

PREQUALIFICATION PROCESS POLICY STATEMENT AND PURPOSE

It is the policy of the Lee County Board of Commissioners to award contract through an open competition in bidding, consistent with North Carolina General Statutes, based on an impartial selection of contractors, integrity in business practices, and skillful performance of public contracts.

It is the policy of the County to award public building construction and repair contracts to the lowest, responsible, responsive bidder as provided by Article 8 of Chapter 143 of the North Carolina General Statutes.

It is the policy of the County to adopt an objective process for the prequalification of bidders on individual projects selected by the County and for all projects utilizing the Construction Manager at Risk delivery method in accordance with North Carolina General Statute 143-135.8.

It is the intent of this policy to impartially evaluate a contractor, and to properly determine by its responsible business practices, work experience, manpower, and equipment that it is appropriately qualified and experienced in construction, renovation and/or repair of public facilities.

A. Scope

This policy applies to the prequalification of contracts on projects selected for prequalification and subject to North Carolina General Statute 143-135.8.

The County shall be responsible for prequalifying individual contractors to bid on construction projects when the County believes prequalification is preferred. The County is not required to prequalify contractors for any particular project or projects. However, a contractor shall not be allowed to submit a bid on a construction policy subject to prequalification, unless it has been prequalified in accordance with this policy.

Notwithstanding the fact that a contractor was prequalified, the County reserves the right to reject a contractor's bid if the County concludes that a contractor has not submitted the lowest, responsible, responsive bid. The prequalification of a contractor shall not preclude the County from subsequently concluding that the contractor is not a responsible bidder pursuant to North Carolina General Statute 143-129. All construction and repair contracts shall be awarded to the lowest responsible and responsive bidder, taking into consideration quality, performance, and the time specified in the proposal for the performance of the contract.

B. Application

Firms who desire to bid on County projects requiring prequalification are required to complete an application by the deadlines established in the solicitation. An example of an application that

may be used by the County is attached as Exhibit A. The application used by the County or the CMR may differ from the attached, but it must be approved by the County's Assistant County Manager of Operational Services or designee. The application may address the following:

1. **Organizational Structure/Classification**-The firm shall provide a full list of 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 clear legible form. Firms experiencing changes in ownership, organizational structure, or material changes in assets must inform the County prior to the award of a contract. Failure of the firm to comply with this requirement may result in termination of any contract awarded by the County. The firm shall indicate the type(s) of work the firm's workforce and equipment normally perform, licensure, and other pertinent information. The firm shall provide its HUB (Historically Underutilized Business) status as classified by the NC Department of Administration HUB office. Only those firms identified as HUB/MWBE by the NC DOA HUB Office will be considered as such.
2. **Experience**-The firm shall furnish information that documents the ability of the firm to undertake a project involving the type(s) of work for which prequalification is requested.
3. **Financial**- Firms will be required to provide a minimum of one year of complete audited financial statements from the most current period available.
4. **Litigation/Claims**-Firms must provide information on its success at completing projects on time, including the payment of liquidated damages. The firm will be required to submit information regarding its litigation history, including litigation with owners.
5. **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. Firms shall also demonstrate an acceptable safety history for construction projects.
6. **Submitting**-The application is to be submitted to the County by the deadline established in the notice of prequalification. 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 County. The application is to be signed, notarized, and delivered to the address indicated.
7. **Additional Information**-Depending on the specific project, firms may be asked to provide additional information, such as specific project reference forms completed by the representative designer and owner and/or a complete current annual audited statement (current within the previous 12 month period).

C. Review of Application-County Bid Projects

1. Prequalification Committee-the County shall establish a committee to review prequalification applications submitted by contracting firms (“Prequalification Committee”). The County’s Prequalification Committee will review all information to determine the firm’s prequalification eligibility for the project.
2. Review of Applications-the Prequalification Committee shall use the County’s objective assessment process. The prequalification criteria shall not require the firm to have previously been awarded a construction or repair project by the County. The prequalification criteria used by the Prequalification Committee shall include prequalification scoring values and the minimum required score to be prequalified for the project. The County’s Prequalification Committee shall approve or deny the Applications in accordance with the prequalification criteria and scoring system.
3. Notice of Decision-The firms shall be promptly notified by Lee County’s Prequalification Committee’s decision in writing, including the reason for denial, sent by way of email to the firm. Notice shall be provided prior to the opening of bids for the project and with sufficient time for a firm to appeal a denial of prequalification and to submit a bid.

D. Review of Application-Construction Manager at Risk Projects

1. Prequalification Committee- The Construction Manager at Risk and County staff shall agree upon the members of the Construction Manager at Risk’s Prequalification Committee. The Construction Manager at Risk’s Prequalification Committee will review prequalification applications submitted by the firms and will determine the firm’s prequalification eligibility for the CM at Risk project.
2. Review of Applications- The Construction Manager at Risk’s Prequalification Committee and the County staff shall agree upon an objective assessment process with the criteria defined and associated weights assigned prior to any RFQ being reviewed. The Construction Manager at Risk and County staff shall develop prequalification criteria, including prequalification scoring values and the 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 at Risk or the County. The County’s Construction Manager at Risk’s Prequalification Committee shall approve or deny the Applications in accordance with the prequalification criteria and scoring system.
3. Notice of Decision- The firms shall be promptly notified of the Construction Manager at Risk’s Prequalification Committee’s decision, including the reason for denial, via e-mail. Notice shall be provided prior to the opening of bids for the project and with sufficient

time for the firm to appeal a denial of prequalification.

E. Appeals Procedure

A firm may appeal the denial of Prequalification as noted below:

1. **Written Appeal-** A written appeal may be filed via hand delivery to the Lee County Government Finance Department within three (3) business days (excluding County holidays) of receipt of notice that the firm has been denied prequalification. The written appeal must clearly articulate the reasons why the firm is contesting the denial and attach all documents and additional information supporting the firm's position. The Assistant County Manager of Operational Services will review the written appeal and all submitted documentation to make a final determination of the prequalification status of the firm. If the Assistant County Manager upholds the decision of the Committee, that decision shall be final. A written decision of the appeal will be provided to the firm via e-mail within five business days (excluding County holidays), of the submission of the appeal. If the firm is determined to have met prequalification status, it shall be given an opportunity to submit a bid on the project.
2. **Construction Manager at Risk Projects-** for CMAR projects, the Assistant County Manager of Governmental Operations shall notify the Construction Manager of Risk of its recommended decision. The CMAR shall review the recommended decision and issue a final decision to the County and firm. In the event the CMAR rejects a recommendation from the Assistant County Manager to prequalify the firm, the Construction Manager at Risk shall provide a written explanation of the denial to both the Assistant County Manger of Governmental Operations and the firm.
3. **General Rules for Appeals-** Firms submitting applications shall be provided an e-mail address for communication with the County on County bid projects or with the Construction Manager at Risk for CMAR projects during the appeal process. The firm shall provide at least two e-mail addresses for use by the County or CMAR in communicating with the firm for the applicable delivery method.