

**TOWNSHIP OF TINICUM, DELAWARE COUNTY, PA
ORDINANCE NO. 2024-920**

AN ORDINANCE OF THE TOWNSHIP OF TINICUM, DELAWARE COUNTY, PENNSYLVANIA AMENDING AND SUPPLEMENTING CHAPTER 110 CONTRACTORS, §§110-17.A. INCREASING TOTAL PROJECT VALUES TO IN EXCESS OF SEVEN HUNDRED FIFTY THOUSAND (\$750,000.00) DOLLARS; AND §§110-18.C.(7) CONTRACTOR RESPONSIBILITY CERTIFICATIONS RELATING TO CONTRACTOR'S PARTICIPATION AND EMPLOYEES' GRADUATION IN A CLASS A APPRENTICE PROGRAM IN EFFECT FOR AT LEAST A FIVE (5) YEAR PERIOD; AND PROVIDING FURTHER TRAINING ACTIVITY FOR EMPLOYEES TO ADVANCE IN RECENTLY REGISTERED PROGRAMS; AND PROVIDING FOR AMENDMENT AND SUPPLEMENT OF ALL FORMS AND CERTIFICATIONS NECESSARY FOR COMPLIANCE

WHEREAS, the Board of Commissioners of Tinicum Township recognize that there is a need to ensure that all work on public construction and maintenance contracts are performed by responsible, qualified persons, corporations, firms or other entities that maintain the capacity, expertise, personnel, and other qualifications and resources necessary to successfully perform such contracts in a timely, reliable and cost-effective manner.

WHEREAS, the Township of Tinicum shall require compliance with the provisions of this Ordinance by individuals and/or business entities seeking to provide services to Tinicum Township as specified herein. The requirements of this Ordinance are intended to amend and supplement, not replace, existing contractor qualification and performance standards or criteria currently required by law, public policy or contracting documents. However, in the event that any of the provisions of this Ordinance conflict with any other Ordinance of Tinicum Township, this Ordinance shall prevail.

NOW, THEREFORE, and in consideration of the foregoing, it is hereby **ORDAINED** and **ENACTED** by the authority of the Board of Commissioners Tinicum Township, Delaware County, Pennsylvania, as follows:

Section 1. Qualified, Responsible Contractor Requirements

A. All contractors and subcontractors of any type which perform work on any public facility or public works project, including construction, alteration or renovation, with a total project value in excess of Seven Hundred Fifty Thousand (\$750,000.00) Dollars, shall meet the requirements of this Ordinance.

B. All contractors engaged in contracts covered by this Ordinance shall be qualified, responsible contractors or subcontractors 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 personnel and financial resources. Qualified, responsible contractors shall also have a satisfactory past performance record and a satisfactory record of law compliance, integrity, and business ethics.

Section 2. Contractor Responsibility Certifications

A. As a condition of performing work on a public works contract subject to this Ordinance, a general contractor, construction manager or other lead or prime contractor, which seeks the award of a public works contract, shall submit a Contractor Responsibility Certification at the time it submits its bid or proposal for a contract.

B. The Contractor Responsibility Certification shall be completed on a form provided by the Township of Tinicum and shall reference the project for which the bid or proposal is being submitted by name and contract or project description.

C. In the Contractor Responsibility Certification, the construction manager, general contractor or other lead or prime contractor shall confirm the following facts regarding the past performance and work history and its current qualifications and performance capabilities:

(1) The contractor has not been debarred by any federal, state or local government agency or authority in the past three (3) years.

(2) No officer, director, owner or managerial employee of the contractor has been convicted of a felony related to construction, maintenance, service or repair contracting industries.

(3) The contractor has not defaulted on any projects in the past three years.

(4) The contractor has not had any type of business, contracting or trade license revoked or suspended by any government agency or authority in the past three (3) years.

(5) The contractor has not been found in violation of any federal, state or local law relating to its contracting business, including but not limited to wage or hour laws, environmental laws, antitrust laws, licensing laws, tax laws, the Steel

Products Procurement Act, Americans with Disabilities Act, by a final decision of a court or government agency or other authority in the past three years.

