

★ Roll Call Number

Agenda Item Number

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Date March 7, 2016

**APPROVING REVISED CITY OF DES MOINES  
TAXPAYER QUALITY ASSURANCE POLICY**

WHEREAS, Iowa Code §26.9 requires that contracts for public improvements be awarded to the "lowest responsive, responsible bidder" and Iowa court decisions allow public entities to consider factors other than price in determining who is the lowest responsible bidder; and

WHEREAS, the Des Moines City Council in recognition of this and that Vertical Infrastructure Projects are designed for human occupancy and construction of these projects can be complex and difficult, adopted a policy entitled "City of Des Moines Taxpayer Quality Assurance Policy" on September 8, 2014 by Roll Call No. 14-1417, for evaluating the necessity for additional information from bidders to assist in determining the lowest responsible bidder on Vertical Infrastructure Projects; and

WHEREAS, changes have been proposed to revise the City of Des Moines Taxpayer Quality Assurance Policy to clarify the definition of Vertical Infrastructure Project and the process for Council implementing the Policy; and

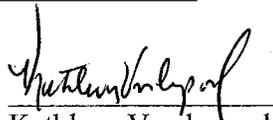
WHEREAS, the changes are discussed in the referenced Council Communication attached to this Roll Call and are set forth in the revised City of Des Moines Taxpayer Quality Assurance Policy.

NOW THEREFORE, BE IT RESOLVED BY THE DES MOINES CITY COUNCIL that it hereby approves the attached revised Des Moines Taxpayer Quality Assurance Policy.

(Council Communication No. 16- 127 attached)

Moved by \_\_\_\_\_ to adopt.

FORM APPROVED:

  
Kathleen Vanderpool  
Deputy City Attorney

*ps*

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED

APPROVED

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

City of Des Moines Taxpayer Quality Assurance Policy

Background

Iowa Code §26.9 requires that contracts for public improvements be awarded to the "lowest responsive, responsible bidder" and Iowa court decisions allow public entities to consider factors other than price in determining who is the lowest responsible bidder. The Des Moines City Council in recognition of this and that Vertical Infrastructure Projects are designed for human occupancy and construction of these projects can be complex and difficult, desires to establish a policy for evaluating the necessity for additional information from bidders to assist in determining the lowest responsible bidder on Vertical Infrastructure Projects as defined herein. The City Council desires to evaluate each Vertical Infrastructure Project, as defined herein, on a case by case basis, to determine whether the project is of a magnitude, scope or complexity that additional information provided by use of a General Contractor Quality Assurance Questionnaire will assist the City Council in determining the lowest responsible bidder in accordance with Section 26.9 of the Iowa Code.

Definition of Vertical Infrastructure Project

"Vertical Infrastructure Project" for purposes of this Policy is defined as construction, addition, or major alteration of a facility that has or will require a certificate of occupancy that:

1. is to be bid and constructed by the City of Des Moines,
2. with an estimated construction cost in excess of \$1,000,000,
3. is funded without federal, state or other funding that would prohibit or limit use of the Questionnaire.

