



DENVER
THE MILE HIGH CITY

Rules for Prequalification of Construction Contractors

Departments of Aviation and Public Works
The City and County of Denver

Effective July 1, 2019

RULES FOR PREQUALIFICATION OF CONSTRUCTION CONTRACTORS

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RULES FOR PREQUALIFICATION OF CONSTRUCTION CONTRACTORS

Departments of Aviation and Public Works of the City and County of Denver

Effective July 1, 2019

SECTION 1. INTRODUCTION

1.01 What rules are repealed and adopted?

The Rules and Regulations Governing the Prequalification of Contractors Bidding on Construction Contracts for the City and County of Denver are hereby repealed by the Manager of Public Works and are replaced by these rules which are adopted by the Manager of Public Works and the Manager of Aviation, effective on July 1, 2019.

1.02 What is the purpose of these rules?

These Rules are adopted to review whether companies bidding and proposing on major construction contracts let by the Department of Public Works or the Department of Aviation have the experience, skill, financial resources and integrity to perform the type and size of work involved, by using a system of contractor prequalification. Each Manager is required by the City Charter to award construction contracts only to responsible or qualified contractors.

Prequalification is not a conclusive determination of responsibility, and a prequalified bidder may be rejected as nonresponsible on the basis of subsequently discovered information. Further, the Managers reserve the right to establish additional qualification criteria and requirements for specific projects, as determined appropriate in the Managers' discretion.

1.03 What is the legal authority for the adoption of these rules?

These Rules are adopted by the Managers of Public Works and Aviation under Parts 3 and 11, respectively, of Article II of the Charter of the City and County of Denver, and sections 5-19, 20-56, and 2-91 to 2-100 of the Revised Municipal Code.

1.04 What do the words and phrases used in these rules mean?

- a. "Applicant" – sometimes referred to as "you" – means a contractor or joint venture that wants to bid or propose as the prime contractor on a Department construction contract that has an estimated construction value of \$1,000,000.00 or more or for which prequalification is required for a contract-specific reason.
- b. "Bid" includes a proposal, "bidding" includes submitting a proposal, and "invitation for bids" includes "request for proposals," unless the context in which the word appears clearly shows a contrary intent.
- c. "Bidder" includes a proposer, unless the context in which the word appears clearly shows a contrary intent.
- d. "Board" means the Prequalification Board, a staff working group established by these rules.

- e. “CPA” means a licensed certified public accountant.
- f. “Certified audited financial statement” means a financial statement which has been audited by a CPA in accordance with audit standards published by the American Institute of Certified Public Accountants, and is signed by the CPA, in which the CPA expresses his opinion on the fairness with which the statement represents the financial position, results of operations and changes in financial position of the audited company, and includes current assets, current liabilities, income and expenses during the fiscal year covered by the statement, current value of plant and equipment, and all of the CPA’s notes.
- g. “City” means the City and County of Denver.
- h. “Contract” means a construction contract. “Contractor” means a corporation, limited liability company, partnership, sole proprietorship or other type of business entity which is in the construction business.
- i. “Day” means calendar day, unless noted otherwise.
- j. “Debt” means an amount owed to a person or organization for funds borrowed. Debt can be represented by a loan note, bond, mortgage or other instrument stating repayment terms and, if applicable, interest requirements. These different instruments all imply intent to pay back an amount owed by a specific date, which is set forth in the repayment terms.
- k. “Department” means the Department of Public Works or the Department of Aviation, as applicable. “Public Works” means the Department of Public Works, and “Aviation” means the Department of Aviation.
- l. “Design-Build” means a contract for a City project under which the contractor will be responsible for both design and construction of the project.
- m. “Joint venture” means an association of two or more contractors which combines their property, capital, efforts, skills and knowledge for the purpose of bidding on and performing Department contracts, and where each of the contractors is jointly and severally liable for all of the duties and obligations associated with performing any Department contract.
- n. “Manager” means the Manager of Public Works or the Manager of Aviation, as applicable. Whenever these Rules provide that actions may be taken by “the Manager” with respect to any matter, the statement means an action by the Manager of Public Works with respect to a Public Works matter, and an action by the Manager of Aviation with respect to an Aviation matter.
- o. “Net Worth” means the difference between total assets and total liabilities.
- p. “Quick Assets” means cash plus accounts receivable, minus current liabilities.
- q. “Reviewed financial statement” means a financial statement which is signed by a CPA as having been reviewed by such CPA in accordance with review standards published by the American Institute of Certified Public Accountants.

- r. “Revocation” means the termination of a contractor's or joint venture's prequalification for submitting bids to the City for Department contracts for which prequalification is required.
- s. “Suspension” means the temporary termination, for a stated period, of a contractor's or joint venture's prequalification for submitting bids to the City for Department contracts for which prequalification is required.
- t. “We” or “us” means the Manager or Department of Public Works or Aviation, as applicable.
- u. “Working Capital” means current assets minus current liabilities.
- v. “You” means an applicant or a prequalified contractor, as applicable.

1.05 How are the different parts of these rules cited?

These rules consist of major groups called “sections”, which contain specific numbered rules. For example, this Rule 1.05 is part of Section 1.

SECTION 2. GENERAL

2.01 What is contractor prequalification?

Under these rules, contractor prequalification is a status allowing the contractor to bid on the Public Works or Aviation construction contracts listed in Rule 2.02. Prequalification is granted as to categories of work and financial levels, based on a contractor’s experience, qualifications and financial capability. Prequalification is not a conclusive determination of responsibility or qualifications by the City, however, and a prequalified bidder may be rejected as nonresponsible or not qualified on the basis of subsequently discovered information. Prequalification status is only one factor considered by Public Works and Aviation in determining who to award a specific contract.

2.02 Who must be prequalified under these rules?

- a. A contractor or a joint venture must be prequalified to bid on:
 - a construction contract let by the Department of Aviation or Public Works with an estimated total value at time of bid or proposal of \$1 million or more, or
 - any contract, regardless of amount, for which contract-specific prequalification requirements have been established by the Manager.
- b. A contractor or joint venture must be prequalified if it is included as the proposed primary or lead construction contractor for a design-build City project with an estimated total dollar amount of \$1,000,000.00 or more, unless the Manager has waived or modified the prequalification requirements for that project (see Rule 2.05b).

2.03 How do I know if a contract requires prequalification for bidding?

Public Works or Aviation will determine and include in the contract documents the prequalification requirements for the contract, including the category or categories of work and the financial level of prequalification.

2.04 What if my company is not prequalified when the contract is advertised for bid?

If the contract requires prequalification for bidders, the contract documents will state the number of days prior to bid opening that is the deadline for contractors not then prequalified to submit applications for prequalification. If no deadline is stated in the notice, applications must be received by the Board's office ten days prior to bid opening.

