



St. Regis Mohawk Tribe

Chief Mark H. Garrow
Chief Randy Hart
Chief Ron LaFrance Jr.
Sub-Chief Stacy A. Skidders
Sub-Chief Shelley Jacobs
Sub-Chief Michael L. Conners

Tribal Council Resolution

2011 - 56

RESOLUTION OF THE ST. REGIS MOHAWK TRIBE TO ADOPT THE "POLICY ON MOHAWK PREFERENCE-CONSTRUCTION CONTRACTING"

WHEREAS, The Saint Regis Mohawk Tribal Council (the "Tribal Council") is the duly recognized governing body of the Saint Regis Mohawk Tribe (the "Tribe") and is responsible for the health, safety, education and welfare of all members of the tribe; and


WHEREAS, The Tribe recognizes the importance of adopting a strong Mohawk Preference policy for the award of all construction contracts and subcontracts of the Tribe and all tribally owned and operated entities; now, therefore, be it

RESOLVED, That the Saint Regis Mohawk Tribal Council hereby adopts the attached "Policy on Mohawk Preference-Construction Contracting"; and

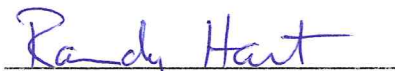
RESOLVED, The Tribe hereby declares that any previous Tribal Council Resolutions that conflict with this policy are superseded by this resolution and the attached "Policy on Mohawk Preference-Construction Contracting"; and

RESOLVED, That this Policy shall be adhered to for all construction contracts and subcontracts for projects on tribal lands that are funded exclusively by the Saint Regis Mohawk Tribe.


THE SAINT REGIS MOHAWK TRIBAL COUNCIL



Mark H. Garrow,
Tribal Chief




Randy Hart,
Tribal Chief




Ron LaFrance, Jr.
Tribal Chief

CERTIFICATION: This is to certify that the St. Regis Mohawk Tribal Council pursuant to the authority vested therein duly passed the above resolution.



Corleen Jacco, Tribal Clerk



December 20/2011
Date

POLICY ON MOHAWK PREFERENCE
CONSTRUCTION CONTRACTING

A. GENERAL POLICY

It is the policy of the St. Regis Mohawk Tribe to adopt a strong Mohawk Preference policy for the award of all construction contracts and subcontracts of the Tribe and all tribally owned and operated entities. This policy will apply to all construction contracts and subcontracts for projects on tribal lands and funded exclusively by the St. Regis Mohawk Tribe.

B. DEFINITIONS

1. "Director"-the individual or department, appointed by Tribal Council to ensure that this policy is implemented and complied with and certify that a particular company is Member or Mohawk-Owned.
3. "Tribal Lands" shall mean any lands now or hereafter within the jurisdiction of the St. Regis Mohawk Tribe.
4. "Qualified business or company" shall mean a Business or Company meeting the minimum requirements for a contract or subcontract. A Qualified Business or Company shall have proper insurance coverage, including liability, workmen's compensation and other essential coverage and meet all other requirements contained in the Request for Bids. A Qualified Business also means the practical, technical, administrative and financial ability of a firm to perform or provide by itself, if permitted, through subcontracts, the services or goods specially set out in the bid or request for proposal package.
5. Qualified worker shall meet all of the requirements of a job description.
6. "Mohawk-Owned business or company" shall mean an entity which is:
 - a. Fifty-one percent (51%) or more Mohawk-owned, such that Mohawks provide real value for their ownership interest, obtain majority voting rights regarding decisions of the entity, are entitled to and receive at least fifty-one percent (51%) of all profits, and are entitled to at least fifty-one (51%) of the assets on dissolution of the entity.
 - b. Under significant Mohawk management, such that at least one Mohawk is substantially involved in the day-to-day management of the firm as his or her primary employment.
 - c. Not created solely or primarily to take advantage of Mohawk preference.
 - d. Employs Mohawks in all or most positions for which qualified Mohawks are available, which means those Mohawks who've applied for an available position.

7. "Preference" means the process of providing advantage, or limiting bidding to Certified Mohawk business entities to provide a means by which certified, qualified firms receive contracts and that Mohawk employees are hired, in the following order:

Mohawk Preference shall be applied in the following manner:

- a. First Preference-Members of the St. Regis Mohawk Tribe.
- b. Second Preference-Akwesasne Mohawks
- c. Third Preference-Members of other Mohawk communities.

8. "Responsive bid" means at a minimum that the bid shall comply with all bid requirements stated in writing and shall be a reasonable price.

C. SOLICITATION OF BIDS

1. Open Solicitation. The Tribe shall solicit bids from qualified non-Mohawk as well as qualified Mohawk-owned companies.

D. AWARD OF BIDS

1. The award shall be made to the qualified Mohawk-owned company with the lowest responsive bid if the bid is within the maximum total contract price established for the specific project or activity being solicited. Otherwise, the contract shall be award to the lowest qualified bid, with the preference outlined in Exhibit A being utilized for any Qualified Mohawk-owned company.

E. MOHAWK PREFERENCE PLANS

1. Preference Plan Required. All companies who bid on a tribal construction project shall include in their bid a Mohawk Preference Plan for the prime contract and any subcontracts (Exhibit B).

