220-RICR-30-00-4

TITLE 220 – DEPARTMENT OF ADMINISTRATION

CHAPTER 30 – PURCHASES

SUBCHAPTER 00 – N/A

PART 4 – Vendor Prequalification

4.1 Purpose

The purpose of this Part is to govern the prequalification of prospective bidders.

4.2 Authority

This Part is promulgated pursuant to the authority granted in R.I. Gen. Laws Chapter 37-2.

4.3 Definitions

A. “Division” means the Department of Administration Division of Purchases.

B. "Responsible bidder" shall have the same meaning as set forth in R.I. Gen. Laws § 37-2-15(6).

C. "Small disadvantaged business" means either a "minority business enterprise" or "small disadvantaged businesses owned and controlled by persons with disabilities", as defined below.

1. "Small disadvantaged businesses owned and controlled by persons with disabilities" shall have the same meaning as set forth in R.I. Gen. Laws § 37-2.2-2.

2. "Minority business enterprise" shall have the same meaning as set forth in R.I. Gen. Laws § 37-14.1-3(f).

D. "Vendor" means any individual, firm, corporation, partnership or other entity submitting a proposal to the Division indicating a desire to enter into contracts with the State of Rhode Island, or with whom a Contract is executed by the State Purchasing Agent.

E. "Vendor lists" means lists maintained by the Purchasing Agent containing the names and addresses of registered vendors from whom bids, proposals, and quotations may be solicited. In order to bid on a Solicitation, a vendor must be registered with the Division.

4.4 Responsibility and Authority of the Purchasing Agent

Unless notified in writing by the Chief Purchasing Officer to the contrary, the Purchasing Agent shall be authorized to act on behalf of the Chief Purchasing Officer in carrying out the responsibilities and authority set forth herein for selection, evaluation, prequalification, approval, revocation of prequalification, and restriction of vendors.

4.5 Prequalified Vendor Lists

A. Prequalified Vendor Lists may be maintained by the Purchasing Agent consisting of the names and addresses of prequalified vendors from whom bids, proposals, and quotations can be solicited.

B. Prequalified Vendor Lists shall be formatted in a manner which identifies those vendors certified by the State as small disadvantaged businesses, as defined above.

C. The Purchasing Agent may disqualify a vendor from participating in any procurement if the vendor's prequalification has been revoked pursuant to § 4.7 of this Part or if the vendor has been suspended or debarred pursuant to Part 14 of this Subchapter.

4.6 Prequalification of Public Works Vendors

A. Vendors must be pre-qualified by the Division prior to bidding on state public works projects with an estimated value of over one million dollars ($1,000,000).

1. If he or she determines that competition will be limited due to the unique nature of a project, the Purchasing Agent may:

   a. Waive the prequalification requirement for a state public works project valued over one million dollars ($1,000,000);

   b. Require prequalification for projects less than one million dollars ($1,000,000) at the discretion of the Purchasing Agent when specified in the Solicitation;

   c. Specify in the Solicitation that vendors who are not prequalified may bid on a public works project but the vendor must be prequalified prior to the issuance of the award.

B. The Purchasing Agent may limit the prequalification of a vendor to a certain category of work based on information provided pursuant to § 4.6(D)(3) of this Part, size of purchase order based on information provided pursuant to § 4.6(D)(4) of this Part, or both.

1. Category of Work. The vendor must specify any/all categories of work that the vendor wishes to be prequalified to bid on. The vendor must submit copies of all required licenses and/or certifications (if applicable) to evidence that the vendor can perform such category of work. The Purchasing Agent may limit a vendor's prequalification to one of the following categories of work:

   a. Horizontal Construction

      (1) Road or parking lot construction and rehabilitation.

      (2) Prequalification for contractors submitting bids on road work for the department of transportation shall be prequalified pursuant to § 4.6(G) of this Part and R.I. Gen. Laws § 37-2-26.

   b. Vertical Construction (Design-Bid-Build): Vendor acting as prime contractor for the construction of buildings (including new construction and/or renovations).

   c. Exterior building envelope projects including roofing, window installation/repair, exterior wall work, masonry, or any combination thereof.

   d. HVAC/Plumbing: Projects where the work primarily encompasses the disciplines of plumbing, fire protection, heating, ventilating and air conditioning (HVAC), and building control systems.

   e. Electrical: Projects which have a primary focus on electrical and low voltage systems including but not limited to: electrical distribution, emergency power generation, lighting, low voltage distribution, and devices.

   f. Site Work & Utility Work: Clearing, grubbing, removal of tree stumps, shrubs, site preparation, mass earth excavation, silt fence, erosion/sedimentation control, gabions, erosion control, rock crushing/recycling, screening topsoil and other aggregates. Sewer and water mains, pipe jacking, storm drainage, sewer rehabilitation, sewage pumping stations.

