

700 CMR: DEPARTMENT OF TRANSPORTATION

700 CMR 14.00: PREQUALIFICATION OF CONTRACTORS AND SUBCONTRACTORS

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14.01: Definitions

- (1) Applicable to 700 CMR 14.00 *et seq.*:

Administrator, shall mean the administrator of the highway division as defined in M.G.L. c. 6C, §37. The Administrator shall from time to time issue necessary rules and directives to carry out the intent of M.G.L. c. 81, § 8B.

Chief Engineer, shall mean the chief engineer appointed pursuant to M.G.L. c. 6C, § 39(b).

Department, shall mean the Massachusetts Department of Transportation, established under M.G.L. c. 6C, § 1 *et seq.*

Division, shall mean the division of highways, as constituted under M.G.L. c. 6C, §§ 37 to 51.

Other Awarding Authority, shall mean any city, town, or awarding authority in the Commonwealth, other than the Department, that requires bidders to be prequalified in accordance with M.G.L. c. 81, § 8B in order to bid on a project, such as projects

- (1) that include State Funding Program participation,
- (2) that include work within a State Highway Right of Way regardless of funding sources, and
- (3) that otherwise require prequalification as a condition of award.

Prequalification Appeal Board, shall mean the appeal board authorized to hear appeals of decisions or determinations of the prequalification committee pursuant to M.G.L. c. 81, § 8B.

- (2) Applicable to 700 CMR 14.02 through 14.09 inclusive:

Application for Prequalification, shall mean the Contractor's statement, on forms provided by the Department, setting forth its Aggregate and Single Bonding Capacity, financial resources, adequacy of plant and equipment, organization, experience and other pertinent facts, and any other statement or information provided by the Contractor in connection therewith.

Aggregate Bonding Capacity, shall mean the highest total dollar amount of Performance and Labor and Material bonds a surety will provide to the Contractor for all contracts.

Class(es) of Work, shall mean the general definitions of, and prequalification requirements for, various classes of work established by the Prequalification Committee, which may be amended from time to time.

Contractor or Bidder, shall mean a person seeking to be prequalified in accordance with M.G.L. c. 81, § 8B, which shall include individuals, partnerships, associations, corporations, joint venturers, or other enterprises, and their representatives, trustees, or receivers appointed by any court of competent jurisdiction.

Experience, shall mean the number of years of relevant experience of the Contractor and its employees performing and successfully completing projects in one or more of the Classes of Work established by the Prequalification Committee.

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Informational Proposal Documents, shall mean the proposed plans and specifications and other materials showing the location and description of the contemplated work, provided solely for the purpose of an informal evaluation of a project. A bid will not be accepted based upon an Informational Proposal Documents.

Official Proposal Document, shall mean the plans and specifications showing the location and description of the contemplated work, an itemized proposal form listing the estimates of the various quantities of work to be performed and materials to be furnished, the time in which the work must be completed, and a Notice to Contractors or Instructions for Bidders and special provisions for the particular project, all of which are provided to a Prequalified Contractor identified on On-Line Bidding platform or a Department issued Official Bid list. A bid will only be accepted based upon an Official Proposal Document. Official Proposal Books are not transferable.

Prequalification Committee, shall mean a committee established within the Department in accordance with the provisions of M.G.L. c. 81, § 8B, consisting of at least three members of the engineering and construction staff, including the Director of Prequalification and the Chairperson, appointed by the Administrator.

Prequalified Contractor, shall mean a firm which has been prequalified by the Prequalification Committee, authorized to receive an Official Proposal Documents, and authorized to submit a bid if identified on a Department issued Official Bid list. For Design-Build Projects, only short-listed Prequalified Contractors are authorized to receive Official Proposal Documents and submit both technical and price proposals.

Project Value or Total Prequalification Project Value, shall mean the dollar value of the work under the contract as determined by the Department in its sole discretion, which shall include the value of any and all current and future option items included in the bid documents for the contract.

Single Bonding Capacity, shall mean the highest total dollar amount of Performance and Labor and Material bonds a surety will provide to the Contractor for any one contract.

Single Contract Limit, shall be maximum project value that the contractor can bid on within a particular class of work.

14.02: Application for Prequalification of Contractors

(1) General. Any Contractor proposing to bid on work under the direction of the Department or Other Awarding Authority for which prequalification is required, must furnish for approval by the Prequalification Committee a statement on forms provided by the Department setting forth its Aggregate Bonding and Single Bonding Capacity, financial information, adequacy of plant and equipment, organization, experience and any other pertinent facts as required.

