

DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION

BALTIMORE COUNTY, MARYLAND



RULES FOR PREQUALIFICATION OF CONTRACTORS

AMENDED NOVEMBER 18, 2021

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I. PREQUALIFICATION COMMITTEE

1.1 Committee Purpose and Duties:

- 1.1.1 The Prequalification Committee ("Committee") oversees and is responsible for the approval of prequalification of prime contractors, suspension and revocation of prequalification of prime contractors, determination of work classification, and any increase or decrease thereof for all prime contractors in connection with all projects built by or accepted by Baltimore County including projects for construction, reconstruction, or demolition of physical facilities, capital improvement projects in excess of \$25,000, and the performance of work in the County right-of-way of Baltimore County, Maryland (collectively, "Projects").
- 1.1.2 Each and every prime contractor desiring to bid on Projects ("Contractor") shall submit for the review of one or more members of the Committee an application for prequalification which shall include but not be limited to the Contractor's description of its work experience (formerly known as the Experience Questionnaire) and any other necessary documentation and/or information ("Prequalification Application"). Each and every Contractor must be prequalified as to work classification ("Prequalified" or "Prequalification") as determined by the Prequalification Committee and ratified by the County Director of Budget and Finance.
- 1.1.3 The Committee shall administer and make all decisions and determinations on all matters relating to any or all Contractors' (i) approval of Prequalification and denial of Prequalification, including but not limited to work classifications; (ii) suspension and revocation of Prequalification or any portion thereof; and (iii) increase or reduction of work classification. The Committee shall also maintain a listing of Prequalified Contractors and their work classifications.

1.2 Organization:

- 1.2.1 The Committee consists of three (3) persons from the Department of Public Works & Transportation ("DPWT"):

Director, DPWT, or his authorized designee, who serves as Chairperson of the Committee; Chief, Division of Construction Contracts Administration, DPWT; and Chief, Design Division, DPWT.

- 1.2.2 Whenever necessary, the Committee shall be assisted by an appropriate County staff consisting of:

Office of Law
Office of Budget and Finance ("OBF")
Assistant to the Director of DPWT
Minority Business Enterprise Officer
Property Management Division, OBF
Chief, Bureau of Engineering and Construction, DPWT

II. PROCEDURES FOR PREQUALIFICATION

2.1 Written Application for Prequalification:

- 2.1.1 Each Contractor shall complete and file with the Committee a Prequalification Application. The Prequalification Application may be obtained from the County's DPWT website or the DPWT Division of Construction Contracts Administration by calling 410-887-3531. The Prequalification Application shall be executed by a legally authorized representative of the Contractor and notarized. A Contractor's submission of the Prequalification Application shall constitute representations and warranties by a Contractor that all information provided by a Contractor therein and in connection therewith is true and accurate in all material respects and that all previous experience reported by a Contractor was accomplished with fifty percent (50%) or more of the Contractor's own forces, unless specified otherwise by the DPW Standard Specifications for Construction and Materials, as amended and supplemented.
- 2.1.2 All Prequalification Applications for Prequalification shall be filed in the office of:
- Division of Construction Contracts Administration
111 W. Chesapeake Avenue, Room 300 B
Towson, Maryland 21204
Phone: (410) 887-3531
- 2.1.3 In order for a Contractor's bid to be considered for a Project, the Contractor must have received County approval of its Prequalification Application at least ten (10) calendar days prior to bid opening for the Project for which a Contractor submits a bid. The County shall not consider the bid of a Contractor who is not Prequalified for any Project. Except as otherwise stated in these Rules, possession of a valid certificate of Prequalification ("Certificate") is valid through the expiration date stated on the Certificate.

The Committee reserves the right to re-evaluate a Prequalified Contractor at any time. Any Contractor who holds a Certificate shall furnish additional information bearing on the Contractor's work classification and general qualifications, at any time and as may be required by the Committee in its sole discretion. The County may in its sole discretion reject an unopened bid of any Contractor who fails to promptly and properly furnish all information and documentation as may be requested by County.

2.1.4 Except as otherwise stated or identified in a County contract, subcontractors are not required to be Prequalified to perform on Projects. However, before subcontractors are permitted to work on Projects, the subcontractors shall be subject to the approval by the Committee and/or DPWT.

