

REGULATION

OF

DEPARTMENT OF ADMINISTRATIVE SERVICES

ConcerningThe Prequalification and Evaluation of Contractors

Section 1. The Regulations of Connecticut State Agencies are amended by adding sections 4a-100-1 to 4a-100-3, inclusive, as follows:

(NEW) Section 4a-100-1.

(a) Definitions.

As used in sections 4a-100-1 to 4a-100-3, inclusive, and section 4a-101-1 of the Regulations of Connecticut State Agencies:

- (1) "Aggregate work capacity rating" means "aggregate work capacity rating," as defined in section 4a-100 of the Connecticut General Statutes;
- (2) "Applicant" means any person or entity applying for prequalification to the department pursuant to section 4a-100 of the Connecticut General Statutes;
- (3) "Application" means the documents that an applicant submits to the department, in such form and including such content as the Commissioner determines to be necessary or appropriate for the purpose of seeking prequalification;
- (4) "Awarding authority" means a public agency that has entered into a contract with a prequalified contractor;
- (5) "Commissioner" means the Commissioner of Administrative Services or the Commissioner's authorized designee;
- (6) "Contract" means "contract," as defined in section 4a-101 of the Connecticut General Statutes;
- (7) "Department" means the Department of Administrative Services;
- (8) "Experience modification rating" means the rating that is calculated using data provided by the applicant's insurance company by comparing the actual losses charged to the applicant during the experience period with the losses that would be expected for an average employer reporting the same exposures in each classification;
- (9) "Prequalified contractor" means a contractor who has obtained prequalification from the department in accordance with section 4a-100 of the Connecticut General Statutes;
- (10) "Prequalification" means "prequalification," as defined in section 4a-100 of the Connecticut General Statutes;
- (11) "Principals and key personnel" means "principals and key personnel," as defined in section 4a-100 of the Connecticut General Statutes;
- (12) "Project" shall include public or private work;
- (13) "Public agency" means "public agency," as defined in section 4a-101 of the Connecticut General Statutes;
- (14) "Single project limit" means "single project limit," as defined in section 4a-100 of the Connecticut General Statutes;
- (15) "Subcontractor" means "subcontractor," as defined in section 4a-100 of the Connecticut General Statutes; and
- (16) "Substantial subcontractor" means "substantial subcontractor," as defined in 4a-100 of the Connecticut General Statutes.

(NEW) Sec. 4a-100-2. Procedure for Prequalification.

The procedure for prequalification shall consist of the following:

- (a) The applicant shall establish a user name and password at a link designated for contractor prequalification on the Department of Administrative Services website.

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- (b) The applicant shall respond to the preliminary questions on the on-line application form, after which the department shall include the applicant's name and contact information on the DAS Contractor Prequalification directory.
- (c) The applicant shall pay a non-refundable application fee. The fee owed by each applicant shall be based on the aggregate work capacity rating requested by the applicant, as set forth in section 4a-100 of the Connecticut General Statutes.
- (d) The department shall review only complete applications. An application shall be complete only after the applicant submits it on-line and pays the applicable fee, and the department subsequently receives all requested documentation, including completed contractor evaluations.
- (e) If all the criteria for prequalification, as set forth in section 4a-100-3 of the Regulations of Connecticut State Agencies, are satisfied, the department shall issue a determination of prequalification in accordance with subsection (h) of section 4a-100 of the Connecticut General Statutes.
- (f) The department shall issue an electronic certificate indicating the applicant's name and contact information, the prequalification classification or classifications, the expiration of certification, the aggregate work capacity rating and the single project limit.
- (g) The applicant may seek to be prequalified in one or more of the following prequalification classifications:
 - (1) Alarm Systems;
 - (2) Asbestos Removal;
 - (3) Carpentry/Millwork;
 - (4) Concrete;
 - (5) Concrete: Precast Structural and Architectural;
 - (6) Construction Manager At Risk (Group A);
 - (7) Construction Manager At Risk (Group B);
 - (8) Construction Manager At Risk (Group C);
 - (9) Demolition;
 - (10) Doors and Windows;
 - (11) Drywall and Acoustical;
 - (12) Electrical;
 - (13) Elevators;
 - (14) Energy Management Systems;
 - (15) Fire Protection Sprinkler Systems;
 - (16) Floor Covering;
 - (17) General Building Construction (Group A);
 - (18) General Building Construction (Group B);
 - (19) General Building Construction (Group C);
 - (20) General Trades;
 - (21) Historical Building Restoration (Masonry, Roofing);
 - (22) HVAC;
 - (23) Iron: Structural and Miscellaneous;
 - (24) Lead Abatement;
 - (25) Lockers;
 - (26) Masonry;
 - (27) Mechanical insulation;
 - (28) Metal Siding;
 - (29) Painting;
 - (30) Plumbing;
 - (31) Roofing;
 - (32) Scaffolding;
 - (33) Sewer and water lines;

