

## Responsible Employer Ordinance

1. Chapter Two of the Revised Ordinances of 2008 is hereby amended by deleting section thirty-two, Jobs Requirements for City Residents in its entirety.
2. Chapter Two of the Revised Ordinances of 2008 is hereby amended by deleting section thirty-five in its entirety and inserting a new section thirty-five as follows:
  - a. The City Council hereby finds and determines that taxpayer money is most efficiently and productively spent by awarding construction contracts to firms that include and enforce provisions requiring compliance with state laws governing the payment of prevailing wages, the provision of workers compensation coverage, and the proper classification of individuals as employees and not as independent contractors, as well as state law concerning health insurance coverage and state-certified apprenticeship programs. The City Council hereby further finds and determines that it is appropriate for it to exercise entrepreneurial discretion by requiring firms that are awarded such contracts to comply with this ordinance because a failure to comply is injurious to the life, health and happiness of individuals employed by such firms and is deleterious to the quality of life in the City where most of such individuals reside.
  - b. Whenever the City of Worcester is procuring construction services subject to the provisions of [M.G.L. Chapter 149](#) and [Chapter 149A](#) the following shall be incorporated into the procurement documents and made part of the specifications and contract. Any person, company or corporation shall acknowledge, in writing, receipt of said requirements with their bid or proposal.
  - c. All bidders or proposers and all subcontractors and trade contractors, including subcontractors that are not subject to M.G.L. Chapter 149, Section 44F, under the bidder for projects subject to M.G.L. Chapter 149, Section 44A(2), and proposers under M.G.L. Chapter 149A, shall as a condition for bidding or subcontracting verify under oath and in writing at the time of bidding or submittal in response to an RFP or in any event prior to entering into a subcontract at any tier, that they comply with the following conditions for bidding or subcontracting and, for the duration of the project, shall comply with the following obligations:
    1. The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer must comply with the obligations established under M.G.L. Chapter 149 to pay the appropriate lawful prevailing wage rates to their employees;
    2. The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer must at the time of bidding maintain or participate in a bona fide apprentice training program as defined by [M.G.L. Chapter 23](#), Sections 11H and 11I for each apprenticeable trade or occupation represented in their workforce that is approved by the Division of Apprentice

Standards of the Department of Labor and Workforce Development, regardless of whether or not the program qualifies as an employee welfare benefit plan under ERISA, and must register all apprentices with the Division and abide by the apprentice to journeyman ratio for each trade prescribed therein in the performance of any work on the project. This provision does not require the program to be an ERISA plan; the program need only have been approved by the Division of Apprentice Standards. All general bidders or proposers and all trade contractors and sub-bidders at every tier must submit with its bid or proposal an original, stamped Sponsor Verification letter from the Commonwealth of Massachusetts, Department of Labor and Workforce Development - Division Apprentice Standards, issued within the past 90 days, evidencing that at the time of submitting a bid or proposal, the bidder or proposer is currently an Approved Sponsor of Apprentices. Any bid or proposal submitted without the above documentation shall be rejected;

3. The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer must maintain appropriate industrial accident insurance coverage for all the employees on the project in accordance with [M.G.L. Chapter 152](#);
4. The bidder or proposer and all trade contractors and subcontractors under the bidder must properly classify employees as employees rather than independent contractors and treat them accordingly for purposes of workers' compensation insurance coverage, unemployment taxes, social security taxes and income tax withholding. (M.G.L. Chapter 149, Section 148B on employee classification;
5. The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer must at the time of bidding certify that, at the time employees begin work at the worksite, all employees will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration, and shall ensure that all employees working at the worksite possess such qualifications at all times throughout the duration of their work on the project and furnish documentation of successful completion of the course;
6. The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer must be in compliance with the health and hospitalization requirements of the Massachusetts Health Care Reform law established by Chapter 58 of the Acts of 2006, as amended, and regulations promulgated under that statute by the Commonwealth Health Insurance Connector Authority.
7. The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer must make

arrangements to ensure that each employee of every contractor entering or leaving the project individually completes the appropriate entries in a daily sign-in/out log. The sign-in/out log shall include: the location of the project; current date; printed employee name; signed employee name; and the time of each entry or exiting. The log shall contain a prominent notice that employees are entitled under state law to receive the prevailing wage rate for their work on the project. Such sign-in/out logs shall be provided to the City on a daily basis.

8. The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer, prior to bidding or, if not subject to bidding requirements, prior to performing any work on the project, shall sign under oath and provide to the City a certification that they are not debarred or otherwise prevented from bidding for or performing work on a public project in the Commonwealth of Massachusetts or in the City.
- d. A proposal or bid submitted by any general bidder or by any trade contractor or subcontractor under the general bidder or proposer that does not comply with any of the foregoing conditions for bidding shall be rejected, and no subcontract for work outside the scope of M.G.L. Chapter 149, Section 44F shall be awarded to a subcontractor that does not comply with the foregoing condition.
- e. All bidders or proposers and all trade contractors and subcontractors under the bidder or proposer who are awarded or who otherwise obtain contracts on the projects subject to M.G.L. Chapter 149, Section 44A(2) or Chapter 149A, shall comply with each of the obligations set forth in this section thirty-five for the entire duration of their work on the project, and an officer of each bidder or subcontractor under the bidder shall certify under oath and in writing on a weekly basis that they are in compliance with such obligations.
- f. Any proposer, bidder, trade contractor or subcontractor under the bidder or proposer who fails to comply with any one of obligations set forth in this section thirty-five for any period of time shall be, at the sole discretion of the City, subject to one or more of the following sanctions; (1) cessation of work on the project until compliance is obtained; (2) withholding of payment due under any contract or subcontract until compliance is obtained; (3) permanent removal from any further work on the project; (4) liquidated damages payable to the City in the amount of 5% of the dollar value of the contract.
- g. In addition to the sanctions outlined in subsection (f) above, a proposer, general bidder or contractor shall be equally liable for the violations of its subcontractor with the exception of violations arising from work performed pursuant to subcontracts that are subject to M.G.L. Chapter 149, Section 44F. Any contractor or subcontractor that has been determined by the City or by any court or agency to have violated any of the obligations set forth in this section thirty-five shall be barred from performing any work on any future projects for six

months for a first violation, three years for a second violation and permanently for a third violation.