(6) The contractor has all technical qualifications and resources, including equipment, personnel and financial resources, to perform the referenced contract, or will obtain same through the use of qualified, responsible subcontractors.

(7) The contractor has participated in and employs graduates in a Class A Apprenticeship Program for each trade or craft in which it employs craft employees for at least a five (5) year period preceding the bid date and shall continue to participate in such program or programs for the duration of the project.

a. A Class A Apprenticeship Program is an apprenticeship program which is currently registered with the U.S. Department of Labor or a state apprentice agency and has graduated apprentices to journey person status for each of the past five consecutive years. The contractor shall provide proof of meeting this qualification standard by submitting appropriate documentation as an attachment to the Responsible Contractor Certification. To permit development of recently registered programs, the graduation requirement of this provision shall not apply to:

i) An apprenticeship training program registered with the U.S. Department of Labor or a state apprenticeship agency within the past five years; or

ii) An apprenticeship program registered within the past ten years if the program provides apprenticeship training for a craft or trade that was not recognized as an apprenticeable craft or trade by the U.S. Department of Labor or State Apprenticeship Council at the time the program was registered.

iii) Any program not required to meet the graduation requirements of this section shall, in addition to providing proof that it is currently registered with federal or state government, provide evidence that the program is actively engaged in bona fide apprenticeship training activity and the Contractor has employees that have advanced through the training activities.

D. The Township of Tincum may require any other additional information it deems necessary to evaluate a prospective contractor's technical qualifications, resources and performance capabilities. The Township of Tincum may require that such information be included in a Statement of

Qualifications and Experience as an attachment to the Contractor Responsibility Certification.

E. In the Contractor Responsibility Certification, the submitting contractor shall stipulate that if it receives a Notice of the Award of a Contract, it will provide the Township of Tinicum with its Subcontractor List and subcontractor information as specified herein.

F. If the submitting contractor is, or was in the past five years, related to any other company or business entity that provided or provides contractual services in the construction, maintenance, service or repair industries, whether as a parent company, subsidiary or any other business relationship, it shall submit a detailed written explanation of such relationship and provide a Contractor Responsibility Certification for the related company if requested.

G. If any person or entity that is a shareholder, owner or partner of the submitting contractor owns an interest of 20% or more in another entity that provides or has provided contractual services in the construction, maintenance, service or repair industries, it shall submit a detailed written explanation of such relationship and provide a Contractor Responsibility Certification for such other entity if requested.

H. The Township of Tinicum may require that Contractor Responsibility Certifications and other information required by this Ordinance be submitted electronically.

I. The Township of Tinicum may charge contractors submitting bids or proposals a reasonable fee to defray costs of processing and evaluating Contractor Responsibility Certifications and related information and documents.

Section 3. Notice of Intent to Award Contract

A. After it has received bids or proposals, the Township of Tinicum shall issue a Notice of intent to Award a Contract to the lowest responsible bidder.

B. Nothing contained herein shall vary, alter or modify provisions of Section 1802 of the First-Class Township Code as amended relating to the regulations governing the bidding and awarding of contracts by First Class Townships.

C. The Board of Commissioners shall provide such notice to the lowest responsible bidder as soon as practical after bids or proposals are submitted and voted upon by the Tinicum Township Board of Commissioners which acceptance and approval shall stipulate that the Contract Award be

conditioned upon the issuance of a written Contractor Responsibility Determination, as required by this Ordinance.

Section 4. Subcontractor Lists, Subcontractor Responsibility Certifications

A. Within 14 days of receiving a Notice of Intent to Award a Contact, the prospective awardee shall submit to the Township of Tinicum a complete Subcontractor List containing the names of all subcontractors it will use for the referenced project, their addresses, and a description of the work each listed subcontractor will perform on the project.

B. At the time the successful bidder submits its Subcontractor List, it shall also submit Subcontractor Responsibility Certifications for all listed subcontractors to the Township of Tinicum. Subcontractor Responsibility Certifications shall be executed by the respective subcontractors and shall contain the same information and representations required in Contractor Responsibility Certifications.

