

**CITY OF GREENSBORO
POLICY FOR PREQUALIFICATION OF BIDDERS
FOR CONSTRUCTION PROJECTS**

A. PURPOSE:

1. The purpose of this prequalification process is to impartially and objectively evaluate a contractor, and to properly determine by its responsible business practices, work experience, manpower, and equipment that it meets the minimum qualifications to bid on a construction project, including first tier sub-contracts awarded by construction managers pursuant to the Construction Manager at Risk (“CM at Risk”) process. The award of contracts should be the result of open competition in bidding; impartiality in the selection of contractors; integrity in business practices; and skillful and safe performance of public contracts.
2. The Bid Agent shall be responsible for prequalifying individual contractors to bid on construction projects when the City believes prequalification is preferred. Prequalification is limited to construction or repair projects (regardless of cost) that are bid under the single-prime, separate-prime (multi-prime), or dual bidding methods. CM at Risk shall also prequalify all 1st tier subcontractors. A bidder shall be deemed nonresponsive if it submits a bid on a construction project subject to prequalification for which it has not been prequalified in accordance with this policy.
3. Prequalification is prohibited for contracts for architectural, engineering, surveying, design-build services, and the selection of a CM at Risk.
4. The Construction Manager at Risk shall use the process outlined in this policy for the prequalification of contractors on CM at Risk projects. The construction manager and the City shall jointly develop the assessment tool and criteria for each CM at Risk project, including the prequalification scoring values and minimum requirement score.
5. Notwithstanding the fact that a contractor was prequalified to bid on a specific project, the City reserves the right to reject a contractor’s bid in that same project if it is determined that the contractor has not submitted the lowest responsible and responsive bid. The prequalification of the contractor shall not preclude the City from subsequently concluding that the contractor is not a responsible bidder pursuant to G.S. 143-129. The prequalification of a contractor for a project shall only apply to the individual project. All construction and repair contracts shall be awarded to the lowest responsive and responsible bidder, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract.
6. This prequalification process shall comply with the M/WBE policy and procedures in effect at the time of the solicitation.
7. The City shall cause to be prepared quarterly reports of all projects subject to prequalification. These quarterly reports will contain the following:
 - a. The names of the projects where contractors were prequalified;

- b. The type of contractor(s) that were prequalified for each project, i.e., prime contractors, 1st tier sub-contractors under CM at Risk, or sub-contractors;
- c. The scope of work for each type of contractor that was prequalified;
- d. The number of MBE and WBE firms that were prequalified and the scopes of work for which they were prequalified;
- e. The number of Non- MWBE firms that were prequalified and the scopes of work for which they were prequalified;
- f. The estimated dollar amount of the specific scopes of work for which MBE, WBE, and Non-WBE firms prequalified to perform;
- g. The MBE numbers shall further broken down into the specific Minority Group Members identified in the M/WBE Plan, i.e. African-American, Asian American, Hispanic American, Native American.

B. ORGANIZATIONS AFFECTED:

- 1 All Departments/Divisions

C. DEFINITIONS:

1 Bid Agent – Person assigned the responsibility to prepare the request for qualification, bid, and contract documents, advertise bids and proposals, and open bids for contracts under the direction of the Project Manager. The Bid Agent may be a professional services consultant retained by the City under an approved contract, a City engineer or designee, or a department head responsible for the project.

2 Project Manager – Employee of the department responsible for a construction or repair, project requiring a contract who shall be assigned the responsibility for managing the project and representing the department in matters relating to the project.

3 Construction Manager at Risk – A person, corporation, or entity that provides construction management at risk services. May also be referred to as Construction Manager.

4 Director – The Director of the Engineering & Inspections Department responsible for the bidding of construction and repair contracts

5 Prequalification - A process of evaluating and determining whether potential bidders have the skill, judgment, integrity, sufficient financial resources, and ability

necessary to the faithful performance of a contract for construction or repair work.

D. PREQUALIFICATION PROCESS:

1 Each prospective bidder on contracts identified for prequalification by the Bid Agent and all first tier subcontractors on CM at Risk projects shall submit an application on the approved prequalification application form in order to prequalify to bid on the contract.

2 The approved prequalification application form will require information to be provided on the items identified in Section E, of this policy.

3 The Bid Agent shall ensure that applications prepared for the projects comply with this policy and State law. The application is to be submitted by the deadline established in the notice of prequalification. The notice must be posted on the City's website for a minimum of two weeks for any construction project estimated to be \$30,000 or more. The act of submitting the application does not permit the firm to submit a bid. Incomplete applications will be rejected or returned for further detail or correction in the sole discretion of the City.

