

Wisconsin Department of Transportation
POLICY ON PREQUALIFICATION OF BIDDERS
March 2024

GENERAL

Pursuant to authority extended by Section 66.0901(2), Wisconsin Statutes, and in accordance with applicable specifications, all persons proposing to bid on work to be contracted for by the Department of Transportation will be required to establish proof of their competency and responsibility before forms for bid proposals for any such work will be delivered to any such person, unless in the advertisement for bids this requirement is specifically waived.

Each such person will for these purposes file with the Department one copy of a current statement, under oath, on a form prescribed and provided by the Department, which will fully reflect the financial ability, adequacy of plant and equipment, organization, prior experience, and any other pertinent information as may be necessary or desirable to establish the competency and responsibility of the applicant.

In accordance with this section of the statutes, such statement will be filed with the Division of Transportation System Development, Bureau of Project Development during normal working hours, not less than 10 business days prior to the time set for the opening of the bids. The contents of such statement will be confidential and will not be disclosed except upon written order of the person filing the same, or in cases of litigation against or by such person or the Department.

Complete information must be furnished each time a new statement is submitted. All schedules will be completed, and all questions answered. Unusual circumstances in connection with any item are to be fully explained either in the statement or in a separate memorandum attached thereto. Schedules and questions which are not applicable will be so indicated in the statement. Failure to show the information called for may result in a greatly reduced rating or no rating at all. Determination of acceptability of information submitted will be at the sole discretion of the Department.

From the information provided by such statement, the Department will establish ratings for the applicant, which will determine the amounts and classifications of work on which the applicant will be eligible to bid and have under contract and incomplete at any one time. Contract awards may be made in excess of such ratings upon request of the applicant and when in the judgment of the Department the best interest of the state will be served thereby.

Prequalification ratings, except as specifically extended, withdrawn, or reduced by the Department, will be on a biennial basis and expire two years and four months after the date of the financial statement, as shown in the current Prequalification Statement on file. Prequalification ratings for joint ventures will expire on the expiration date of the firm with the latest fiscal year end providing there is no more than six months between the fiscal year ends of the firms forming the joint venture. Extension of an expiration date for unusual circumstances will be considered upon written requests to the Department. Notification of assigned ratings will be issued in writing.

Ratings will be established for the following scope and classes of work in a manner hereinafter described.

MAXIMUM CAPACITY RATING

The maximum capacity rating will establish the combined value of all work including subcontracts of all classes which a bidder may be awarded and have under contract and incomplete at any one time. The ratings for individual classes of work are not cumulative or transferable and will not be limited in a total sum to the maximum capacity rating, but maximum capacity rating will govern when more restrictive than individual work ratings.

WORK RATINGS

Work ratings established for the following individual classes of work will establish the maximum value of work in the particular classification which the applicant may be awarded, except in cases where the ratings assigned have been limited as requested by the applicant. In these cases, ratings will not be assigned in excess of amounts requested, but requests for proposals for individual jobs may be honored and bids accepted in excess of such limited ratings up to the amounts which would be assigned under normal procedure.

- A. GENERAL CONSTRUCTION. The construction of a complete unit of work to include grading, subbase, base, structures, asphaltic or concrete pavement and incidental items, or any combination thereof, as may be required in the proposal.
- B. GRADING. The construction of earthwork, including drainage structures, crushed aggregate base course, and such other associated construction included in the proposal.
- C. CONCRETE PAVEMENT. The construction of the portland cement concrete base or pavement, including the grading, drainage structures, and other associated construction included in the proposal.
- D. ASPHALTIC PAVEMENT. The construction of all types of asphaltic surface courses to include plant mix, road mix, and the application of bitumen, and other associated construction included in the proposal.
- E. GRAVEL AND CRUSHED STONE. The construction of crushed aggregate base, shoulder or surface courses and such other associated work as may be included in the proposal.
- F. STRUCTURES. The construction of masonry, steel, or timber bridges, viaducts, culverts, railroad bridges, and such incidental construction, including approaches thereto when included in the proposal.
- G. RAIL CONSTRUCTION OR REHABILITATION. The construction or rehabilitation of a section of track to include all or a part of the grading, drainage structures, ballasting, laying or replacement of rail, ties, turnouts and crossings, and incidental items, or any combination thereof, as may be required and as included in the proposal. In extending ratings under this category, the Department reserves the right to consider recommendations of the particular railroad company.
- H. BRIDGE PAINTING. Work involving the painting of structures and all work incidental thereto and any other work as may be included in the proposal.
- I. STREET OR AIRPORT LIGHTING. Work involving trenching and underground duct work, placing electrical cable on and/or under the ground, placing light bases

and fixtures, furnishing and stalling visual and instrument aids to navigation (i.e. VASI, REIL, VOR, NDB, ILS/ALS, etc.), to include generators, regulators, transformers and related equipment as required.

- J. BUILDING CONSTRUCTION. General construction involving construction of a public building.
- K. INCIDENTAL CONSTRUCTION. Work involving sidewalks, curb and gutter, small concrete structures, storm sewers, guard rail, fencing, pavement marking, furnishing and planting of plant materials, cutting and spraying weeds, lighting, signing, signals, and other work of a minor or incidental character.

PREQUALIFICATION STATEMENT.

The Prequalification Statement is intended to develop information upon which the Department will be able to determine the appropriate qualifications and ratings of the applicant to bid upon and contract for work undertaken by the Department. It is essential, therefore, that all the pertinent information is shown in the manner in which it is desired.

At its discretion, the Department may return to the applicant for correction, incomplete or improperly prepared forms, or it may consider deficiencies to reflect an unwillingness on the part of the applicant to supply full information and may evaluate the statement accordingly.

In the spaces provided for the maximum capacity rating and for each individual classification of work, the applicant will indicate the maximum amount of rating desired, having in mind that the applicant will be obligated to contract for all work within such rating upon which the applicant may be determined to be the lowest responsible bidder at any particular letting.

The bidder may, by written notice prior to the time set for opening of bids, limit its total dollar volume of work or number of projects awarded for any letting, and the Department will determine which project or projects to award within those limits.

For the purpose of providing a basis upon which Prequalification ratings will be established as hereinafter set forth a "financial factor" will be determined by an evaluation of the applicant's balance sheet prepared in accordance with accounting principles generally accepted in the United States of America. The balance sheet must be prepared as of the end of the applicant's fiscal year. Statements as of any other dates will not be honored unless requested by the Department, except in the case of an initial submission, or an interim statement based on substantial reorganization or financial restructuring. In such cases a more current statement may be acceptable at the discretion of the Department. The financial factor will be the summation of the allowances for assets less the summation of deductions for liabilities as reflected by the balance sheet.

The allowances for assets will be as follows:

- ◆ 100 percent of current assets, cash surrender value of life insurance, and two times the net book value (GAAP Basis) of construction equipment.
- ◆ 60 percent of non-current investments, non-current receivables, and the net book value of plant and equipment, exclusive of construction equipment.
- ◆ 100 percent of net book value of real property.
- ◆ No allowance for operating leases.

The deductions for liabilities will be as follows:

- ◆ 100 percent of current liabilities excluding current portion of operating leases.
- ◆ 60 percent of non-current liabilities excluding long-term portion of operating leases.

The asset allowance for real property will be adjusted to 100 percent of equalized valuation upon submission of proper documentation. A sample form for this purpose will be sent on request.

The financial factor ascertained as set forth above will be used as the base upon which to extend the maximum capacity and the work ratings.

If a rating of more than \$500,000 is desired, the balance sheet must be audited or reviewed by a Certified Public Accountant following applicable professional standards. If the independent Certified Public Accountants report is not submitted or if the qualifications or exceptions contained in the report are deemed to materially effect the reliability of the indicated financial position, ratings will be limited to \$500,000 or less; or at its option the Department may decline to extend a rating.

When the balance sheet of a subsidiary company has not been audited or reviewed, the subsidiary entity may not receive a rating of more than \$500,000. If the parent company's balance sheet has been audited or reviewed and the subsidiary's balance sheet has not, the parent company may submit an audited or reviewed balance sheet and guaranty the performance of its subsidiary. The ratings will be based on the lower financial factor of the subsidiary company or the parent company. A sample form for this purpose will be sent on request.

The entity for the balance sheet submitted must match the entity that is prequalifying to bid. A consolidated financial statement for the prequalifying entity including the position of subsidiary and variable interest entities will be considered to meet this requirement. A variable interest entity consolidated by the prequalifying contractor, subsidiary, or any affiliate will require a guaranty. Combined financial statements including affiliated entities will not be considered unless all of the affiliated entities have otherwise met the requirements for affiliated entities stated below.

The Department will consider of the value of assets held in affiliated entities that support the operations of a prequalifying contractor. The assets of the affiliated entity will be considered when calculating the contractor's financial factor if the following conditions are met:

- The companies are affiliated through common ownership.
- The affiliated entity is not prequalified with the Department or directly competing for work in the same industry as the prequalifying contractor.
- The affiliated entity's assets and operations support the operations of the prequalifying contractor.
- The affiliated company executes a document guarantying the contracts of the prequalifying contractor. A sample form for this purpose will be sent on request.

An audited or reviewed balance sheet, supporting financial schedules (including supporting schedules 1 through 4) for each affiliated entity must be included with the prequalifying company's prequalification statement. A combined balance sheet including the prequalifying contractor and affiliated entities will be considered if all of the affiliated entities meet the above

requirements. Assets and liabilities of affiliated entities will be considered using the same allowances and deductions used to determine the financial factor for the prequalifying contractor.

ASSIGNMENT OF RATINGS

The maximum capacity rating will generally be established on the basis of three times the financial factor. Normally this "work rating" would gradually and uniformly increase based on continuously satisfactory experience with the Department. Work ratings for General Construction will be established on the basis of the applicant's experience, equipment, and financial and organizational ability to perform substantial portions of the various classes of work ordinarily associated with general highway contracts.

Ratings for classes of work for which an applicant is particularly equipped and experienced will generally be established on the basis of three times the financial factor. This factor will be appropriately reduced where the applicant is equipped and experienced to perform only a portion of the class of work involved.

Ratings for classes of work for which no equipment is shown as owned or controlled and under which no work has been performed will be established on whichever of the following conditions is most restrictive:

- a. one-third of the maximum capacity rating.
- b. rating of \$500,000.

The rating factor may be increased when the financial factor consists of a high percentage of current assets and the applicant has established a satisfactory record in the performance of work, and may be increased to a maximum value of ten when the applicant's performance record has been continuously outstanding.

The rating factor may be decreased at the discretion of the Department on the basis of the applicant's experience and performance.

REVISION OF QUALIFICATION

The Department may at any time during which a rating is in effect request a new statement, and if the same is not forthcoming within a reasonable length of time, the rating held will be considered forfeited, and the party concerned will not be permitted to bid until such new statement has been received and acted upon by the Department.

The Department reserves the right, upon reasonable notice, of reviewing a contractor's records. The records of a representative number of contractors may be audited annually. If such review discloses that erroneous or misleading information has been filed by the contractor, appropriate disciplinary measures may be taken.

PREQUALIFICATION REVIEW

A bidder dissatisfied with the Prequalification rating assigned may, in writing, request the Qualifying Committee to review the previous determination. The Department may require the applicant to file further evidence to substantiate such claim. Such requests must be in writing and will be filed with the Director, Bureau of Highway Construction, Division of Transportation Infrastructure Development.

BIDDING PROCEDURE

Prequalification Statements will be on file with the Department in sufficient time to permit proper analysis and consideration of the same, and to obtain confirmation or verification of the statements set forth therein, and in any event not less than 10 business days prior to the time set for the opening of the bids. Prequalification must be in effect as of the day of the letting.

Proposals will be furnished to prospective bidders, upon written application on a form furnished by the Department, for their use in bidding upon a particular project or projects. Such proposals, if tendered as a bid by any party other than the one to whom originally issued, will be considered irregular and void. Any erasure or alteration appearing on the designation of the party to whom issued will be considered prima facie evidence of noncompliance hereof and may render such proposal irregular.

