

Approved:



Department of Transportation

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## **PROFESSIONAL SERVICES CONSULTANT QUALIFICATION**

### **PURPOSE:**

To describe the process to be utilized by the Department to determine qualifications for professional services Consultants.

### **AUTHORITY:**

Sections 20.23(4)(a) and 334.048(3), Florida Statutes (F.S.)

### **SCOPE:**

The principal users of this procedure will be Procurement Office personnel involved in the professional services Consultant prequalification process.

### **REFERENCES:**

- 23 Code of Federal Regulations (CFR), Part 172, Administration of Engineering and Design Related Service Contracts
- 23 United States Code (USC), Section 112(b), Contracting for Engineering and Design Services
- 40 USC, Sections 1101-1104, Brooks Act
- 49 CFR, Part 18 Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (Common Grant Rule)
- Federal Acquisition Regulation (FAR) Part 31, Contract Cost Principles and Procedures
- Section 287.055, F.S., Acquisition of Professional Architectural, Engineering, Landscape Architectural, or Surveying and Mapping Services, Definitions, Procedures, Contingent Fees Prohibited, Penalties
- Section 337.105, F.S., Qualifications of Professional Consultants and Other Providers of Contractual Services, Performance Bonds, and Audits of Indirect Costs
- Section 337.106, F.S., Professional Service Providers; Requirement for Professional Liability Insurance
- Section 337.107, F.S., Contracts for Right-of-Way Services
- Section 337.1075, F.S., Contracts for Planning Services

- Section 337.165, F.S., Contract Crime; Denial or Revocation of a Certificate of Qualification
- Chapter 14-75, Florida Administrative Code (F.A.C.), Qualification, Selection and Performance Evaluation Requirements for Professional Consultants to Perform Work for DOT
- Chapter 14-116, Florida Administrative Code (F.A.C.), Letters of Credit
- Policy No. 001-010-020, Ethics Policy
- Procedure No. 375-030-002, Acquisition of Professional Services
- Procedure No. 375-030-004, Audit Process for Professional Services Consultants and Contracts

## DEFINITIONS:

**Administratively Qualified:** Allows a professional services Consultant to pursue a project regardless of dollar amount. See **Section 3.1.3** for administrative requirements.

**Prequalification Administrator:** Central office procurement employee responsible for coordinating evaluation of the qualification package.

**Professional Services Consultant:** Any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice professional services as defined in Sections 287.055, 337.107, and 337.1075, F.S. Hereafter referred to as Consultant.

**Qualification Evaluators:** Various program office designees within the Department who are responsible for evaluating consultant requests for qualification. Qualification Evaluators are required to complete the **Professional Services Prequalification Technical Reviewer Conflict of Interest Certification, Form No. 375-030-29**.

**Prime Consultant:** Firm that proposes to be the lead consultant firm on a contract. Prime Consultants compete for selection on contracts, and if successful, will enter into an agreement with the Department.

**Subconsultant:** Firms that are included on a Prime Consultant's team to perform services on a Department contract. Subconsultants do not enter into a contract directly with the Department.

**Technically Qualified:** Consultant firm qualified in at least one or more major work types, as defined in **Chapter 14-75, F.A.C.**

**Type of Work:** The Department has categorized the professional services more frequently required into classes listed in **Rule 14-75.003, F.A.C.** These types of work are used as the basis for prequalifying consultants.

## 1. CATEGORIES OF QUALIFICATION

Consultants may elect to become only technically qualified or to become both technically and administratively qualified. To contract with the Department for services described in **Chapter 14-75, F.A.C.**, consultants must be technically qualified in appropriate categories and, in addition, must meet certain requirements as specified in **Section 3.1.1 and 3.1.2**. These include having professional liability insurance as well as current authorization or registration of the firm with any applicable Florida regulatory Board(s) based on the requested work group requirements as outlined in **Chapter 14-75, F.A.C.** For projects where the total contract amount is \$500,000 or above, the consultant must be administratively prequalified. See **Section 3.1.3** for the administrative requirements which are in addition to the requirements specified in **Section 3.1.1 and 3.1.2**.