2.05 Are there exceptions to the general rules requiring prequalification?

- a. When the Department conducts a competitive selection process for a construction or design-build contract that includes evaluating competing companies' qualifications, the Manager may waive or modify contractor prequalification requirements.
- b. For on-call construction contracts, Aviation or Public Works may not require prequalification, or may require it at a level less than the maximum contract amount. Prequalification requirements for on-call contracts may be based on the size of task or work orders to be issued under the contract and the expectation of the total amount of work which may be outstanding at any time under the contract.
- c. Regardless of contract value, the Manager may establish special contract-specific bidder prequalification requirements for projects which present special circumstances related to public health, welfare or safety. Those contract-specific prequalification requirements will be stated in the contract documents.

2.06 Which construction contracts can my company bid on without being prequalified?

Prequalification is usually not required for contracts with an estimated value of less than \$1,000,000. See Rule 2.05 for exceptions.

2.07 Do subcontractors have to be prequalified?

Prequalification is not required for subcontractors on a Public Works or Aviation project, unless contract-specific prequalification requirements are stated for subcontractors.

2.08 How does my company become prequalified?

A contractor must submit a complete prequalification application. The application must demonstrate that the contractor has the ability, integrity, and financial capability to perform work as a prime contractor in the category and at the financial level for which prequalification is granted.

2.09 How does a joint venture become prequalified?

Section 7 explains prequalification for joint ventures. A joint venture must apply separately for prequalification for each contract on which it seeks to bid; any prequalification which is granted to a joint venture applies only to that contract.

SECTION 3. WORK CATEGORIES FOR PREQUALIFICATION

3.01 What are the work categories for prequalification?

The main categories of work for which a contractor may be prequalified are set out in the following table:

<p>1. CIVIL</p>
<p>1A. Heavy Civil Projects with work in at least three disciplines included in the CIVIL categories (1B – 1G). To qualify, the category value of the work done in each of the three disciplines must be between 10% and 49% of the final contract amount; otherwise, the project shall be classified based on the predominant (>49%) category.</p>
<p>1B. Excavation and Grading Excavating and grading within or on areas adjacent to the public right-of-way. Excavation includes: trenching, ditch construction, earth moving, mass excavation, import/export and complete in place. Grading includes: cut and fill of slopes, soil leveling, land shaping, over lot grading, construction pads, roadway shoulders, intersection grading, backfill for structures and foundations and minor surface drainage. Category 1B does not include landscape grading specific to work covered under 1C(1) or work covered under 1E(3) specific to channel and ponds.</p>
<p>1C. Landscape</p>
<p>1C(1). Landscape Improvements Improvement of parks, trails, athletic fields, courts, irrigation systems, playgrounds and open spaces. Includes minor demolition, excavation and grading, drainage, restoration and planting associated with minor structures, walks, plazas, parking lots, fencing and installations of site amenities.</p>
<p>1D. Utilities (Other than Sewer)</p>
<p>1D(1). Traffic Signals, Lighting and ITS Construction, operation and maintenance of traffic signal, lighting and intelligent transportation systems.</p>
<p>1D(2). Telecommunications Construction, operation and maintenance of wired and wireless components for voice, data, video, fiber, computer equipment and communication network systems.</p>
<p>1E. Sewer</p>
<p>1E(1). Pump Stations and Force Mains Storm and sanitary sewer pump/lift stations, force mains, wet wells and associated infrastructure. This category does not include gravity storm or sanitary sewer work, or any potable and reuse water line or associated infrastructure.</p>

<p>1E(2). Sewer Rehabilitation Sanitary or storm sewer infrastructure rehabilitation using trenchless technology. Includes: cured-in-place-pipe (CIPP), slip lining, thermoformed pipe, pipe bursting, spin casting and other rehabilitation methods specific to storm and sanitary infrastructure utilizing materials such as resin, epoxy, cementitious and fiberglass products.</p>
<p>1E(3). Sewer Open Channel and Pond Open channel drainage, detention ponds, water quality features, boulder rundowns, outfalls, channel edging and appurtenances. Includes work associated with storm water improvements/ connections to rivers, gulches, open channels and detention/ retention ponds.</p>
<p>1E(4). Piped Sewer Piped public, gravity sewer systems (rigid or flexible pipe) and appurtenances. Includes storm and/or sanitary systems installed using open cut or tunneling and jacking methods and associated infrastructure. This category does not include potable and reuse water line or associated facilities work, or wastewater treatment plants or forced/pressure sewer systems that are covered under 1E(1).</p>
<p>1F. Roadway and Paving</p>
<p>1F(1). Asphalt Paving and milling, including heater repaving, of streets, alleys, parking lots and/or related paving. Also includes laying of asphalt curb, driveways, construction of curb cuts and the installation of minor drainage structures and all incidental work necessary by said paving, including minor excavation and grading.</p>
<p>1F(2). Concrete Roadway Paving Concrete streets, alleys, parking lots and/or related paving systems and concrete panel replacement. This includes associated excavation, base course and surface prep work.</p>
<p>1F(3). Concrete Sidewalk, Curb, Gutter and ADA Ramps New concrete sidewalk, curb, gutter and/or handicap ramps. Also includes cross pans, gutter overlay, driveways, construction curb cuts, installation of minor drainage structures, minor excavation and grading and incidental work necessitated by the concrete work.</p>
<p>1F(4). Asphalt Pavement Rehabilitation Chip seal, slurry seal, hot-in-place recycling, cape seal, patching, curb repair, utility cut repair, driveway approach repair and modification and crack sealing.</p>
<p>1F(5). Concrete Pavement Rehabilitation Concrete pavement diamond grinding, spall repairs, hydraulic panel leveling, route and seal, partial panel replacement, sidewalk repair and panel replacement, curb and gutter repair and replacement, joint sealing, surface sealing, joint repair and replacement. Experience in the use of CDOT Class E concrete (6hr, 12hr,...) in panel replacement.</p>

<p>1G. Structures (other than Buildings)</p>
<p>1G(1). Major Bridge Work Construction of new bridges and rehabilitation or demolition of existing transportation structures. Distinguished from 1G(2) based on project scope, complexity and size. Category shall apply to significant vehicular bridge work (replacement or major rehabilitation), work on structures located on collector or arterial roads, underpass work with significant retaining wall construction or large (>100') pedestrian bridge projects with additional complexity (ex. railroad or highway crossings, architectural significance, etc.).</p>
<p>1G(2). Minor Bridge Work Construction of new bridges and rehabilitation or demolition of existing transportation structures. Distinguished from 1G(1) based on project scope, complexity and size. Category shall apply to limited vehicular bridge work (minor rehab), work on structures located on local roads, retaining walls, or small (<100') pedestrian bridge projects without additional complexity (ex. bridges over trails or small waterways, using traditional materials, etc.).</p>
<p>2. BUILDINGS</p>
<p>2A. General Building - Unoccupied Buildings Existing or new public buildings that are unoccupied throughout construction but will be occupied once construction is complete.</p>
<p>2B. General Building - Occupied Buildings Public buildings in which the predominate portion must remain functional throughout construction. Functional activities include, but are not limited to: facility access, security, uninterrupted utilities, sequencing and/or transitioning of current and future occupants and all emergency response functions.</p>
<p>2C. Active High Security Facility Renovation Public buildings and airport facilities in which the predominate portion of the scope includes modification of or access through, on, or to a highly secured facility or facility grounds (i.e. detention center, police facility, courthouse, etc.).</p>
<p>2D. Building Demolition Demolition of buildings and associated facilities.</p>
<p>2E. Electrical Constructing, installing, replacing and renovating electrical systems.</p>
<p>2F. Mechanical Constructing, reconstructing, modifying, installing and replacing mechanical systems in public structures.</p>
<p>2G. Roofing Installing and replacing roofing.</p>
<p>2H. Historic Facilities Public buildings which are identified, registered, potential historic landmarks, or defined by national or local jurisdiction, including those facilities that are not officially designated as historic but may include components or features of historic facilities.</p>