E. APPLICATION:

The application shall, at a minimum, address the following criteria:

1. **Organizational Structure** – The firm shall provide all names under which it does business, describe how the company is organized, the date of organization and if incorporated the state of incorporation. Firms that are a partnership must describe the partnership details and if a Joint Venture (JV) provide a copy of the JV agreement. Firms must also provide a list of all owners, officers, partners, or individuals authorized to represent or conduct business for or sign legal documents for the firm. This list must include the full legal name, typed or printed in a clear legible form. The Firm shall also state the location of the office that will be primarily responsible for administering the work associated with the project for which this prequalification is requested. Firms experiencing changes in ownership, affiliation, organizational structure, or material changes in assets must inform the Bid Agent in writing prior to the award of a contract. Failure of the firm to comply with this requirement may result in the termination of any contract awarded by the City. The firm shall also state how long it has been in business in its current organizational structure, whether the firm itself or any of its owners, officers, partners or individuals authorized to represent, conduct business or sign legal documents for the firm or any other firm or legal entity have been debarred, suspended or otherwise prohibited from receiving federal, state, or local funds within the five years preceding the date of the Notice of Prequalification.

2. **Classification** – The firm shall be required to provide proof that it has a North Carolina General Contractor's License and any other professional license(s) required to perform on the contract, or provide a statement indicating that they will be able to acquire all necessary licenses before submitting a bid on a project. If a statement is required, the Applicant shall identify the states in which they are licensed for this type of work.

3. **Experience** – The firm shall furnish a history documenting experience with projects of similar size, scope, or complexity involving the type(s) of work for which prequalification is requested. Firms must also furnish a Resume' detailing the history of experience in projects of similar, size, scope, or complexity of its supervisory personnel that will be directly responsible for the work.

4. **Financial** – Firms will be required to submit one to three years of audited financial statements to demonstrate their ability to meet the required financial obligations in the performance of the contract. Firms that do not have audited financial statements will be required to submit copies of their filed Federal Income Tax Returns for the same period or their balance sheet and income statement on company letterhead for the same period. The specific financial requirements that must be demonstrated will be set for each contract and published in the Prequalification Notice.

5. **Litigation/Claims** –The firm will be required to submit information regarding its litigation and claims history, including litigation with owners and subcontractors. Minimum thresholds will be set for each contract for the amount of claims or the potential liability of unresolved lawsuits that the firm may have outstanding within the previous three years.

6. **Timeliness** - Firms must provide a history of one to five years of all similar projects and whether they performed each project on time, and if not, specific information on how late they were in completing each project, and the amount of liquidated damages paid, if any. Minimum thresholds of timelines will be determined for each contract depending on the complexity of the project and the harm that the City will suffer if the project is not timely completed.

7. **Safety** - Firms shall also demonstrate an acceptable safety history. Depending upon the nature of the work and the size and complexity of the project, firms will be required to submit one to five years of their safety record, safety training programs, and safety awards earned. Firms must provide an affidavit summarizing any complaints, safety violations or reports from the North Carolina Code Officials Qualifications Board, OSHA, or any other regulating agency associated with any construction project within the period of time covered by the safety record. Any firm that willfully falsifies, conceals or covers up by a trick, scheme or device, a material fact or makes any false, fictitious or fraudulent statements or representations, or makes use of any false writing or document, knowing the same to contain any false, fictitious or fraudulent statement or entry pursuant to this affidavit shall be subject to the penalties and sanctions set forth in Section VII (J) of the M/WBE Program Plan. Such penalties shall be assessed by the Prequalification Committee. The firm may appeal any such decision in accordance with the Protest Procedure in Section (H) of this policy. In certain projects, an EMR (Experience Modification Rating Factor) may also be required. Minimum thresholds of safety requirements will be determined for each contract depending on the complexity of the project and the type of work involved.

8. **MWBE Participation** – Firms must provide a history of one to five years of all projects of similar size, scope, or complexity of its success in meeting the established contract participation goals for utilizing Minority and Women Business Enterprises or Historically Underutilized Businesses and the good faith efforts used to meet these goals in projects where the established contract participation goals were not met. Minimum thresholds will be established for each contract for the success of meeting established M/WBE contract participation goals. Firms should also state whether they are minority owned and certified as a Historically Underutilized Business.

