

820-RICR-00-00-4

TITLE 820 - HEALTH AND EDUCATIONAL BUILDING CORPORATION

CHAPTER 00 – N/A

SUB-CHAPTER 00 – N/A

PART 4 - RESPONSIBLE CONTRACTOR REGULATION

4.1 Authority

These regulations have been adopted pursuant to the Administrative Procedures Act (R.I. Gen. Laws §§ 42-35 and 45-38.1-5).

4.2 Purpose

The purpose of these regulations is to require that project borrowers using proceeds of the loans to finance projects having a value in excess of \$5,000,000 include in their construction contracts requirements that the contractors and any subcontractors comply with all applicable laws.

4.3 Definitions

- A. “Child day care center” shall have the meaning ascribed thereto by R.I. Gen. Laws § 45-38.1-3(4).
- B. “Corporation” means the Rhode Island Health and Educational Building Corporation.
- C. “Educational institution” shall have the meaning ascribed thereto by R.I. Gen. Laws § 45-38.1-3(13).
- D. “Health care provider” shall have the meaning ascribed thereto by R.I. Gen. Laws § 45-38.1-3(14).
- E. “Project” shall have the meaning ascribed thereto by R.I. Gen. Laws § 45-38.1-3(21).
- F. “Project borrower” means an educational institution, child day care center, or health care provider that has borrowed money from the Corporation, the proceeds of which will be used to finance, in whole or in part, a project.

4.4 Responsible Contractor Requirement

Each project borrower having a construction budget for the financed project in excess of five million dollars shall include in any contract to construct the project

provisions requiring the contractor and any subcontractor working on the project to abide by all federal, state, and local laws applicable to carrying out the contract, including (without limitation) registering with the Rhode Island Contractor's Registration and Licensing Board, having all necessary valid and effective licenses to carry out the contract and complying with all federal, state, and local labor, wage and hour, and employment laws, including but not limited to the proper employment classification of workers and prevailing wage laws, if applicable.

4.5 Model Contract Clause for Compliance

A. Insertion of the following provision in a Project borrower's construction contract or a provision in substantially similar form shall constitute compliance by a Project borrower with the requirements of this regulation:

1. "(the "Contractor") and any subcontractor working on the Project pursuant to the provisions of this contract shall, in all material respects, abide by all federal, state and local laws applicable to carrying out this contract including, without limitation, registering with the Rhode Island Contractor's Registration and Licensing Board (or any successor thereto as provided for by law from time to time) and shall have all necessary valid and effective licenses to carry out the contract. Contractor shall comply, in all material respects, with all applicable federal, state and local labor wage and hour, and employment laws including, but not limited to, the proper employment classification of workers and prevailing wage laws, if applicable."

4.6 Confirmation of Compliance

Project borrowers shall, upon request, provide the Corporation with written proof of compliance with these regulations.

4.7 Remedies of the Corporation

A. In the event a Project borrower fails to comply with the requirement to include the provisions in the Project construction contract as set forth in §§ 4.4 and 4.5 of this Part , the Corporation may, at its option:

1. in the event the Project construction contract is fully executed and delivered at the time of closing of the Corporation loan, bond or note, decline to close and consummate the loan, bond or note transaction until such time as written evidence of compliance with these regulations is furnished to the Corporation;
2. withhold the Corporation's consent with respect to requests for requisition of loan, note or bond proceeds for the payment of Project construction costs or expenses; and

3. take into consideration the failure of compliance with these regulations by the Project borrower in evaluating any future applications for borrowing from the Corporation.
- B. The remedies for failure of compliance with these regulations shall be exclusively those set forth in § 4.7 of this Part.

4.8 Enforcement and Right of Appeal

- A. The enforcement of these regulations is delegated to the Executive Director of the Corporation. In the event of a vacancy in the office of the Executive Director or should the Executive Director be unwilling, unavailable, or unable to act to enforce these regulations, the Chairman of the Board of Directors of the Corporation shall be authorized and empowered to enforce these regulations.
- B. Any Project borrower aggrieved by the enforcement of these regulations may, upon written application, appeal to the Board of Directors of the Corporation which Board of Directors may, for good cause shown, overturn, amend, remand to the Executive Director for reconsideration or uphold any enforcement decision.

4.9 Effective Date

The foregoing "Responsible Contractor Regulation", after due notice, is hereby adopted on the 8th day of May, 2017 and filed with the Secretary of State this 9th day of May, 2017, to become effective on May 29, 2017 in accordance with the provisions of Chapters 42-35 of the General Laws of Rhode Island, 1956.