   g. Painting (Interior or exterior)

   h. Landscaping/Environmental Improvements: Landscaping roadside, including seeding, hydro seeding, mulching, sodding, and ground cover planting, topsoil application, and other construction related thereto. Site Landscaping including topsoil application, including planting of trees, shrubs, and all ground covers on various types of sites, selective tree removal, trimming, seeding, insecticide

application, weed control, liming, soil binder & soil supplements, irrigation, Wetland mitigation, creation, plantings and removal of invasive species.

i. Environmental: Environmental/hazardous waste removal, stockpile, sewage pumping stations. The containment, cleanup, removal and disposal of debris, hazardous, controlled/toxic materials, including water.

j. Marine repairs, construction or salvaging.

k. Construction Manager at Risk (CMAR) as defined in § 8.11(C)(4) of this Subchapter and R.I. Gen. Laws §§ 37-2-7, 37-2-27.2, 37-2-27.3, and 37-2-27.4.

l. Any other category of work that the Purchasing Agent shall determine during his or her prequalification determination that the vendor is qualified to perform.

2. Vendors bidding on construction contract management must be prequalified in accordance with this Part and shall be also be prequalified for specific solicitations in accordance with R.I. Gen. Laws § 37-2-27.

3. Size of purchase order. The Purchasing Agent may also limit a vendor's prequalification to a purchase order value range tier determined to be suitable based on the information submitted by the vendor. In its prequalification packet, the vendor must specify the size of purchase order value range tier that it seeks to be prequalified to bid upon. The purchase order value range tiers are as follows:

a. Tier I: $1,000,000-$5,000,000

b. Tier II: $1,000,000-$10,000,000

c. Tier III: $1,000,000-$20,000,000

d. Tier IV: $1,000,000-$40,000,000

e. Tier V: $1,000,000-$40,000,000 and above

C. Prequalification Submission

1. A vendor who wishes to be prequalified must submit a prequalification packet at least once every two (2) years, providing all information in support of evaluation categories listed in § 4.6(D) of this Part, below.

2. All Vendors are advised to review the provisions related to confidentiality within the General Conditions of Purchase, § 13.3(D) of this Subchapter

and to properly identify privileged or confidential documents as outlined therein.

3. If there is a substantial change in the information provided in a vendor's prequalification packet within the two (2)-year prequalification period, the vendor has an affirmative duty to supplement the information provided to the Division so that the Division may determine whether the vendor may remain at prequalified status.

    a. For the purposes of this Part, "substantial change" shall mean any change which a reasonable person would believe would affect the classifications or amount of work for which the vendor has been prequalified by the Division to perform.

    b. Failure to supply material information will result in revocation of pre-qualification and vendor suspension not less than one (1) year.

4. A vendor may submit a change request during the two-year prequalification period to make changes to its approved purchase order value range tier.

    a. Such change request must be submitted in writing with an updated bond letter that meets all requirements of § 4.6(D)(4)(e) of this Part.

    b. A vendor may submit a change request at any time, however the Division has up to thirty (30) days after receipt of a change request to review and approve or deny that change request.

D. Evaluation Categories

1. Management Experience

    a. Business Owners: The name, title, years with the vendor of the owner(s) of the business.

    b. Vendor must produce both a Certificate of Good Standing from the Rhode Island Department of State and a Letter of Good Standing from the Rhode Island Department of Revenue – Division of Taxation. Both the Certificate of Good Standing and Letter of Good Standing must be dated within thirty (30) days of prequalification packet submission.

    c. Management Personnel: The names, title, education and experience, years with vendor, and list of projects completed by all management personnel. Vendors shall have staff that are qualified and competent in the area of estimating, scheduling, project management, field supervision, and safety.

d. Public Works Project Experience

(1) Years of experience performing public works projects (including municipal, state and federal public works projects). At least three (3) years of public works project experience is required for prequalification. Work as a subcontractor on public works projects may be considered.

(2) A list of all public works projects performed in the past five (5) years, including the project name, brief description and owner contact person.

(3) A list of the three (3) largest public works projects performed in the last five (5) years including: the project name, description, original contract sum, final contract sum with explanation, date of substantial completion and date of final completion. If no public works projects have been completed by the vendor, provide the above information for the three (3) largest projects performed in the last five (5) years for a private entity.

e. Terminations: A list of all projects (private or public works projects) where the vendor's contract was terminated prior to completion, including the project name, description, original contract sum, and explanation for termination.

f. Legal Proceedings: A list of any legal proceedings where the vendor was a named entity for the past five (5) years.

g. Safety Record: The five (5) year history of the vendor's workers' compensation experience modifier.

h. Compliance Record: Information on and evidence of the vendor's compliance record with respect to minority business enterprise and women business enterprise inclusion goals and workforce inclusion goals, if applicable on public works projects within the past five (5) years.