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- (34) Sheet metal;
- (35) Sitework;
- (36) Telecommunications Systems;
- (37) Toilet Partitions, Toilet Accessories;
- (38) Tunneling;
- (39) Waterproofing;
- (40) Water treatment plants; or
- (41) Any additional classification established by the department as the Commissioner deems to be necessary in order to effectuate the requirements of section 4b-91 of the Connecticut General Statutes.

(h) The applicant's aggregate work capacity rating for purposes of prequalification under sections 4a-100 and 4a-101 of the Connecticut General Statutes shall be determined by the bonding capacity supported by the applicant's bonding company, documentation of which shall be produced by the applicant as set forth in section 4a-100-3(a)(6)(B) of the Regulations of Connecticut State Agencies. The aggregate work capacity rating requested by the applicant shall not exceed the amount for which the applicant is supported by its bonding company.

(i) The applicant's single project limit level for purposes of prequalification under sections 4a-100 and 4a-101 of the Connecticut General Statutes shall be determined by the bonding capacity supported by the applicant's bonding company, documentation of which shall be produced by the applicant as set forth in section 4a-100-3(a)(6)(B) of the Regulations of Connecticut State Agencies. The single project limit requested by the applicant shall not exceed the amount for which the applicant is supported by its bonding company. The single project limit requested by the applicant shall not exceed the aggregate work capacity rating requested by the applicant or the aggregate work capacity supported by the applicant's bonding company.

(NEW) Sec. 4a-100-3. Criteria for Prequalification.

(a) The Commissioner shall determine whether to prequalify an applicant on the basis of the following criteria:

- (1) Record of performance. The applicant shall provide written or electronic evaluations for completed projects for each classification for which it is seeking prequalification, as requested in the application. The applicant itself, and not through any subcontractors or other third parties, shall have performed all of the work for each classification for which the applicant seeks prequalification. The applicant shall submit the evaluations on the standard contractor evaluation form established by the Commissioner pursuant to section 4a-101-1 of the Regulations of Connecticut State Agencies.
- (2) Experience. The applicant shall describe with specific details, as requested in the application, its most recently completed projects for each type of classification for which it is seeking prequalification. In detailing the projects, the applicant shall include projects that demonstrate that the applicant is experienced with the type and size of projects for which it is seeking prequalification.
- (3) Skill, ability and integrity of applicant and subcontractors, including substantial subcontractors.

(A) The department shall evaluate the applicant's skill, ability and integrity on the basis of the content of the completed application, any relevant completed contractor evaluations in the department's possession and such other information the Commissioner receives that has a direct bearing on the applicant's skill, ability or integrity. The applicant shall list, as requested in the application, its most recently completed projects that demonstrate its level of skill and ability to perform work in

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the classification or classifications for which it is seeking prequalification.

Completed contractor evaluations for the projects listed by the applicant shall be included with the application.

- (B) The department shall evaluate the performance of subcontractors, including substantial subcontractors, used by the applicant on the projects listed on the application on the basis of the information that the department receives from the contractor evaluations and such other information the Commissioner receives that has a direct bearing on the skill, ability, or integrity of the subcontractor or substantial subcontractor.
- (4) Experience and qualifications of supervisory personnel. The applicant shall provide all of the information relating to supervisory personnel and principals and key personnel employed by the applicant requested in the application. The department shall evaluate the experience and qualifications of supervisory personnel on the basis of the completed application and such other information the Commissioner receives that has a direct bearing on the experience and qualifications of the supervisory personnel, principals and key personnel employed by the applicant.
- (5) Maximum amount of work the applicant can undertake. The applicant shall demonstrate the amount of work that the applicant is capable of undertaking by providing the following information, as set forth in the application:
- (A) The financial condition of the applicant. The applicant shall provide all of the information relating to the applicant's financial condition requested in the application, including a statement of financial condition prepared by a certified public accountant for the applicant's most recently completed fiscal year. In the application, the applicant shall indicate the aggregate work capacity and single project limit for which it is bonded, and for which it is requesting prequalification; and
- (B) The size of its past projects and present and anticipated work commitments. The applicant shall indicate the nature and dollar amount of its past projects and present and anticipated work commitments.
- (6) Other relevant criteria. The applicant shall also provide the following information:
- (A) Information about the applicant's safety practices, specifically:
- (i) Its experience modification rating for the current year, as requested in the application;
 - (ii) Information about citations for violations of the Occupational Safety and Health Act of 1970, as amended; and
 - (iii) Information about its safety meetings, safety inspections and safety manual.
- (B) A letter from the applicant's bonding company, stating the applicant's bonding capacity, including the applicant's aggregate work capacity and single project limit;
- (C) A status letter (commonly referred to as a "letter of good standing") from the Department of Revenue Services;
- (D) Confirmation that the applicant possesses all such current licenses or registrations as are required under state and federal law for the classifications for which the applicant seeks prequalification;
- (E) Confirmation that the applicant is currently registered with the office of the Connecticut Secretary of State and has filed its Annual Report in accordance with the Secretary of State's requirements; and
- (F) A fully executed signature sheet, as requested in the application.

