

## SUSPENSION OF QUALIFIED CONTRACTORS – ROW Property Management

### A. Overview

The Department may suspend or revoke the qualification of contractors qualified to perform work for the Department. Causes for suspension of qualifications include, but are not limited to: default, termination, unacceptable performance, violation of any of the activities specified in the technical specifications, failure to provide all required invoicing information, debarment by the State of Georgia or any other state, federal or local governmental entity and any other adverse actions taken by the applicable licensing board and/or divisions of the Office of Secretary of State. Suspension of qualifications in one category will result in suspension of qualification in all categories.

### B. Removal From Qualified Right-of-Way Property Management Contractors List

The Department reserves the right to remove a Contractor from the list of Qualified Right of Way Property Management Contractors that are eligible to bid on RFQs/ITBs based on the contractor's unsatisfactory performance, default, changes in contractor's organization, or criminal activity. The Department's determination of whether a Contractor should be removed from the list of Qualified Right of Way Property Management Contractors will be made by a Review Committee of qualified persons, whose members shall be designated by the GDOT Right of Way Office Assistant Right of Way Administrator. The Department, through its Review Committee, shall endeavor in its actions concerning the removal of Contractors from the Department's list of Qualified Right-of-Way Property Management Contractors to be reasonable, consistent, and act in good faith.

### C. Effect of Suspension, Revocation and/or Debarment:

The chart below highlights the various degrees of action that may be taken for non-performance.

PENALTIES	SUSPENSION	REVOICATION	DEBARMENT
Qualification List	Contractor removed from applicable category listing. After suspension period, may reapply for applicable category	Contractor removed from all applicable categories. Contractor must reapply for all categories after term of revocation.	Contractor removed from all applicable categories. Contractor's application cannot be considered for any category
ITB	All work is suspended. No awards may be give during time of suspension	All work is suspended. No awards may be give during time of suspension	All work is halted. No new awards may be given. All ITBs are cancelled. Cannot bid on any future ITBs

1. When Qualifications May be Suspended or Revoked; Cancellation of any Master contract agreement, and Removal from Qualified Contractors List.

The Department may suspend for a specified period, or revoke for any cause, any Contractor's Master contract Agreement and/or RFP/ITB. Any Contractor who's contract has been suspended or revoked for any cause will not be permitted to submit bid proposals or subcontract to perform work on any Department contracts, regardless of the dollar amount of the bid during the period of suspension or revocation. Cause shall include, but not be limited to the following:

- a) Failure or refusal to comply with GDOT policy or the ITB;
- b) Failure, due to the fault of the Contractor, to carry out any contract or ITB awarded by the Georgia Department of Transportation;
- c) Failure to maintain any required licensure;
- d) Default on any contract or ITB awarded by the Georgia Department of Transportation;
- e) Falling more than 15% or 30 days behind schedule, due to the fault of the Contractor;
- f) Conviction or entry of a plea of guilty, nolo contendere, or first offender treatment, by persons who are principles, owners, or partners with the Contractor, for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of the contract or subcontract, or for conspiracy, contract or combination in restraint of trade or of free and open competition in any transaction with a state, the United States, or any state or federal agency or instrumentality or political subdivision thereof;
- g) Conviction or entry of a plea of guilty, nolo contendere, or first offender treatment, by persons who are principles, owners, or partners with the Contractor under State or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a State Contractor;
- h) Conviction or entry of a plea of guilty, nolo contendere, or first offender treatment, by persons who are principles, owners, or partners with the Contractor under State or Federal antitrust statutes arising out of the submission of bids or proposals;
- i) Any other cause, which in the opinion of the Department is so serious and compelling as to affect the present responsibility of the Contractor. This may include among other things, a suspension or debarment by another state or federal governmental entity;
- j) Any violation of the conflict-of-interest provisions of Official Code of Georgia Annotated Sections 45-10-20 through 45-10-28; and
- k) Failure to comply with any Federal regulations. l) Any action by the Department or any other governmental entity, to suspend or revoke the contractor's Construction Prequalification status, any such contractor's qualification, will result in an automatic revocation of the Contractor's prequalification for ROW Property Management services.

## 2. Debarment:

The Department may, for cause, recommend that a Contractor be Debarred and refer such action to the Department of Administrative Services, State Purchasing Division. The State Purchasing Division Deputy Commissioner may debar a supplier for any of the causes listed below:

- a) Violation of contract provisions, as set forth below, of a character which is regarded to be so serious as to justify debarment action:
- b) Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract;
- c) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts;
- d) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a state supplier;
- e) Conviction under state or federal antitrust statutes arising out of the submission of solicitation responses;
- f) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance in the contract or subcontract;
- g) Any other cause so serious and compelling as to affect responsibility as a state supplier, including debarment by another government entity; and Any violations of the provisions of (O.C.G.A.) Sections 45-10-20 through (O.C.G.A.) Sections 45- 10-28, which govern conflicts of interest.

