



COUNTY OF FRESNO
CONTRACTOR
PRE-QUALIFICATION
AND APPEAL
PROCEDURE



Background:

California Public Contract Code, section 20101 allows counties and other public agencies to require licensed contractors bidding on public works projects to “pre-qualify” for the right to bid on a specific project, or on all projects put out to bid on an annual basis. Although the law had been in place since 1999, the County had never adopted nor considered the adoption of a pre-qualification procedure and associated appeal process prior to February, 2019.

On February 26, 2019, the Department of Public Works and Planning (the Department) brought an agenda item before the Board of Supervisors requesting direction regarding the establishment of a pre-qualification policy which would enable the Director of the Department to conduct a pre-qualification process for prospective bidders on certain projects, with the Director making the determination as to which projects would involve a pre-qualification process. The Board directed that the Department develop a pre-qualification policy and an associated appeal process.

Purpose:

The purpose of the pre-qualification procedure is to provide a board-approved mechanism compliant with Public Contract Code requirements whereby prospective bidders who possess qualifications necessary to facilitate the successful completion of certain projects can be evaluated and identified. The procedure is intended to apply to those projects which, at the sole discretion of the Department's Director, are determined to be particularly complex or to require specialized experience.

This pre-qualification procedure identifies applicability, describes the formation of an evaluation Committee, provides a standardized questionnaire to be supplemented with project-specific questions, identifies the means of scoring applications, and establishes standards for conducting interviews of reference firms and of applicants. Finally, the pre-qualification procedure also establishes a process whereby the determination of the selection committee as to qualification can be appealed.

Applicability:

The pre-qualification procedure will generally be applied to complex projects and to projects requiring specialized experience as determined in the Director's sole discretion.

Evaluation Committee:

The evaluation committee shall consist of not less than three individuals who have either project-specific information or general knowledge regarding some aspect of the project or of contracting in general. At the Director's discretion the evaluation committee may include representatives from other Departments, other agencies, or from the general public.

Questionnaire:

A standard questionnaire for prospective contractors is attached hereto as “Appendix A.” The attached questionnaire is a template which is intended generally to be used for all pre-qualification processes and which may be supplemented by project-specific questions as determined in the Director's sole discretion.



Scorable Questions and Scoring:

A list of standard questions, the responses to which can appropriately be assigned a numerical score, is included as "Appendix B." Certain standard questions are for information only and are not assigned a score.

Each evaluation committee member shall independently assign scores to each applicant based on the instructions described in Appendix B. Generally, for those questions to which numerical values are assigned, the scores of each committee member shall be averaged, and such average values shall be the applicant's final scores. The Director may revise the scores associated with each question as necessary to account for any new, project-specific questions included in the questionnaire for the projects.

Firm interviews:

Interviews with each firm will not be conducted except that the evaluation committee may contact any or all firms as often as may be necessary to request clarification of their application materials.

Project Manager Interviews:

The Evaluation Committee shall attempt to conduct Interviews with project managers from public agencies who are familiar with projects listed in contractor's applications. The number of such interviews attempted shall be not less than two, and more may be conducted at the discretion of the Evaluation Committee. The evaluation Committee shall prepare a written question or questions for each interview to document the process and to ensure consistency. The questions are to be limited to matters of fact, and personal opinions of project managers are not to be solicited. Any unsolicited opinions which may be volunteered by interviewees may only be the basis for further factual investigation and verification processes as determined by the committee and shall not otherwise be considered in the selection process.

Template Request for Pre-qualification Notice:

A template for issuing requests for pre-qualification applications is attached as Appendix C. The request shall serve as the template for noticing a pre-qualification process, and may be modified as necessary to address such concerns as are associated specifically with the project in question.

Appeals:

The appeal process is attached as Appendix D.



MODEL PRE-QUALIFICATION QUESTIONNAIRE



CONTACT INFORMATION

Firm Name: Check One: (as it appears on license)

- ☐ Corporation
☐ Partnership
☐ Sole Prop. Contact

Person: _____

Address: _____

Phone: _____ Fax: _____

If firm is a sole proprietor or partnership:

Owner(s) of Company _____

Contractor's License Number(s):

Contractor's public works contractor registration number issued pursuant to section 1725.5 of the California Labor Code



PART I. ESSENTIAL REQUIREMENTS FOR QUALIFICATION

Contractor will be immediately disqualified if the answer to any of questions 1 through 5 is “no.”¹

Contractor will be immediately disqualified if the answer to any of questions 6, 7, 8 or 9 is “yes.”² If the answer to question 8 is “yes,” and if debarment would be the sole reason for denial of pre-qualification, any pre-qualification issued will exclude the debarment period.