<p>2I. Parking Structures - Occupied Parking structures in which the predominate portion must remain functional throughout construction.</p>
<p>2J. Structural Rehabilitation - Occupied Rehabilitation of buildings in which the predominate portion must remain functional throughout construction.</p>
<p>3. AIRPORT</p>
<p>3A. Millwright Installation, movement and/or reassembling of equipment and machinery primarily related to jet bridges, the baggage system and other steel fabrications.</p>
<p>3B. Baggage Handling System (BHS) Installation and repair of equipment, machinery and controls related to airport baggage handling systems at CAT X airports.</p>
<p>3C. Concrete Airfield Paving Concrete runways, taxiways and aprons and/or related paving items, and concrete panel replacement. Includes associated excavation, full pavement section, and surface prep work. Experience in the use of FAA specifications and quality control requirements at a commercial airport.</p>
<p>3D. Airfield Lighting Removal, installation, and rehabilitation of airfield visual aids including runway and taxiway lighting, markings, signs and NAV AIDS. Experience in the use of FAA specifications and quality control requirements at a commercial airport.</p>
<p>4. SPECIALTY CATEGORY</p>

3.02 What is a specialty category?

A specialty prequalification category is for work not included in a regular category or subcategory. The Board may create a specialty category when required for a specific contract. The Board will issue a brief written statement of the work and the criteria for prequalification in that specialty, which will be available on request from the Board’s office. A specialty prequalification category will exist only until the contract for which it was established has been awarded. The Managers do not intend to maintain prequalification of contractors in specialty categories not needed for City construction projects. However, at the Manager’s direction, the Board will maintain a specialty category for a specific period beyond contract award when it appears likely that future City construction projects will require bidders to be prequalified in that specialty within the next six months.

3.03 Are the categories listed in Rule 3.01 exclusive?

The Board may in its discretion create, modify and delete special prequalification subcategories within the general categories. If it does so, it will prepare a brief written statement of the work applicable to that subcategory. A copy of each such statement will be available on request from the Board’s office. Nothing in this Rule requires the Board to create special subcategories, except as directed by the Manager.

3.04 What conditions apply to prequalification for environmental remediation work?

Because of the critical health and safety issues involved in the work of environmental assessment and remediation, Denver Department of Public Health & Environment evaluates contractors interested in their work directly; a Contractor’s Prequalification Application is no longer required.

3.05 May a contractor be prequalified in more than one category?

A contractor may be prequalified in more than one category if its application shows that it meets the prequalification criteria and has successfully performed work in each category. See Rule 4.04 about financial limits for multiple-category contractors.

SECTION 4. FINANCIAL LEVELS FOR PREQUALIFICATION

4.01 What financial levels are assigned to prequalified contractors?

A contractor who is granted prequalification will be assigned a financial level. Contractors will be permitted to bid on contracts whose advertised prequalification category financial level does not exceed the contractor’s assigned financial level, in the category for which the contractor has been prequalified. You are not prohibited from submitting a bid that is higher than your financial level, so long as you have been granted prequalification at or above the financial level required by the Department for the bid. For example, a contractor who is prequalified in General Building at \$15,000,000 may bid on any project requiring prequalification in General Building at or below \$15,000,000 level. In the event the contractors’ bid submitted is \$15,000,001, the contractor is still qualified to bid on the project.

The following table lists the financial levels for which prequalification may be granted, correlated to the type of financial statement which is required to be submitted for such levels:

FINANCIAL LEVELS	TYPE OF FINANCIAL STATEMENT:
\$ 1,500,000	Reviewed Statement or Certified Audited Statement
\$ 3,000,000	
\$ 6,000,000	Certified Audited Statement only
\$ 9,000,000	
\$12,000,000	
\$15,000,000	
\$18,000,000	
\$20,000,000	
\$25,000,000	
\$50,000,000	

4.02 How is a financial level determined?

The financial level assigned to a prequalified contractor reflects its financial capability, as determined under Rule 5.02.

4.03 Will you count my company's largest jobs over a period of time cumulatively in determining its prequalification financial level?

We do not add up the total amount of work performed by a contractor over a period of time to determine financial capability, because the ability to manage a series of small contracts as a prime contractor is different from the ability to manage a single large job as a prime contractor. The determination of financial levels includes several factors, and contractors who are successfully completing increasingly larger contracts will be able to bid on accordingly larger sized City jobs.

4.04 If a contractor is prequalified in multiple categories, will each category have a different financial level?

Each category will have a financial level assigned which is determined in accordance with these rules, including the applicant's experience with work in that category.

4.05 May a contractor be prequalified by submitting a reviewed financial statement instead of a certified audited statement?

A contractor may be prequalified to bid on projects of \$3,000,000 or less without submitting certified audited financial statements, if it submits reviewed financial statements and otherwise meets the criteria for such prequalification. A contractor's prequalification level may not be adjusted to an amount higher than \$3,000,000, nor may a contractor be granted project specific permission to bid on a project requiring prequalification above \$3,000,000, without having submitted a certified audited financial statement.

4.06 Can a prequalified contractor obtain project specific permission to bid on a contract?

- a. A contractor that is prequalified in the category required by a City contract, but at a financial limit lower than the contract requires, may request project specific permission to bid on the contract. Project specific permission is granted only for categories of work for which the contractor is prequalified.
- b. Also, for each contract over \$50,000,000, each bidder must: (1) be prequalified in the required category at the \$50,000,000 level and (2) request, and receive, project specific permission to bid on the contract.
- c. In determining whether to recommend project specific permission to the Manager, the Board will review the contractor's bonding capacity, financial condition, and size of completed projects in the work category. Our purpose in granting project specific permission to bid is to maximize the number of potential bidders on a City construction contract without jeopardizing the project's success by allowing bidding by contractors who lack the capacity to successfully complete the work if awarded the contract. Therefore, a contractor may be granted project specific permission to bid on a project in an amount that is reasonably larger than the contractor's largest completed projects in that work category, if the contractor's bonding capacity, work history and financial condition indicate that the contractor may be able to successfully complete a contract in the larger amount. Generally, project specific permission may be granted to allow bid on contracts in an amount that is one financial level above the

contractor's current prequalification financial level; however, the Board may recommend project specific permission for a contractor at higher financial levels if the contractor's recent project history and financials indicate that a contractor has the capability to successfully complete the work if awarded the contract.

