



City of Ann Arbor
Financial & Administrative Services Area

TO: MAYOR & COUNCIL

FROM: MATTHEW V. HORNING, INTERIM CFO & FINANCIAL SERVICES AREA ADMINISTRATOR

SUBJECT: RESPONSIBLE CONTRACTING POLICY

DATE: WEDNESDAY, JULY 01, 2020

Staff has reviewed the Responsible Contracting Policy (RCP) as presented by LiUNA, a Construction Union for Craft Laborers in Michigan. Review has included Purchasing, Engineering, Parks & Recreation, Public Works, Facilities, Utilities, and Attorney's Office. It is unclear to staff what problem the implementation of RCP is attempting to solve. Staff believes that the City already has robust and appropriate purchasing policies, including the payment of prevailing wages, non-discrimination, and ensuring that the quality of work performed meets specifications.

The consensus among reviewers is that the policy establishes an onerous hurdle for both contractors and staff. Of specific concern is that the policy would heavily favor large organizations over smaller organizations, thereby reducing the potential universe of bidders on City projects. The City already has difficulty getting bids for projects. With fewer bidders, supply and demand dictates that cost for projects would increase. Additionally, the requirements of RCP more closely align with an RFP process, as opposed to the ITB process that the City currently employs for construction contracts. As such, the bidding process will take more time, as will the amount of time it takes staff to review, validate, and complete the award process. This facet is of significant concern, as the construction window is limited for most of our projects, and delays will cause fewer projects to be completed.

The City has issued 39 ITBs in FY21. Of those, 20 were for construction. Construction ITBs are summarized below by Service Unit and by project cost:

<u>Service Unit</u>	<u>Bids</u>	
Engineering	9	
Fleet & Facilities	4	
Public Works	3	
Water Treatment Plant	2	
Parks and Wastewater Treatment Plant	1	

<u>Project Cost</u>	<u>Bids</u>	<u>Service Unit/Purpose</u>
\$5 Million+	1	Engineering - \$9 million for Street Resurfacing
\$1 to \$5 Million	5	3 Engineering, 1 Waste Water Treatment Plant and 1 Public Works
\$500k to \$1 Million	5	4 Engineering and 1 Parks
\$250k to \$500k	3	2 Public Works and 1 Water Treatment Plant
Less than \$250k	6	4 Fleet & Facilities, 1 Engineering and 1 Water Treatment Plant

Most of these projects are related to road construction (and associated projects) and utility related construction. It is vital to understand that the RCP initiatives adopted and in the adoption process by Washtenaw, Oakland and other counties do not apply to County Road Commissions or to Water Resource Commissions, unless also adopted by those separate legal entities.

In order to mitigate the burden that RCP would place on staff and contractors, staff suggested a change to the implementation methodology of the RCP. Rather than an “all or nothing” approach, staff worked with LiUNA to establish a tiered approach to the various requirements of the policy. The version before Council employs this methodology.

There are many positive aspects of RCP that the City already employs, such as:

- Information regarding the bidder’s company
- Qualifications of management and personnel
- Projects completed in the last five years
- Evidence of experience
- Disclosure of debarment
- Proof of insurance (upon issuance of purchase order)
- References
- Documentation of pay rates
- Warranty statement
- Assurance of Equal Opportunity Employment

Even with the tiered approach, staff remains unanimous in its concerns regarding adoption of RCP. Staff anticipates that adoption would lead to fewer bidders, higher cost, longer bid processes, and delayed and/or incomplete projects. If Council is inclined to adopt RCP, it may be economically and practically advantageous to exclude road and related construction, as well as utility related construction.