

TOWNSHIP OF DELRAN
ORDINANCE NO. 2021-18

AN ORDINANCE TO AMEND CHAPTER 43, SECTION OF THE CODE OF THE TOWNSHIP OF
DELRAN ENTITLED "AWARD OF THE CONTRACT OR PURCHASE"

WHEREAS, the Township Council of the Township of Delran has recommended certain amendments to Chapter 43 entitled "Purchasing" - Article XII Budget and Purchasing § 4-97 entitled "Award of Contract or Purchase" of the Code of the Township of Delran has determined that it is the best interest of the Township to adopt such requirements.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Delran that the Code is amended as follows:

SECTION I. Chapter 43 entitled "Purchasing" § 43-2 entitled "Process for award of professional services contracts" is hereby amended to add the following:

§ 43-2 Process for award of professional services contracts.

F. The Township Council, upon consideration and review of the procedures and recommendations, shall award the contract or purchase to the lowest bidder, pursuant to law, N.J.S.A. 40A:11-1 et seq.

Pre-Qualification Regulations for Bidder Requirements for Public Works Projects

1. Findings.

The Governing Body makes the following findings:

- A. The Township has proprietary and governmental interests in high standards, high qualifications and a high level of safety for workers and the general public. Those interests are fostered and benefitted by requiring bidders who desire to bid on public works projects with an estimated cost of construction equal to or exceeding \$250,000.00 to employ highly skilled workers.
- B. Using formally trained trade and craft workers ensures a level of competence, productivity, and worker safety that contributes to the timely and cost-effective completion of public works projects.
- C. A registered apprenticeship provides for a formal training arrangement that

includes a paid-work component and an educational or instructional component, wherein an individual obtains workplace-relevant knowledge and skills.

- D. Registered apprenticeship programs are a written plan designed to move an apprentice from a low or no skill entry-level position to full occupational proficiency. These programs must meet parameters established under the National Apprenticeship Act that are designed to protect the welfare of the apprentice. The Act and its promulgating regulations are administered by the Department of Labor's Office of Apprenticeship and the New Jersey Department of Labor and Workforce Development.

- A. The publication "Apprenticeship Training In New Jersey - Directory of Information and Resources" prepared by the State of New Jersey Department of Labor and Workforce Development Division of Business Services - Office of Workforce Initiatives describes the benefits that apprenticeship programs provide to the public including but not limited to:
 - 1. Developing and maintaining a highly skilled workforce which has "learned how to learn" and which is well prepared to adapt to an ever-changing employment and economic environment that is the hallmark of today's global economy, and
 - 2. Increased productivity from apprentices who are more versatile and better able to solve work-related problems than untrained workers.

- B. The governing body may, in accordance with N.J.S.A. 40A:11-25, establish reasonable regulations appropriate for controlling the qualifications of prospective bidders upon contracts to be awarded on behalf of the contracting unit, and may adopt a standard form of statement or questionnaire for bidders showing the bidder's financial ability and experience in performing public sector work, to the satisfaction of the Township.

- C. A highly skilled workforce ensures lower costs for repairs and maintenance over the lifetime of a completed public works project; ensures that trade and craft workers have been properly trained to adapt to an ever-changing employment and economic environment that is the hallmark of today's global economy; and allows the apprentices to be better trained which ultimately increases productivity and safety in the workplace.

- D. N.J.S.A. 40A:11-13 provides that any specifications for the provision or performance of goods or services shall be drafted in a manner to encourage free, open and competitive bidding and that no specifications may "(a) Require any standard,

restriction, condition or limitation not directly related to the purpose, function or activity for which the contract is awarded."

- E. A requirement that a responsible bidder is one who participates in an apprenticeship program is consistent with N.J.S.A. 40A:11-13 in as much as the requirement is directly related to the cost, efficiency, skilled labor force, quality, safety and timeliness of the Township's public works projects.
- F. An apprenticeship program requirement as a condition of responsible bidder determination is consistent with N.J.S.A. 40A:11-6.1 which requires that public contracts be awarded not to the lowest bidder, but to the "lowest responsible bidder".
- G. A highly skilled workforce ensures lower costs for repairs and maintenance over the lifetime of a completed public works project; ensures that trade and craft workers have been properly trained to adapt to an ever-changing employment and economic environment that is the hallmark of today's global economy; and allows the apprentices to be better trained which ultimately increases productivity and safety in the workplace.
- H. N.J.S.A. 40A:11-13 provides that any specifications for the provision or performance of goods or services shall be drafted in a manner to encourage free, open and competitive bidding and that no specifications may "(a) Require any standard, restriction, condition or limitation not directly related to the purpose, function or activity for which the contract is awarded."
- I. A requirement that a responsible bidder is one who participates in an apprenticeship program is consistent with N.J.S.A. 40A:11-13 in as much as the requirement is directly related to the cost, efficiency, skilled labor force, quality, safety and timeliness of the Township's public works projects.
- J. An apprenticeship program requirement as a condition of responsible bidder determination is consistent with N.J.S.A. 40A:11-6.1 which requires that public contracts be awarded not to the lowest bidder, but to the "lowest responsible bidder".
- K. Requiring apprenticeship programs as an element of responsibility places all bidders on equal footing and does not unnecessarily limit the number of type of bidders on public

contracts, as all contractors will have a fair and equal chance to bid on Township contracts.