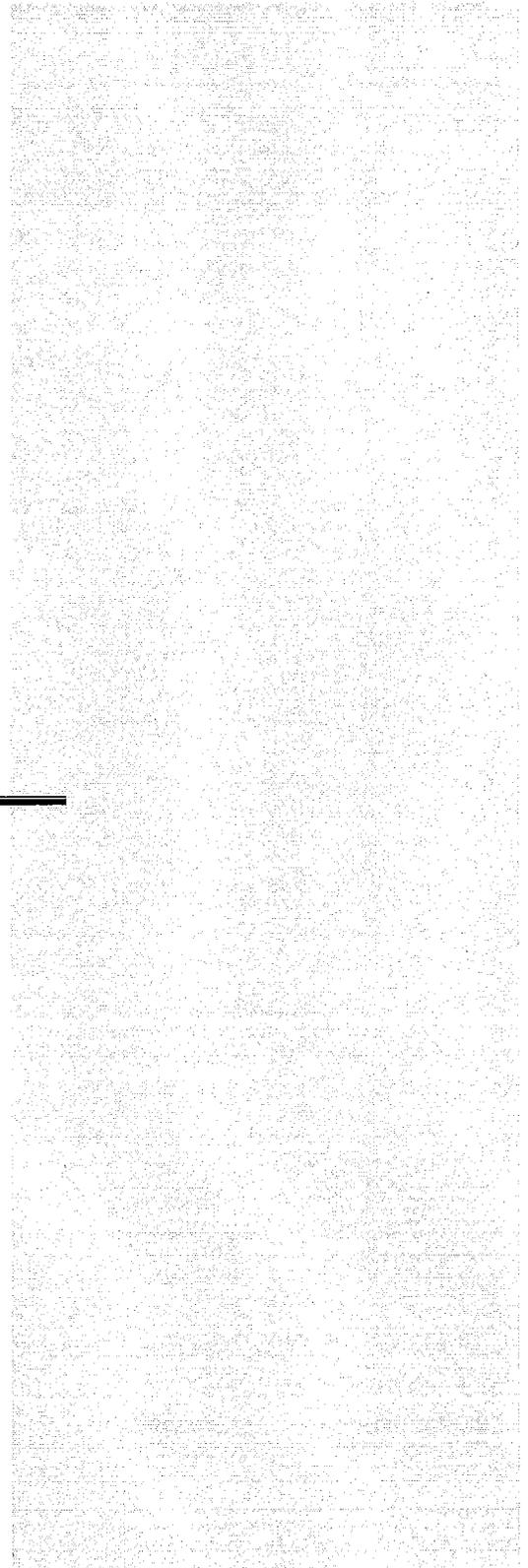
Policy

It is the policy of the City of Des Moines, Iowa, that prior to seeking bids on each Vertical Infrastructure Project, the Engineering Department shall submit such Vertical Infrastructure Project to Council for review. ~~As a result of such Council review, Council will then determine whether to direct staff to prepare a resolution providing for further Council evaluation. Upon such further Council evaluation,~~ Council shall analyze and determine whether the proposed Vertical Infrastructure Project is of such magnitude, scope or complexity that Council deems it necessary to request bidders, on the proposed Vertical Infrastructure Project, to complete the General Contractor Quality Assurance Questionnaire ("Questionnaire") to assist the City Council in determining the lowest responsible bidder pursuant to Iowa law. Council shall also evaluate the need to include the Subcontractor Quality Assurance Bid Requirements on the Project. On those Vertical Infrastructure Projects where the Council directs use of the Questionnaire, included as Attachment 1 to this Policy, the Engineering Department shall request that bidders on the proposed Vertical Infrastructure Project submit a completed Questionnaire no later than two weeks prior to the deadline for accepting bids. Council will then be provided with the questionnaire of the apparent low responsive bidder for Council's consideration in determining the lowest responsive, responsible bidder responsibility in accordance with Section 26.9 of the Iowa Code.

**CITY OF DES MOINES**

**SUBCONTRACTOR QUALITY ASSURANCE  
BID REQUIREMENTS**

***PROJECT NAME***



The following requirements are intended to be included in the Quality Assurance Sections of the Bid Specifications which the General Contractor will, along with all other quality assurance requirements, be required to manage:

**FOR ALL SUBCONTRACTORS**

Subcontractor must not ~~be under current investigation for or previously~~ have been found to have violated in the last five (5) years any of the following state or federal laws: Iowa Minimum Wage Act, Iowa Non-English Speaking Employees Act, Iowa Child Labor Act, Iowa Labor Commissioner's Right to Inspect Premises, Iowa Compensation Insurance Act, Iowa Employment Security Act, Iowa Competition Act, Iowa Income, Corporate and Sales Tax Code, a "willful" violation of the Iowa or Federal Occupational Safety and Health Act, Iowa Employee Registration Requirements, Iowa Hazardous Chemical Risks Act, Iowa Wage Payment Collection Act, Federal Income and Corporate Tax Code, The National Insurance and Social Security Act, The Fair Labor Standards Act. Subcontractor must notify Contractor of any current investigation of subcontractor for violation of any of the above laws. Contractor shall notify the City of any subcontractors under current investigation for violation of any of the above laws prior to City Council's consideration of Contractor's request for permission to subcontract to such subcontractors.

