

SALT LAKE COUNTY ORDINANCE

ORDINANCE NO. _____, 2019

CONSTRUCTION PROCUREMENT MINIMUM STANDARDS

AN ORDINANCE ENACTING CHAPTER 3.27, ENTITLED “CONSTRUCTION PROCUREMENT MINIMUM STANDARDS” OF THE SALT LAKE COUNTY CODE OF ORDINANCES, 2001, SETTING MINIMUM STANDARDS FOR CONTRACTORS AND SUBCONTRACTORS ON CERTAIN BUILDING IMPROVEMENT AND PUBLIC WORKS PROJECTS.

The Legislative Body of Salt Lake County ordains as follows:

SECTION I. The enactment made herein is set forth as follows:

SECTION II. Section 3.27.010 of the Salt Lake County Code of Ordinances, 2001, is enacted to read as follows:

- 3.27.010. Legislative findings and purpose.
- A. The council finds that:
1. A healthy and well-trained construction workforce improves a contractor’s ability to fully perform its duties in building improvement and public works projects and is critical to the economic future of the county.
 2. The efficient and economical construction of public works and building improvement projects will be hindered if there is not an ample supply of healthy, trained construction workers.
 3. By requiring the minimum standards below on public works and building improvement projects, governments can assist in the health and safety that will help assure that a skilled workforce will be available in sufficient numbers for the construction of public works in the future.
 4. The purpose of this ordinance is to promote the health and safety of the workforce, and enhance the economic vitality of the county.

SECTION III. Section 3.27.020 of the Salt Lake County Code of Ordinances, 2001, is enacted to read as follows:

3.24.020. Definitions.

A. For the purposes of this chapter, the following definitions shall apply:

1. "Building improvement" means the same as defined by Title 11 Chapter 39 of Utah Code.
2. "Covered employee" as used in Section 3.27.030(A)(2) means an individual who provides services directly related to a construction contract for a contractor or subcontractor and works at least 30 hours per calendar week for the contractor or subcontractor.
3. "Emergency Repairs" means the same as defined in Title 11 Chapter 39 of Utah Code.
4. "Public works project" means the same as defined in Title 11 Chapter 39 of Utah Code.
5. "Qualified health insurance coverage" means the same as defined in Utah Code Ann. § 26-40-115(1).
6. "Qualifying projects" means contracts executed by Salt Lake County on or after January 1, 2020, for all Salt Lake County owned building improvements or public works projects where the contract for the project exceeds \$3,000,000.00.

SECTION IV. Section 3.27.030 of the Salt Lake County Code of Ordinances, 2001, is enacted to read as follows:

3.27.030 MINIMUM STANDARDS

- A. The specifications for all qualifying projects shall require that the bidder submit with the bid a certification, and other appropriate documentation in a manner prescribed by the county, that the bidder:
1. Offers qualified health insurance coverage for bidder's employees and the employee's dependents for the duration of the contract;
 2. Has and will maintain a drug and alcohol testing policy, consistent with

applicable Utah law, for the duration of the contract that requires all covered employees to submit to random testing under the drug and alcohol testing policy; and

3. Has and will maintain a safety program that complies with the standards of Utah Occupational and Safety and Health (UOSH).
- B. Bidders who fail to submit the certifications and documentation required in subsection 3.27.030(A) shall be deemed non-responsive.
- C. All resulting construction agreements for qualifying projects shall provide that:
1. The general contractor will require through contract that a subcontractor has and will maintain the minimum standards found in subsection 3.27.030(A) where the subcontractor's bid to the general contractor exceeds the amount of \$1,000,000.00;
 2. The county may, no more than twice within any twelve (12) month period, submit a written request for recertification by the selected contractor, and that the contractor shall respond in writing within ten (10) business days after receipt of the county's request;
 3. The county may audit contractor's, and affected subcontractor's, compliance with the requirements of subsections 3.27.030(A) and (C)(1). The bidder shall provide documents as requested by the county to comply with any such audit, including documents relating to affected subcontractors; and
 4. If an awarded contractor fails to maintain the minimum standards required in 3.27.030(A) and (C)(1), the contractor's fee will be reduced by \$250 per day for each day the contractor is found to be out of compliance.
 5. Continued failure by a contractor to maintain the minimum standards in 3.27.030(A) may be deemed a breach of contract for which the county is entitled to all remedies allowed by law and under the contract.
- D. A building improvement or public works project may not be subdivided into smaller parts to circumvent the requirements of this subsection 3.27.030.

SECTION V. Section 3.27.040 of the Salt Lake County Code of Ordinances, 2001, is enacted to read as follows:

3.27.040 EXCEPTIONS

This section 3.27 shall not apply to:

- A. A change order or a modification to a project, when the original contract did not meet the initial dollar threshold of a qualified project;
- B. Emergency repairs; or
- C. A project subject to a grant requirement or other legal obligation the county must honor as a condition of receiving a grant or other funds which limit the application of one or more of the standards of this section 3.27.

SECTION VI. Section 3.27.050 of the Salt Lake County Code of Ordinances, 2001, is enacted to read as follows:

3.27.050 THIRD PARTIES

The failure of a contractor or subcontractor to meet the requirements of section 3.27:

- A. May not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under this chapter;
- B. May not be used as the basis for any action or suit by someone other than the county that would suspend, disrupt, or terminate a building improvement or public works project; and
- C. May not be used by an employee of a contractor or subcontractor or any other third party as a basis for any private action or suit against the county for damages for the failure of a contractor or subcontractor to meet the requirements of this section.

SECTION VII. Section 3.27.060 of the Salt Lake County Code of Ordinances, 2001, is enacted to read as follows:

3.27.060 WAIVER

No later than ten days prior to the due date of final bids on a qualifying project, the Salt Lake County Mayor or designee may suspend the standard in section 3.27.030(A)(1) for a qualifying project based on written cause demonstrating a reasonable likelihood that the standard will negatively impact the competitive nature of the solicitation.

SECTION VIII. This ordinance shall become effective fifteen (15) days after its passage and upon at least one publication of the ordinance or a summary thereof in a newspaper published and having general circulation in Salt Lake County.

APPROVED and ADOPTED this _____ day of _____, 2019.

SALT LAKE COUNTY COUNCIL

Richard Snelgrove, Chair

ATTEST:

Salt Lake County Clerk

APPROVED AS TO FORM:

Deputy District Attorney

ORDINANCE HISTORY

Council Member Bradley voting	_____
Council Member Bradshaw voting	_____
Council Member Burdick voting	_____
Council Member DeBry voting	_____
Council Member Ghorbani voting	_____
Council Member Granato voting	_____
Council Member Jensen voting	_____
Council Member Newton voting	_____
Council Member Snelgrove voting	_____

Vetoed and dated this _____ day of _____, 2019.

BY _____
Mayor Jennifer Wilson or Designee

(Complete as Applicable)
Veto override: Yes _____ No _____ Date _____
Ordinance Published in newspaper: Date _____
Effective date of ordinance: _____

SUMMARY OF

SALT LAKE COUNTY ORDINANCE NO. _____

On the _____ day of _____, 2019, the County Council of Salt Lake County adopted Ordinance No. _____, which enacts Section 3.27, entitled “Construction Procurement Minimum Standards,” requiring that minimum standards for contractors and subcontractors on select construction projects.

A complete copy of Ordinance No. _____ is available in the office of the Salt Lake County Clerk, 2001 South State St., N2100A, Salt Lake City, Utah.

SALT LAKE COUNTY COUNCIL

By: _____
Richard Snelgrove, Chair

ATTEST:

Sherrie Swensen
Salt Lake County Clerk