(2) Confidentiality. All information furnished in any statement or Application for Prequalification by a Contractor shall be held in strict confidence by the Department and its agents, and shall be used only to determine the Contractor's Aggregate Bonding Capacity, Single Contract Limit(s) and the Class(es) of Work it shall be entitled to undertake in accordance with 700 CMR 14.00. No information contained in any such statement or Application for Prequalification shall be imparted or disclosed to any other person without the written consent of the Contractor.

(3) Out-of-State Contractors. All out-of-state Contractors must show proof of current registration with the Secretary of State by submitting a Certificate of Good Standing (Foreign Corporate Certificate) to do business in Massachusetts.

(4) Joint Ventures.

(a) Subject to the following provisions, two or more Contractors (Joint Ventures) may combine for occasional bidding purposes, by submitting a joint bid:

1. All Joint Ventures must be prequalified.

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2. At least one of the Joint Venturers must be Prequalified in the class of work specified in the contract documents.
 3. The Single Contract Limit of each Joint Venturer may be combined to establish the Single Contract Limit of the Joint Venture. The Single Contract Limits can only be combined when they are in the same class of work.
 4. The Aggregate & Single Bonding Capacity of each Joint Venturer may be combined to establish the Aggregate & Single Bonding Capacity of the Joint Venture.
 5. The Department shall require submission of a copy of the Joint Venture agreement or other information deemed necessary.
- (b) If continuous joint venture bidding is desired, a combined Application for Prequalification may be submitted. The Joint Venture shall be considered in effect for one year or until one of the joint venturers notifies the Department in writing that the joint venture is concluded.
- (5) Submitting an Application for Prequalification. A request for Prequalification will not be considered until a completed Application has been submitted. Applications for Prequalification shall be submitted at least 21 calendar days preceding the day set for opening of bids for work upon which a Contractor intends to bid. Completed applications for prequalification submitted less than 21 days preceding the date which is set for bids to be opened may not be executed or acted upon prior to the bid opening date. A Contractor may file a new Application for Prequalification at any time; however, no such Application for Prequalification need be considered by the Prequalification Committee if that Contractor's prequalification status has been modified, suspended or revoked following a determination by the Prequalification Committee in accordance with 700 CMR 14.05, until either the expiration of the period of the modification, suspension or revocation so determined by the Prequalification Committee, or the rendering of a decision favorable to that Contractor by the Prequalification Appeal Board in accordance with 700 CMR 14.07
- (6) Class of Work Desired. Each Contractor shall indicate, in the place provided in the Application for Prequalification, the particular Class or Classes of Work upon which it desires to be prequalified for bidding purposes; but such indication shall not be binding upon the Prequalification Committee in classifying a Contractor.
- (a) The Prequalification Committee may prequalify Contractors in one or more Classes of Work.
 - (b) The Classes of Work established by the Prequalification Committee, and the definitions of and/or the prequalification requirements of such Classes of Work may be amended by the Prequalification Committee from time to time.
 - (c) The Prequalification Committee may also establish additional Classes of Work for specialized contracts. Contractors will be notified of such special Classes of Work in the Notice to Contractors, Advertisement for Bids, or Instructions to Proposers for the particular project, and may apply for Prequalification in such special Classes of Work in accordance with 700 CMR 14.02(9).
- (7) Equipment. Contractors must show that they have appropriate and sufficient equipment available to satisfactorily perform the contemplated class or classes of work. In *lieu* of actual equipment on hand, the Contractor may show financial resources sufficient to provide the necessary equipment for the appropriate Class(es) of Work through a lease agreement for a period of not less than 12 months from the date of application, and must also provide a copy of any such lease agreement. In addition to a complete description, a statement as to the condition of each piece, owned or leased, of equipment may be required. The Department shall have the right to inspect all equipment in order to determine its operating condition.
- (8) Sureties. Contractor's Surety must be authorized to do business in the Commonwealth of Massachusetts and must be determined to be satisfactory by the Department. "Satisfactory", for the purposes of 700 CMR 14.02(8), shall mean rated B+ or better by A.M. Best Company and included on the United States Treasury Department's Listing of Approved Sureties (Department Circular 570), or such other evaluation as may be designated by the Department from time to time. The Contractor shall present, along with its Application for Prequalification, a letter from an authorized representative of the Surety setting forth the Contractor's Aggregate Bonding Capacity and Single Contract Limit and any limitations imposed thereon by the Surety. Signing authorization such as Power of Attorney or Attorney-in-Fact must accompany such letter.