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Subcontractor will only utilize Subcontractor on-site employees that have completed the Occupational Safety and Health Act (OSHA) 10 hour Construction Industry Training Program.

Subcontractor must properly license employees with the appropriate licensing authority.

Subcontractor at all levels, that is even a subcontractor of a subcontractor, will only utilize workers on this Project that have unemployment and workers compensation coverage provided by the subcontractor by which the worker is employed. Subcontractor will make available to General Contractor or Owner such documentation that is necessary to satisfy Owner, in Owner's sole discretion, that subcontractor is in compliance with this provision.

These bid requirements shall apply to the following Subcontracts:

- \*1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

Subcontractor must participate in an apprentice or training program approved by the United States Department of Labor (DOL) or substantially equivalent apprenticeship or training program which has graduated at least one apprentice in the immediately preceding three-year period. Subcontractor must provide, upon Owner's or General Contractor's request, documentation of such participation.

Subcontractor is not required to use apprentices on the Project. If subcontractor chooses to employ apprentices on this Project, subcontractor must provide upon request, evidence that each of the apprentices on the Project is participating in and registered with a DOL-approved apprentice or training program or substantially equivalent apprenticeship or training program.

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\* The Engineering Department will evaluate any project that Council determines to use the Questionnaire on, to include the appropriate subcontracts on the project.

## City of Des Moines Taxpayer Quality Assurance Policy

### Background

Iowa Code §26.9 requires that contracts for public improvements be awarded to the "lowest responsive, responsible bidder" and Iowa court decisions allow public entities to consider factors other than price in determining who is the lowest responsible bidder. The Des Moines City Council in recognition of this and that Vertical Infrastructure Projects are designed for human occupancy and construction of these projects can be complex and difficult, desires to establish a policy for evaluating the necessity for additional information from bidders to assist in determining the lowest responsible bidder on Vertical Infrastructure Projects as defined herein. The City Council desires to evaluate each Vertical Infrastructure Project, as defined herein, on a case by case basis, to determine whether the project is of a magnitude, scope or complexity that additional information provided by use of a General Contractor Quality Assurance Questionnaire will assist the City Council in determining the lowest responsible bidder in accordance with Section 26.9 of the Iowa Code.

### Definition of Vertical Infrastructure Project

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1. is to be bid and constructed by the City of Des Moines,
2. with an estimated construction cost in excess of \$1,000,000,
3. is funded without federal, state or other funding that would prohibit or limit use of the Questionnaire.

### Policy

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**CITY OF DES MOINES**

**GENERAL CONTRACTOR QUALITY ASSURANCE  
QUESTIONNAIRE  
[INSERT PROJECT NAME]**

# GENERAL CONTRACTOR QUALITY ASSURANCE QUESTIONNAIRE [INSERT PROJECT NAME]

Pursuant to Iowa Code §26.9 which requires that contracts for public improvements be awarded to the "lowest responsive, responsible bidder," and in accordance with Iowa court decisions allowing public entities to consider factors other than price in determining who is the lowest responsible bidder, City of Des Moines does hereby provide the following Questionnaire to General Contractors ("Contractor") seeking to submit bids for work on the \_\_\_\_\_ ("Project"). To allow the Owner sufficient time to evaluate the information provided, the fully completed Questionnaire, with attachments, shall be submitted to the Engineering Department by INSERT DATE \_\_\_\_\_. Contractors who do not complete the following questionnaire are subject to being deemed "non responsive."

1. Full name of Contractor: \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone \_\_\_\_\_ Fax \_\_\_\_\_  
Email \_\_\_\_\_

2. All other names under which Contractor has operated in the past five (5) years:  
\_\_\_\_\_  
\_\_\_\_\_

3. Provide Contractors' Registration Number and full names of Registration Holders as per Iowa Construction Contractor Registration requirements:  
\_\_\_\_\_  
\_\_\_\_\_

Contractor Registration Expiration Date \_\_\_\_\_

4. Has Registration ever been suspended or revoked in any jurisdiction?  
 Yes  No  
If "yes", provide information regarding suspension/revocation and attach all relevant documents

5. Within the past three\* (3) years, has Contractor been debarred by any federal, state or local governmental entity from bidding on projects?  
 Yes  No  
If "yes", provide information related to debarment.

