



TOWN OF DAVIDSON
POLICY FOR PREQUALIFICATION OF FIRST-TIER SUBCONTRACTORS FOR
CONSTRUCTION MANAGEMENT AT RISK CONTRACTS

A. PURPOSE

1. The purpose of this prequalification process is to provide a policy in compliance with the requirements outlined in NCGS 143-128.1, Construction Management at Risk Contracts, by impartially evaluating first-tier subcontractors and 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 contractors; integrity in business practices; and skillful and safe performance of public contracts.
2. A bidder shall be deemed nonresponsive if it submits a bid on a construction project subject to prequalification for which it has not been accepted for prequalification in accordance with this policy.
3. Prequalification is prohibited for contracts for architectural, engineering, surveying, construction management at risk services, design-build services, and public-private partnership construction services.
4. Notwithstanding the fact that a contractor was prequalified, the town reserves the right to reject a contractor's bid 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 town 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 projects. 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.

B. DEFINITIONS:

1. Project Manager – town 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 town in matters relating to the project.
2. Construction Manager at Risk (CMR) – A person, corporation, or entity that provides construction management at risk services. May also be referred to as Construction Manager.

3. Prequalification – A process of evaluating and determining whether potential first-tier subcontractors have the skill, judgment, integrity, sufficient financial resources, and ability necessary for the faithful performance of a contract for construction or repair work.

C. PREQUALIFICATION PROCESS

1. Each prospective bidder on contracts identified for prequalification by the Project Manager and all CMR projects shall submit an application on the approved prequalification application form in order to become prequalified.

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

3. The Project Manager 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 town's website for a minimum of two weeks. 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 town.

4. Applications are subject to the North Carolina Public Records Law.

D. APPLICATION:

1. The application shall, at a minimum, address the following items:

a. Organizational structure – The firm shall 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.

b. Classification – The firm shall indicate the type(s) of work the firm's workforce and equipment normally perform, licensure, and other pertinent information.

c. 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.

d. Financial – Firms will be required to provide a minimum of one year of complete audited financial statements from the most current period available.

e. Litigation/Claims – The firm will be required to submit information regarding its litigation history, including litigation with owners and subcontractors.

f. Timeliness – Firms must provide information on its success at completing projects on time, including the payment of liquidated damages.

g. 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 the work.

- h. Safety – Firms shall demonstrate an acceptable safety history. Firms must provide copies of any complaints, safety violations or reports from the North Carolina Qualifications Board, OSHA, or any other regulating agency associated with any construction project.
- i. Legal Authorization – The applicant must provide a copy of their North Carolina Contractor's License, or provide a statement indicating that they are able to acquire one 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.

E. REVIEW OF APPLICATION

- 1. Prequalification Committee – The Construction Manager and the Project Manager shall agree upon the members of the Construction Manager's Prequalification Committee. The Prequalification Committee will review prequalification applications submitted by the firms and will determine prequalification eligibility for the CM at Risk project.
- 2. Review of Applications – The Construction Manager and the Project Manager shall develop scoring values for items D.1a-i listed above, and a minimum required score to be prequalified for the project. The prequalification criteria shall not require the firm to have previously been awarded a construction or repair project by the Construction Manager or the town.
- 3. Notice of Decision – The Project Manager shall promptly notify the firms of the Prequalification Committee's decision via email. 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 appeal the denial of prequalification.

F. APPEALS PROCEDURE

- 1. A firm may appeal the denial of prequalification as noted below:
 - a. Written Appeal – A written appeal may be filed via hand delivery or email to the Prequalification Committee representative within three business days of receipt of notice that the firm has been denied prequalification. The written appeal shall clearly articulate the reasons why the firm is contesting the denial and attach all documents and additional information supporting the firm's position. The Prequalification Committee may contact the firm regarding the information provided prior to ruling on the appeal. If the Prequalification Committee is satisfied that the firm should be prequalified, the firm shall be notified that it is prequalified to bid on the project and allowed to participate in the bid process. If the Prequalification Committee upholds its denial, the firm shall be promptly notified via email.
 - b. Hearing – The firm may appeal the Prequalification Committee's decision on the written appeal by requesting a hearing before the Prequalification Committee via hand delivery or email within three business days of the receipt of the Prequalification Committee's decision. The hearing shall be held within five business days. The firm shall not be allowed to submit additional information without the written consent of the Prequalification Committee. The firm shall be allowed thirty minutes for the hearing. In the event the Prequalification Committee is unable to hold a hearing in a timely manner, the committee may designate the Construction Manager to handle the appeal.
 - c. Decision – The decision of the prequalification Committee or the Construction Manager shall be final, and the firm shall be promptly notified of the decision via email.

2. General Rules for Appeals – Firms submitting applications shall be provided an email address for communication with the Construction Manager during the appeal process. The firm shall provide at least two email addresses for use by the Construction Manager in communicating with the firm. In the event the Prequalification Committee or the Construction Manager is unable to schedule a hearing or render a decision prior to the bid date, the firm shall be allowed to submit a bid on the project subject to a final decision on the appeal. If the firm's bid is opened prior to a final decision on the appeal and the bid is not the lowest responsive, responsible bid for the project, the appeal shall be terminated and rendered moot.

3. Public Records – All documentation submitted to the Prequalification Committee or the Project Manager is subject to the North Carolina Public Records Law.