subsection, a Class A Apprenticeship Program is an apprenticeship program that is currently registered with and approved by the U.S. Department of Labor or a state apprenticeship agency and has graduated apprentices to journey person status for at least three of the past five years. This may be a apprenticeship program that is subject to the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1001, *et. seq.* (“ERISA”), or a non-ERISA program.
  - B. To demonstrate compliance with this subsection, the firm shall provide, with this certification, a list of all trades or classifications for which it participates in a Class A Apprenticeship Program.
11. The construction manager, general contractor or other lead or prime contractor responsible for the project shall ensure that at least 70 percent of the craft labor workforce employed on the project workforce shall be comprised of either journey person, workers who have successfully completed an apprenticeship training program registered with and approved by the U.S. Department of Labor or a state apprenticeship agency or registered apprentices currently enrolled in such programs.
  - a. The intent of these craft labor requirements is that the great majority of the craft labor personnel employed on the project have

the requisite skills and qualifications to perform the project work as they will be participants in or graduates of bona fide apprenticeship training programs in each trade or craft in which their services are utilized.

- b. For purposes of this subsection, apprenticeship training programs may include those which are subject to the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1001 *et seq.* (“ERISA”), or non-ERISA programs.
  - c. To demonstrate compliance with this section, the firm shall provide, with its certification submitted to the County, a list of all trades or classifications of craft employees it will employ on the project and the names and addresses of all applicable apprenticeship programs relating to craft personnel utilized on the project.
12. The firm shall assign workers to perform only work in their respective craft or trade for which they have sufficient skills and training, or shall use qualified subcontractors to meet this requirement.
  13. The firm shall comply with the wage requirements set forth in section 2(c) of this Article. The minimum wage for custom fabrication work shall be the same as the wage paid for project work in accordance with each applicable trade or classification.
  14. The firm has all other technical qualifications and resources, including equipment, personnel and financial resources, to successfully perform the referenced contract and shall maintain such capabilities throughout the duration of the project, or will obtain same through the use of qualified, responsible subcontractors or vendors
  15. The firm will maintain all qualifications, resources and capabilities referenced in this certification throughout the duration of the project.
  16. The firm shall notify Allegheny County within seven days of any material changes in its operation that relate to any matter attested to in this certification.
  17. The firm understands that the Contractor Responsibility Certification required by this section shall be executed by a person who has sufficient knowledge to address all matters in the certification and shall include an attestation stating, under the penalty of perjury, that the information submitted is true, complete and accurate.

- D. Execution of the Contractor Responsibility Certification required by this Article shall not establish a presumption of contractor responsibility, and Allegheny County may require any additional information it deems necessary to evaluate a firm's status as a responsible contractor, including information regarding the firm's technical qualifications, financial capacity or other resources and performance capabilities. Allegheny County may require that such information be included in a separate Statement of Qualifications and Experience or as an attachment to the Contractor Responsibility Certification.
- E. The submitting firm shall stipulate in the Contractor Responsibility Certification that, if it receives a Notice of Intent to Award Contract, it will provide a Subcontractor List and required subcontractor information as specified under the terms of this Article.
- F. If the submitting firm has ever operated under another name or is controlled by another company or business entity or in the past five (5) years controlled or was controlled by another company or business entity, whether as a parent company, subsidiary or in any other business relation, it shall attach an appendix to its Contractor Responsibility Certification that explains in detail the nature of any such relationship. Additional information may be required from such an entity if the relationship in question could potentially impact contract performance.
- G. If a firm fails to provide a Contractor Responsibility Certification required by this section, it shall be disqualified from bidding. No action of any nature shall lie against Allegheny County because of its refusal to accept a bid for this reason.

**§5-903A.05. Notice of Intent to Award Contract.**

- A. After it has received bids for a project, Allegheny County shall issue a Notice of Intent to Award Contract to the firm that has submitted the lowest responsive bid.
- B. Such Notice shall be issued immediately or as soon as practicable after bids are opened and shall stipulate that the contract award is conditioned on the issuance of a written Contractor Responsibility Determination, compliance with Subcontractor Certifications, and any other qualification standards required pursuant to the terms of this Article, other applicable provisions of Federal, Commonwealth or County law, or by the Allegheny County Division of Purchasing.

**§5-903A.06. Subcontractor Responsibility Requirements.**

- A. Within thirty (30) days of receiving a Notice of Intent to Award Contract, the prospective awardee shall submit a Subcontractor List, which provides the name and address of the subcontractors it will use on the project, the scope of work

assigned to each subcontractor, and Subcontractor Responsibility Certifications as required by this section.