C. A construction manager, general contractor or other lead or prime contractor shall not be permitted to use any subcontractor on procurement contracts subject to this Section which is not the Subcontractor List; unless it demonstrates compelling reasons for using an unlisted subcontractor and obtains prior written approval from the Township of Tinicum.

D. An unlisted subcontractor shall not be approved by the Township of Tinicum unless it executes a Subcontractor Responsibility Certification as requested by this Ordinance at least 30 days prior to commencing work. This 30-day requirement may be waived in emergency situations at the discretion of the Tinicum Township Board of Commissioners.

E. The determination as to the sufficiency of compelling reasons to waive the use of an unlisted contractor and/or the waiver of the execution of a Subcontractor Responsibility Certification shall be solely at the discretion of the Tinicum Township Board of Commissioners.

Section 5. Execution of Contractor and Subcontractor Responsibility Certifications

A. Contractor and Subcontractor Responsibility Certifications 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 all information submitted is true, complete and accurate.

B. If it is subsequently determined that a Contractor or Subcontractor Responsibility Certification contains false or misleading material information that was provided knowingly or with reckless disregard for the truth, or omits material information that was omitted knowingly or with reckless disregard of the truth, the contractor for which the certification was submitted shall be prohibited from performing work for the Township of Tincicum for a period of three years and shall be further subject to any other penalties and sanctions, including contract termination, available to the Township of Tincicum under law. A contract terminated under these circumstances shall further entitle the Township of Tincicum to withhold payment of any monies due to the contractor as damages.

Section 6. Contractor Responsibility Determination

A. Once a Notice of Intent to Award a Contract has been issued, the Township of Tincicum shall undertake a 30-day Township review to determine whether the successful bidder is a qualified, responsible contractor in accordance with the requirements of this Ordinance and other applicable laws and regulations.

B. As part of the Township's review, the Township of Tincicum shall ensure that the Contractor Responsibility Certification, Subcontractor List and Subcontractor Responsibility Certifications, as required by this Ordinance have been submitted and properly executed.

C. The Township of Tincicum may conduct any other inquiry to independently verify that the successful bidder and its listed subcontractors have the technical qualifications and performance capabilities necessary to successfully perform the contract and has a sufficient record of law compliance and business integrity to justify the award of a public contract. In conducting such inquiries, the Township of Tincicum may seek information from contractors which have submitted responsibility certifications, prior customers of such contractors or from any other relevant source. In conducting this evaluation, the Township of Tincicum may also consider relevant information on any business entities that are found to be related to the contractor.

D. In the event that the Township of Tincicum determines that a prospective subcontractor does not meet the qualifications included in the Subcontractor Responsibility Certification or does not otherwise qualify as a responsible contractor, it shall inform the general contractor, construction manager or other lead or prime contractor and permit it to self-perform the work of the

subcontractor or substitute another subcontractor which meets the requirements of this Ordinance.

E. In the event that a subcontractor is disqualified under this act, the general contractor, construction manager or other lead or prime contractor shall not be permitted to make any type of contractual claim against the Township of Tincum on the basis of a subcontractor disqualification.

F. If at the conclusion of its internal review, the Township of Tincum determines that all responsibility certifications have been properly completed and executed and if it concludes that the qualifications, background and responsibility of the successful bidder and the contractors on its Subcontractor List are satisfactory, it shall issue a written Contractor Responsibility Determination verifying that the successful bidder is a qualified, responsible contractor. The Contractor Responsibility Determination shall be issued by the Township of Tincum pursuant to the time line established by the bid specifications of the awarded contract. This Responsibility Determination may be revoked or revised in any manner at any time in the event the Township of Tincum obtains relevant information warranting any such revocation or revisions. If the Township of Tincum determines that a successful bidder does not meet the qualification standards of this Ordinance, it shall issue a determination stating that it finds the contractor non-responsible.

Section 7. Public Review Process

A. To permit adequate public review of the procurement process, the Township of Tincum shall provide a 30-day Public Review Period commencing from the date of the Notice of Intent to Award Contract is issued.

B. During this period, the Contractor Responsibility Certification, Subcontractor List, Subcontractor Responsibility Certifications and the Determination of Contractor Responsibility, as specified herein, shall be subject to immediate public inspection as they become available.