Subconsultants who are used to meet qualification requirements for responses to advertised Department projects must be technically qualified. The prime Consultant must be prequalified in at least one major work type as specified in the advertisement. The Department shall not recognize joint ventures for purposes of qualifying Consultants to work for the Department.

## 2. APPLICATION FOR QUALIFICATION

**2.1** Consultants desiring to qualify with the Department for professional architectural, engineering, landscape architectural, surveying and mapping, planning services, and right of way services shall submit a **Request for Qualification Package for Professional Services Consultants, Form No. 375-030-01** to the Prequalification Administrator.

The application must be made by completing and signing the appropriate pages, attaching all supporting information, and sending via e-mail to [co.profserv@dot.state.fl.us](mailto:co.profserv@dot.state.fl.us).

**2.2** Requests for qualification for those persons or firms who are not prequalified at the time of advertisement for a consultant project must be received by the Department on or before the date and time indicated in the advertisement. The Department will not shortlist a consultant who has not satisfactorily completed the prequalification requirement. The Department will not be obligated to delay any part of the consultant selection process or the execution of a contract for a consultant who has not been prequalified. The Department is not obligated to expedite any part of the prequalification process for a consultant who has responded to an advertisement while still in process for prequalification.

### 3. APPLICATION REVIEW

3.1 Within 30 days of receipt of a **Request for Qualification Package for Professional Services Consultants, Form No. 375-030-01**, the Central Procurement Office shall determine if the application is complete or if additional information is required. If additional information is needed, they shall notify the applicant in writing of any apparent errors or omissions and request additional information. Based on the type of work for which qualification is requested, the Prequalification Administrator shall make proper distribution of the material to designated Qualification Evaluators. The evaluators shall make such inquiries and investigations as deemed necessary to evaluate the applicant's statements and determine competence for qualification in the type of work within two weeks of receipt of the request by the evaluator.

3.1.1 Factors which the Department shall consider in determining technical qualifications by type of work shall include information validated by the Prequalification Administrator:

- a. Current registration of the firm with the State of Florida Division of Corporations.
- b. Current authorization or registration of the firm with any applicable Florida regulatory Board(s) based on requested work group requirements as outlined in **Chapter 14-75, F.A.C.**
- c. Initial check of qualifying personnel licensure and certification as detailed in the type of work qualifications as referenced in **Rule 14-75.0022(4)(c), F.A.C.**
- d. History of suspension due to performance grades for previous contracts with the Department.
- e. No "contractor" as defined in **Section 337.165(1)(d), F.S.** or his or her "affiliate" as defined in **Section 337.165(1)(a), F.S.** qualified with the Department under this section may also qualify under **Sections 287.055 or 337.105, F.S.** to provide testing services, construction, engineering, and inspection services to the Department. This limitation shall not apply to any design-build prequalification under **Section 337.11(7), F.S.**
- f. Integrity and responsibility, including but not limited to history of debarment or suspension from consideration for work with any other governmental entity. Verification that firm is not included in the Vendor Complaint List, Excluded Parties List or Federal Debarment.
- g. History of conviction for contract crime by applicant or its affiliates or reinstatement under **Chapter 14-75, F.A.C.**
- h. Employment of, or otherwise providing compensation to, any employee or officer of the Department: Qualification Evaluators shall complete

**Form No. 375-030-29, Professional Services Prequalification Technical Reviewer Conflict of Interest Certification** on an annual basis.

- i. Willfully offering an employee or officer of the Department any pecuniary or other benefit with the intent to influence the employee's or officer's official action or judgment. Qualification Evaluators shall provide **Form No. 375-030-29, Professional Services Prequalification Technical Reviewer Conflict of Interest Certification**.
- j. Submittal of one of the following:
  - a. Proof of current professional liability insurance
  - b. Commitment letter from a financial institution meeting the requirements of **Section 337.106, F.S.**, stating that a nonassignable and nontransferable irrevocable letter of credit, established pursuant to **Chapter 675 and Section 337.106, F.S., and Chapter 14-116, F.A.C** can be provided to the applicant. The commitment letter shall be for a minimum amount of \$250,000, pursuant to **Rule 14-75.0022 (3)(c) 4., b., F.A.C.**
  - c. Unequivocal commitment letter from an insurance company stating that professional liability insurance would be provided to the applicant.