### 3. Effect of Suspension/Revocation/Debarment by Entities Other than ROW Property Management

Although Qualified Right of Way Property Management Contractors may not be required to be Prequalified Construction Contractors, if the Georgia Department of Transportation takes any action to suspend or revoke any such contractor's qualification, qualification for Right of Way Property Management Contractors is automatically revoked. Additionally, no Qualified Right of Way Property Management Contractors that is suspended or debarred by any State or Federal entity will be eligible to continue performing services under an existing ROW contract, any previously issued ITB(s), or be eligible to bid on future ITB(s) during the suspension, debarment, or revocation period. Any contractor removed from the list of Qualified Right of Way Property Management Contractors resulting from this qualification process because its qualification is suspended may not submit an application to be placed on a prequalified list or to enter into a new master contract agreement or ITB until after its suspension period ends. If the Department terminates an ITB, Agreement, and/or any related PO/NTP for reasons other than unsatisfactory performance or default of the Contractor, the Department will notify the Contractor of such termination, with instructions as to the effective date of work stoppage or specify the state of work at which the ITB or PO/NTP is to be terminated. If the agreement or ITB or PO/NTP is terminated before performance is completed, the Contractor will be paid for work satisfactorily performed up to the effective date of work stoppage as identified by the Department.

### 4. AGREEMENT TERMINATION:

The Department may terminate an agreement or ITB and/or any related PO/NTP for cause or without cause, in whole or in part, at any time the interest of the Department requires such termination in accordance with the below:

- i) For Unsatisfactory Performance: If the Department determines that the performance of the Contractor is not satisfactory, the Department may notify the Contractor of the deficiency with the requirement that the deficiency be corrected within a specified time; but not in excess of (10) calendar days. If, within ten (10) calendar days after such notice, the Contractor does not proceed in a satisfactory way to remedy the faults specified in said notification, the ITB and/or the PO/NTP may be terminated immediately. The Contractor will be paid for the work satisfactorily performed as determined by the Department subject to and in accordance the provisions of the agreement. Should the Department determine that the unsatisfactory performance is sufficiently serious that it creates a public safety hazard or that immediate harm to the Department right-of-way, the Department roadway facilities or other Department property may occur, the Department may provide notice either telephonically or via e-mail to the Contractor that the Contractor shall immediately stop work and thereafter the Department may undertake any actions it deems necessary to cure the unsatisfactory performance, with reasonable expenses directly related to the cure to be reimbursed by Contractor.
- ii) For Default on the Part of Contractor: The nonperformance by the Contractor of any material terms, covenant or condition of an awarded ITB or any related PO/NTP shall constitute a default. If the services of the Contractor are terminated by the Department for default on the part of the Contractor, the amount to be paid shall be determined by the Department with consideration given to the actual costs incurred by the Contractor in performing the work to the date of termination, the amount of work originally required which was satisfactorily completed to date of termination, whether that work is in a form or a type which is usable to the Department at the time of termination, the cost to the Department of employing another Contractor to redo or complete the work required and the time which may be required to do so, and other factors which affect the value to the Department of the work performed at the time of termination.

## 5. Reinstatement

After the suspension period, if a contractor on suspension wishes to be reinstated in the suspended category, it shall submit a Corrective Action Plan to the Department no less than three (3) months before the requested reinstatement. At the time of the request for reinstatement, the contractor shall submit documentation showing the corrective measures implemented. The Department shall review the Contractor's documentation

along with any additional documentation from on-going deliverables and make a determination to reinstate, continue or extend suspension.

- a) If the contractor's agreement expires during the suspension period, the contractor can only reapply after the suspension ends. If an application for renewal is submitted, it must include a copy of the Corrective Action Plan that was reviewed and approved by the Department.
- b) If a contractor is reinstated after a period of suspension and a second suspension is issued, ineligibility for category, and potentially all applicable categories, will be for a minimum of three (3) years, and possibly indefinite, depending on the severity of the violation.

Terms:

Suspension, Revocation, or Debarment

- Temporary suspension from bidding on or executing state contracts.
- Revocation of any contracts for property management services.
- Debarment, which is a long-term or permanent ban from participating in right of way contracts.