2. Contents of Plan. The Mohawk Preference Plan shall indicate the name of the company's proposed subcontractors, whether the proposed sub-contractor(s) is/are a Mohawk company and if not, information on the company's good faith steps taken to identify Mohawk companies for the subcontract. The Mohawk Preference Plan shall be approved by the Director prior to commencement of any construction activities.

3. Plan Contracting/Subcontracting Requirements. The Tribe expects that all contractors will submit a plan that will include all qualified Mohawk subcontractors and that will include the maximum number of Mohawk workers for the project.

a. The General Contractor and all Sub Contractors shall hire qualified Mohawk workers to the fullest extent possible. Exceptions for “key employees” defined as one who is in a top supervisory position or performs a critical function such that an employer would risk likely financial damage or loss if that task were assigned to a person unknown to that employer. A maximum of 25% of a Contractor or Sub Contractor’s workforce may be considered key employees.

b. The General Contractor, shall through Contract, require all subcontractors to hire at least Forty Percent (40%) qualified Mohawk workers in the project workforce.

c. A contractor may not refuse to employ a Mohawk subcontractor for the reason that a non-Mohawk firm is more qualified so long as the Mohawk firm satisfies the threshold requirements for qualifications.

d. Exceptions: If the Tribe’s mandate of Mohawk preference in subcontracting and work force employment cannot be achieved, the contractor shall report that to the Director, with the reasons why that goal was not attained. An exception to this mandate may be granted only upon proof that there are fewer than 40% qualified Mohawk workers in a particular category of worker trades available and that the Contractor has made all reasonable efforts to comply with this requirement.

F. CERTIFICATION OF ELIGIBLE MOHAWK COMPANIES

1. Fifty-one Percent (51%) Owned. In order to be entitled to preference under this policy as a Mohawk firm, the firm must submit an application to the Tribe proving that the company is at least fifty-one (51) percent owned by a Mohawk and that the management of daily operations of the applicant is controlled by a Mohawk. In addition, for those industries requiring professional licensing (i.e., public accountancy, law, professional engineering, insurance, etc.), the Mohawk shall hold a license in such industry and individuals employed by the applicant shall hold any requisite license in such industry.

2. Director Makes Determination. All decisions on whether a firm meets the requirements with respect to eligibility for certification as a Mohawk firm shall be made by the Director. The Director shall also maintain an updated list of ALL certified Mohawk firms that it will provide to all contract bidders. This list shall include the specific types of contracts that the firm is certified to bid on. Any firm not included on the list at the time a Request for Bids “RFB” is issued, cannot challenge the bid process due to failure to receive the RFB.

Exhibit A

Contract Award:

Award shall be made under unrestricted solicitations to the lowest responsive bid from a qualified Mohawk-owned economic enterprise or organization within the maximum total contract price established for the specific project or activity being solicited, if the bid is no more than "X" higher than the total bid price of the lowest responsive bid from any qualified bidder. The factor "X" is determined as follows:

When the lowest responsive bid is:

less than \$100,000	10% of that bid
At least \$100,000, but less than or \$200,000	9% of that bid
At least \$200,000, but less than \$300,000	8% of that bid
At least \$300,000, but less than \$400,000	7% of that bid
At least \$400,000, but less than \$500,000	6% of that bid
At least \$500,000, but less than \$1 million	5% of that bid
At least \$1 million, but less than \$2 million.	4% of that bid
At least \$2 million, but less than \$4 million.	3% of that bid
At least \$4 million, but less than \$7 million	2% of that bid
\$7 million or more...	1.5% of the lowest responsive bid

Factors other than Price. Often factors, other than pricing, may affect whether a firm is "qualified" to be awarded a contract. In these instances, the RFP (request for proposals) shall clearly identify the relative importance of price and other evaluation factors and sub-factors, including the weight given to each technical factor and sub-factor. The proposals shall be evaluated only on the criteria stated in the request for proposals

Mohawk Preference shall be applied in the following manner:

- a. First Preference – Members of the St. Regis Mohawk Tribe.
- b. Second Preference-Akwesasne Mohawks
- c. Third Preference-Members of other Mohawk communities

Exhibit B

MOHAWK PREFERENCE
COMPLIANCE PLAN & AGREEMENT:

_____ Main Contractor _____ Sub Contractor

Name:

_____ 3 _____

Address:

Contact person:

_____ Title: _____

Phone: _____ Fax: _____

Cell: _____ Office: _____

Project Name: _____

Project No: _____

Location:

Project Owner:

_____ Phone: _____

Project Funding Agency:

Funding Agency Contact:

Project Cost: _____

Project Start Date: _____

Completion Date: _____

Pre-Construction Meeting Date:

Sub-Contractor Meeting (Place, Days, and Times):

Provide a numerical hiring goals and timetables that specify the number of Mohawks the employer will hire by craft or skill level or specify a set percentage of hiring goals by craft or skill level:

List all permanent key employees you are requesting for the project(s). A key employee is defined as: “an employee that is by business necessity, essential to the successful operation of the project and one without whom the project or the business would suffer substantial financial or time loss”.

KEY EMPLOYEES

Name	Job Title	Rate Of Pay	Length of Employment	Attach Proof TRIBAL (Y/N)

Do you or your sub-contractor have a collective bargaining agreement with one or more unions?

YES NO

If yes, please attach a written agreement from said unions indicating that they (Union) will comply with Mohawk preference requirements.

RJH 