1. Contractor possesses a valid and current California Contractor’s license for the project or projects for which it intends to submit a bid.
☐ Yes ☐ No
2. Contractor has a liability insurance policy with a policy limit of at least \$2,000,000 per occurrence and \$4,000,000 annual aggregate.
☐ Yes ☐ No
3. Contractor has current workers’ compensation insurance policy as required by the Labor Code or is legally self-insured pursuant to Labor Code section 3700 et. seq.
☐ Yes ☐ No ☐ Contractor is exempt from this requirement, because it has no employees
4. Have you attached your latest copy of a reviewed or audited financial statement with accompanying notes and supplemental information.³
☐ Yes ☐ No

NOTE: A financial statement that is not either reviewed or audited is not acceptable. A letter verifying availability of a line of credit may also be attached; however, it will be considered as supplemental information only, and is not a substitute for the required financial statement.

5. Have you attached a notarized statement from an admitted surety insurer (approved by the California Department of Insurance and authorized to issue bonds in the State of California), which states that your current bonding capacity is sufficient for the project for which you seek pre-qualification.⁴
☐ Yes ☐ No

NOTE: Notarized statement must be from the surety company, not an agent or broker.

¹ A “no” answer to Question 4 will not be disqualifying if the contractor is exempt from complying with Question 4, for reasons explained in footnote 7.

² A contractor disqualified solely because of its answer to any of questions 1 through 9 may appeal the disqualification and provide an explanation of the relevant circumstances during the appeal procedure.

³ Public Contract Code section 20101(e) exempts from this requirement a contractor who has qualified as a small business pursuant to Government Code section 14837(d)(1), if the bid is “no more than 25 per cent of the qualifying amount provided in section 14837(d)(1).” As of January 1, 2019, the qualifying amount is \$15 million, and 25 per cent of that amount, therefore, is \$3.75 million.



6. Has your contractor's license been revoked at any time in the last five years?
☐ Yes ☐ No
7. Has a surety firm completed a contract on your behalf, or paid for completion because your firm was default terminated by the project owner within the last five (5) years?
☐ Yes ☐ No
8. At the time of submitting this pre-qualification form, is your firm ineligible to bid on or be awarded a public works contract, or perform as a subcontractor on a public works contract, pursuant to either Labor Code section 1777.1 or Labor Code section 1777.7?
☐ Yes ☐ No
- If the answer is "Yes," state the beginning and ending dates of the period of debarment:
- Begin Date: _____
- End Date: _____
9. At any time during the last five years, has your firm, or any of its owners or officers been convicted of a crime involving the awarding of a contract of a government construction project, or the bidding or performance of a government contract?
☐ Yes ☐ No

⁴ An additional notarized statement from the surety may be requested by the County at the time of submission of a bid, if this pre-qualification package is submitted more than 60 days prior to submission of the bid.



PART II. ORGANIZATION, HISTORY, ORGANIZATIONAL PERFORMANCE, COMPLIANCE WITH CIVIL AND CRIMINAL LAWS

A. Current Organization and Structure of the Business

For Firms That Are Corporations:

1a. Date incorporated : _____

1b. Under the laws of what state: _____

1c. Provide all the following information for each person who is either (a) an officer of the corporation (president, vice president, secretary, treasurer), or (b) the owner of at least ten per cent of the corporation's stock.

Name	Position	Years with Co.	% Ownership	Social Security #

1d. Identify every construction firm that any person listed above has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years.

NOTE: For this question, "owner" and "partner" refer to ownership of ten per cent or more of the business, or 10 per cent or more of its stock, if the business is a corporation.

Person's Name	Construction Firm	Dates of Person's Participation with Firm

For Firms That Are Partnerships:

1a. Date of formation: _____

1b. Under the laws of what state: _____

1c. Provide all the following information for each partner who owns 10 per cent or more of the firm.

