



Changes To Prequalification Of Prospective Bidders Rules Rules 672-5-.01 to 672-5-.17

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WHO DO THE RULES GOVERN?

- These rules do not address qualification for Consultant Engineers, ITBs or Specialty Services.
- Currently 412 Prequalified Contractors (contracts in excess of \$2M)
- Currently 526 Registered Subcontractors (subcontractor or contracts less than or equal to \$2M)

PURPOSE OF THE RULES

(1) To minimize delays in the awarding of contracts after bids have been opened.

(2) To insure that Department contracts will be awarded only to reliable bidders.

SUMMARY OF CHANGES

- Clarification of definitions
- Clarification of financial information required to be submitted
- Clarification of the treatment of parent and subsidiaries
- Changed appeals process



UPDATED TYPE OF FINANCIAL STATEMENT REQUIRED

- (i) If a Prospective Contractor's adjusted net worth is **\$750,000 or less**, the Prospective Contractor must submit a **Compiled Financial Statement, Reviewed Financial Statement or Audited Financial Statement**
- (ii) If a Prospective Contractor's adjusted net worth **is greater than \$750,000 but less than \$7,500,000**, the Prospective Contractor must submit a **Reviewed Financial Statement or Audited Financial Statement**
- (iii) If a Prospective Contractor's adjusted net worth **is greater than \$7,500,000**, the Prospective Bidder must submit an **Audited Financial Statement**



CLARIFICATION OF PARENT-SUBSIDIARY RELATIONSHIP

- Where Parent and Subsidiary are to be prequalified *separately*:
 - must submit separate Financial Statements
- Parent company must list any and all Subsidiary companies prequalified with the Department, the dollar amount of the investment in each Subsidiary and the method of carrying the investment on the Financial Statement



OTHER ADDED

APPLICATION REQUIREMENTS

- Certification that not currently suspended or debarred, has not been voluntarily excluded, and no action to suspend or debar has been instituted by a state/federal governmental entity
- Provide proof of any insurance or self-insurance for workers compensation insurance and general liability insurance, supplemented on a yearly basis



FREQUENCY OF APPLICATION

- New: Must submit an updated Application for Qualification when Prospective Contractor has sold twenty-five percent (25%) or more of its assets



APPLICATION FOR SUBCONTRACTOR REGISTRATION

- Debarment/Suspension Certification now required
- Required notification of whether or not company wants to remain on the register of Subcontractors when Prospective Subcontractor has sold or acquired a large number of assets.



FALSE, DECEPTIVE, OR FRAUDULENT STATEMENT(S) IN APPLICATION OR AT HEARING

- Latitude for Commissioner to immediately permanently revoke or suspend for false, deceptive, or fraudulent statement(s) made in the course of any hearing



SUSPENSION OR REVOCATION OF CERTIFICATE OF QUALIFICATION OR CERTIFICATE OF REGISTRATION

- Added “good cause” to suspend/revoke qualification or registration.

NEW APPEALS PROCESS

- Maximum Capacity
- False, deceptive, or fraudulent statement(s)
- Suspension or revocation of Certificate of Qualification, or certificate of registration



Prequalification Committee's recommendation to the Board of Review

Contractor/Subcontractor has 10 days to request an informal hearing by the Board of Review

Board of Review holds informal hearing (no attorneys or witnesses, documentary evidence is allowed)

14 days after the conclusion of the hearing, Board of Review issues a written **Preliminary Decision**

Within 14 days of receipt of the Preliminary Decision, the Contractor can request a formal hearing with the Commissioner

If not appealed within 14 days, the Preliminary Decision becomes the **Final Decision**

Commissioner holds hearing

Within 30 days of Hearing, Commissioner issues **Final Decision**

Appeal to Superior Court

OTHER CHANGES

- Clarification that Joint Bids are permitted
- Board of Review composition – not less than 3 Department employees appointed by the Commissioner

QUESTIONS?