2. References

a. Project References: A list of references from owners, contractors (as applicable), architects (as applicable), engineers (as applicable) from projects that the vendor has performed within the past five (5) years. At least three (3) references must be provided from at least two (2) different projects that the vendor has performed within the past five (5) years. The list of references must include, at a minimum, project names and the names of the reference with a current address, telephone and e-mail address.

b. Credit References: A list of a minimum of five three credit references, including the current telephone number and e-mail address of a contact person from key suppliers, vendors and banks.

c. Public Works Project Record: A list of all completed public works projects during the past five (5) years with owner's name, current address, telephone and fax number and a contact person for each.

(1) The vendor's past work with the State of Rhode Island will be considered, including the quality of past work performed for the State of Rhode Island.

3. Ability to Complete Work:

a. Vendors who do not maintain permanent workforces, or who propose to subcontract a disproportionate percentage of project work shall be considered unqualified.

4. Financial Capacity:

a. Reviewed Financial Statement prepared by a licensed Certified Public Accountant.

b. Vendors who are seeking prequalification for purchase orders over $20,000,000 must provide Audited Financial Statements.

c. Revenue: A vendor must provide its revenue under contract for the next three (3) fiscal years.

d. Bonding Capacity: A vendor must provide an original commitment letter from a Surety Company licensed in the State of Rhode Island and whose name appears on the United State Treasury Department Circular 570, stating the vendor’s aggregate bonding capacity and single contract limit. A Power-of Attorney or Attorney-in-Fact form must be attached to the letter. The letter must be less than three (3) months old on the date of application.

e. Prompt payment of subcontractors: All vendors must provide subcontractor lien releases for all projects performed within the past five (5) years. certify that:

(1) There are no current/pending subcontractor claims for nonpayment against the vendor (or against a bond issued to the vendor);

(2) That there have been no subcontractor claims for nonpayment made against the vendor (or against a bond issued to the vendor) for the past five (5) years; and

(3) If subcontractor claims have been made for nonpayment against the vendor (or against a bond issued to the vendor) during the past five (5) years, the vendor must disclose the nature of the claim, the amount in dispute, and how the claim resolved.

E. The Purchasing Agent may conduct supplementary prequalification examinations of vendors prior to solicitation or award which include, but are not limited to:

1. Requirement for additional certification(s);

2. Requirement for demonstration of additional licensure;

3. Requirement for recent financial information;

4. Submission of an affirmative action employment plan; and/or

5. Submission of the names of proposed small disadvantaged business subcontractors and the value of such subcontracts.

F. Denial of Prequalification

a. The Purchasing Agent, in his or her discretion, may deny prequalification to a vendor for failure to meet the criteria above.

b. The Purchasing Agent shall send notice of denial of prequalification to an applicant vendor identifying the basis for the denial.

c. The Purchasing Agent's decision on prequalification may be appealed pursuant to § 1.6 of this Subchapter and R.I. Gen. Laws § 37-2-52.

G. Prequalification for a contractor who bids on road work for the Department of Transportation shall be conducted in accordance with R.I. Gen. Laws § 37-2-26 and § 12.4 of this Subchapter.

1. The Chief Purchasing Officer may delegate responsibility and authority for evaluation of all or a portion of the evaluation of road work contractor prequalification documentation to the Director of the Department of Transportation.

a. Such delegation shall authorize the publication and implementation of policies and procedures which conform to the rules and regulations promulgated by the Chief Purchasing Officer in accordance with R.I. Gen. Laws § 37-2-26.

b. Such delegation shall be made in writing.

c. The Chief Purchasing Officer shall monitor the appropriateness and effectiveness of such delegation on a regular basis.

d. The Chief Purchasing Officer may rescind such authorization at any time provided that the rescission of such authority shall be conveyed in writing to the Director of the Department of Transportation no less than thirty-five (35) working days prior to the effective date of the rescission.

2. Every bid solicitation shall include within the project specification document a description of the prequalification requirements set forth in R.I. Gen. Laws § 37-2-26, § 12.4 of this Subchapter, and any additional requirements established by the Department of Transportation.

4.7 Revocation of Prequalification

A. The Purchasing Agent may revoke a vendor's prequalification. Revocation may result from:

1. Suspension or Debarment pursuant to § 14.5 of this Subchapter;

2. Lack of demonstrated responsibility or competency;

3. Failure to update information contained in a vendor's pre-qualification packet on file with the Division of Purchases pursuant to § 4.6(C)(3) of this Part;

4. When, in the judgment of the Purchasing Agent, the vendor does not possess the capacity, capability, or integrity requisite for the procurement.

B. The Purchasing Agent shall give notice to a vendor when its prequalification has been revoked in writing. Such notice shall:

1. State that the vendor’s prequalification has been revoked,

2. Provide the vendor with the rationale for the decision, and

3. A statement that protests of the revocation may be submitted pursuant to § 4.7(C) of this Part.

C. The Purchasing Agent's decision on prequalification may be appealed pursuant to § 1.6 of this Subchapter and R.I. Gen. Laws § 37-2-52.

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CHAPTER 30 - PURCHASES

SUBCHAPTER 00 - N/A

PART 4 - VENDOR PREQUALIFICATION (220-RICR-30-00-4)

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