**3.1.2** The Department qualification evaluators shall review the following when evaluating qualifications by type of work:

Personnel with appropriate experience, licensure, certification, and training as detailed in the type of work qualifications as referenced in **Rule 14-75.0022(4)(c), F.A.C.**

**3.1.3** Factors which the Department shall consider in determining consultant administrative qualifications shall include the above technical factors and the following:

- a. Existence of an adequate job cost accounting system that meets the Department's requirements, as evidenced by certification by an independent certified public accountant or governmental agency: The accounting system must separate and accumulate both direct and indirect costs; and must be adequate to support all billings made to the Department and other clients.
- b. The submittal of an annual overhead audit for the most recent fiscal year performed by an independent Certified Public Accountant or acceptable governmental agency. This audit shall be reviewed for correctness, completeness, and reasonableness. Firms that have not been in business long enough to establish an actual overhead rate may request a Job Cost Accounting System (JCAS) review to determine an interim overhead rate for a one-year period. An actual overhead must be submitted upon annual requalification.

- c. Firms seeking prequalification solely for work type 22.0 are not required to submit a reimbursement rate audit, but are subject to the currently established maximum caps based on the Department's review of average audited reimbursement rates. They may submit a self-certified overhead report and statement describing their accounting system, certified by a principal, in lieu of an audit report and accounting system certification prepared by an independent Certified Public Accountant or governmental agency. Such report will be in the format specified in the ***Department's Reimbursement Rate Audit Guidelines*** (2005).
- 3.2** If the Qualification Evaluator determines that additional information is needed from the applicant, they shall notify the Prequalification Administrator at once. The Prequalification Administrator will then notify the consultant in writing, specifying what information is needed and requesting a return of said information.
- 3.2.1** In all cases where an evaluator determines that the applicant has insufficient experience for qualification in a type of work, an explanation setting forth the grounds and reasons for the determination must be transmitted to the Prequalification Administrator, along with the materials used to perform the evaluation.

#### **4. NOTIFICATION**

- 4.1** Within thirty (30) days after initial receipt of an Application for Qualification Package, the Prequalification Administrator must notify the consultant of the results of its evaluation. The only exception to this provision is when additional information is required of the firm, in which case the Consultant shall be requested to furnish the additional information within thirty days. In instances where additional information is received, the Department shall review the additional information and notify the consultant of the results of the review within thirty (30) days after the receipt of the additional information. If the consultant fails to submit additional information, the Department will act on the application based on the information submitted.
- 4.2** If the Department denies a consultant's request for qualification in any type of work, the Prequalification Administrator shall transmit in writing to the Consultant the reasons for such action. Notification of the denial shall be made by certified mail return receipt express delivery, or by personal delivery to the address listed in the consultant's application for qualification. In addition to the reasons for denial, the letter shall inform the applicant of the right to an administrative hearing pursuant to ***Chapter 120, F.S. and Chapter 28-106, F.A.C.***

#### **5. ANNUAL RENEWALS**

- 6.** Each administratively prequalified firm shall submit to the Department and have approved an overhead audit not later than 150 calendar days following the close of the Consultant's fiscal year. All Consultants shall annually submit the ***Request***

**for Qualification Package for Professional Services Consultants, Form No. 375-030-01** and all requisite attachments. Consultants must submit current proof of professional liability insurance to the Department annually by the anniversary of their initial qualification, or otherwise provide for professional liability by one of the methods provided for initial qualification. Any changes in personnel or other corporate/organizational changes relevant to their qualifications must also be submitted to the Department by a revised application within 10 days of its occurrence.

## **6. QUALITY ASSURANCE**

The Prequalification Administrator shall conduct Quality Assurance Reviews to ensure consultants compliance with qualification requirements in accordance with Rule 14-75.003, F.A.C., and the Department's Quality Assurance Monitoring Plan for Professional Services Qualified Firms.

## **7. TRAINING**

Training on this procedure will be included in periodic professional services training programs.

## **8. FORMS**

The following forms are available in the Department's Forms Library:

375-030-01 Request for Qualification Package for Professional Services Consultants

375-030-29 Professional Services Prequalification Technical Reviewer Conflict of Interest Certification