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- (b) Each of the criteria set forth in subsection (a) of this section shall have separate designated numerical values and weights as determined by the department. The applicant shall be assigned an overall numerical rating on the basis of all criteria.

Section 2. The Regulations of Connecticut State Agencies are amended by adding section 4a-101-1, as follows:

(NEW) Sec. 4a-101-1. Standard Contractor Evaluation Form.

- (a) The department shall establish a standard contractor evaluation form that each awarding authority shall complete in accordance with subsection (b) of section 4a-101 of the Connecticut General Statutes for each prequalified contractor who performed work on a contract.
- (b) The standard contractor evaluation form shall include the following categories:
- (1) Project management. The awarding authority shall evaluate the contractor's project management on the basis of the following criteria:
 - (A) Adequacy of oversight of the project;
 - (B) Knowledge of the work performed;
 - (C) Adequacy of the staffing of the project, including supervision of the work area;
 - (D) Accuracy and timeliness of billings;
 - (E) Efforts to mitigate extra costs, including change orders, and to minimize changes;
 - (F) Number and cause of extra costs, including change orders;
 - (G) Reasonableness and timeliness of notice of extra costs, including change order proposals; and
 - (H) Payment to subcontractors, including substantial subcontractors, in accordance with contract terms.
 - (2) Scheduling. The awarding authority shall evaluate contractor's timeliness of performance on the basis of the following criteria:
 - (A) Submission of project schedules and updates;
 - (B) Adequacy of project schedules and updates; and
 - (C) Adherence to project schedules, including project completion.
 - (3) Performance. The awarding authority shall evaluate the contractor's performance on the basis of the following criteria:
 - (A) Responsiveness to the awarding authority's directives;
 - (B) Timeliness and adequacy of coordination/shop drawings;
 - (C) Timeliness and adequacy of progress reports, including progress photographs;
 - (D) Understanding of and compliance with contract terms by the contractor;
 - (E) Understanding of and compliance with contract terms by each subcontractor, including substantial subcontractors, under the supervision of the contractor, to the extent known by the official who completes the evaluation;
 - (F) Cooperation and communication with awarding authority and other parties of interest, including other contractors and subcontractors, including substantial subcontractors;
 - (G) Adherence to plans and specifications by the contractor;

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- (H) Adherence to plans and specifications by each subcontractor, including substantial subcontractors, under the supervision of the contractor, to the extent known by the official who completes the evaluation; and
 - (I) Ability to work within the contract's allotted costs.
- (4) Safety. The awarding authority shall evaluate the contractor's safety on the basis of the following criteria:
- (A) Adequacy of the contractor's safety program;
 - (B) Adherence to the contractor's safety program;
 - (C) Adherence to Occupational Safety & Health Administration's requirements;
 - (D) Project site cleanliness; and
 - (E) Adherence to security, health and safety rules of awarding authority.
- (5) Project operations and close-out. The awarding authority shall evaluate the contractor's project operations and project close-out on the basis of the following criteria:
- (A) Quality of the work performed by the contractor;
 - (B) Quality of the work performed by each subcontractor, including substantial subcontractors, under the supervision of the contractor, to the extent known by the official who completes the evaluation;
 - (C) Availability and adequacy of materials and equipment to perform work;
 - (D) Execution of site logistics;
 - (E) Responsiveness regarding correction of punch list items and unacceptable work;
 - (F) Frequency and number of inspections required to comply with code requirements and to complete work; and
 - (G) Compliance with terms and conditions of the contract regarding start-up of equipment and system commissioning, limits of operations and project close-out.
- (6) Legal compliance. The awarding authority shall evaluate the contractor's legal compliance on the basis of the following criteria:
- (A) Compliance with applicable environmental requirements and regulations by the contractor;
 - (B) Compliance with state and federal labor laws, including prevailing wage rates, by the contractor;
 - (C) Compliance with applicable affirmative action and equal employment opportunity requirements by the contractor;
 - (D) Compliance with contractor requirements established by the Connecticut Commission on Human Rights and Opportunities by the contractor;
 - (E) Compliance with applicable environmental requirements and regulations by each subcontractor, including substantial subcontractors, under the supervision of the contractor, to the extent known by the official who completes the evaluation;
 - (F) Compliance with state and federal labor laws, including prevailing wage rates, by each subcontractor, including substantial subcontractors, under the supervision of the contractor, to the extent known by the official who completes the evaluation;
 - (G) Compliance with applicable affirmative action and equal employment opportunity requirements by each subcontractor, including substantial subcontractors, under the supervision of the contractor, to the extent known by the official who completes the evaluation; and
 - (H) Compliance with contractor requirements established by the Connecticut Commission on Human Rights and Opportunities by each subcontractor, including

