

Legislative Regulation Review Committee

2008-046

Department of Administrative Services

**PREQUALIFICATION & EVALUATION OF
CONTRACTORS**

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. 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 department head of the department 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 either public, private or both public and 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.

- (a) The applicant establishes a user name and password at a website designated by the Commissioner.
- (b) The applicant responds to the preliminary questions on the on-line application form, after which the department will include the applicant's name on the DAS Contractor Prequalification directory.
- (c) The applicant pays a non-refundable application fee. The fee owed by each applicant is based on the aggregate work capacity rating requested by the applicant and is set forth in section 4a-

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100 of the Connecticut General Statutes.

- (d) The department will 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, but not limited to, 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 will issue a determination of prequalification in accordance with subsection (h) of section 4a-100 of the Connecticut General Statutes.
- (f) The department will issue an electronic certificate indicating the prequalification classification or classifications, expiration of certification, aggregate work capacity rating and single project limit.
- (g) The applicant may seek to be prequalified in one or more of the following prequalification classifications:
 - (1) Alarm Systems;
 - (2) Carpentry/Millwork;
 - (3) Concrete;
 - (4) Concrete: Precast Structural and Architectural;
 - (5) Construction Manager At Risk (Group A);
 - (6) Construction Manager At Risk (Group B);
 - (7) Construction Manager At Risk (Group C);
 - (8) Demolition;
 - (9) Doors and Windows;
 - (10) Drywall and Acoustical;
 - (11) Electrical;
 - (12) Elevators;
 - (13) Energy Management Systems;
 - (14) Fire Protection Sprinkler Systems;
 - (15) Floor Covering;
 - (16) General Building Construction (Group A);
 - (17) General Building Construction (Group B);
 - (18) General Building Construction (Group C);
 - (19) General Trades;
 - (20) Historical Building Restoration (Masonry, Roofing);
 - (21) HVAC;
 - (22) Iron: Structural and Miscellaneous;
 - (23) Lead Abatement;
 - (24) Lockers;
 - (25) Masonry;
 - (26) Mechanical insulation;
 - (27) Metal Siding;
 - (28) Painting;
 - (29) Plumbing;
 - (30) Roofing;
 - (31) Scaffolding;
 - (32) Sewer and water lines;
 - (33) Sheet metal;
 - (34) Sitework;
 - (35) Telecommunications Systems;
 - (36) Toilet Partitions, Toilet Accessories;
 - (37) Waterproofing;
 - (38) Water treatment plants; or
 - (39) Any additional classification established by the department as the Commissioner deems to be necessary or appropriate.

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- (h) The applicant's aggregate work capacity rating for purposes of prequalification under sections 4-100 and 4-101 of the Connecticut General Statutes is determined by the bonding capacity supported by the applicant's bonding company, documentation of which is 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 4-100 and 4-101 of the Connecticut General Statutes is determined by the bonding capacity supported by the applicant's bonding company, documentation of which is 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 or other such form as the Commissioner prescribes.
 - (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.
 - (A) The department will evaluate the applicant's skill, ability and integrity on the basis of the contents of the completed application, the completed contractor performance evaluations and such other information as the Commissioner deems to be necessary or appropriate or is brought to the department's attention. 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 the classification or classifications for which it is seeking prequalification. Additionally, completed contractor evaluations for the projects listed by the applicant shall be included with the application.
 - (B) The department will evaluate the performance of 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 other such information as the Commissioner deems necessary or appropriate or is brought to the department's attention.
 - (4) Experience and qualifications of supervisory personnel. The applicant shall provide all of the information on all supervisory personnel and principals and key personnel

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employed by the applicant requested in the application. The department will evaluate the experience and qualifications of supervisory personnel on the basis of the completed application and such other information as the Commissioner deems necessary or appropriate or is brought to the department's attention.

- (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 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. The applicant shall indicate the nature and dollar amount of its past projects and such other information as the Commissioner deems necessary or appropriate.
- (6) Other relevant criteria. The applicant shall also provide the following information:
- (A) Its experience modification rating for the current year, as requested in the application;
 - (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) A copy of the table of contents of the applicant's safety manual;
 - (E) 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;
 - (F) Confirmation that the applicant is currently authorized by the office of the Connecticut Secretary of State to perform business in the State of Connecticut;
 - (G) A fully executed signature sheet, as requested in the application; and
 - (H) Any other information deemed necessary by the Commissioner.
- (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 evaluation criteria:
 - (1) Compliance with awarding authority standards, including but not limited to the following considerations:

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- (A) Knowledge of awarding authority standards and procedures;
 - (B) Compliance with awarding authority standards and procedures; and
 - (C) Knowledge and understanding of the work assignment.
- (2) Compliance with project documents, including but not limited to the following considerations:
- (A) Adherence to project documents, including plans and specifications;
 - (B) Compliance with limits of operation as specified in the project documents;
 - (C) Compliance with environmental requirements and regulations;
 - (D) Compliance with current labor standards, including prevailing wage rates;
 - (E) Compliance with affirmative action and equal employment opportunity requirements; and
 - (F) Compliance with contractor requirements established by the Connecticut Commission on Human Rights and Opportunities.
- (3) Quality of the contractor's performance, including but not limited to the following considerations:
- (A) Quality of the contractor's workmanship;
 - (B) Quality of the contractor's supervisory personnel;
 - (C) Responsiveness to concerns about quality of work; and
 - (D) Quality of the contractor's housekeeping and project cleanliness.
- (4) Quality of the subcontractor's performance to the extent known by the person who completes the evaluation, including but not limited to the following considerations:
- (A) Quality of the subcontractor's workmanship;
 - (B) The subcontractor's knowledge of and compliance with awarding authority's standards; and
 - (C) The subcontractor's adherence to project plans and specifications.
- (5) The subcontractor's compliance with applicable labor and employment standards to the extent known by the person who completes the evaluation, including but not limited to the following considerations:
- (A) The subcontractor's compliance with current labor standards, including prevailing wage rates;
 - (B) The subcontractor's compliance with affirmative action and equal employment opportunity requirements; and
 - (C) The subcontractor's compliance with contractor requirements established by the Connecticut Commission on Human Rights and Opportunities.
- (6) Timeliness of the contractor's performance, including but not limited to the following considerations:
- (A) Adherence to project schedule, including project completion;
 - (B) Response to directives;
 - (C) Submission of project schedule and updates;
 - (D) Submission of progress photographs;

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- (E) Submission of shop drawings;
 - (F) Ordering and delivery of material;
 - (G) Payment of subcontractors and suppliers;
 - (H) Submission of certified payroll affidavits;
 - (I) Notification of possible delays; and
 - (J) Responsiveness regarding correction of punch list items.
- (7) Safety, including but not limited to the following considerations:
- (A) Quality of contractor's safety program;
 - (B) Adherence to contractor's safety program;
 - (C) Adherence to Occupational Safety & Health Administration requirements; and
 - (D) Adherence to security, health and safety rules of awarding authority.
- (8) Working relationship of contractor with awarding authority, including but not limited to the following considerations:
- (A) Cooperation with awarding authority;
 - (B) Communication with awarding authority;
 - (C) Cooperation and communication with other contractors;
 - (D) Cooperation and communication with subcontractors; and
 - (E) Attendance at meetings.
- (9) Staffing of project, including but not limited to the following considerations:
- (A) Staffing of project administration;
 - (B) Staffing of project workforce; and
 - (C) Availability and adequacy of equipment to perform work.
- (10) Cost containment, including but not limited to the following considerations:
- (A) Contractor's ability to work within contractor's allotted cost;
 - (B) Accuracy of the contractor's billing;
 - (C) The number and cause of change orders; and
 - (D) The manner in which contractor determined the price on change orders.
- (11) Quality of the contractor's required documentation, including but not limited to the following considerations:
- (A) Conformity to project plans; and
 - (B) Conformity to project specifications.
- (12) Any other criteria that the Commissioner deems to be necessary or useful.
- (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 will not consider and will not 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.

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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.

STATE OF CONNECTICUT
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OF
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Concerning
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CERTIFICATION

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

Are: Adopted Amended as hereinabove stated Repealed

By the aforesaid agency pursuant to:

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:

Adopt Amend Repeal **such regulations**

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

WHEREFORE, the foregoing regulations are hereby:

Adopted Amended as hereinabove stated Repealed

EFFECTIVE: (check one, and complete as applicable)

When filed with the Secretary of the State (OR)

The _____ day of _____ 20_____.

In Witness Whereof:	DATE 5/6/08	SIGNED (Head of Board, Agency or Commission) <i>Brenda L. Sisco</i>	OFFICIAL TITLE, DULY AUTHORIZED COMMISSIONER
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Approved by the Attorney General as to legal sufficiency in accordance with Section 4-169, as amended, of C.G.S.	SIGNED <i>[Signature]</i>	OFFICIAL TITLE, DULY AUTHORIZED Assoc. Attorney General
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For Regulation Review Committee Use

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

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)
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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.

DATE	SIGNED (Secretary of the State)	BY
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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/>