Name	Position	Years with Co.	% Ownership	Social Security #



- 1d. Identify every construction company that any partner has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years.

NOTE: For this question, “owner” and “partner” refer to ownership of ten per cent or more of the business, or ten per cent or more of its stock, if the business is a corporation.

Person's Name	Construction Company	Dates of Person's Participation with Company

For Firms That Are Sole Proprietorships:

- 1a. Date of commencement of business. _____
- 1b. Social security number of company owner. _____
- 1c. Identify every construction firm that the business owner has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years.

NOTE: For this question, “owner” and “partner” refer to ownership of ten per cent or more of the business, or ten per cent or more of its stock, if the business is a corporation.

Person's Name	Construction Company	Dates of Person's Participation with Company

For Firms That Intend to Make a Bid as Part of a Joint Venture:

- 1a. Date of commencement of joint venture. _____
- 1b. Provide all of the following information for each firm that is a member of the joint venture that expects to bid on one or more projects:

Name of firm	% Ownership of Joint Venture



B. History of the Business and Organizational Performance

2. Has there been any change in ownership of the firm at any time during the last three years?

NOTE: A corporation whose shares are publicly traded is not required to answer this question.

☐ Yes ☐ No

If “yes,” explain on a separate signed page.

3. Is the firm a subsidiary, parent, holding company or affiliate of another construction firm?

NOTE: Include information about other firms if one firm owns 50 per cent or more of another, or if an owner, partner, or officer of your firm holds a similar position in another firm.

☐ Yes ☐ No

If “yes,” explain on a separate signed page.

4. Are any corporate officers, partners or owners connected to any other construction firms.

NOTE: Include information about other firms if an owner, partner, or officer of your firm holds a similar position in another firm.

☐ Yes ☐ No

If “yes,” explain on a separate signed page.

5. State your firm’s gross revenues for each of the last three years:

6. How many years has your organization been in business in California as a contractor under your present business name and license number? _____ years

7. Is your firm currently the debtor in a bankruptcy case?

☐ Yes ☐ No

If “yes,” please attach a copy of the bankruptcy petition, showing the case number, and the date on which the petition was filed.



8. Was your firm in bankruptcy at any time during the last five years? (This question refers only to a bankruptcy action that was not described in answer to question 7, above)
- ☐ Yes ☐ No

If “yes,” please attach a copy of the bankruptcy petition, showing the case number and the date on which the petition was filed, and a copy of the Bankruptcy Court’s discharge order, or of any other document that ended the case, if no discharge order was issued.

Licenses

9. List all California construction license numbers, classifications and expiration dates of the California contractor licenses held by your firm:
10. If any of your firm’s license(s) are held in the name of a corporation or partnership, list below the names of the qualifying individual(s) listed on the CSLB records who meet(s) the experience and examination requirements for each license.
11. Has your firm changed names or license number in the past five years?
- ☐ Yes ☐ No
- If “yes,” explain on a separate signed page, including the reason for the change.
12. Has any owner, partner or (for corporations:) officer of your firm operated a construction firm under any other name in the last five years?
- ☐ Yes ☐ No
- If “yes,” explain on a separate signed page, including the reason for the change. _
13. Has any CSLB license held by your firm or its Responsible Managing Employee (RME) or Responsible Managing Officer (RMO) been suspended within the last five years?
- ☐ Yes ☐ No
- If “yes,” please explain on a separate signed sheet.



Disputes

14. At any time in the last five years has your firm been assessed and paid liquidated damages after completion of a project under a construction contract with either a public or private owner?

☐ Yes ☐ No

If yes, explain on a separate signed page, identifying all such projects by owner, owner's address, the date of completion of the project, amount of liquidated damages assessed and all other information necessary to fully explain the assessment of liquidated damages.

15. In the last five years has your firm, or any firm with which any of your company's owners, officers or partners was associated, been debarred, disqualified, removed or otherwise prevented from bidding on, or completing, any government agency or public works project for any reason?

NOTE: "Associated with" refers to another construction firm (if any) in which an owner, partner or officer of your firm held a similar position, and which is listed in your response to question 1c or 1d of Section A of this Part II of this Questionnaire.