- d. A contractor who has not submitted certified audited financial statements may not receive project specific permission to bid any job over \$3,000,000, regardless of its bonding capacity, size of jobs or other circumstances.
- e. Each request for project specific permission must be received by the Board's office no later than ten (10) days prior to bid opening, or within the time specified by the contract documents to submit prequalification applications. The Manager or his/her designee under whose authority the contract is let will grant or deny project specific permission under this Rule 4.06; matters relevant to this decision include the contractor's bonding capacity and the size of relevant projects which the contractor has performed in the past five years. A contractor who is denied project specific permission to bid is not entitled to appeal such denial.

4.07 Can a contractor's prequalification financial level be changed?

The Manager may adjust a contractor's prequalification level at any time if he determines that special conditions or circumstances warrant such an adjustment. The Board may require a contractor at any time to supply additional information which the Board determines is reasonably required to satisfy itself that the contractor retains the ability to prosecute City construction contracts successfully.

4.08 What if my company applies for prequalification because a contract under \$1,000,000 requires it?

If a contract has a total estimated dollar value of less than \$1,000,000, but the agency issuing the contract establishes specific contract-related prequalification requirements, applications for prequalification for such contract will be subject to all provisions of these Rules except those concerning financial qualifications; reviewed or certified audited financial statements will not be required. However, the Board may consider the applicant's financial condition, responsibility and capacity when reviewing an application for prequalification for contracts under \$1,000,000 in value. Applicants must submit such evidence of financial condition, as the Board may require in order to determine that the applicant has the qualifications and financial capability to perform the contract work.

SECTION 5. PREQUALIFICATION CRITERIA

5.01 What are the criteria for prequalification?

The Manager can prequalify a contractor or renew a contractor's prequalification if the contractor is not currently debarred from City contracting under Section 20-77 of the Revised Municipal Code, and the Manager determines that the contractor has met all of the criteria listed in this Section 5. These rules require applicants to submit information including five-year histories and lists of no more than ten (10) projects, as a means of obtaining recent and relevant information about the applicants' qualifications. An applicant that has been in business for less than five years or which has completed fewer than ten (10) projects, is eligible for prequalification.

5.02 Is the applicant financially capable?

The applicant must be financially capable of performing the size and type of work for which prequalification is sought. In evaluating financial capability, the Board will consider, among other things:

- (1) The amount of the applicant's Quick Assets or Working Capital, as shown on the financial statements submitted with the application.
- (2) The ratio of the applicant's debts to its net worth, as shown on the financial statements submitted with the application.
- (3) The type and size of contracts completed in a satisfactory manner by the applicant in the previous five years.
- (4) The applicant's bonding capacity.
- (5) Whether the CPA's opinion on the applicant's financial statements is subject to any qualifications or cites any special circumstances.
- (6) Past performance history on City projects (including factors listed in 5.04).

5.03 Does the applicant have sufficient organization, staff, and key personnel?

The applicant must have an organization and staff with the size, training, and experience required to complete the work. The size and type of work which the applicant has performed during the past five years will be considered in this evaluation.

5.04 Has the applicant demonstrated adequate, safe and reliable contract performance?

The applicant's performance on public and private projects during the past five years must have been reliable, safe, and adequate as to skill and integrity. The factors that the Board may consider in evaluating the adequacy, reliability and safety of an applicant's performance of construction work may include, but not be limited to, the following:

- a. The applicant's demonstrated ability to perform contractual obligations on previous projects, including the ability to:
 - (1) effectively prepare and meet computerized Critical Path Method (CPM) and other types of schedules;
 - (2) supervise the work;
 - (3) process accurate and timely change orders, payroll submittals, and other paperwork;
 - (4) perform high quality work;
 - (5) complete and close out contracts in a manner satisfactory to the parties who contracted with the Applicant;
 - (6) effectively schedule, administer and manage the work performed by its subcontractors and material suppliers;
 - (7) make timely payments to its subcontractors and suppliers;

- (8) work effectively and cooperatively with owners, other contractors, subcontractors, construction managers, project managers, designers and other parties involved in construction projects;
 - (9) minimize claims for injury and property damage during its performance of contracts;
 - (10) pay prevailing wages – including timely and correct payroll submittals and prompt remedial payments of any deficiencies – in compliance with City ordinance and contract requirements or the requirements of any state or federal government agency administering prevailing wage rates;
 - (11) comply with local, state, and federal laws, rules and programs related to:
 - small and disadvantaged business enterprises;
 - workplace safety; and
 - environmental protection.
- b. The applicant’s history of cooperation and compliance with City requirements as a prime contractor or subcontractor on City projects, including but not limited to prompt payment of subcontractors and suppliers, programs related to small, disadvantaged, minority and women business enterprises, workplace safety and environmental protection.
 - c. The basis, nature, extent and outcome of the applicant’s past and pending administrative cases and litigation related to its bids or its performance of contract work.
 - d. The nature, extent and resolution of the applicant’s claims and litigation, if any, against the City, the City's consultants, or any other parties, on previous work performed for the City.
 - e. The nature, classification, fine and final outcome of the applicant’s OSHA violations, other safety or regulatory violations, if any.
 - f. The reasons for the termination, if any, of any of applicant’s contracts and the outcome of any dispute arising out of any termination. Also, any instances where the applicant failed to complete a contract and the reasons therefor.
 - g. Any references, written or oral evaluations obtained by the Board from entities with whom the applicant has contracted, of the adequacy of its previous and current performance on construction contracts.
 - h. Any explanation of the circumstances under which and the reasons why applicant’s surety performed any of the work included in one of its contracts.
 - i. Any construction failure attributable to the applicant that occurred during the past five years regardless of when the work involved in the construction failure was performed.
 - j. The applicant’s Experience Modification Rate Factors (EMRF) from the National Council on Compensation Insurance, Inc. (NCCI; www.ncci.com), or a similar regulatory body for non-NCCI states, for each of the past five years, as follows:

- (1) An average EMRF for the past five years of 1.5 or greater will render an applicant ineligible for prequalification.
- (2) An average EMRF for the past five years of 1.2 to 1.49 may be considered as a reason for denying prequalification or for granting prequalification at a lower financial level than the applicant might otherwise obtain.
- (3) An applicant who has not been in business for five years shall submit EMRF scores for each year in which it has been in business, and the average EMRF score for purposes of this section will be calculated using the number of years for which scores have been issued.

5.05 Is the applicant in arrears or default in a City obligation?

- a. The applicant must not be in arrears to the City upon debt or contract.
- b. If the applicant has defaulted upon any obligation to the City, or has otherwise breached a contract with the City, or has been the subject of a critical audit report from the Auditor of the City and County of Denver on the applicant's performance under any contract with the City, the Manager may deny prequalification or limit the financial level of prequalification granted to the applicant.
- c. If the applicant has cured any prior defaults or breaches and demonstrates to the Manager's satisfaction that it has taken reasonable actions to prevent repetition of the conduct involved with such breach, default or faulty performance, the Manager may grant prequalification without limiting the financial level on account of any factors under this Rule 5.05.

