

**CONTRACTOR RESPONSIBILITY PROGRAM
FREQUENTLY ASKED QUESTIONS
For Contract Agreements**

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21. Could a "scheduled deliverable" discussed in question 9 of the CRP Questionnaire be considered by LAWA to have been met, even if it was delivered later?
22. Question No. 10 in the CRP Questionnaire asks the contractor to list prior contracts with any private or governmental entity over the last ten (10) years which are similar to the contract they are bidding on. Is this a different list from the RFB/RFP Administrative Requirement to list all City of Los Angeles contracts held within the last ten (10) years?
23. Who will make the determination, and when, if the information provided by the bidder/proposer on the CRP Questionnaire is "exempt from disclosure pursuant to applicable law"?
24. Is there a difference between non-responsive and non-responsible?
25. Are subcontractors subject to the CRP?
26. What is the penalty if the prime contractor/consultant does not submit the CRP information and updates for their subcontractors/subconsultants? Does it make a difference if the failure to submit is caused by the subcontractor/subconsultant instead of the Prime contractor/consultant?
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28. Is there a Frequently Asked Questions document for Leases?

1. What is the Contractor Responsibility Program?

The Contractor Responsibility Program (CRP), Board Resolution No. 21601, requires LAWA to make a determination **prior to awarding a contract agreement** that a prospective contractor subject to the CRP has the necessary quality, fitness, and capacity to perform the work set forth in the proposed contract agreement. The CRP applies to contract agreements that require Board approval.

To assist LAWA in making this determination, Bidders/Proposers and non-competitive Sole Source vendors are required to complete and submit a signed CRP Questionnaire and CRP Pledge of Compliance with the bid/proposal for award consideration.

Submitted CRP Questionnaires become public records and information contained therein will be **available for public review and comment for a minimum of fourteen (14) calendar days**, except to the extent that such information is exempt from disclosure pursuant to applicable law.

2. Is the City of Los Angeles Contractor Responsibility Ordinance (CRO) the same as LAWA's Contract Responsibility Program (CRP)?

No, it is not. There are differences, especially with Sanctions. LAWA will administer the CRP.

3. Who can help me with the CRP?

LAWA's **Contract Services Division (CSD)** administers the CRP program. CSD provides technical support, conducts the CRP reviews, and determines Contractor Responsibility. If you have any questions about the CRP or wish to provide public comments about a current or prospective LAWA contractor, please contact the Procurement Compliance Section at (310) 417-6495, or e-mail us at procurementrequirements@lawa.org.

A full explanation of the program is provided by the CRP Rules and Regulations. A copy can be obtained by downloading from our web page www.lawa.org, or calling the above phone number.

4. What types of contract agreements are subject to the CRP?

The CRP applies to contract agreements that require Board approval:

- Contracts for services that require Board approval (greater than \$150,000 in amount and over 1 year in duration)
- Contracts for construction that require Board approval (greater than \$150,000 in amount and over 1 year in duration)
- Contracts for purchasing of goods and products that require Board approval (greater than \$150,000 in amount and over 1 year in duration)

5. Are LAWA Permits subject to the CRP?

No, they are not.

6. Are Lease Agreements subject to the CRP?

Yes, some leases are. Lease agreements that require Board approval are subject to the CRP (greater than \$150,000 in amount and over 1 year in duration)

7. Are Concession contracts subject to the CRP?

- Yes, they are. Contracts that require Board approval are subject to the CRP (greater than \$150,000 in amount and over 1 year in duration).

8. Are there contract agreements requiring Board approval exempted from the CRP?

Yes. The following types of contract agreements are categorically exempt from the CRP:

- Contracts with a governmental entity such as the United States of America, the State of California, a county, City of Los Angeles Departments, etc.
- Contracts for the investment of trust moneys or contracts relating to the management of trust assets
- Banking contracts entered into by the Treasurer pursuant to California Government Code Section 53630 et seq.

The following types of contract agreements are exempt from the CRP when the Board of Airport Commissioners makes a finding that the contract agreement meets any of the following conditions:

- Contracts awarded on the basis of exigent circumstances whenever the Board finds that LAWA would suffer a financial loss or LAWA operations would be adversely impacted
- Contracts where the goods or services are proprietary or available from only one source
- Contracts for repairs, alterations, work improvements awarded based on urgent necessity for the preservation of life, health or property
- Contracts entered into during time of war or national, state or local emergency
- Contracts entered into for equipment repairs or parts obtained from an exclusive manufacturer
- Cooperative agreements with other governmental agencies

9. When did the CRP go into effect and what does it mean?

The CRP was adopted by the Board of Airport Commissioners on December 4, 2001 and amended on May 7, 2002. The program went into effect on May 20, 2002. New contract agreements subject to the CRP for bids/proposals received after May 20, 2002 may **not be awarded** and executed by LAWA **unless**:

- The contract agreement contains the CRP provisions; and
- The proposed contractor has submitted a signed Pledge of Compliance with the CRP; and
- The CRP Questionnaire for the proposed contractor, unless otherwise exempt, has been made available for public review and comment for at least 14 calendar days; and
- The proposed contractor has been declared a Responsible Contractor by LAWA

10. Is a contract agreement subject to the CRP if it was executed before May 20, 2002?

A contract agreement executed **before May 20, 2002** may become subject to the CRP if the total term and amount of the contract, inclusive of all amendments, would make the contract subject to the CRP;

A contractor subject to the CRP because of an amendment shall submit a signed CRP Pledge of Compliance to LAWA before the contract amendment can be presented to the Board and executed. The contract amendment must contain the CRP provisions.

11. What happens if a bidder/proposer does not submit the Questionnaire and Pledge of Compliance with the bid/ proposal?

If the bid or proposal when first submitted to LAWA does not have a completed and signed CRP Questionnaire or Pledge of Compliance, the bid or proposal will **not** be declared non-responsive and disqualified. Once LAWA determines the most competitive bids or proposals for award, CSD will notify the bidder/proposer about the missing CRP documents. Failure to submit those documents within ten (10) calendar days of notification will render the bid/proposal non-responsive and disqualified.

It is recommended that bidders/proposers submit the completed CRP Questionnaire, and subcontractor lists, if any, when submitting the bid/proposal to avoid delays in the selection process. A public review of the completed CRP Questionnaire is required, and a CRP Determination of Responsibility must be completed before a bid/proposal is awarded.

12. What is the procedure for the CRP review?

Questionnaires from the three (3) lowest bidders and/or from the most competitive proposers, and subcontractor lists, if any, will be made available by Contract Services Division (CSD) to the public for review and comment for a minimum of fourteen (14) calendar days.

CSD will determine Contractor Responsibility from the completeness and accuracy of the information in the submitted CRP Questionnaire; information from various compliance and regulatory agencies; accuracy and completeness of the information received from the public; and through CSD's own reviews and investigations.

CSD may submit written requests to the bidder/proposer for clarification or additional documentation. Failure to respond to these requests within the specified time may render the bid/proposal non-responsive and disqualified. Depending on the complexity of the investigation or accessibility to documentation, LAWA may decide to select the next responsive and responsible bidder/proposer.

CSD will report its findings and determination to the Requesting LAWA Division.

No contract award will be made by LAWA until after the CRP review and determination has been made.

13. Are completed CRP Questionnaires public records?

Yes. Completed CRP Questionnaires, and subcontractor lists, if any, will become public records and the information contained therein will be available for public review and comment for at least fourteen (14) calendar days.

14. Whom do I contact to review and comment on a bidder/proposer's Questionnaire?

If you wish to review a bidder/proposer's Questionnaire or provide comments about a current or prospective LAWA contractor, contact the Procurement Compliance Section at (310) 417-6495, or e-mail us at Procurementrequirements@lawa.org.

15. What is a CRP investigation?

Claims regarding alleged responsibility violations by a current or prospective contractor or bidder will be investigated by CSD. Section G of the CRP Rules and Regulations describes the investigation process, collection of facts and documentation, notification of findings, and how the bid or contract may be affected.

16. What are the criteria for CRP sanctions?

A prospective or current contractor will be considered in violation of the CRP and sanctioned if it:

- Does not submit required CRP documents
- Submits incomplete, inaccurate, or unsigned CRP documents,
- Does not cooperate with CSD during its investigation, and/or fail to respond to CSD's Notice to Respond within the time allowed.
- Is determined by LAWA to be non-responsible after a review of the CRP documents, supportive documentation and/or public comments.

17. What are the sanctions for prospective or existing LAWA contractors that do not comply with the CRP requirements?

- Prospective contractors that do not comply with CRP requirements and/or are determined non-responsible will be disqualified and will not be considered for award for that proposal or bid.
- Existing contractors that do not comply with CRP requirements and/or are determined non-responsible will be declared to have a material breach of the contract agreement. LAWA may exercise its contractual and legal remedies hereunder, which are to include, but not limited to the termination of the contract.

Section J of the CRP Rules and Regulations discusses non-responsibility sanctions.

18. What is a non-responsibility-hearing?

Prior to a final non-responsibility determination, LAWA will conduct a non-responsibility hearing if requested by the bidder/proposer or contractor. Section I of the CRP Rules and Regulations discusses the non-responsibility hearing, how to request one, who will be present. LAWA's determination shall be final and shall constitute exhaustion of administrative remedies.

19. Once a firm submits the CRP questionnaire and is determined responsible, will they have to complete the questionnaire and undergo review for every new contract, or contract amendment or only sign a statement that there are no changes?

If there are no changes to the responses to the initial Questionnaire, bidders and contractors will be allowed to submit a copy of the initial Questionnaire for new contracts. The CRP Questionnaire under "Type of Submission" provides for this option. The executed contract agreement must contain the CRP provisions.

20. What happens, or what is the penalty, if it is later found (after completion of the review period and award of contract) that some of the questions on the Questionnaire were answered incorrectly?

CSD will investigate the matter in accordance with Section G - Investigation, of the CRP Rules and Regulations. The penalty will depend on the results of the investigation. LAWA may exercise its legal remedies thereunder, which are to include, but not limited to the termination of the contract agreement.

21. Could a "scheduled deliverable" discussed in question 9 of the CRP Questionnaire be considered by LAWA to have been met, even if it was delivered later?

The firm or organization that funded the contract will determine whether the scheduled deliverables or milestones were submitted on time or late.

22. Question No. 10 in the CRP Questionnaire asks the contractor to list prior contracts with any private or governmental entity over the last ten (10) years which are similar to the contract they are bidding on. Is this a different list from the RFB/RFP Administrative Requirement to list all City of Los Angeles contracts held within the last ten (10) years?

The lists could be different, and if different, both lists must be submitted.

- The RFB/RFP Administrative Requirement restricts the list to all City of Los Angeles contracts held within the last ten (10) years, regardless of the nature of the contracts.
- The CRP Rules and Regulations require a list of all prior contracts with any private or governmental entity over the last ten (10) years similar to the contract a contractor is bidding on.

23. Who will make the determination, and when, if the information provided by the bidder/proposer on the CRP Questionnaire is "exempt from disclosure pursuant to applicable law"?

The City Attorney will make this determination upon written request by the bidder/proposer. The bidder/proposer will submit the written request and documentation to CSD. CSD will coordinate with the City Attorney and will inform the bidder/proposer of the outcome.

24. Is there a difference between non-responsive and non-responsible?

Non-responsive is a procurement definition. A bidder/proposer is "non-responsive" if he/she does not submit a required document as specified in the proposal or bid. Non-submission of any of the required documents, or submission of incomplete, inaccurate or unsigned required documents will render the bid or proposal non-responsive and disqualified.

Non-responsible is a CRP definition. A bid/proposal is "non-responsible" if it does not document as having the necessary quality, fitness, and capacity to perform the work set forth in the proposed contract agreement. Documentation for determining Responsibility will be contained in the CRP Questionnaire completed by the bidder/proposer. Appeals to a non-responsibility determination will be considered by a LAWA hearing board comprised of the City Attorney, CSD, and the Requesting LAWA Division.

25. Are subcontractors subject to the CRP?

A subcontractor is subject to the CRP if the subcontractor performs work on a contract agreement subject to the CRP. Subcontractors subject to the CRP must submit a signed CRP Pledge of Compliance to the Prime contractor,

Prime contractors are responsible for the subcontractor's compliance and must ensure that their subcontractors meet the criteria for responsibility set forth in the CRP and must obtain the signed pledges and submit them to LAWA within ten (10) days from execution of the subcontract agreement.

The list of subcontractors submitted with the bid/proposal, if any, will be made available for public review and comment along with the bidder/proposer's CRP Questionnaire.

26. What is the penalty if the prime contractor/consultant does not submit the CRP information and updates for their subcontractors/subconsultants? Does it make a difference if the failure to submit is caused by the subcontractor/subconsultant instead of the Prime contractor/consultant?

It is the Prime contractor's responsibility to obtain the signed pledges or updates and submit them to LAWA within ten (10) days from the execution of a subcontract agreement, or from the event requiring the update. The Prime's failure to submit CRP information or updates will be considered as a violation of the CRP, and is addressed in Section H - Violations, of the CRP or its Rules and Regulations.

If the Prime documents to LAWA that it took reasonable efforts to collect the required CRP documentation from the subcontractor, LAWA may determine the prime responsible and the subcontractor non-responsible.

27. What happens if a subcontractor is found non-responsible by LAWA or the City? Does that affect the prime's bid/contract and how? Does the Prime ask LAWA for a substitution of the sub?

An entity or individual determined or found to be non-responsible by LAWA shall not participate as a prime, subcontractor or in any other capacity in that project,

An entity or individual determined or found to be non-responsible by the City under the City's Contractor Responsibility Ordinance shall not participate in a LAWA funded project as a prime, subcontractor or in any other capacity for a period of 5 years,

Subject to written approval by LAWA, prime contractors may substitute a non-responsible subcontractor with another subcontractor with no changes in bid/contract amounts. Prime contractor must send a written substitution request to LAWA.

28. Is there a Frequently Asked Questions document for Leases?

Yes, there is a separate FAQs document for leases. Please contact us for a copy.