F. REVIEW OF APPLICATION – CITY BID PROJECTS:

1 **Prequalification Committee** – The Project Manager shall establish a Prequalification Committee for each project to determine the minimum thresholds for each criterion stated in Section E of this Policy that will be published in the Prequalification Notice. At a minimum, the Prequalification Committee must contain the M/WBE Coordinator, an assistant City Manager, and a member of the M/WBE Steering Committee. As much as possible, these minimum thresholds must be based on objective standards and measures. No minimum threshold used to prequalify prospective firms may require the firm to have previously been awarded a construction or repair project by the City.

2 **Review of Applications** – The Prequalification Committee will review each timely received prequalification application to determine whether the required documents are submitted with the application and whether the firm's responses meet all of the minimum thresholds for the criteria set out in the Prequalification Notice. A firm must submit all of the required documents and meet all of the minimum thresholds for each criterion published in the Prequalification Notice to be prequalified to bid on the project. A firm that does not submit all of the required documents or fails to meet all of the minimum thresholds for each criterion in the Prequalification Notice will not be prequalified to bid on the project.

3 **Notice of Decision** – The firms shall be promptly notified in writing of the Prequalification Committee's decision via e-mail and first class mail. The notification to a contractor determined not to be prequalified shall include the reason(s) for denial. Notice shall be provided prior to the advertisement of bids for the project and with sufficient time for the firm to protest the denial of prequalification, and if the denial is reversed, sufficient time for the firm to prepare a bid.

G. REVIEW OF APPLICATION – CM AT RISK PROJECTS:

1 **Setting Minimum Thresholds for Criteria-** In Construction Manager at Risk Projects, the Construction Manager shall follow the procedures outlined in Section A through E of this Policy, and the Construction Manager and the Project Manager must jointly determine the minimum thresholds for each criterion stated in Section E of this Policy that will be published in the Prequalification Notice. As much as possible, these minimum thresholds must be based on objective standards and measures. No minimum threshold used to prequalify prospective firms may require the firm to have previously been awarded a construction or repair project by the City.

2 **Review of Applications** – The Construction Manager, may, but need not, establish a Prequalification Committee to review timely submitted prequalification applications submitted by the firms and determine prequalification eligibility for the CM at Risk project. A firm must submit all of the required documents and meet all of the minimum thresholds for each criterion published in the Prequalification Notice to be prequalified to bid on the project. A firm that does not submit all of the required documents or fails to meet all of the minimum thresholds for each criterion in the Prequalification Notice will not be prequalified to bid on the project.

3 **Notice of Decision** – The Construction Manager shall promptly notify the firms of the Construction Manager's or Prequalification Committee's decision to approve or deny the firm's Prequalification Application via e-mail and first class mail. The notification to a contractor determined not to be prequalified shall include the reason(s) for denial. Notice shall be provided prior to the advertisement of bids for the project and with sufficient time for the firm to protest the denial of prequalification.

H. PROTEST PROCEDURE:

1 **Protest Procedure** – The protest procedure is as follows:

a. The firm may protest the denial of prequalification. A written protest must be received by the Director, or designee, within two business days of notice of denial. The written protest shall clearly identify the project and the Project Manager, clearly articulate the reasons for the protest, and attach any documents or additional information in support of the firm's position. The Director, or designee, will contact the firm and set up a date and time to discuss the protest. If upon review, the Director, or designee, determines that the firm meets the criteria for prequalification, the firm shall be notified that it is prequalified to bid on the project and allowed to participate in the bid process. If the Director, or designee, upholds the denial, the firm shall be notified in writing by e-mail and first class mail.

b. If the firm desires further review after receiving the decision of the Director, the firm may request an administrative review and final decision by the City Manager, or designee. A written request for administrative review must be received by the City Manager, or designee, within two business days of the firm's receipt of

the decision from the Director, or designee. The request for administrative review shall clearly identify the project and the Project Manager, clearly articulate the reasons for the review, and attach any documents or additional information in support of the firm's position. The City Manager, or designee, will contact the firm and set up a date and time for the administrative review. If, upon review, the City Manager, or designee, determines that the firm meets the criteria for prequalification, the firm shall be notified that it is prequalified to bid on the project and allowed to participate in the bid process. If the City Manager, or designee, upholds the denial, the firm shall be notified in writing by e-mail and first class mail.

2 **General Rules for Protests** – Firms submitting applications shall be provided an e-mail address for communication with the Director during the protest process. The firm shall provide at least two e-mail addresses for use by the Director in communicating with the firm. The bid opening cannot occur until the protest process is completed. The bid opening must be scheduled in order to allow sufficient time for a bidder that is prequalified as a result of a protest to submit a bid on that project.