5.06 What is the applicant's history of debarment, suspension or revocation?

- a. The applicant must disclose whether it, or any of its owners, principals, personnel, subsidiaries, divisions or affiliates have been debarred, suspended or revoked from entering into contracts with any federal, state or local government entity during the past five years. Any such history will be considered in determining whether the applicant is presently qualified and capable of performing as a prime contractor on a City contract with the required level of skill and integrity.
- b. Notwithstanding the foregoing, no applicant who is debarred from City contracting under Section 20-77, Revised Municipal Code, will be prequalified to bid on any City contract during such period of debarment.

5.07 Does the applicant have a history of criminal convictions?

- a. The applicant must disclose whether it or any of its officers or employees, its subsidiary companies and officers thereof, or any of the applicant's owners or affiliates or officers thereof, has been convicted of crimes related to bids, labor, taxes, wages, safety, or performance of construction contracts, within the past five years in any jurisdiction.
- b. "Crimes" means any offense subject to any term of imprisonment upon conviction or plea of guilty or nolo contendere, and includes petty offenses, misdemeanors and felonies.

- c. Any such history will be considered in determining whether the applicant is presently qualified and capable of performing as a prime contractor on a City contract with the required level of skill and integrity. The existence of such a conviction will not be an absolute bar to prequalification, but the applicant must demonstrate that it has taken reasonable steps to prevent any future repetition of the conduct which led to such criminal convictions, in order to be eligible for prequalification.

5.08 Has the applicant supplied accurate and complete data?

The applicant must submit current, complete, accurate and valid data and information in its application.

SECTION 6. APPLICATIONS

6.01 What must my company submit as its application for prequalification?

You must apply using our application form.

6.02 Where does my company get an application form?

Prequalification forms are available online. The Public Works website is a part of the City's website, www.denvergov.org, and the Aviation Department website is www.flydenver.com. Copies of these rules are available for download at no charge at www.denvergov.org/prequalification.

6.03 Where do I submit the application?

Completed applications must be submitted to the office specified by the Manager.

6.04 What if an application is not complete?

Neither the Board nor the Manager is required to consider or take action on an incomplete application. An application is not complete unless all required information is provided, including all attachments, enclosures and continuation pages, and all questions and inquiries of the Board have been answered. If your application remains incomplete for 45 days after the later of (i) the date of its submission or (ii) the date of the last inquiry or communication to you from the Board, we will consider it abandoned by you.

6.05 Is my company's application a public record under state law?

The City is subject to the Colorado Open Records Act, §§ 24-72-201 et seq., C.R.S. (the "Act"). Applications are public records subject to the Act. Your company's name, address and other basic information, including whether prequalification was granted and your category and level of prequalification, are subject to public inspection. However, the Act prohibits the City from disclosing confidential commercial or financial information supplied to it by others. You must specifically mark each page of your application that you believe contains confidential commercial or financial information which would be exempt from public inspection under the Act, as "confidential" or with a similar notation. If you do not mark a page, we will assume that you do not claim that information on that page is confidential and exempt from inspection under the Act.

6.06 What information is required?

You must supply the following information using supplements and attachments to the application as necessary. Please note that as defined in Section 1.04, “you” means the business entity which is applying for prequalification.

- a. Identifying information: Your essential identifying information, including:
 - (1) Name, including actual business entity name and if different, the name under which you do business.
 - (2) Office address and telephone number
 - (3) Name and email address of the contact person for application matters
 - (4) Your company’s web address
 - (5) The type of applicant’s business entity (including but not limited to corporation, partnership, limited liability company, limited partnership, or proprietorship)
 - (6) Number of years the organization has been in business
 - (7) Former names under which applicant has done business
 - (8) Date and state of incorporation (or date of formation, as applicable to the business entity type)
- b. Registered agent: The name, address and telephone number of the registered agent of a corporation, limited liability company, or other form of business entity, as required by Colorado statute.
- c. Parent and affiliates: A statement identifying your parent company and all subsidiaries and affiliates, if any.
- d. Organization and personnel: A simple organization chart identifying your personnel who supervise construction work and provide financial and administrative support for your construction projects. If requested by the Board, you will also submit brief résumés providing names and qualifications of your personnel who supervise the performance of its construction contracts.
- e. Work category: The category or categories of work listed in these rules for which you seek prequalification, and for each category a list of three completed contracts performed during the past five years which demonstrate that you are qualified to perform the work described in those categories. The listed contracts must be identified on the list of your largest completed contracts. This information must be provided in a form provided or specified by the Board.
- f. Construction contracts: The lists of your construction contracts performed during the past five (5) years which are described in the table below. Each list must be provided in a form provided or specified by the Board and include the following information:

	Description	Information Required	
		Basic	Specific
<u>Largest Completed Contracts</u>	Your ten (10) largest public and private construction contracts completed during the past five years.	Name, address and phone number of the project's owners and architects or engineers. Type of work performed. Initial contract amount. Percentage of work performed by your own employees	Final contract amount. Date of completion. Liquidated damages.
<u>Contracts in Progress</u>	All public and private construction contracts currently in progress.		Current contract amount. Percentage completed at time of application. Expected completion date
<u>Contracts Failed to Complete</u>	A list of each contract that you failed to complete within the past five years.		N/A

g. Litigation: Disclosure of pending or completed court, arbitration, mediation or administrative cases during the past five years where you are or were a party, as described in the following table:

Cases Required to Disclose	Information Required for Each
<ul style="list-style-type: none"> Cases in which you were alleged to have violated any local, state or federal statute, ordinance, rule or regulation, for example but not limited to: OSHA violation citations; citations for wage law violations; and citations for environmental violations. Cases in which your bid was involved. Cases with an amount in controversy over \$75,000 in which your performance of any public or private construction work was involved, including but not limited to claims that you breached a contract or failed to pay subcontractors or suppliers. 	Date commenced. Docket or citation number. Name of the court, administrative or arbitration forum. Names of the parties. A statement of the subject matter and dollar amount in controversy. The outcome or current status if not closed.

h. Debarment, suspension or revocation: A statement as to whether you or any of your owners, principals, personnel, divisions or affiliates presently, or in the past five years, are or have been debarred, suspended or revoked from entering into contracts with any federal, state or local governmental entity, including the City, or have been proposed for such debarment, suspension or revocation. Include a description of the reasons for such action having been taken, the effective dates thereof and the governmental agency so acting.

i. City debarment investigations: A statement as to whether you or any of your owners, principals, personnel, divisions or affiliates has within the past five years received a

notice of investigation under Section 20-77, Revised Municipal Code, from the City's debarment board. An explanation of the date each such notice was sent, the violations or facts on which the notice of investigation was based, and the outcome of the investigation.