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(9) Action on Requests for Prequalification. Each Contractor's Application for Prequalification shall be reviewed by the Prequalification Committee. The Prequalification Committee shall analyze each statement, verify, to the extent necessary, the information set forth therein, including the Contractor's Aggregate Bonding Capacity, and establish the Single Contract Limit(s) of the Contractor and the class(es) of work the Contractor shall be entitled to undertake. Whenever the Prequalification Committee is not satisfied with the sufficiency of the information contained in any Application for Prequalification it may require the Contractor to submit additional information and, pending the filing of such additional information, the Committee may refuse to allow the Contractor to bid on any work. The Committee may require a personal interview with principals and key employees of a Contractor when considering its qualifications. After receipt of a Contractor's Application for Prequalification and such other information as has been requested by the Prequalification Committee, the Prequalification Committee shall render its determination. This determination shall consist of either a Prequalification Certificate setting forth the Contractor's Aggregate Bonding Capacity, Single Contract Project Limit(s) and Class(es) of Work, or a written determination denying all or part of Contractor's Application for Prequalification. The determination of the Prequalification Committee shall be subject to the Contractor's right of appeal as set forth in 700 CMR 14.07.

(10) Subcontractors. The Prequalification Committee may apply any of the criteria described herein to evaluate the qualifications and performance of subcontractors proposing to perform subcontract work on projects of the Department and Other Awarding Authorities. Such evaluations may be considered by the Department and Other Awarding Authorities in making determinations on subcontractor approvals.

14.03: Aggregate Bonding Capacity and Single Contract Limits for Contractors

(1) Aggregate and Single Bonding Capacity. The Prequalification Committee shall verify the Contractor's Aggregate Bonding Capacity and Single Bonding Capacity, as is evidenced by a letter from the Surety's authorized representative in accordance with 700 CMR 14.02(8). Unlimited Aggregate Bonding Capacities shall not be allowed.

(2) Classes of Work. The Prequalification Committee may prequalify Contractors in one or more of the classes of work. The Classes of Work established by the Prequalification Committee, and the definitions of and/or the prequalification requirements of such Classes of Work, may be amended by the Prequalification Committee from time to time. The Prequalification Committee may also establish additional Classes of Work for specialized contracts. Contractors will be notified of such special Classes of Work in the Notice to Contractors, Advertisement for Bids, or Instructions to Proposers for the particular project, and may apply for Prequalification in such special Classes of Work in accordance with 700 CMR 14.02(9)

(3) Single Contract Limit. The Prequalification Committee may establish a Single Contract Limit for the Contractor in any Classes of Work for which the Contractor has been Prequalified. A Single Contract Limit may be established, if, in the opinion of the Prequalification Committee, the Contractor does not have adequate experience, responsibility, competency, or equipment necessary to undertake an individual contract valued at the Contractor's Single Bonding Capacity within that Class of Work. In establishing Single Contract Limits, the Prequalification Committee shall consider, but shall not be limited to considering, the Contractor's competency and responsibility, the amount and condition of its equipment, the experience of its principal or key personnel, its history of payment to subcontractors and material suppliers, and previous work experience.

(4) Duration of Prequalification Status. Prequalification certification shall remain in effect for a duration of time stipulated in the Prequalification Certificate with a maximum of 12 months as indicated in the Prequalification Certificate.

(a) The Prequalification Committee may revise the duration of a Contractor's Prequalification Status at any time.

(b) If a material change has occurred in the Contractor's bonding capacity surety, or financial condition, or if the Contractor has undergone any change in the name or structure of the firm, its officers, or ownership, written notice shall be given to the Prequalification Committee by the Contractor, whereupon a new Application for Prequalification or a letter verifying Contractor's Aggregate and Single Bonding Capacity shall be required and the

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Contractor's Prequalification status and Single Contract Limit(s) may be revised. Should the Aggregate or Single Bonding capacity of a Contractor change, a letter from the surety stating this fact must be submitted to the Prequalification Committee.

(c) The Prequalification Committee may at any time request, in writing, that the Contractor furnish additional information relative to its Prequalification status and Single Contract Limit(s). Such request shall set forth the reason such information is required. If the requested information is not filed within 30 days from date of such request, the Contractor's Prequalification Certificate may be revoked, and, if revoked, bids from the Contractor shall not be accepted.

