



Policy on Prequalification of Bidders for Construction or Repair Projects

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1. **Purpose**

North Carolina General Statute 143-135.8 allows for the prequalification of bidders for any construction or repair project undertaken by a governmental entity when the board or governing body adopts an objective prequalification policy.

The purpose of this prequalification process is to impartially evaluate a contractor, and to properly determine by its responsible business practices, work experience, manpower, and equipment that it is qualified to bid on a construction project. 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. **Applicability**

The County may utilize this policy as needed for construction and repair projects when using either Separate-prime bidding, Single-prime bidding, or Dual bidding as listed in G.S. 143-128(a1)(1) through 143-128(a1)(3). If a grant funded project has specific procedures or policies the County shall follow those if required.

This policy applies to all Buncombe County departments and employees. Where there is conflict with any department-specific policy, this document will supersede.

3. **Policy**

3.1. Application

Each prospective bidder on contracts (also called “firm” or “applicant” below) identified for prequalification by the Bid Agent shall apply on the approved prequalification application form in order to become prequalified. The process for awarding first tier subcontractors by construction managers pursuant to the Construction Manager at Risk (“CM at Risk”) process shall follow guidelines and forms laid out in the North Carolina State Construction Manual.

- 3.1.1. The prequalification application form will require information to be provided on the ownership of the firm, experience of firm's personnel, any affiliations with other construction firms, bonding capacity, financial resources, the type of work

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performed by the firm, and other objective criteria rationally related to the particular contract to be awarded.

- 3.1.2. 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 act of submitting the application does not automatically 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 County.
- 3.1.3. The Bid Agent shall solicit directly for the prequalification vendors certified by the State Office of Historically Underutilized Businesses (HUB), along with those that have identified themselves as a Woman or Minority-Owned Business Enterprise (WMBE) with the County, and provide the services needed for the project. This should be done in addition to any other processes or advertisements used to identify and solicit potential bidders.

3.2. Assessment and Scoring of Applications

The prequalification application form, assessment tool and criteria scoring system shall be developed and adopted by the General Services Director for each General Services Department project and by the County Manager or designee for each specific project of other County departments. The assessment tool will include the prequalification scoring values and minimum required score for prequalification on that project. The application shall, at a minimum, address the following items:

- 3.2.1. *Organizational Structure* - The firm shall provide a list of all owners, officers, partners, or individuals authorized to represent, conduct business, or sign legal documents for the firm. This list must include the full legal name, typed or printed in a clear legible form. Firms experiencing changes in ownership, organizational structure, or material changes in assets must inform the Bid Agent 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 County.
- 3.2.2. *Classification* - The firm shall indicate the type(s) of work the firm's workforce and equipment normally perform, licensure, and other pertinent information.
- 3.2.3. *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.
- 3.2.4. *Litigation/Claims* - The firm will be required to submit information regarding its litigation history, including litigation with owners and subcontractors.
- 3.2.5. *Timeliness* - Firms must provide information on its success at completing projects on time, including the payment of liquidated damages.
- 3.2.6. *Capacity* - Firms shall demonstrate sufficient bonding capacity, insurance and resources for the project. Firms must provide relevant information on the personnel that will be directly responsible for the work, including the location of the office that will be primarily responsible for work.
- 3.2.7. *Safety* - Firms shall also demonstrate an acceptable safety history. Firms must provide copies of any complaints, safety violations or reports from the North

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Carolina Qualifications Board, OSHA, or any other regulating agency associated with any construction project.

- 3.2.8. *Legal Authorization* - The Applicant must provide a copy of their North Carolina Contractor's License. If a statement is required, the Applicant shall identify the states in which they are licensed for this type of work.

3.3. Prequalification Committee

The Project Manager shall establish a Prequalification Committee for each project to review and score applications submitted by the firms to determine the prequalification eligibility.

- 3.3.1. *Review of Applications* - The Prequalification Committee shall use an objective assessment process and criteria for that specific project.

- 3.3.1.1. The prequalification criteria shall not require the firm to have previously been awarded a construction or repair project by the County.

- 3.3.1.2. The prequalification criteria used by the Prequalification Committee shall include prequalification scoring values and the minimum required score to be prequalified for the project.

- 3.3.1.3. The Prequalification Committee shall approve or deny the applications in accordance with the prequalification criteria and scoring system.

- 3.3.2. *Notice of Decision* - All firms that submitted applications for prequalification shall be promptly notified of the prequalification committee's decision, including the reason for denial if applicable, via e-mail. 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.

- 3.3.3. *Informal Meeting* - Upon denial, the applicant may request an informal meeting with the County to receive feedback and suggestions for improvement.

- 3.3.4. *Protest* - Firms wishing to protest the decision shall follow the protest process described below.

3.4. Protests

The firm may protest the denial of prequalification as noted below.

3.4.1. *General Rules for Protests*

- 3.4.1.1. Firms submitting prequalification applications shall be provided an e-mail address for communication with the Project Manager during the protest process.

- 3.4.1.2. The firm shall provide at least two e-mail addresses for use by the Project Manager in communicating with the firm. All decisions related to protests or administrative review will be communicated to the firm via e-mail.

- 3.4.1.3. All written protests or requests 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.

- 3.4.1.4. 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. Bids received from firms who have been ruled disqualified to bid shall not be opened.

- 3.4.1.5. A firm's failure to comply with any requirements of the protest procedures of this section shall result in the firm's protest being terminated and considered resolved.

3.4.2. *Initial Protest*

- 3.4.2.1. A written protest must be received by the Project Manager, or designee, within two business days of notice of denial. The Project Manager, or designee, will contact the firm and set up a date and time to discuss the protest.

- 3.4.2.2. If upon review, the Project 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.

- 3.4.2.3. If the Project Manager, or designee, upholds the denial, the firm shall be notified in writing by e-mail.

3.4.3. *Request for Administrative Review (Final Protest)*

- 3.4.3.1. If the firm desires further review after receiving the decision of the Project Manager, the firm may request an administrative review and final decision by the County Manager or designee. A written request for administrative review must be received by the County Manager or designee within two business days of the firm's receipt of the decision from the Project Manager, or designee. The County Manager or designee will contact the firm and set up a date and time for the administrative review.

- 3.4.3.2. If, upon review, the County 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.

- 3.4.3.3. If the County Manager or designee upholds the denial, the firm shall be notified in writing by e-mail. The decision of the County Manager or designee on the protest shall be final.

4. Policy Non-Compliance

Employees willfully violating the terms and conditions of this policy may be subject to appropriate disciplinary action, up to and including dismissal.

5. Audit

All policies for Buncombe County may be subject to audit or review as outlined in the [Internal Auditor's Statement](#).

6. Definitions

- 6.1. *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 an employee of the County or a professional services consultant retained by the County under an approved contract.

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- 6.2. *Prequalification* – A process of evaluating and determining whether potential bidders have the skill, judgment, integrity, sufficient financial resources, and ability necessary for the faithful performance of a contract for construction or repair work.
- 6.3. *Project Manager* – Employee of the department responsible for a construction, repair, or purchasing project requiring a contract who shall be assigned the responsibility for managing the project and representing the department in matters relating to the project.

7. Approval and Revision History

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References: NC GS 143-128.1(c) & NC GS 143-135.8

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