☐ Yes ☐ No

If "yes," explain on a separate signed page. State whether the firm involved was the firm applying for pre-qualification here or another firm. Identify by name of the company, the name of the person within your firm who was associated with that company, the year of the event, the owner of the project, the project and the basis for the action.

16. In the last five years has your firm been denied an award of a public works contract based on a finding by a public agency that your company was not a responsible bidder?

☐ Yes ☐ No

If "yes," explain on a separate signed page. Identify the year of the event, the owner, the project and the basis for the finding by the public agency.

* * * * *

NOTE: The following two questions refer only to disputes between your firm and the owner of a project. You need not include information about disputes between your firm and a supplier, another contractor, or subcontractor. You need not include information about "pass-through" disputes in which the actual dispute is between a sub-contractor and a project owner. Also, you may omit reference to all disputes about amounts of less than \$50,000.

17. In the past five years has any claim against your firm concerning your firm's work on a construction project been filed in court or arbitration?

☐ Yes ☐ No

If "yes," on separate signed sheets of paper identify the claim(s) by providing the project name, date of the claim, name of the claimant, a brief description of the nature of the claim, the court in which the case was filed and a brief description of the status of the claim (pending or, if resolved, a brief description of the resolution).



18. In the past five years has your firm made any claim against a project owner concerning work on a project or payment for a contract and **filed that claim in court or arbitration?**

☐ Yes ☐ No

If “yes,” on separate signed sheets of paper identify the claim by providing the project name, date of the claim, name of the entity (or entities) against whom the claim was filed, a brief description of the nature of the claim, the court in which the case was filed and a brief description of the status of the claim (pending, or if resolved, a brief description of the resolution).

19. At any time during the past five years, has any surety company made any payments on your firm’s behalf as a result of a default, to satisfy any claims made against a performance or payment bond issued on your firm’s behalf, in connection with a construction project, either public or private?

☐ Yes ☐ No

If “yes,” explain on a separate signed page the amount of each such claim, the name and telephone number of the claimant, the date of the claim, the grounds for the claim, the present status of the claim, the date of resolution of such claim if resolved, the method by which such was resolved if resolved, the nature of the resolution and the amount, if any, at which the claim was resolved.

20. In the last five years has any insurance carrier, for any form of insurance, refused to renew the insurance policy for your firm?

☐ Yes ☐ No

If “yes,” explain on a separate signed page. Name the insurance carrier, the form of insurance and the year of the refusal.

Criminal Matters and Related Civil Suits

21. Has your firm or any of its owners, officers or partners ever been found liable in a civil suit or found guilty in a criminal action for making any false claim or material misrepresentation to any public agency or entity?

☐ Yes ☐ No

If “yes,” explain on a separate signed page, including identifying who was involved, the name of the public agency, the date of the investigation and the grounds for the finding.



22. Is any civil or criminal action currently pending, in any court, in which it is alleged that any owner, officer or partner of your firm made any false claim or material misrepresentation to any public agency or entity?

☐ Yes ☐ No

If “yes,” please identify which of your firm’s owners, officers or partners are implicated by the allegations of that action, and provide: the title of the case, the name of the court in which it is pending, and the case number of that action.

23. Has your firm or any of its owners, officers or partners ever been convicted of a crime involving any federal, state, or local law related to construction?

☐ Yes ☐ No

If “yes,” explain on a separate signed page, including identifying who was involved, the name of the public agency, the date of the conviction and the grounds for the conviction.

24. Has your firm or any of its owners, officers or partners ever been convicted of a federal or state crime of fraud, theft, or any other act of dishonesty?

☐ Yes ☐ No

If “yes,” identify on a separate signed page the person or persons convicted, the court (the county if a state court, the district or location of the federal court), the year and the criminal conduct.

25. Is any criminal action currently pending, in any court, in which it is alleged that any owner, officer or partner of your firm is charged with having committed a federal or state crime of fraud, theft, or any other act of dishonesty?

☐ Yes ☐ No

If “yes,” please identify which of your firm’s owners, officers or partners are implicated by the allegations of that action, and provide: the title of the case, the name of the court in which it is pending, and the case number of that action.

