

Responsible Contractor

Once a low bidder has been identified through an analysis of the responsive bids, the owner must then evaluate the “responsibility” of the low bidder. The low bidder is not necessarily entitled to the award. It must then be determined to be responsible. A responsible contractor is one that can perform and complete the work required by the contract documents, demonstrated to the satisfaction of the owner. A responsible contractor must possess the necessary financial and technical capability to perform ¹ *Gaeta v. Ridley Sch. Dist.*, 788 A.2d 363 (Pa. 2002) the work as well as the tenacity to do so, usually demonstrated by the contractor’s past performance record. A responsible contractor must have the equipment, materials and workforce – or the ability to obtain them – sufficient to complete the work. This usually is demonstrated by ownership of equipment or “suitable arrangements to rent equipment,” and the ability to purchase materials and hire a workforce.

Iowa courts give governmental bodies considerable latitude when determining a bidder’s responsibility. In *Istari Construction Inc. v. Muscatine*, ² Department of Housing and Urban Development (HUD) had determined a contractor to be responsible on a HUDfunded city project. Despite this determination, the city rejected the contractor’s bid based on the contractor’s lack of responsibility. The Iowa Supreme Court held that the city was not prevented from denying that the contractor was responsible, even though HUD had determined otherwise. This discretion must be exercised objectively and decisions deemed to be arbitrary or based on favoritism will be voided by the court.