- j. Criminal convictions: A statement of whether you or any of your officers or employees, its subsidiary companies and officers thereof, or any of your owners or affiliates or officers thereof, have within the past five years in any jurisdiction been convicted of crimes related to bids, labor, taxes, wages, safety, or the performance of construction work, and the current status of any such individual or business entity.
- k. Financial statement: A statement of financial condition of the applicant which covers your most recently completed fiscal year, in accordance with the following.
 - (1) The statement must be a certified audited financial statement or a reviewed financial statement. You will not be granted prequalification at a level higher than \$3,000,000 if you submit a reviewed financial statement, regardless of your bonding capacity or size of current or completed projects.
 - (2) Except for prequalification at the level of \$3,000,000 or below, and as noted below, only a certified audited financial statement for the business entity applying for prequalification will be acceptable. Consolidated certified audited financial statements for corporations and their subsidiaries are not acceptable unless the financial condition of the parent corporation (if the applicant is the parent) or subsidiary (if the applicant is a subsidiary) can be accurately determined from that statement.
 - (3) The following circumstances will be exceptions as to the financial statement requirements in subsections (1) and (2) above.
 - (a) Any joint venture member may satisfy this requirement by submitting a reviewed financial statement if: (i) its participation in the joint venture is not more than \$3,000,000; or (ii) it holds less than a fifty percent (50%) ownership interest in the joint venture and the owner of the majority joint venture interest possesses sufficient financial capability to qualify in its own right to bid on the contract in question.
 - (b) If an applicant is a wholly owned subsidiary of another corporation, and certifies to the City in writing that there does not exist a certified audited financial statement meeting the requirement of this Rule 6.06 showing only the financial condition of the applicant, the applicant may submit: (1) a consolidated certified audited financial statement for itself and its parent corporation, and (2) a statement in a form acceptable to the city and signed by a duly authorized corporate officer of the parent corporation, that if a City Contract is awarded to the applicant the parent corporation will guarantee the applicant's performance of the contract. The application will be reviewed on the basis of the consolidated certified audited financial statement, and the City may require the parent corporation to submit additional information in order to evaluate the application.

- l. Bonding capacity: A letter from your surety company confirming your bonding capacity for construction contracts.
- m. EMRF: Your Experience Modification Rate Factors for each of the past five years as determined by NCCI or similar regulatory body for non-NCCI states.

6.07 What application is required for environmental remediation work?

As noted in Rule 3.04, because of the critical health and safety issues involved in the work of environmental assessment and remediation, Denver Department of Public Health & Environment evaluates contractors interested in their work directly; a Contractor's Prequalification Application is no longer required.

6.08 Must all information in the application be current?

The information contained in the application must be current at the time it is filed except for the statement of financial condition. You must certify that no significant changes in your financial condition have occurred since the date of its financial statement which was included with your application, or, in the alternative, include a detailed written description and explanation of the change.

6.09 What are the consequences for false statements or omissions?

Any materially false statement in a prequalification application or failure to disclose requested material information will be cause to deny prequalification, and may, at the discretion of the Manager, be cause for determining that a bid is non-responsive or for terminating any contract awarded by the City to the contractor or joint venture in which the contractor is a member.

6.10 Will we be notified of the action taken on our application?

We will notify applicants by mail or email of the action taken on their applications. If the application is granted, the notice will state the category or categories of work and the financial level for which prequalification was granted. If the application is denied, the applicant will be informed. Denials of prequalification may be reviewed as provided in Section 9.

SECTION 7. JOINT VENTURES

7.01 When must a joint venture be prequalified?

If two or more contractors wish to form a joint venture to bid on a Department contract, the joint venture itself must be prequalified to submit the bid, even if all of the members are already individually prequalified. Joint ventures are prequalified on a contract by contract basis. A joint venture's prequalification expires when the contract for which prequalification was obtained has been executed, whether or not the joint venture was awarded the contract.

7.02 What is the application process for a joint venture?

The joint venture's application must be received by the Board within the time stated in the contract documents for submitting prequalification applications. The joint venture's application must be filed on a form obtained from the Board and must be accompanied by a statement by each joint venture member stating:

- The date when the member was individually prequalified;
- The category and limits of such prequalification; and
- That its financial condition has not changed significantly from the date of its last audited financial statement, or, if such financial condition has significantly changed, that the application includes a detailed written description and explanation of the change.

7.03 Must the joint venture agreement be provided?

The joint venture's application must include a copy of the joint venture agreement. This agreement must include all of the following:

- (1) Provisions setting out the scope and extent of each member's responsibility for performing the work described in the contract;
- (2) Provisions stating each contractor's duties and obligations as a joint venture member;
- (3) A statement of the percentage of each member's ownership interest in the joint venture;
- (4) A provision that each of the members will be jointly and severally liable for all duties and obligations of the joint venture; and
- (5) a provision that all purchase orders for equipment and materials, and all subcontracts, must be signed by all joint venture members or by a person with the written authority to legally bind all of the members.

7.04 What if not all the joint venture members are prequalified?

At least one member of the joint venture must be prequalified individually. Another joint venture member must be individually prequalified only if:

- (1) Its participation in the joint venture exceeds \$1,000,000; and
- (2) Its financial capability, in terms of its prequalification limits, is being considered in determining the amount of the contract upon which the joint venture may be prequalified to bid.

Although not every member of a joint venture is required to be prequalified, complete information on each member of the joint venture must be submitted for review in order for the joint venture to be prequalified. Therefore, if any of the joint venture members are not currently prequalified, a completed prequalification application for each non-prequalified member must be attached to the joint venture's application. Financial statements as required by Rule 6.06 must be submitted as part of such application, if available.

7.05 What are the criteria for prequalifying a joint venture?

In determining whether the joint venture possesses the ability, including financial capability, to perform the contract for which it seeks to bid, the Board may consider and rely upon the information set forth in the joint venture's application and those of all the joint venture members, including experience, references, assets and key personnel, as

well as any other relevant information presented to the Board about such joint venture and its members. No joint venture is eligible for prequalification if one of its members is a contractor who is debarred from City contracting under Section 20-77, Revised Municipal Code.

7.06 How is the financial capability of a joint venture determined?

If a contractor who is a joint venture member and who holds at least a fifty-one percent (51%) ownership interest in the joint venture, can be prequalified in its own right to bid on a contract in the amount of the contract for which the joint venture seeks to bid, then the joint venture may be prequalified, as to contract amount, based on such member's financial capability alone. Accordingly, the maximum dollar amount of a contract on which the joint venture may be prequalified to bid will be determined as follows:

- An amount equal to the sum of the current limits for each of the members in the joint venture which are individually prequalified under these Regulations; or
- An amount not greater than the current prequalification limit of the Contractor who is a joint venture member and whose ownership interest in the joint venture is at least fifty-one percent (51%).

SECTION 8. PREQUALIFICATION TERM; RENEWAL

8.01 How long does prequalification last?

- a. The prequalification of a contractor will remain in effect only through the date that is the earlier of either:
 - twelve (12) months after the last day of the month in which the prequalification certification was issued; or
 - eighteen (18) months after the closing date in the Contractor's reviewed or audited financial statement submitted with the application.
- b. Prequalification of a joint venture is on a contract-by-contract basis and expires when the contract for which prequalification was obtained has been executed, regardless of whether the joint venture was awarded the contract.

