



The Research Bureau

Where have all the bidders gone?

In recent years, there have been several public construction projects that the City of Worcester put out to bid for which very few bidders responded, and the costs associated with those bids have generally exceeded the City's estimates. Among these are the three-way skybridge connecting the DCU Center with the Hilton Garden Hotel and the municipal parking garage and several fit ups for new tenants at Union Station. While the increased cost of steel and other materials may account for some of the additional price, it does not answer why so few contractors bid in the first place. As in any other area of economic life, insufficient competition drives up prices, which in these cases affects all taxpayers. Are the City of Worcester's regulations restricting the supply of bidders on public construction projects?

The Research Bureau's recently-released report (#08-01 *Where Have all the Bidders Gone?: The Impact of "Responsibility" on Public Construction*) addresses this question.

Some of the key findings include:

- Public bidding is regulated not only by Chapter 149 of the Massachusetts General Laws but by a couple of Worcester ordinances which impose additional regulations, including the Women and Minority ordinance and the Responsible Employer Ordinance (REO).
- Most contractors and public officials do not think that the Women and Minority Ordinance discourages bidders, because the percentages to be employed at the worksite for each category are a *goal* rather than a requirement.
- Most contractors and public officials believe, however, that REO's which have been enacted in only 19 of 351 cities and towns in the Commonwealth, do restrict competition.
- They point specifically to the ordinance which requires that all bidders maintain or participate in a state-certified apprenticeship-training program for each trade from their firm engaged in a particular project.
- The apprentice-training requirement effectively excludes all non-union contractors, whose employees constitute 80 per cent of the construction work force in Massachusetts, from bidding on City contracts. The reason is that whereas unionized construction firms achieve automatic certification simply by signing a contract with a local union – without actually having to employ any apprentices on a given project – most nonunion contractors are too small to

maintain an apprenticeship program for every single trade (sometimes only one or two employees) that they employ.

- In fact, however, 19 per cent of certified apprenticeship programs in the Commonwealth are run by nonunion firms. (In other words, nonunion firms may be excluded from bidding on a contract not because they fail to provide training programs, but only because they cannot do so for every single skill as larger, unionized firms do.) Nor is participation in a certified program even a prerequisite for achieving journeyman status in either a licensed or unlicensed construction trade.
- Because 80 per cent of the construction work force in Massachusetts consists of nonunion workers, the apprenticeship-training requirement excludes a large majority of available workers, taxpaying citizens, from working on projects that are financed with tax dollars. Indeed, many of those excluded are graduates of the City's own Vocational School program. Aside from considerations of cost, this exclusion appears to be a violation of elemental principles of equity.

After a comprehensive review of the effects of the Responsible Employer Ordinance, The Research Bureau recommended that the City Council rescind it. If the City Council is unwilling to rescind the REO in the near future, The Research Bureau recommended that City officials perform an experiment. The next time there is a bid opening at which only one or two bids are received, or the lowest bidders are missing a DAT form (Division of Apprenticeship Training, which demonstrates compliance with the apprenticeship requirement), the City should suspend the REO for that one project and repeat the bidding process. If suspending the REO leads to the receipt of more bids and a lower winning bid price, we will have concrete evidence of the impact of the REO on competition and cost.

To read the full report go to www.wrrb.org

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