Proposals issued for information only will be marked "SAMPLE, not for bidding purposes," and will not be accepted as a bid.

The contract amount of all incomplete work under supervision of the Department of Transportation and ALL other incomplete work IN or OUT OF STATE, as either principal or subcontractor, and based on the latest current engineer's, architect's or owner's estimate, will be shown on the form for requesting proposals. Failure to supply information as to incomplete work may result in disqualification of the bidder.

The commitment of personnel and equipment on a payroll or rental basis for the performance of definite and specific work will be reported as work on hand even though no formal contract exists. The amount of all incomplete work will be used in determining the balance of work for which the applicant may receive bidding proposals, except that in establishing the net rating for bidding additional work, the prime contractor upon specifically reporting, will be given credit for the value of all work officially sublet to other contractors.

SPECIAL PERMISSION

Unusual conditions as specifically presented by a prospective bidder will be given due consideration, and when justified, special permission may be extended to bid in excess of the assigned rating for any specific project. Requests for special permission will be in writing and will be acted on by the Department.

PROPOSAL REVIEW PROCEDURE

The Department reserves the right to withhold the issuance of a proposal or proposals for the prospective work to a prospective bidder, even though the same is within the applicant's rating, if the status of work under way is not up to the proper standard of progress or quality or if in the opinion of the Department satisfactory performance of such prospective work or work under way would be precluded if additional work were awarded. The prospective bidder will have the right to request a review of such decision provided such bidder makes a request in writing in sufficient time that reconsideration can be given. If such request is made, furnishing of additional data or proof may be required to indicate the capability of performing such additional work without prejudice or jeopardy to any work the applicant has or would have under contract. Initially the request for review will be directed to the Chief Proposal Management Engineer. If necessary, a further request for review and hearing may be directed to the Director, Bureau of Highway Construction. Any decision concluded upon such review will be considered final, or if no request for review is taken from an original finding, it is assumed that the prospective bidder accepts such original determination.

JOINT VENTURE

Prequalification applications of two or more persons or combinations of individuals, partnerships or corporations will be considered a joint venture. A group wishing to be qualified as a joint venture will submit a prequalification statement to that effect, and accompanied by a letter stating the intention to be prequalified and bid as a joint venture.

Individual applicants who are prequalified may bid as a joint venture on any particular project when approved by the Department. A sample form for this purpose is shown in Exhibit 2. Such requests must be submitted not less than 10 business days prior to the time set for the opening of the bids. If a contract is awarded to a joint venture, the total amount of incomplete work under that contract will be charged to each of the applicants when and if they should request subsequent bidding proposals on an individual basis unless they jointly declare in writing the specific percentage of contract value which they wish charged against the Prequalification rating for each of the respective parties. For this purpose, such percentage will be declared at the time of execution of the contract and will not be changed.

DISQUALIFICATION

The Department may revise, suspend or cancel Prequalification ratings or declare any bidder ineligible at any time prior to receiving either bids or the actual awarding of a contract, where there have been developments subsequent to qualification which in the Department's opinion would affect the responsibility of the bidder.

The submission of a falsified statement will render a prospective bidder ineligible for qualification.

The conviction for a violation of a state or federal law or regulation, or the rule or regulation of a federal department, board, or bureau, or of a state department, board or commission, may render a bidder ineligible to further bidding or subject to removal from the qualified list for such period of time as determined by the Department.

In cases involving collusion or restraint of trade situations, considerations to be applied in the determination of Prequalification suspension periods will include, but need not be limited to, the following:

1. Recommendation from the Governor's office.
2. Recommendation from the Attorney General's office.
3. Recommendations and actions of other state, municipal and federal agencies.
4. Extent of the contractor's involvement in the practice.
5. The relationships between individual officers and the company affiliations.
6. Severity of penalties, consent agreements, or other court actions.
7. Previously established precedent.
8. Cooperation, or lack thereof, displayed by the parties involved.
9. Legislative action which would dictate a specific decision.