2.1.5 The Contractor shall furnish to the Committee information, including but not limited to:

- a) A completed Prequalification Application;
- b) A copy of Contractor's organizational documents identifying authorized individuals or parties who may legally bind the Contractor and may sign contract documents;
- c) A summary of relevant public and private work completed in the last three (3) years including the following information:
 - Name of project
 - Location of project
 - Worked as a prime or subcontractor
 - Summary of work completed (scope of work that your firm self-performed on the project with specific quantities)
 - Contract value
 - Name of owner for project
 - Date project was started and completed
 - Reference (name and phone number of owner(s), representative or inspector)
 - If the contractor is a newly formed entity, the previous work performance and experience of its owners, officers or principal employees will be considered.
- d) Description of financial condition and levels of staffing;
- e) Description of facilities and equipment;
- f) Extent and type of work the Contractor asserts Contractor is qualified to handle at one time;

- g) A statement as to the type, model, year of manufacture, current book value and condition of each piece of owned or permanently leased equipment and all facilities related to the requested work classifications;
- h) Name of bonding company/surety underwriter;
- i) If a Contractor is doing business under a name other than its legal name (a/k/a, d/b/a, trading as, etc.), the Contractor must report same as part of the Prequalification Application; and
- j) Such other pertinent information, guarantees and affidavits as the Committee may request in its sole discretion

2.1.6 A Contractor's financial statement is not required at the time of submission of a Prequalification Application, but the County and Committee reserve the right to request a financial statement from the Contractor at any time to review the financial condition and stability of a Contractor.

III. APPROVAL/DENIAL OF CONTRACTOR'S PREQUALIFICATION REQUEST

3.1 Review of Prequalification Application:

- 3.1.1 One or more members of the Committee shall attempt to review the Prequalification Application, and all information submitted by the Contractor seeking to be Prequalified within thirty (30) calendar days of the Committee's receipt thereof. In order to be approved as Prequalified, a Contractor must submit all required and requested information and documentation and demonstrate to the satisfaction of the Committee, in its sole discretion:
 - a) Financial responsibility, sufficient capital, and sufficient staffing to undertake and conduct the work classifications sought by Contractor; and
 - b) Sufficient facilities and equipment appropriate to perform the work classifications sought or possess assets adequate to purchase or lease the necessary equipment; and
 - c) Previous satisfactory work performance in the work classifications applied for with other jurisdictions, state agencies, counties, municipalities and/or the County; and
 - d) Evidence of ability to obtain required bonding for the work classifications.

The Committee may, at its option, verify any or all of the information submitted by the Contractor and/or any or all information that may be additionally requested by Committee.

3.1.2 In addition to fulfilling all requirements of Section 3.1.1 above, a Contractor shall only be considered for Prequalification if:

- (a) All information in the Prequalification Application is complete, true and accurate, and is acceptable to the Committee in its sole discretion; and
- (b) Any other pertinent information and documentation the Committee deems relevant is timely submitted and is acceptable to the Committee in its discretion.

3.1.3 Contractors are responsible for the performance of their subcontractors. The performance of the Contractor and its subcontractors shall be considered by the Committee.

3.2 Qualification Limit and Qualified Limit:

3.2.1 A "Qualification Limit" upon work classification, unless further modified by the establishment of a "Qualified Limit" by the Committee, shall be the bonding capability of a Contractor as established by its surety underwriter. The surety underwriter must be licensed in the State of Maryland and must be currently rated "B" or better by the A.M. Best Company. The surety must be on the federal government's listing of approved sureties.

3.2.2 A "Qualified Limit" upon work classification may be established by the Committee, in its sole discretion, when the Committee upon its review of all of the submissions of the Contractor including, but not limited to, past performance, responsiveness, financial condition, or any other criteria deemed material by the Committee, determines such action is in the best interest of the County.

3.3 Certificate of Prequalification:

3.3.1 The Committee shall attempt to make a decision on Prequalification within thirty (30) calendar days of the Committee's receipt of a Contractor's submission of the Prequalification Application, and any other requisite Prequalification information and documentation. In the event the Committee approves the Contractor for Prequalification and such Prequalification is ratified by the County Director of Budget and Finance, the Contractor may receive a Certificate. Said Certificate shall state the approved work classification(s), the Certificate's effective date and expiration date, and any Qualified Limit or Qualification Limit. Except as

otherwise stated in these Rules, a Certificate is generally valid for a thirty-six (36) month term unless a probationary term of twelve (12) months is issued. However, the County and/or the Committee reserve the right in their sole discretion to re-evaluate a Prequalified Contractor at any time. Any Prequalified Contractor bidding upon a Project shall furnish additional information bearing on the Contractor's work classification and general qualifications as may be required or requested by the County and/or Committee, in their sole discretion. The County may reject the unopened bid of any Prequalified Contractor who fails to promptly and properly furnish all the information and documentation requested by the Committee and/or the County. Not less than thirty (30) calendar days prior to the expiration date of the Prequalified Contractor's then-current Certificate, the Prequalified Contractor should file a new Prequalification Application, and any other requisite information in order to attempt to avoid any lapse in the Contractor's Prequalification.

- 3.3.2 In the event either the Committee declines to approve the Contractor for Prequalification or the County Director of Budget and Finance fails to ratify a Contractor for Prequalification, the Committee shall forward written notice of the denial of Prequalification to the Contractor.

