

**Responsible Employer By-Law  
Adopted Special Town Meeting  
December 7, 2009 - Article 15  
Amended Annual Town Meeting May 17, 2010 Article 45  
Amended Special Town Meeting Dec. 12, 2011 Article 16**

**I: Compliance of bidders and all subcontractors required; Agreement in writing condition for bidding; Requirements of responsible employer.**

Except as provided herein, all bidders and all subcontractors under bidders for projects subject to Massachusetts General Laws chapter 149, section 44A(2), shall as a condition for bidding, agree in writing that they shall comply with the following:

- A. The bidder and all subcontractors under the bidder shall comply with the Somerset Responsible Employer By-Law as it currently exists and as it may, from time to time, be amended.
- B. The bidder and all subcontractors under the bidder shall comply with provisions of M.G.L. chapter 149 and shall pay the appropriate lawful prevailing wage rates to their employees.
- C. In a manner that is consistent with applicable law and regulations, any bidder and all subcontractors under the bidder awarded a contract subject to this by-law, shall give special consideration to recruiting qualified workers who are residents of the Town of Somerset for each apprenticeable trade or occupation represented in their workforce.
- D. The bidder and all subcontractors under the bidder shall maintain appropriate industrial accident insurance coverage for all employees employed on the project in accordance with M.G.L. chapter 152, as amended.
- E. The bidder and all subcontractors under the bidder shall properly classify employees as employees rather than independent contractors and shall treat said employees accordingly for purposes of workers' compensation insurance coverage, unemployment taxes, social security taxes, and income tax withholding in accordance with M.G.L. chapter 149, section 148B, as amended.
- F. All general contractors and subcontractors must employ persons who are citizens of the United States or who are lawfully permitted to work in the United States and must provide certification that only such persons will be utilized in performing work for the Town of Somerset. All employees of contractors and subcontractors working on Somerset projects will be subject to verification/e-verification of such status prior to the

commencement of work and from time-to-time on the job site, as determined necessary by the Town.

- G. Except as provided herein, all bidders and all subcontractors under the bidder who are awarded contracts or who otherwise obtain contracts on projects subject to M.G.L. chapter 149, section 44A(2), shall comply with the provisions of the Somerset Responsible Employer By-Law for the duration of their work on the project, and an officer of each such bidder or subcontractor under the bidder shall certify under oath and in writing on a weekly basis that they are in compliance with said By-law.
- H. Any bidder or subcontractor under the bidder who fails to comply with any of the obligations set forth in the this By-law shall, at the determination of the Board of Selectmen, be subject to one or more of the following: (1) cessation of work on the project until compliance is obtained; (2) permanent removal from any further work on the project;
- I. In addition to the sanctions outlined in subsection H above, a general bidder or contractor shall be equally liable for the violations of its subcontractor(s), 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 who has been determined to have violated any of the obligations set forth in this by-law shall be barred from performing any work on any future projects for six months for a first violation, for three years for a second violation, and permanently for a third violation.
- J. No work performed pursuant to subcontracts that are subject to M.G.L. chapter 149, section 44F, shall be further sub-contracted.

## **II. Exceptions**

Except as otherwise provided in applicable law or regulation and except as to paragraph I.H. above, which shall apply to all Somerset projects, the provisions of this By-law shall not apply to: (A) construction projects when the lowest general contract bid is less than four hundred thousand dollars (\$400,000.00); or (B) re-bids for construction projects for which the Town of Somerset receives fewer than three qualified general contract bidders in the original bid.

## **III. Requirements Prior to Bid Opening**

All bidders and all subcontractors under the bidders shall provide certification and, if requested, documentation that they are in compliance with the provisions of this By-Law prior to bid opening or their bids shall be rejected.

## **IV. Severability**

In the event any part of this By-law shall be held invalid, such invalidity shall not invalidate the whole By-Law and the remaining provisions of this By-Law shall not be affected thereby.

**A true copy attest:**

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**Dolores Berge, Town Clerk**