

# Responsible Contractor Laws: Policy Brief

**Overview:** Generally known as Responsible Contractor Policies (RCPs), or Responsible Contractor Ordinances (RCOs), these laws include a set of procurement and contracting tools that are used to help ensure successful delivery of public works projects.

**Purpose of Law:** Under RCPs, all contractors and subcontractors must verify compliance with key performance criteria to ensure they are reputable, qualified firms, which have the capabilities and resources needed to successfully perform the project work.

**Need for RCPs:** Capital construction projects represent some of the largest, most complex, and inherently high risk investments undertaken by public bodies. Effective due diligence and quality control measures are, therefore, vital to protect these investments.

**How They Work:** Existing public bidding law already requires that contracts be awarded to the lowest “*responsible*” bidder—the problem is that the term “*responsible*” is usually not adequately defined or enforced in this context.

- ❖ This is a critical flaw. Awarding contracts to bidders with little or no regard for qualifications often results in serious, even crippling performance problems manifested in the form of cost-overruns, schedule delays, safety incidents and other problems.
- ❖ RCPs fill this void by establishing specific, well-defined performance criteria that all contractors and subcontractors must meet to perform public projects; these standards are augmented by simple but effective enforcement tools to ensure compliance.

**Essential Criteria:** RCP standards focus on both: (a) *past* performance; and (b) *present* capabilities. For example, firms must verify their past record is free of project failures and legal infractions and that they have adequate resources, *e.g.*, financial, equipment and personnel.

**Extent of Use:** These laws have been adopted by 12 states and over 120 local public bodies. Used to replace flawed, low-bid systems, RCPs also require firms to verify participation in apprenticeship training programs to ensure a sufficient supply of highly skilled craft labor.

**User-Friendly:** Implemented through a streamlined certification process, RCPs require participating contractors and subcontractors to attest to stipulated criteria under strict penalties for inaccuracies. This approach involves minimal effort from contracting agencies.

**Key Results:** The essence of this approach is it attracts a higher caliber of contractor, while eliminating unqualified, high-risk firms. This, in turn, improves project delivery in all core areas: cost, quality, schedule and safety, while avoiding headaches in contract administration.

**Local Hiring:** An additional, indirect benefit is that RCPs produce good jobs and valuable training opportunities for local communities. Experience shows that better qualified contractors have a history of hiring locally and investing in apprenticeship programs..

*\*Source materials for points included herein, including research reports, available upon request.*