(d) Requests by Contractors for the revision of Aggregate and Single Bonding Capacity, Single Contract Limits or for additional classes of work may be considered by the Prequalification Committee at any time. Unless otherwise approved by the Prequalification Committee, such requests must be submitted at least 21 calendar days prior to a bid opening in order to receive consideration for that bid opening.

(e) A Prequalification Certificate may be modified based on one or more of the reasons set forth in 700 CMR 14.06(1) and 14.06(3), or based on evaluations of the quality of the Contractor's performance by the Department or Other Awarding Authority, whether as a general contractor or subcontractor. The Department may establish procedures and forms to be used by the Department and Other Awarding Authorities to evaluate the Contractor's performance.

14.04: Proposal Forms and Limitation of Proposals for Contractors

(1) Plans and Specifications. The Notice to Contractors, Instructions to Bidders, or Advertisement for Bids shall specify the location where plans and specifications are available.

(2) Limitation of Proposals. Except for projects for which Prequalification is not required, an Official Proposal Document for a project with a Project Value greater than or equal to \$50,000 shall only be issued to Contractors that have been prequalified by the Prequalification Committee prior to the time of the bid opening, subject to the following:

(a) Prequalification must be in the specified class of work for said proposal and any Single Contract Limit in that specified class of work must be in an amount greater than or equal to the Project Value of the proposal.

(b) The Project Value for the proposal when added to the Contractor's incomplete work must not exceed the Aggregate Bonding Capacity established by the bidder's surety company and the Contractor must otherwise be in compliance with 700 CMR 14.00.

(c) If a Contractor is prequalified in the class of work for which a project is being bid, but the Project Value is above a Contractor's Single Contract Limit in that class of work, the Contractor may request and the Prequalification Committee may grant in its sole discretion a waiver to bid on the project if the Contractor's Single Bonding Capacity is above the Project Value.

(3) Official Proposal Documents. An Official Proposal Document with a Project Value amount less than \$50,000 may be issued to non-prequalified Contractors in the sole discretion of the Prequalification Committee. Such Contractors must complete, prior to obtaining the Official Proposal Documents, an Update Statement establishing that any uncompleted work under contract with the Department, when added to the project value of the proposal, equals less than \$50,000.

(4) Unofficial Proposal Documents. Unofficial Proposal Documents for a project with a Project Value greater than or equal to \$50,000 may be issued, upon request, to Contractors who have not been prequalified in accordance with 700 CMR 14.00.

14.05: Modification, Suspension, or Revocation of Prequalification Certification

(1) Procedure. The Prequalification Committee may modify, suspend, or revoke the Contractor's Prequalification certification if it determines that the Contractor may be ineligible for reasons including, but not limited to, the following:

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- (a) the Contractor is presently debarred from performing work of any kind under the provisions of M.G.L. c. 29, § 29F, or any other applicable debarment provisions of the Massachusetts General Laws or any rule or regulation promulgated thereunder; or
- (b) the Contractor is presently suspended or debarred from performing work of any kind under the laws of any state other than the Commonwealth of Massachusetts, or by any Federal agency or authority; or
- (c) there is reason to believe that the condition of the Contractor's firm is materially less favorable than at the time of its last Application for Prequalification; or
- (d) the Contractor does not have sufficient personnel, equipment, or sufficient assets to provide the necessary personnel, or to provide the necessary equipment either through purchase or lease agreements; or
- (e) the Contractor's performance on past or current work with the Department or Other Awarding Authorities is or has been deemed to be unsatisfactory including, but not limited to, the Department's evaluation of the quality of the Contractor's performance, whether as a general contractor or subcontractor, in accordance with the Record of Contractor's Performance (Form CSD-680); or
- (f) on current projects of the Department or Other Awarding Authorities, the Contractor frequently fails or has failed to pay its subcontractors or material suppliers in a timely manner; or
- (g) Multiple subcontractors of the Contractor for any projects currently under construction have, within any 12-month period, filed demands for direct payment with the Department in accordance with M.G.L. c. 30, § 39F and such demands have been determined by the Department to have merit; or
- (h) the Contractor has been convicted of a criminal offense involving embezzlement, theft, forgery, bribery, falsification of or destruction of records, receiving stolen property, violation of labor laws, or any other offense indicating a lack of business integrity or business honesty; or
- (i) the Contractor has willfully supplied materially false information incident to obtaining or attempting to obtain or performing any public contract or subcontract; or
- (j) the Contractor has a record of contract terminations for cause and/or invoked performance bonds, requiring the surety to honor the terms of the Contractor or its predecessors or its successors in interest; or
- (k) the Contractor has a record of excessive payment bond claims or direct payment claims; or
- (l) the Contractor has failed to obtain and/or maintain worker's compensation insurance for the proper classification(s) of work; or has a record of excessive workers' compensation injuries; or
- (m) the Contractor has failed to obtain and/or maintain any other mandatory insurance coverage; or
- (n) the Contractor has failed to maintain recordkeeping and accounting requirements prescribed by law or regulations; or
- (o) the Contractor has a record of willful or repeat safety or health violations, or has otherwise failed to adequately provide for the health, safety and/or security of the public during any project with the Department or any Other Awarding Authority; or
- (p) the Contractor has failed to properly implement or manage its health and safety protocols or has failed to properly train, oversee, and manage its workforce; or
- (q) the Contractor has failed to implement proper management and administrative controls to avoid the risk of harm to its employees, MassDOT staff, and the public; or
- (r) the Contractor has abandoned or is in the process of abandoning one or more contracted projects with the Department or any Other Awarding Authority; or
- (s) the Contractor is not otherwise an eligible and responsible Bidder capable of performing the work; or
- (t) the Contractor has multiple instances of submitting bids to the Department or Other Awarding Authority
 - (1) without being on the approved Prequalification list issued to the Other Awarding Authority;
 - (2) without presently being Prequalified;
 - (3) without being prequalified in the approved class of work for a project
 - (4) without requesting and obtaining an approved waiver to bid above the current class of work limit; or

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- (5) that is above the Single Contract Limit.
 - (u) any other factor bearing on a Contractor's qualifications, competency, or eligibility that, based upon a determination of the Prequalification Committee, and in the discretion of the Administrator, may warrant the modification, suspension, or revocation of a Contractor's Prequalification certification.
- (2) Progressive Review Program (PRP). The Prequalification Committee may establish a Progressive Review Program to review a Contractor's qualifications, competency, or eligibility, and make determinations as to whether interim measures might be appropriate before formally modifying, suspending, or revoking a Contractor's Prequalification certification pursuant to 700 CMR 14.05(1).
- (a) Prior to any determination to modify, suspend, or revoke a Contractor's Prequalification certification, the Prequalification Committee may, but is not required to, review and consider whether interim conditions or measures would be appropriate for assessing a Contractor's qualifications, competency, or eligibility.
 - (b) Such interim measures may include, but are not limited to, establishing performance standards, safety measures, corrective action plans, or other conditions deemed appropriate by the Prequalification Committee.
 - (c) Any interim measures, and the period for monitoring compliance with such measures, will be determined by the Prequalification Committee in its sole discretion.
 - (d) Determinations by the Prequalification Committee to establish progressive review criteria will be based upon the nature and extent of the issues under consideration for modification, suspension, or revocation.
 - (e) The Prequalification Committee may also consider the record of performance by the Contractor as established by the Record of Contractor's Performance (Form CSD-680), and any other factor that it deems relevant.
 - (f) Any Contractor or Subcontractor that has been determined to be under consideration for modification, suspension or revocation by the Prequalification Committee under 700 CMR 14.05(1)(a), (h), or (i) shall not be allowed to participate in a Progressive Review Program.
- (3) Notice of Determination. In the event that the Prequalification Committee determines that it will modify, suspend, or revoke the Contractor's Prequalification Certification for a reason or reasons noted in 700 CMR 14.05(1), the Contractor shall be notified in writing by certified mail, following the determination of the Prequalification Committee. The determination of the Prequalification Committee shall be subject to the Contractor's right of review as set forth in 700 CMR 14.07.