\* This is a change from the County's use of (5) years to be consistent with the Municipal Code's three-year period for disqualification of bidders.

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6. On a separate sheet, list construction projects in value in excess of \$5 million dollars that Contractor has in progress, giving the name of the project, owner, architect, contract amount, key Contractor personnel, percent complete and scheduled completion date.
  7. On a separate sheet, list the major projects Contractor has completed in the past three (3) years, giving the name of the project, owner, architect, contract amount, Officer in Charge, Project Manager, Project Superintendent and any other key Contractor personnel, date of completion and percentage of the total project performed by your own employees.
  8. On a separate sheet, identify the individuals Contractor intends to be the Officer in Charge, Project Manager, Project Superintendent and any other key personnel on this project. Include a resume and/or recent work history for each identified individual.
  - \*\*9. On a separate sheet, for work Contractor intends to self perform on the project; specify the level of training and experience Contractors' employees have had. Further indicate whether or not any such training has been in a United States Department of Labor (DOL) certified apprentice program or substantially equivalent apprenticeship program. In the event, Contractor intends to utilize apprentice workers on the Project, Contractor must be able to provide, upon Owners' request, documentation that each apprentice worker utilized on the Project is properly registered as participating in a DOL certified apprentice program or substantially equivalent apprenticeship program.
  10. On a separate sheet, list the Contractors last five (5) completed projects, and for each, the scheduled completion date and the final completion date, noting any owner approved extensions.
  11. Within the past three (3) years, has Contractor defaulted on a contract, or been disqualified, removed or otherwise prevented from bidding on or completing any project  
 Yes  No  
If "yes", provide the year of the incident, name, address and telephone number of the owner of the project, project name and location.
  12. Has Contractor ever been unable to obtain a bond or been denied a bond?  
 Yes  No  
If "yes", please provide all relevant details.
  13. On a separate sheet, list all surety/bonding companies Contractor has utilized in the past five (5) years.
  14. Has Contractor ever declared bankruptcy or been in receivership?  
 Yes  No  
If "yes" please provide all relevant details.
- \*\* Polk County has used or omitted this question depending upon the project. A change from the County version is the phrase "or substantially equivalent apprenticeship program."

15. Is Contractor currently being investigated for or previously been found to have violated in the past five (5) years any of the following state or federal laws: Iowa Minimum Wage Act; Iowa Non-English Speaking Employees Act; Iowa Child Labor Act; Iowa Labor Commissioner's Right to Inspect Premises, Iowa Compensation Insurance Act; Iowa Employment Security Act; Iowa Competition Act; Iowa Income, Corporate and Sales Tax Code; a "willful" violation of the Iowa or Federal Occupational Safety and Health Act; Iowa Employee Registration Requirements; Iowa Hazardous Chemical Risks Act; Iowa Wage Payment Collection Act; Federal Income and Corporate Tax Code; The National Insurance and Social Security Act; The Fair Labor Standards Act:  Yes  No

If "yes" please explain:

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16. Has Contractor ever failed to complete any work awarded to it?

Yes  No

If "yes" provide all relevant details.

17. Are there any judgments, arbitration proceedings or suits pending or outstanding against Contractor or its officers that relate to, arise out of or are in the course of the Contractor's business? \*\*\*

Yes  No

If "yes" provide all relevant details.

18. Has Contractor filed any lawsuit or demanded arbitration with regard to any construction contract within the past five (5) years?  Yes  No

If "yes" provide all relevant details.

19. Has Contractor been found by a court or agency of competent jurisdiction to be delinquent in meeting its obligations under local, state or federal tax laws within the last five (5) years? ("delinquent" shall include, but is not limited to: failure to file, failure to pay or imposition of tax liens)

Yes  No

\*\*\* Change from County's form to add "that relate to, arise out of or are in the Contractor's business."