- L. Requiring apprenticeship programs as an element of responsibility supports State of New Jersey policy as set forth in J.J.S.A. 34:1A-37 and N.J.S.A. 52:38-1:
 - a. The State of New Jersey, as set forth in N.J.S.A. 34:1A-37 as an example, has recognized the inherent good in the encouragement and promotion of apprenticeship agreements and supports apprenticeship programs through programs of the State Department of Labor and Workforce Development;
 - b. The State of New Jersey, as set forth in N.J.S.A. 52:38-1, has determined that a highly skilled workforce ensures lower costs for repairs and maintenance over the lifetime of a completed project and such a requirement is directly related to the contract activity;
- M. Apprenticeship programs that train highly skilled workers and improve efficiency in government projects further the purposes of the Local Public Contracts Law.

2. Definitions.

Unless otherwise apparent from the context, the following words shall have the meanings set forth herein:

- A. The "Director" means the Director of the Division of Local Government Services within the Department of Community Affairs.
- B. "Lowest responsible bidder or vendor" means the bidder or vendor: (a) whose response to a request for bids offers the lowest price and is responsive; and (b) who is responsible.
- C. "Public works project" means any construction, reconstructions, demolition, alteration, custom fabrication, or repair work, or maintenance work, including painting and decorating, done under contract and paid for in whole or in part out of the funds of a public body, except work performed under a rehabilitation program or work performed under a contract for road resurfacing.
- D. "Responsible" means able to complete the contract in accordance with its requirements including but not limited to requirements pertaining to experience, moral integrity, operating capacity, financial capacity, credit, and workforce, equipment, and facilities

availability.

- E. "Responsive" means conforming in all material respects to the terms and conditions, specifications, legal requirements, and other provisions of the request; and
- F. "Apprenticeship program" means a registered apprenticeship program providing to each trainee combined classroom and on-the-job training under the direct and close supervision of a highly skilled worker in an occupation recognized as an apprentice able trade, and registered by the Bureau of Apprenticeship and Training of the U.S. Department of Labor and meeting the standards established by the bureau, or registered by a State apprenticeship agency recognized by the bureau.

3. Registered Apprenticeship Program Required for Public Works Projects.

- A. It is hereby established by the governing body that participation in a registered apprenticeship program shall be a necessary qualification for all contractors and subcontractors, including lower-tier subcontractors seeking perform work on any public works project for which the Township estimates that the total cost of the project, exclusive of any land acquisition costs, will equal or exceed two hundred fifty thousand dollars (\$250,000).
- B. All bidders on public works projects for which the Township estimates that the total cost of the project, exclusive of any land acquisition costs, will equal or exceed two hundred fifty thousand dollars (\$250,000) shall provide evidence that, at the time of the bid, the bidder and all of the bidder's subcontractors participate in registered apprenticeship programs for each of the trades of work contemplated under the awarded contract for which a registered apprenticeship program exists. Any bidder who fails to submit such evidence shall not be deemed a responsible bidder.
- C. It shall be a term and condition of any and all contracts for a public works project for which the Township estimates that the total cost of the project, exclusive of any land acquisition costs, will equal or exceed two hundred fifty thousand dollars (\$250,000) that all lower-tier subcontractors (e.g. sub-subcontractors and below) must provide evidence of participation in registered apprenticeship programs for each of the trades of work contemplated under the awarded contract prior to execution of any subcontract governing work on the public works project and prior to performing any work on said public works project.

4. Incorporation into Bid Documents and Contracts.

The requirements of this Ordinance shall be incorporated into the Township's bid

specifications and contracts for public works projects for which the Township estimates that the total cost of the project, exclusive of any land acquisition costs, will equal or exceed two hundred fifty thousand dollars (\$250,000). Any violation of this Ordinance may constitute a breach of such contract.

5. Repealer.

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

6. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

7. Director Approval Required.

Upon adoption, a certified copy of this Ordinance shall be submitted to the Director of the Division of Local Government Services for approval together with such other documents as shall be required by Director, in accordance with the requirements of Local Finance Notice or such successor directive issued by the Division of Local Government Services prior to adoption of this Ordinance.

Effective Date and Sunset Provision.

- A. Pursuant to N.J.S.A. 40:41A-101, all ordinances take effect twenty days after final passage by the Township Council of Delran.
- B. Notwithstanding the foregoing, in accordance with N.J.S.A. 40:11-25, this Ordinance shall not take effect unless and until this Ordinance and required accompanying documentation have been submitted to the Director for approval in accordance with Section 7 of this Ordinance, and either (1) the Director grants such approval in writing, or (2) the Director fails to approve or disapprove the Ordinance within 30 days of its receipt by the Director.
- C. In the event the Director approves this Ordinance only for a limited duration, this Ordinance shall cease to be effective, and shall no longer constitute a requirement for bidding for or performing work under a contract advertised subsequent to the expiration of such approval.

SECTION II. All prior Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION III. Each section, subsection, sentence, clause, and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance

SECTION IV. This Ordinance shall take effect upon its passage and publication according to law.

MEMBERS OF COUNCIL	AYE	NAY	ABSENT	ABSTAIN
Mr. Smith	X			
Mr. Jeney	X			
Ms. Parejo	X			
Mr. Lyon	X			
Mr. Burrell	X			

Introduced: October 5, 2021

Adopted: November 9, 2021



JAMEY EGGERS, MUNICIPAL CLERK



GARY CATRAMBONE, MAYOR