- B. The prospective awardee shall not be permitted to use a subcontractor on any work performed for Allegheny County unless it has identified the subcontractor on its Subcontractor List and provided a Subcontractor Responsibility Certification in accordance with the requirements of Section 4.
- C. At the time a prospective awardee submits the Subcontractor List it shall also submit Subcontractor Responsibility Certifications and applicable supporting information for all listed subcontractors to Allegheny County.
- D. A prospective awardee shall determine whether any firm on its Subcontractor List is organized as a sole proprietorship owned and operated by a single person. This shall apply to subcontractors at any tier. For any such entity, the prospective awardee shall ensure that the sole proprietorship subcontractor is a legitimate business entity and not a misclassified employee by requiring the subcontractor to supplement its Subcontractor Certification with its Employer Identification Number and copies of any license, certificate or registration it is required to maintain in to do business in the state in which it is located.
- E. Subcontractor Responsibility Certifications shall be executed by the respective subcontractors on forms prepared by Allegheny County and contain the same information, representations and supporting information required in Contractor Responsibility Certifications, including verification of apprenticeship qualifications required by Section 3(c)(11) for each trade or classification of craft workers it will employ on the project.
- F. Subcontractor Responsibility Certifications shall be executed by a person having sufficient knowledge to address all matters in the certification and shall include an attestation stating, under the penalty of perjury, that all information submitted is true, complete and accurate.
- G. A subcontractor listed on a firm's Subcontractor List shall not be substituted unless written authorization is obtained from Allegheny County and a Subcontractor Responsibility Certification is provided for the substitute subcontractor.
- H. In the event that Allegheny County determines that a subcontractor fails to meet the requirements of this Article or is otherwise determined to be non-responsible, it may, after informing the prospective awardee, exercise one of the following options:
  - 1. Permit the awardee to substitute a qualified, responsible subcontractor in accordance with the requirements of this section, upon submission of a

completed Subcontractor Certification for the substitute and approval of the substitute by Allegheny County.

2. Require the awardee to self-perform the work in question if the firm has the required experience, licenses and other qualifications to perform the work in question; or
  3. Disqualify the prospective awardee.
- I. In the event a subcontractor is disqualified under this Article, the general contractor, construction manager or other lead or prime contractor shall not be permitted to make any type of claim against Allegheny County on the basis of a subcontractor disqualification.

**§5-903A.07. Contractor Responsibility Review and Determination.**

- A. After Allegheny County has issued a Notice of Intent to Award Contract to the lowest responsive bidder, it shall undertake a contractor responsibility review process to determine whether the firm is a qualified, responsible firm in accordance with the requirements of this Article and other applicable laws and regulations. This review shall also include review of all subcontractors for the Contract and confirmation that those firms meet the required qualifications under this Article. The time frame for conducting this review process shall be as determined by Allegheny County.
- B. As part of the review process, Allegheny County shall ensure that the Contractor Responsibility Certification and Subcontractor Responsibility Certifications and applicable supporting information comply with the requirements of this Article.
- C. Allegheny County may conduct any additional inquiries to verify that the prospective awardee and its subcontractors have the technical qualifications and performance capabilities necessary to successfully perform the contract and that the firms have a sufficient record of law compliance and business integrity to justify the award of a public contract. In conducting such inquiries, the County may seek relevant information from the firm, its prior clients or customers, its subcontractors or any other relevant source.
- D. After Allegheny County determines that all responsibility certifications have been properly executed and has verified that all other relevant information requested for reviews indicates that the prospective awardee and its subcontractors are qualified, responsible firms, it shall issue a written Contractor Responsibility Determination for the prospective awardee.
- E. In the event a firm is determined to be non-responsible, Allegheny County shall notify the firm and proceed to conduct a responsibility review of the next lowest,

responsive bidder or, if necessary, rebid the project. A Responsibility Determination may be revoked at any time if Allegheny County obtains relevant information warranting any such revocations.

**§5-903A.08. Execution of Final Contract.**

A contract subject to this Article shall not be executed until all requirements of this Article have been fulfilled and until a Contractor Responsibility Determination has been issued pursuant to the terms of §5-903A.07.D.

**§5-903A.09. False, Incomplete or Misleading Responsibility Certifications.**

In the event that Allegheny County determines that a Contractor Certification, Subcontractor List or Subcontractor Responsibility Certification contains false or misleading information that was provided knowingly or with reckless disregard for the truth or omits material information knowingly or with reckless disregard of the truth, the firm for which the certification was submitted shall be disqualified from the project and shall be prohibited from performing work for Allegheny County for a period of three (3) years.

**§5-903A.10. Waiver of Requirements and Notice.**

The requirements established under the terms of this Article may be waived by the Division of Purchasing with at least three (3) business days prior notice to County Council under the following conditions:

- A. No bids have been received for the project from any entity meeting the responsible contractor requirements as established under the terms of this Article by the close of the published bidding period for the project; and
- B. The County Manager provides a report of all waivers granted under the terms of Subsection A to County Council at least once per annual quarter.

***SECTION 3. Effective date.***

The provisions of this ordinance shall become effective immediately on January 1, 2027.

**SECTION 4. Severability.** *If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.*

**SECTION 5. Repealer.** *Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.*

**PRIMARY SPONSOR: COUNCIL MEMBER HALLAM**

**CO-SPONSORS: COUNCIL MEMBERS GRZYBEK, ROSE, BOTTA, MADONNA-EMMERLING, SHULMAN, PALMOSINA and PALMIERE**

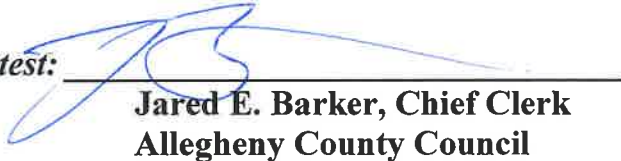
Enacted in Council, this 29<sup>th</sup> day of March, 2026,

Council Agenda No. 12811-26



**Patrick Catena**  
**President of Council**

Attest:



**Jared E. Barker, Chief Clerk**  
**Allegheny County Council**

Chief Executive Office March 27, 2026

Approved:



**Sara Innamorato**  
**Chief Executive**

Attest:

