

BACKGROUND SCREENING PROGRAM GUIDANCE FOR RIDE FUNDED QUALIFIED SCHOOL CONSTRUCTION PROJECTS

Purpose

Rhode Island Department of Education (RIDE) is committed to financing local school construction projects that provide a high quality, secure and safe learning and working environment for its students, staff, clients, visitors and workers. RIDE is providing this guidance to local awarding authorities to ensure appropriate background screening of construction workers employed on various types of qualifying RIDE-financed construction projects.

* Background screening is **only required for workers that will have direct or unmonitored contact with children or students** while performing services contracted for by the local awarding authority.*

Further, RIDE advises the inclusion of apprentice utilization programs on RIDE-financed school construction projects as a means to address the significant labor shortages projected within all building trades occupations and ensure that local residents can gain career training on active construction projects now to meet future labor demands and develop construction careers.

Definitions

“Background Screening”: means a background screening program (BSP) administered in accordance with RIDE's Background Screening Program Guidance incorporated below.

“Apprentice Utilization Program”: means any program established by agreement on a given construction project which sets a goal or requirement for the percentage of labor hours to be performed by registered apprentices in occupations employed by construction trade contractors regardless of tier.

“Contractor”: means the Owner’s Project Manager (OPM), General Contractor, Construction Manager or Design-Builder (Prime Contractor) and Subcontractors (regardless of tier) in charge of a phase of a RIDE financed school construction project for which a background screening program is required.

“Consultant”: means the Architect, Engineer, or other Professional who has onsite duties on a school construction project that is required to have a background screening program.

"Qualifying School Construction Project": means a school construction project that includes RIDE financing and is valued at \$5 million or greater in one of two categories: 1) Construction at locations/facilities occupied by students and staff; or, 2) Construction at locations adjacent (within 500 feet) of a student and staff occupied site/facility.

“Worker”: means any consultant, contractor, subcontractor, trade contractor, employee or other agent who receives, or seeks to receive, compensation for on-site work on a RIDE financed qualifying school construction project that is required to have a background screening program.

Background Screenings

For any Qualifying School Construction Project (QSCP), the Contractor or Consultant shall implement and administer the BSP consistent with the guidance established herein for its applicable project category. For consistency in implementation, RIDE recommends that the BSP for any QSCP is administered by the selected OPM or Prime Contractor for all workers to be employed on the QSCP and the BSP scope of work is reflected within their respective contract award from the LEA or its awarding authority.

Each Contractor or Consultant shall be responsible, at its sole expense, for conducting the national and state criminal records check of its current and prospective employees and providing the results to the OPM and/or Prime Contractor. Any Worker employed on a QSCP that will have **direct or unmonitored contact with children or students** shall undergo a background screening. Background screenings must be completed whenever a Worker is employed at a new qualifying school construction project regardless of past background screening results.

Standards

As required by RIDE, an LEA or its awarding authority, a Contractor or Consultant shall maintain and administer a Background Screening Program for each Qualifying School Construction Project. Contractors and Consultants shall use the following standards to complete background screenings, consistent with the requirements of its QSCP category:

1. For Rhode Island residents, utilize the Office of the Rhode Island Attorney General, the Rhode Island State Police, or the local police department where the worker resides, to conduct a national and state criminal records check of the Worker.
2. For non-Rhode Island resident workers, utilize the state department of attorney general in the worker's state of residence, or local police department in the city of residence, to conduct a national and state criminal records check of the Worker.
3. Prohibit any disqualified Worker, as defined below, from working on a Project.
4. Provide a screening and verification process at the Project site to prevent any disqualified Worker from entering and working on the site.
5. Issue monthly reports to RIDE, the LEA or its awarding authority that certifies all Contractors and/or Consultants have undertaken the required background screenings in compliance with these standards.
6. Cooperate with RIDE or the LEA in the event RIDE elects to conduct an audit of compliance with these standards.

Disqualification

- A. Any worker shall be automatically disqualified from working on a Qualifying School Construction Project if:
 1. Worker knowingly provides inaccurate information in his/her application;
 2. Worker refuses to complete the screening process.

- B. No Worker who is not automatically disqualified shall be otherwise disqualified until the Contractor or Consultant has first considered: 1) the nature of the crime and its relationship to the job (including the job's duties and the project's QSCP category); 2) any compelling mitigating circumstances such as strong evidence of rehabilitation and/or a lengthy period of time since the conviction with no subsequent convictions.
- C. Decisions to disqualify a Worker from a Project must be made on a case-by-case basis in accordance with state and federal law including EEOC Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions.
- D. Subject to the considerations outlined in subsections B. and C. above, a worker may be disqualified from working on a Qualifying School Construction Project for prior criminal convictions pursuant to the guidance outlined in Attachment A.

Recommended Background Screening Control Plan Language for Inclusion in Bid Qualifications for RIDE Financed Qualified School Construction Projects

Prospective bidders are hereby notified of the requirement to provide a specific Background Screening Control Plan consistent with the project's RIDE QSCP category as to: 1) how the Background Screenings will be performed, and, 2) how workers will be monitored for compliance pursuant to RIDE's Criminal Background Check policy guidance. Upon contract award, the Owner's Project Manager and/or the Prime Contractor (or each Contractor or Consultant awarded) will be required to provide RIDE and/or the LEA, a certification letter identifying the outcomes of the background screenings performed during the reporting month as part of its application for payment.

Recommended Language for Apprentice Utilization Program Inclusion in Bid Qualifications For RIDE Finance Qualified School Construction Projects

Prospective bidders are hereby notified that all contractors and/or subcontractors to be utilized in the performance of the project scope must have, or be affiliated with, a non-provisionally registered apprenticeship program as defined in 29 C.F.R. § 29 et seq. for all trade occupations which will be employed. Further, the awarding authority shall require that not less than fifteen (15) percent of the total hours worked by the contractors' and subcontractors' trade employees on the project are performed by apprentices registered in the aforementioned apprenticeship programs.

ATTACHMENT A

Background Check Worker Disqualification Matrix

Criminal Background Check Criteria	Category 1 (Adjacent to Occupied Site)	Category 2 (Occupied Site)
Sex Offenses: Examples include but are not limited to: child molestation, rape, sexual assault, sexual battery, prostitution, solicitation, indecent exposure, lewd or lascivious act, etc.	Disqualified	Disqualified
Non-Violent Felony Offenses: two or more within the past 7 years. Examples include but are not limited to: theft, larceny, embezzlement, fraud, endangerment, trafficking/sale/distribution of narcotics, etc.	Qualified	Disqualified
Non Violent Drug Offenses: two or more in the past 7 years including but not limited to possession and use.	Qualified	Qualified
Misdemeanor Violence Offenses: no more than three within the past 15 years. Examples include but are not limited to: simple assault, battery, domestic violence, hit & run, etc.	Qualified	Disqualified
Five or more misdemeanor and/or felony offenses in the past 15 years.	Qualified	Disqualified