C. These records shall be made available for public inspection in a public document room or on a publicly accessible web site. In the alternative, copies of these records shall be produced or otherwise made available for public inspection within five business days upon written request.

D. During the Public Record Review, any person or organization may protest a contractor or subcontractor for failing to meet applicable requirements of this Ordinance or for any other legitimate ground by submitting a letter with supporting evidence to the Township of Tincum.

E. An awarded contract subject to this Ordinance shall not be executed until the Tincum Township Board of Commissioners determines all requirements of this Ordinance have been fulfilled.

Section 8. Severability

The provisions of this Ordinance are severable. If any Section, clause, sentence, part of provision hereof shall be determined to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not impair or affect any remaining provisions of the Ordinance, it being the intention of the Board of Commissioners that it would have adopted this Ordinance even if the offending language had not been included.

Section 9. Effective Date


This Ordinance shall become effective immediately upon its adoption.

ORDAINED AND ENACTED into an Ordinance and passed by Tincum Township Board of Commissioners on this _____ day of _____, 2024.

TINICUM TOWNSHIP

BY: 
Patrick K. McCarthy, President
Board of Commissioners

ATTEST:


David D. Schreiber, Township Secretary

SEAL

CONTRACTOR RESPONSIBILITY CERTIFICATION

That the undersigned, _____,
(hereinafter referred to as "Contractor") for the _____
Project by its duly authorized representative, _____,
does hereby certify and confirm the following facts to be true and correct,
pursuant to the requirements of the Tincum Township Ordinance 2024-920,
providing for the certification of Responsible Contractors for public works within
Tincum Township as follows:

1. The Contractor has not been debarred by any federal, state or local government agency or authority in the past three (3) years;

2. No officer, director, owner or managerial employee of the Contractor has been convicted of a felony related to construction, maintenance, service or repair contracting industries;

3. The Contractor has not defaulted on any projects in the past three (3) years;

4. The Contractor has not had any type of business, contracting or trade license revoked or suspended by any government agency or authority in the past three (3) years;

5. The Contractor has not been found in violation of any federal, state or local law relating to its contracting business, including but not limited to wage or hour laws, environmental laws, antitrust laws, licensing laws, tax laws, the Steel Products Procurement Act, Americans with Disabilities Act, by a final decision of a court or government agency or other authority in the past three (3) years;

6. The Contractor has all technical qualifications and resources, including equipment, personnel and financial resources, to perform the referenced contract, or will obtain same through the use of qualified, responsible subcontractors;

7. The Contractor has participated in and employs graduates from a Class A Apprenticeship Program for each trade or craft in which it employs craft employees for at least a five (5) year period preceding the bid date and shall continue to participate in such program or programs for the duration of the project.

a. A Class A Apprenticeship Program is an apprenticeship program which is currently registered with the U.S. Department of Labor or a state apprentice agency and has graduated apprentices to journeyperson status for each of the past five consecutive years. The contractor shall provide proof of meeting this qualification standard by submitting appropriate documentation as an attachment to the Responsible Contractor Certification. To permit development of recently registered programs, the graduation requirement of this provision shall not apply to:

(i) An apprenticeship training program registered with the U.S. Department of Labor or a state apprenticeship agency within the past five years; or

(ii) An apprenticeship program registered within the past ten years if the program provides apprenticeship training for a craft or trade that was not recognized as an apprenticeable craft or trade by the U.S. Department of Labor or State Apprenticeship Council at the time the program was registered.

(iii) Any program not required to meet the graduation requirements of this section shall, in addition to providing proof that it is currently registered with federal or state government, provide evidence that the program is actively engaged in bona fide apprenticeship training activity and the Contractor has employees that have advanced through the training activities.

8. The Contractor is not or has been in the past five (5) years, related to any other company or business entity that provided or provides contractual services in the construction, maintenance, service or repair industries, whether as a parent company, subsidiary or other business relationship, If so, Contractor shall submit a detailed written explanation of such relationship and provide a Contractor Responsibility Certification for the related company;

9. No person or entity is a shareholder, owner or partner of the submitting contractor owns an interest of twenty percent (20%) or more in another entity that provides or has provided contractual services in the construction, maintenance, service or repair industries, If so, the Contractor shall submit a detailed written explanation of such relationship and provided an additional Contractor Responsibility Certification for each such entity.