3.4 Listing of Prequalified Contractors Available:

A current list of Prequalified Contractors, with their work classifications and Prequalification numbers, is available for inspection through DPWT's Division of Construction Contracts Administration.

IV. APPEAL OF DECISIONS OF THE COMMITTEE

4.1 Denial of Prequalification / Dispute of Limits or Classifications:

- 4.1.1 Except as otherwise stated in these Rules, a Contractor who is dissatisfied with the Committee's denial of Prequalification, has thirty (30) calendar days from the date of the Committee's written denial to provide written notice to the Committee of the Contractor's dissatisfaction, desire for reconsideration, and request to be heard before the Committee. Simultaneous with the Contractor's written notice to the Committee, the Contractor may submit any additional documentation and/or information it deems relevant to the Committee. Upon the Committee's receipt of Contractor's written notice (and additional documentation and/or information, if submitted), the Committee shall timely conduct a meeting with the Contractor in connection with the denial. The Committee shall attempt to conduct the meeting within sixty (60) calendar days of the Committee's receipt of Contractor's written notice. Thereafter, the Committee shall render its decision and notify the Contractor in writing thereof. The decision of the Committee is final and binding.

In the event the Committee upholds the denial of Prequalification, the Contractor may only reapply for Prequalification in accordance with the Committee's written decision and in no event may Contractor reapply prior to six (6) months following the final decision of the Committee on the Contractor's previous Prequalification Application.

- 4.1.2 Except as otherwise stated in these Rules, a Contractor who is dissatisfied with the Committee's determination regarding a "Qualified Limit", "Qualification Limit", or work classification(s), has thirty (30) calendar days from the date of the Committee's written notification of said "Qualified Limit", "Qualification Limit", or work classification(s) to provide written notice to the Committee of the Contractor's dissatisfaction, desire for reconsideration, and request to be heard before the Committee. Simultaneous with the Contractor's written notice to the Committee, the Contractor may submit any documentation and/or information it deems relevant to the Committee. Upon the Committee's receipt of Contractor's written notice (and documentation and/or information, if submitted), the Committee shall timely conduct a meeting with the Contractor in connection therewith. The Committee shall attempt to conduct the meeting within sixty (60) calendar days of the Committee's receipt of Contractor's written notice. Thereafter, the Committee shall render its decision and notify the Contractor in writing thereof. The decision of the Committee is final and binding.

In the event the Committee upholds the original "Qualified Limit", "Qualification Limit", and/or work classification(s), the Contractor may only reapply for an increase to a "Qualified Limit", "Qualification Limit", or work classification(s) in accordance with the Committee's written decision and in no event may Contractor reapply prior to six (6) months following the final decision of the Committee on the Contractor's previous Prequalification Application.

4.2 Revocation and Suspension of Contractor's Prequalification:

- 4.2.1 The Committee's decision or determination to revoke or suspend a Contractor's Prequalification shall be in the Committee's sole discretion. Grounds for revocation of Prequalification and the related Certificate and/or for suspension of a Prequalification and the related Certificate for any period of time include, but are not limited to, the following:
- a) Submission of false or materially inaccurate information, including but not limited to, financial information or experience information or other data;

- b) Failure to submit all required information or any additional financial information or other pertinent information as may be requested by the Committee in its sole discretion;
- c) Failure to perform work in a manner acceptable to the County or failure to perform work in accordance with the contract on a County Project;
- d) Failure to secure required bonding;
- e) Failure to comply with applicable federal, state, and local laws, regulations, executive orders, and rules; and/or
- f) Defaulting on a County contract or any contract with a public body, jurisdiction or state.

4.2.2 Suspension or revocation of Prequalification shall be immediate upon the date of the Committee's written decision to the Contractor. The length of a suspension or revocation period will be stated in the Committee's written decision.

4.2.3 In the event the Committee decides to suspend or revoke the Contractor's Prequalification and the related Certificate, and the Contractor is dissatisfied with such decision, the Contractor shall give written notice to the Committee of its dissatisfaction and desire to be heard before the Committee within thirty (30) calendar days from the date of the Committee's written notice of suspension or revocation. Simultaneous with the Contractor's written notice to the Committee, the Contractor may submit any documentation and/or information it deems relevant to the Committee. Upon the Committee's receipt of Contractor's written notice (and documentation and/or information, if submitted), the Committee shall timely conduct a hearing in connection with the suspension or revocation. The Committee shall attempt to conduct the hearing within sixty (60) calendar days of the Committee's receipt of Contractor's written notice. Thereafter, the Committee shall render its decision and notify the Contractor in writing thereof. The decision of the Committee is final and binding. Once Prequalification is revoked or suspended, a Contractor may not reapply for Prequalification for the period of time stipulated by the Committee in its written decision.