

[PROPOSED SUBSTITUTE]

County Council of Cuyahoga County, Ohio

Ordinance No. O2017-0004

Sponsored by: County Executive Budish/Fiscal Officer	An Ordinance amending Section 501.15 of the Cuyahoga County Code to modify the requirements of contractors, and declaring the necessity that this Ordinance become immediately effective.
---	--

WHEREAS, Section 501.15 of the Cuyahoga County Code sets forth certain Required Certifications that shall be made by all Contractors; and

WHEREAS, the amendments proposed are designed to clarify and limit the requirements to applicable contract types; and

WHEREAS, it is necessary that this Ordinance become immediately effective in order that critical services provided by Cuyahoga County can continue and to provide for the usual, daily operation of a County entity.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:

SECTION 1. Section 501.15 of the Cuyahoga County Code is hereby amended to read as follows (additions are bolded and underlined, deletions are stricken):

Section 501.15 ~~Required Certifications by~~ Requirements of Contractors

A. On federally or state funded projects, which require the County to comply with specific federal and/or state criteria or forms for certifications by the successful contractor(s), the County shall comply with the federal and/or state requirements to avoid the loss of federal or state funds, including the use of the federal and/or state certification forms in lieu of the County’s mandated certification forms. Where possible on federally or state funded projects and on all other projects, at the time of execution of the contract, the successful contractor shall ~~certify that it:~~

1. **for public improvements contracts, the contractor** shall be in compliance with Ohio’s Drug-Free Workplace requirements **as provided in Ohio Revised Code Section 153.03, including, but not limited to,** ~~maintaining~~ **All contractors shall maintain** a **written** substance abuse

Formatted: Font: Bold, Underline

policy, ~~that to which~~ its personnel are subject ~~to~~ on the contract (the successful contractor shall provide this policy upon request);

2. **for public improvement contracts, the contractor ~~does~~ shall** not have an Experience Modification Rating greater than 1.5 with respect to the Bureau of Workers Compensation risk assessment rating;
3. **the contractor ~~is in~~ shall be** compliance and will remain in compliance with Federal and Ohio Equal Opportunity Employment Laws;
4. **for public improvement contracts, the contractor** shall pay the prevailing wage rate and comply with other provisions set forth in Sections 4115.03 through 4115.16 of the Ohio Revised Code and Sections 4101:9-4-01 through 4101:9-4-28 of the Ohio Administrative Code, including but not limited to the filing of certified payroll reports;
5. **for public improvement contracts, the contractor ~~has~~ shall not have** been debarred from public contracts for prevailing wage violations or found or determined by the state to have underpaid the required prevailing wage, whether intentionally or unintentionally, even if settled subsequent to the finding, more than three times in the last ten ~~(ten)~~ years, provided that, when aggregating for any single project, no finding of an underpaid amount of less than \$1,000.00 shall be considered, and no single finding based upon a journeyman-to-apprenticeship ratio shall be considered a violation of this provision unless as part of multiple, similar findings;
6. **the contractor ~~has~~ shall not have** been penalized or debarred from any federal, state, or local public contract or falsified certified payroll records, or has otherwise been found, after appeals, to have violated the Fair Labor Standards Act in the past seven years, or during the **contractor's** ~~bidder's~~ entire time of doing business, if less than seven years;
7. **the contractor ~~has~~ shall not have** violated any unemployment or workers compensation law during the past five years, or during the **contractor's** ~~bidder's~~ entire time of doing business, if less than five years;
8. **the contractor,** at the time of contract award, ~~does~~ **shall** not have final, unsatisfied judgments against it which in total amount to 50% or more of the contract amount;
9. **the contractor ~~will~~ shall** utilize, for work performed under the contract supervisory personnel that have three or more years of experience in the specific trade and who maintain the appropriate state license(s), if any;
10. **the contractor** shall be properly licensed to perform all work as follows:

- a. if performing a trades contract, shall be licensed pursuant to Ohio Revised Code Section 4740 as a heating, ventilating, and air conditioning contractor, refrigeration contractor, electrical contractor, plumbing contractor, or hydronix contractor.
 - b. if performing work regulated under Section 3737.65 of the Ohio Revised Code, be certified by the State Fire Marshall; and
 - c. if performing work under any other trade, occupation, or profession licensed under Title 47 of the Ohio Revised Code, be licensed for that trade, occupation, or profession as provided in the Ohio Revised Code;
11. **the contractor** shall, if performing a trade contract pursuant to Ohio Revised Code Section 4740, not subcontract more than 25% of the labor, excluding materials, for its awarded contract, unless to subcontractors also licensed pursuant to Ohio Revised Code Section 4740 or certified by the State Fire Marshall pursuant to Ohio Revised Code Section 3737.65;
 12. **the contractor** shall provide access as needed and allow the Agency of Inspector General to perform the functions provided for in Section 501.21 of the County Code; and
 13. **the contractor** shall require all of its subcontractors, at the time of execution of a subcontract, to make all of the certifications required in Section 501.15(A) except for subsections 7 and 9, of the County Code.
- B. If any material breach of contractual obligations or the certifications provided for in ~~this Section 501.16 of the County Code~~ occurs during the contract performance by the ~~vendor~~**contractor**, the County may exercise any or all contractual remedies, including but not limited to, contract termination for cause.

SECTION 2. It is necessary that this Ordinance become immediately effective for the usual daily operation of the County and the reasons set forth in the preamble. Provided that this Ordinance receives the affirmative vote of at least eight members of Council, it shall take effect and be in force immediately upon the earliest occurrence of any of the following: (1) its approval by the County Executive through signature, (2) the expiration of the time during which it may be disapproved by the County Executive under Section 3.10(6) of the Cuyahoga County Charter, or (3) its passage by at least eight members of Council after disapproval pursuant to Section 3.10(7) of the Cuyahoga County Charter. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

SECTION 3. It is found and determined that all formal actions of this Council relating to the adoption of this Ordinance were adopted in an open meeting of the Council, and that all deliberations of this Council and of any of its committees that

resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On a motion by _____, seconded by _____, the foregoing Ordinance was duly enacted.

Yeas:

Nays:

County Council President

Date

County Executive

Date

Clerk of Council

Date

First Reading/Referred to Committee: September 12, 2017

Committee(s) Assigned: Public Works, Procurement & Contracting

Journal _____
_____, 20__