SUBCONTRACTOR RESPONSIBILITY CERTIFICATION

That the undersigned, _____,
(hereinafter referred to as "Subcontractor") for the _____
Project by its duly authorized representative, _____,
does hereby certify and confirm the following facts to be true and correct, pursuant to
the requirements of the Tincum Township Ordinance 2024-920, providing for the
certification of Responsible Contractors for public works within Tincum Township as
follows:

1. The Subcontractor has not been debarred by any federal, state or local government agency or authority in the past three (3) years;

2. No officer, director, owner or managerial employee of the Subcontractor has been convicted of a felony related to construction, maintenance, service or repair contracting industries;

3. The Subcontractor has not defaulted on any projects in the past three (3) years;

4. The Subcontractor has not had any type of business, contracting or trade license revoked or suspended by any government agency or authority in the past three (3) years;

5. The Subcontractor has not been found in violation of any federal, state or local law relating to its contracting business, including but not limited to wage or hour laws, environmental laws, antitrust laws, licensing laws, tax laws, the Steel Products Procurement Act, Americans with Disabilities Act, by a final decision of a court or government agency or other authority in the past three (3) years;

6. The Subcontractor has all technical qualifications and resources, including equipment, personnel and financial resources, to perform the referenced contract, or will obtain same through the use of qualified, responsible subcontractors;

7. The Subcontractor has participated in and employs graduates from a Class A Apprenticeship Program for each trade or craft in which it employs craft employees for at least a five (5) year period preceding the bid date and shall continue to participate in such program or programs for the duration of the project.

a. A Class A Apprenticeship Program is an apprenticeship program which is currently registered with the U.S. Department of Labor or a state apprentice agency and has graduated apprentices to journeyman status for each of the past five consecutive years. The contractor shall provide proof of meeting this qualification standard by submitting appropriate documentation as an attachment to the

Responsible Contractor Certification. To permit development of recently registered programs, the graduation requirement of this provision shall not apply to:

i) An apprenticeship training program registered with the U.S. Department of Labor or a state apprenticeship agency within the past five years; or

ii) An apprenticeship program registered within the past ten years if the program provides apprenticeship training for a craft or trade that was not recognized as an apprenticeable craft or trade by the U.S. Department of Labor or State Apprenticeship Council at the time the program was registered.

iii) Any program not required to meet the graduation requirements of this section shall, in addition to providing proof that it is currently registered with federal or state government, provide evidence that the program is actively engaged in bona fide apprenticeship training activity and the Subcontractor has employees that have advanced through the training activities.

8. The Subcontractor is not or has been in the past five (5) years, related to any other company or business entity that provided or provides contractual services in the construction, maintenance, service or repair industries, whether as a parent company, subsidiary or other business relationship, If so, Subcontractor shall submit a detailed written explanation of such relationship and provide a Contractor Responsibility Certification for the related company;

9. No person or entity is a shareholder, owner or partner of the submitting contractor owns an interest of twenty percent (20%) or more in another entity that provides or has provided contractual services in the construction, maintenance, service or repair industries, If so, the Subcontractor shall submit a detailed written explanation of such relationship and provided an additional Contractor Responsibility Certification for each such entity.

VERIFICATION UNDER OATH

I, _____, _____
(Name) (Title)

of _____
(Company Name)

do hereby verify that the statements made in this Contractor Responsibility Certification are true and correct to the best of my knowledge, information and belief.

I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsifications to authorities and those penalties provided for under Tinicum Township Ordinance No. 2024-920.

SIGNATURE

TITLE

Commonwealth of Pennsylvania:

County of _____

Before me, a Notary Public in and for said County and State, personally appeared _____, who acknowledged the truth of the statements in the foregoing Contractor Responsibility Certification

Sworn to before me this _____ day of _____ 20____

Notary Public

My Commission expires: _____

(SEAL)