14.06: Recommendations for Rejection of Bids

- (1) Procedure. The Prequalification Committee may recommend that the Department or Other Awarding Authority reject the Contractor's bid if the Prequalification Committee determines that:
- (a) Award of the contract would result in the Contractor exceeding the Bond Capacity established by its Surety Company, or the Contractor's bid exceeds its Single Contract Limit. In such circumstances, the Contractor's bid shall be rejected, but its prequalification status shall not be otherwise modified or revoked; or
 - (b) The Contractor is presently debarred from performing work of any kind under the provisions of M.G.L. c. 29, § 29F, or any other applicable debarment provisions of the Massachusetts General Laws, or any rule or regulation promulgated thereunder; or
 - (c) The Contractor is presently debarred from performing work of any kind under laws of any state other than the Commonwealth of Massachusetts, or by any Federal agency or authority; or
 - (d) The Contractor's performance on past or current work with the Department or any other awarding authorities is or has been unsatisfactory; or
 - (e) On current projects of the Department or other public authorities the Contractor fails to pay its subcontractors or material suppliers in a timely manner; or
 - (f) Multiple subcontractors of the Contractor for any projects currently under construction have, within any 12-month period, filed demands for direct payment with the Department in accordance with M.G.L. c. 30, § 39F and such demands have been determined by the Department to have merit; or

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(g) The Contractor is not otherwise an eligible and responsible bidder capable of performing the work including, but not limited to, any of the factors listed in 700 CMR 14.05(1).

(2) Notice of Determination. In the event that the Prequalification Committee determines that it will recommend that the Department or Other Awarding Authority reject the Contractor's bid for a reason or reasons noted in 700 CMR 14.06(1), the Contractor shall be notified in writing. The determination of the Prequalification Committee shall be subject to the Contractor's right of review as set forth in 700 CMR 14.07.

(3) Right to Reject Bids Is Reserved. The Department reserves the right to reject any and all bids, or waive any informality, when deemed to be in the public interest. Nothing in 700 CMR 14.00 shall be interpreted as depriving the Department of the right to reject any bid when such bid does not fully comply with the specifications for the project or the applicable public bidding law or regulations, or the Contractor is otherwise not eligible or responsible to receive award of the contract.

14.07: Review of Prequalification Committee Decisions for Contractors

(1) Review of Determination of the Prequalification Committee. A Contractor or prospective bidder who is aggrieved by a decision or determination of the Prequalification Committee may make a written request for informal review or a formal hearing by the Prequalification Appeal Board.

(2) Informal Review. The Prequalification Committee may request a Contractor's presence at an informal review at any time in its discretion. Also, a Contractor may request an informal review by the Prequalification Committee. In such request, the Contractor shall state the reasons for its request for an informal review. The Contractor's right to an informal review shall be in addition to its right to a formal hearing.

(3) Formal Hearing. A request for a formal hearing before the Prequalification Appeal Board shall be filed in writing, by certified mail, within 15 days after receiving notice of the subject decision or determination, in accordance with M.G.L. c. 81, § 8B. The Prequalification Appeal Board, or its designee(s), shall conduct a hearing without delay and render a decision. The decision or determination of the Prequalification Committee shall remain in effect until the Prequalification Appeal Board renders a decision in writing on the appeal. The decision of the Prequalification Appeal Board shall be final and binding, subject to the right of the Contractor to a judicial review under the applicable provisions of M.G.L. c. 30A.

14.08: Miscellaneous for Contractors

(1) Proposals with Project Values under \$50,000. If a multiple bid proposal contains projects with Project Values less than \$50,000, but totaling more than \$50,000, only Prequalified Contractors on the official bid list issued by the Department can obtain the Official Proposal Documents.

(2) Contractor's Performance. The Contractor should be on notice that its conduct, not only as to the workmanship on the project, but also towards the travelling public and abutters alike may affect its prequalification status. The Contractor is directed to take special note of the Standard Specifications for Highways and Bridges, latest edition or revisions thereof and amendments and supplements thereto in effect on the bid opening date, as well as M.G.L. c. 81, § 18. The Contractor is reminded that respect towards the public during a Department or Other Awarding Authority sponsored project is to be maintained at all times.

(3) Scope of Regulations. 700 CMR 14.00 shall not be construed as extending to decisions or actions of the Department not pertaining to the Contractor's Prequalification status and competence to perform the work. Furthermore, 700 CMR 14.00 is not intended to set forth or create a regulatory or appeal mechanism concerning:

- (a) the rejection by the Administrator of bids which contain informalities or otherwise fail to comply with the public bidding laws; or

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- (b) the Administrator's decision to reject all bids and re-advertise a project; or
- (c) any other decision of the Department not directly related to the Contractor's Prequalification status or competence to perform the work.

(4) Severability. If any provision of 700 CMR 14.00 shall be held invalid in any circumstance, such invalidity shall not affect any other provisions and shall be severable.

REGULATORY AUTHORITY

700 CMR 14.00: M.G.L. c. 81, § 8B.