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- 20. Contractor affirms that it will retain only subcontractors who can fully comply with the bid specifications, including those that address requirements concerning the Subcontractor Quality Assurance Bid Requirements.  Yes  No
  
- 21. Contractor affirms that it will be responsible for ensuring that each subcontractor meets the Subcontractor Quality Assurance Bid Requirements.  Yes  No
  
- 22. Contractor agrees to submit to City of Des Moines a list of intended subcontractors for any work that will be assigned, sublet or subcontracted by the Contractor in excess of \$25,000 at the time of the bid in accordance with Proposal Attachment Part F, Item 1, Identity of Subcontractors.\*\*\*\* (In the event Contractor wishes to replace any originally- designated subcontractor or add a subcontractor, such may only occur with the approval of City of Des Moines. Such approval will not be unreasonably withheld)  Yes  No
  
- 23. Contractor attests that it will comply with each of the following:
  - Iowa's Minimum Wage Law:  Yes  No
  - Maintain workers' compensation insurance or be qualified as a self-insurer and provide proof of insurance or ability to self-insure upon request.  Yes  No
  - Properly license Contractor employees with the appropriate licensing authority.  Yes  No
  
- 24. Contractor will make available to Owner or Owner's representative, upon Owners' request, documentation to satisfy the Owner, in Owners' sole discretion, that the Contractors' workers utilized on this project are actual employees, with unemployment and workers' compensation coverage not "leased employees" or independent contractors.  Yes  No
  
- 25. That Contractor will provide with this Questionnaire, the name, address, phone number and name of contact for three (3) entities which will provide references.  Yes  No
  
- 26. Contractor will only utilize on-site employees who have completed the Occupational Safety and Health Act (OSHA) 10 hour Construction Industry Training Program.  Yes  No

Provide Contractor's Federal ID Number \_\_\_\_\_

Provide Name and address of Contractor's Registered Agent \_\_\_\_\_

\_\_\_\_\_

\*\*\*\* The requirement in Polk County's form was to "identify "all" subcontractors. This was changed to reflect City's requirement to list all subcontractors in excess of \$25,000.

(Please continue to signature page)

I hereby certify, that (1) all of the information provide by me in this Questionnaire is true and correct to the best of my knowledge; (2) I am authorized to sign this Questionnaire on behalf of the Contractor whose name appears in Question #1; (3) if any of the information I have provided herein becomes inaccurate, prior to execution of any Project Contract. I will immediately provide the City Engineering Department with updated accurate information in writing; and (4) I hereby authorize any person or entity named herein to provide the City Engineering Department with whatever information might be required to verify this Questionnaire.

THIS STATEMENT MUST BE NOTORIZED

NAME OF CONTRACTOR \_\_\_\_\_

BY: \_\_\_\_\_

Signature

Title

\_\_\_\_\_  
Type/Print Name

\_\_\_\_\_  
Date

STATE OF IOWA, \_\_\_\_\_ County, ss:

Subscribed and sworn to before me by the said \_\_\_\_\_ on this day of

\_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Notary Public in and for the State of Iowa

\_\_\_\_\_  
Contractor Name

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**CITY OF DES MOINES**

**SUBCONTRACTOR QUALITY ASSURANCE  
BID REQUIREMENTS**

***PROJECT NAME***



The following requirements are intended to be included in the Quality Assurance Sections of the Bid Specifications which the General Contractor will, along with all other quality assurance requirements, be required to manage:

**FOR ALL SUBCONTRACTORS**

Subcontractor must not have been found to have violated in the last five (5) years any of the following state or federal laws: Iowa Minimum Wage Act, Iowa Non-English Speaking Employees Act, Iowa Child Labor Act, Iowa Labor Commissioner's Right to Inspect Premises, Iowa Compensation Insurance Act, Iowa Employment Security Act, Iowa Competition Act, Iowa Income, Corporate and Sales Tax Code, a "willful" violation of the Iowa or Federal Occupational Safety and Health Act, Iowa Employee Registration Requirements, Iowa Hazardous Chemical Risks Act, Iowa Wage Payment Collection Act, Federal Income and Corporate Tax Code, The National Insurance and Social Security Act, The Fair Labor Standards Act. Subcontractor must notify Contractor of any current investigation of subcontractor for violation of any of the above laws. Contractor shall notify the City of any subcontractors under current investigation for violation of any of the above laws prior to City Council's consideration of Contractor's request for permission to sublet to such subcontractors.

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