8.02 Is renewal of prequalification automatic?

No; a new prequalification application is required annually. Complete applications must be received by the Board's office on or before the last day of the contractor's prequalification period, as determined under Rule 8.01. Failure to submit a complete prequalification application by the time of renewal will cause your prequalification status to lapse.

8.03 Are there different standards applicable to renewals?

No; the Board applies the same standards to all prequalification applications, regardless of whether the contractor has previously been prequalified.

8.04 What if my company filed its application for renewal on time but we haven't had a response by our prequalification expiration date?

If a complete application is received by the Board's office on or before the last day of the contractor's prequalification period, the contractor's prequalification status remains in effect, and unchanged, until action is taken on the application.

8.05 Can my company's prequalification status change?

During the term of prequalification, a contractor's status will not change without notice to the contractor. Any time the Board deems it necessary, it may review the qualifications of a prequalified contractor. If this occurs, the Board may require the contractor to submit additional information. A prequalified contractor may request a change in its maximum dollar limit or work category and must submit the additional information required by the Board to consider the change.

The exception to the notice requirement is that a contractor's prequalification is automatically revoked if, and effective as of the date that, the City's debarment board orders the contractor debarred from City contracting under Section 20-77 of the Revised Municipal Code, with no action required by the Manager and no notice required to the contractor. A contractor thus debarred must submit a new application after the period of debarment has ended, if it wishes to be prequalified again.

8.06 Are there reporting requirements during my company's prequalification?

A prequalified contractor must promptly notify the Board of any material decrease in its fiscal or performance qualifications, or of any action taken in any jurisdiction against it or its subsidiaries or affiliates which revokes or limits its ability to bid on, perform work for, or otherwise in any manner participate in contracts of that jurisdiction.

SECTION 9. DENIAL, SUSPENSION AND REVOCATION

9.01 What are the reasons for denying prequalification?

The Manager may deny an application for prequalification if the information available to the Manager, including but not limited to the application, shows that the applicant does not meet the criteria for prequalification under Section 5 or for any of the reasons set out in this Section 9 for revoking or suspending prequalification.

9.02 What are the grounds for revoking or suspending prequalification?

The Manager may suspend or revoke a contractor's prequalification at any time for any of the following reasons:

- a. The contractor or any of its subsidiaries is declared to be in default on any contract with the City.
- b. The contractor has made false, deceptive or fraudulent statements, including the failure to disclose material and relevant information, in its application for prequalification, in any documents connected with a bid, in any other information submitted to the Board or the City, or in the course of any hearing associated with the contractor's prequalification or its performance of contract work for the City.

- c. The contractor has failed to report any decrease in its fiscal or performance qualifications as required by Rule 8.05.
- d. Actions or inactions by the contractor evidence a lack of integrity in contract or construction related matters.
- e. The contractor no longer meets the prequalification criteria contained in Section 5.
- f. Conviction of the contractor, its officers or employees of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.
- g. Conviction of the contractor, its officers or employees under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, or receiving stolen property.
- h. Conviction of the contractor, its officers or employees under state or federal antitrust statutes arising out of the submission of bids or proposals.
- i. Debarment or suspension of the contractor by another governmental entity.

9.03 What procedures are followed for denial, suspension or revocation?

The following procedures govern any denial of an application for prequalification and any suspension or revocation of a contractor's or joint venture's prequalification.

- a. If the Board determines that a prequalification application should be denied or becomes aware of information warranting suspension or revocation of prequalification, as set forth in Rule 9.02, it may recommend to the Manager that the application be denied, or that a contractor's or joint venture's prequalification be suspended or revoked. If such a recommendation is made by the Board and approved by the Manager, the Manager will send the contractor or joint venture by certified mail, return receipt requested, a notice of his decision. The notice will include a written statement of the reasons for the denial, suspension or revocation and will describe the contractor's or joint venture's right to appeal the decision pursuant to the applicable section of the City's Revised Municipal Code. If the Manager suspends prequalification, the notice will set forth the period of such suspension. The Manager's decision will be effective on the date stated therein.
- b. If the contractor or joint venture elects to appeal the decision to deny, suspend or revoke prequalification, any such appeal must be in writing and must be received by the Manager not later than 30 calendar days after the date the contractor or joint venture received the notice of denial, suspension or revocation.
- c. If no request for a hearing is received within the 30-day period, the Manager's decision will be final.

9.04 Are there exceptions to the procedures described in Rule 9.03?

There are two exceptions:

- a. The procedures will not apply to the denial or revocation of prequalification of a contractor debarred by the City debarment board under Section 20-77, Revised Municipal Code, or a joint venture in which such a contractor is a member.

- b. An applicant which submits either of the following is not eligible for prequalification and will have no right to appeal the denial of its prequalification application:
 - (1) Financial statement showing negative working capital; or
 - (2) An application showing that its EMRF average is 1.5 or greater (see Rule 5.04i).

9.05 If my company's application is denied or revoked, when may it reapply?

If the Manager denies a prequalification application or revokes a contractor's prequalification, the denial or revocation will remain in effect for at least one year from the date it takes effect. If the contractor whose application is denied or whose prequalification is revoked desires to be prequalified after that time, it must submit a complete, new application to the Board. The application must demonstrate that the reasons for denial or revocation no longer exist or that they have been adequately addressed or resolved. Nothing herein prohibits a contractor from requesting prequalification in a category previously not sought within one year from denial in a different category, however.

9.06 What is the effect of a company's debarment under § 20-77, D.R.M.C.?

No contractor who is debarred by the City under Section 20-77, Denver Revised Municipal Code, may be prequalified during the term of debarment. No application from such a debarred contractor will be reviewed or considered by the Board or the Manager during the term of debarment. The prequalification of a contractor debarred under Section 20-77 will be automatically revoked as of the date of such debarment, with no action by the Manager required to impose such revocation. No appeal of such prequalification revocation or denial will be allowed; a contractor who disputes the imposition of debarment has the right to appeal the debarment as provided in Section 20-77, and the Managers may not allow a contractor serving a debarment under Section 20-77 to bid on, or be awarded, any City contract. Any contractor thus debarred who wishes to be prequalified under these Rules after the end of such debarment must submit a new and complete application at that time.

SECTION 10. ADMINISTRATION; PREQUALIFICATION BOARD

10.01 How are these Rules administered?

- a. Both Managers intend to provide for unified administration of these rules by a single board, a single administrative office, and other means. Each Manager will take action as to prequalification of contractors for contracts to be let under his Charter authority.
- b. The Managers may from time to time sign a Memorandum of Understanding for the unified administration of these rules, including procedures for application processing, approvals, denials, suspensions, and hearings.
- c. If a dispute arises between the Managers on a matter which requires joint action under these rules, the Managers will refer the matter to the Mayor for a determination.
- d. The Managers will designate a single administrative office in either Department to carry out the day to day administration of construction Contractor prequalification under these Rules. When these Rules provide for documents to be submitted to the

Board or obtained from the Board, they must be submitted to or obtained from the designated office. The location of the office may be changed from time to time by written designation signed by both Managers.