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substantial subcontractors, under the supervision of the contractor, to the extent known by the official who completes the evaluation.

- (c) Except for contractor evaluation forms that are submitted as part of an applicant's application for prequalification (which shall be reviewed in accordance with sections 4a-100-2 and 4a-100-3 of the Regulations of Connecticut State Agencies), the department shall not consider or retain contractor evaluation forms that are completed in connection with projects that do not conform to the definition of "contract," as defined in 4a-100-1 of the Regulations of Connecticut State Agencies.

Statement of Purpose: To comply with the provisions of the Connecticut General Statutes, Sections 4a-100 and 4a-101 which require the Department of Administrative Services to adopt regulations regarding the prequalification and evaluation of contractors. In summary, these regulations establish (1) the procedures for applying for prequalification; (2) the criteria upon which the Department of Administrative Services shall determine whether to prequalify an applicant; (3) the prequalification classifications, aggregate work capacity ratings and single project limits; and (4) a standard contractor evaluation form. The legal effect of these regulations is to implement the provisions of sections 4a-100 and 4a-101 and to provide greater specificity regarding the application and evaluation processes.

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CERTIFICATION

Be it known that the foregoing: (check one) x Regulations [] Emergency Regulations

Are: x Adopted [] Amended as hereinabove stated [] Repealed

By the aforesaid agency pursuant to:

x Section 4a-100 and 4a-101 of the General Statutes.

[] Section of the General Statutes, as amended by Public Act No. of the Public Acts (enter year)

[] Public Act Number of the Public Acts. (enter year)

(If applicable) After publication in the Connecticut Law Journal on March 25, 2008 of the notice of proposal to:

x Adopt [] Amend [] Repeal such regulations

(If applicable) And the holding of an advertised public hearing on

WHEREFORE, the foregoing regulations are hereby:

x Adopted [] Amended as hereinabove stated [] Repealed

EFFECTIVE: (check one, and complete as applicable)

x When filed with the Secretary of the State (OR)

[] The day of 20.

Table with 4 columns: In Witness Whereof, DATE, SIGNED (Head of Board, Agency or Commission), OFFICIAL TITLE, DULY AUTHORIZED. Includes a row for Attorney General approval.

For Regulation Review Committee Use

- [] Approved
[] Disapproved
[] Disapproved in part, (Indicate Section Numbers disapproved only)
[] Rejected without prejudice

Table with 3 columns: By the Legislative Regulation Review Committee in accordance with Section 4-170, as amended, of the General Statutes., DATE, SIGNED (Administrator, Legislative Regulation Review Committee)

Two certified copies received and filed, one such copy forwarded to the Commission on Official Legal Publications in accordance with Section 4-172, as amended, of the General Statutes.

Table with 3 columns: DATE, SIGNED (Secretary of the State), BY

INSTRUCTIONS

- 1. One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his/her determination of legal sufficiency. (Section 4-169 of the General Statutes.)
2. Original and eighteen copies of all regulations for adoption, amendment or repeal must be presented to the standing Legislative Regulation Review Committee for its action. (Section 4-170 of the General Statutes.)
3. Each regulation must be in the form intended for publication and must include the appropriate regulation section number and section heading. (Section 4-172 of the General Statutes.)
4. Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language in capital letters and deleted language in brackets. (Section 4-170 of the General Statutes.)

Additional information regarding rules and procedures of the Legislative Regulation Review Committee can be found on the Committee's web site: http://www.cga.ct.gov/rr/