10.02 What is the role of the Prequalification Board?

- a. The Board, a staff working group, reviews all prequalification applications. The Board has the authority to recommend to the Manager that he or she grant or deny a prequalification application, grant or deny a request for project specific permission to bid under Section 4.06, or suspend or revoke any prequalification previously granted to any contractor.
- b. In reviewing applications, the Board may make inquiries about or investigations of applicants as it deems appropriate. When reviewing a prequalification application, the Board may consider any information about the applicant obtained from such inquiries or investigations. The Board may also conduct inquiries or investigations into circumstances involving a prequalified contractor when the Board has cause to believe that facts may exist which would be reason for a change in or suspension or revocation of such contractor's prequalification. In conducting any such inquiries or investigations, the Board may use the services of City employees, consultants, contractors or vendors.
- c. All decisions of the Board are subject to review by the Manager. If the Manager disagrees with the Board's decision, he or she may alter or change it at his or her sole discretion. Without limiting the foregoing, the Manager has the authority to deny an application, suspend or revoke any previously granted prequalification and to overrule or modify the Board's decision to prequalify a contractor.

10.03 Who serves on the Board?

- a. The Board will always consist of an odd number of members, at least five (5). Each Board member must be a full-time employee of the City and County of Denver. The Director of the City's Division of Small Business Opportunity, or its successor in function, will be a member of the Board. The other members who are City employees must be employees of the Department of Public Works, the Department of Aviation, and other City agencies, who have knowledge and expertise in subjects relevant to the Board's duties, including finance and accounting, and issues pertinent to various types of construction projects, for example streets, wastewater, buildings, and airport.
- b. Board members are appointed jointly by the Manager of Public Works and the Manager of Aviation for two-year terms. Board members may be reappointed. The Managers will select the Board members who will serve as Chair and Vice Chair.
- c. The Managers reserve the right, in their discretion, to replace any Board member at any time. In addition, a Board member whose City employment is terminated for any reason, including resignation or retirement, will be replaced by a member appointed by the Managers. The replacement member will be appointed to serve the remainder of the term of the former member.
- d. In the interests of efficiency, the Managers may appoint one "alternate" for each Board member, who may attend Board meetings and act in the place of the Board

member when a Board member is unable to attend. A member's alternate should possess similar knowledge and experience and preferably should be employed in the same department, division or group as the Board member. Alternates do not automatically become Board members upon the resignation or other termination of a Board member's appointment, but an alternate for a terminated or resigned member may act in such former member's stead until the Managers appoint a replacement.

- e. In addition to appointing Board members, the Managers may designate employees within their Departments to provide technical support to the Board, including but not limited to financial analysis. The Managers may also obtain the cooperation of other City departments to provide technical support. Employees providing these services will not be appointed to the Board but may attend Board meetings as necessary or appropriate.

10.04 How does the Board operate?

- a. The Board may adopt its own rules of organization and procedure.
- b. The Board will hold meetings, as needed, to review applications and to consider other matters involving the administration or implementation of these regulations.
- c. A majority of the total number of the members of the Board will constitute a quorum. A quorum is required for transacting all official Board business, regardless of the nature of the meeting. Duly-appointed alternate attending meetings in place of a board member will count toward the quorum and may vote at that meeting. All Board decisions require a vote by a majority of the members and alternates present at a meeting. A Board member who is unable to attend a Board meeting in person and who is not represented by his alternate, may participate by videoconferencing or speaker telephone, and such member may be counted as in attendance for purposes of constituting a quorum.
- d. The Board may conduct meetings by telephone, live computer network technology, videoconferencing and other electronic technology, when authorized by the Chair or in the Chair's absence by the Vice Chair. A written notice of the time of the telephone or online meeting and the matters to be discussed at such meeting will be delivered in advance to each Board member by fax or by e-mail. The notice will be accompanied by background documents of the same nature as are customarily reviewed by Board members at regular meetings. Minutes will be kept.
- e. A quorum of the Board may take action without a meeting, by means of e-mail or telephone communication. Actions taken without a meeting using any form of communication other than e-mail will be set out in a written statement signed by all Board members participating in such action; e-mails will be maintained as the record of actions taken in that manner. All such actions will be disclosed at the next Board meeting.

10.05 Is the minimum contract limit for prequalification subject to review?

Periodically, Board members assigned by the Chairman will review the current cost of building and other types of construction in the City using available construction indices and other sources and will determine an average cost per square foot for different types of

structures and unit costs for other types of construction. The percentage increase or decrease in cost per square foot or other unit during the previous two years will be analyzed in order to determine whether the Managers should adjust the minimum prequalification dollar limit based upon increases or decreases in such cost. The Board will inform the Managers of the results of its research and analysis and its recommendation as to whether the Managers should adopt a new minimum limit, and if so the amount of such limit. Adjustments to the minimum prequalification limit must be made by amendment to these rules in accordance with applicable provisions of the Revised Municipal Code.

10.06 How will the transition from the old rules to these revised rules be handled?

All contractors whose prequalification will expire on June 30, 2019, and who apply for renewal will be considered for renewal under these revised rules, including their categories and dollar limits. The Department will convert the categories and/or dollar limits of Contractors whose prequalification expires later than June 30, 2019, to corresponding categories and/or dollar limits under these revised rules. Each such Contractor will be notified in writing of the results of its conversion. The categories and dollar limits assigned to a contractor as a result of the conversion will be effective only until the contractor's current prequalification expires.

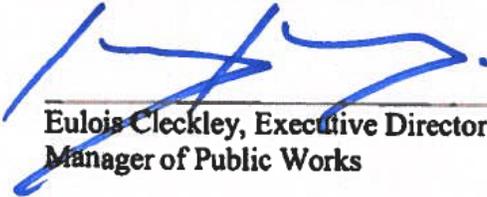
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These Rules for Prequalification of Construction Contractors have been duly adopted in accordance with the rule-making requirements of the Denver Revised Municipal Code and are in accordance with the authority of the Manager of the Department of Public Works and the Manager of the Department of Aviation, under Parts 3 and 11, respectively, of Article II of the Charter of the City and County of Denver.

These Rules for Prequalification of Construction Contractors are adopted on the 24 day of June 2019 and will become effective on July 1, 2019.

In accordance with Section 2-96, D.R.M.C., a copy of these Rules for Prequalification of Construction Contractors was filed with the Denver Clerk and Recorder within seven (7) days of the adoption date, and a notice of the adoption of these Rules for Prequalification of Construction Contractors was published in the Daily Journal on the day 26 of June 2019. The notice included a statement that copies of these Rules for Prequalification of Construction Contractors are on file with the City Clerk and with Departments of Public Works and Aviation and are available for public inspection and copying.

APPROVED AND ADOPTED:



**Eulois Cleckley, Executive Director
Manager of Public Works**



**Kim Day, CEO
Manager of Aviation**

APPROVED FOR LEGALITY:



**Jill Ferguson
City Attorney**