Bonding

26. Bonding capacity: Provide documentation from your surety identifying the following:

Name of bonding company/surety: _____

Name of surety agent, address and telephone number:



27. If your firm was required to pay a premium of more than one per cent for a performance and payment bond on any project(s) on which your firm worked at any time during the last three years, state the percentage that your firm was required to pay. You may provide an explanation for a percentage rate higher than one per cent, if you wish to do so.

28. List all other sureties (name and full address) that have written bonds for your firm during the last five years, including the dates during which each wrote the bonds:

29. During the last five years, has your firm ever been denied bond coverage by a surety company, or has there ever been a period of time when your firm had no surety bond in place during a public construction project when one was required?

☐ Yes ☐ No

If yes, provide details on a separate signed sheet indicating the date when your firm was denied coverage and the name of the company or companies which denied coverage; and the period during which you had no surety bond in place.

C. Compliance with Occupational Safety and Health Laws and with Other Labor Legislation Safety

30. Has CAL OSHA cited and assessed penalties against your firm for any "serious," "willful" or "repeat" violations of its safety or health regulations in the past five years?

NOTE: If you have filed an appeal of a citation, and the Occupational Safety and Health Appeals Board has not yet ruled on your appeal, you need not include information about it.

☐ Yes ☐ No

If "yes," attached a separate signed page describing the citations, including information about the dates of the citations, the nature of the violation, the project on which the citation(s) was or were issued, the amount of penalty paid, if any. If the citation was appealed to the Occupational Safety and Health Appeals Board and a decision has been issued, state the case number and the date of the decision.



31. Has the federal Occupational Safety and Health Administration cited and assessed penalties against your firm in the past five years?

NOTE: If you have filed an appeal of a citation and the Appeals Board has not yet ruled on your appeal, or if there is a court appeal pending, you need not include information about the citation.

☐ Yes ☐ No

If "yes," attach a separate signed page describing each citation.

32. Has the EPA or any Air Quality Management District or any Regional Water Quality Control Board cited and assessed penalties against either your firm or the owner of a project on which your firm was the contractor, in the past five years?

NOTE: If you have filed an appeal of a citation and the Appeals Board has not yet ruled on your appeal, or if there is a court appeal pending, you need not include information about the citation.

☐ Yes ☐ No

If "yes," attach a separate signed page describing each citation.

33. How often do you require documented safety meetings to be held for construction employees and field supervisors during the course of a project?

34. List your firm's Experience Modification Rate (EMR) (California workers' compensation insurance) for each of the past three premium years:

NOTE: An Experience Modification Rate is issued to your firm annually by your workers' compensation insurance carrier.

Current year: _____

Previous year: _____

Year prior to previous year: _____

If your EMR for any of these three years is or was 1.00 or higher you may, if you wish, attach a letter of explanation.



35. Within the last five years has there ever been a period when your firm had employees but was without workers' compensation insurance or state-approved self-insurance?

☐ Yes ☐ No

If "yes," please explain the reason for the absence of workers' compensation insurance on a separate signed page. If "No," please provide a statement by your current workers' compensation insurance carrier that verifies periods of workers' compensation insurance coverage for the last five years. (If your firm has been in the construction business for less than five years, provide a statement by your workers' compensation insurance carrier verifying continuous workers' compensation insurance coverage for the period that your firm has been in the construction business.)

Prevailing Wage and Apprenticeship Compliance Record

36. Has there been more than one occasion during the last five years in which your firm was required to pay either back wages or penalties for your own firm's failure to comply with the **state's** prevailing wage laws?

NOTE: This question refers only to your own firm's violation of prevailing wage laws, not to violations of the prevailing wage laws by a subcontractor.

☐ Yes ☐ No

If "yes," attach a separate signed page or pages, describing the nature of each violation, identifying the name of the project, the date of its completion, the public agency for which it was constructed; the number of employees who were initially underpaid and the amount of back wages and penalties that you were required to pay.

37. During the last five years, has there been more than one occasion in which your own firm has been penalized or required to pay back wages for failure to comply with the **federal** Davis-Bacon prevailing wage requirements?

☐ Yes ☐ No

If "yes," attach a separate signed page or pages describing the nature of the violation, identifying the name of the project, the date of its completion, the public agency for which it was constructed; the number of employees who were initially underpaid, the amount of back wages you were required to pay along with the amount of any penalty paid.

38. Provide the **name, address and telephone number** of the apprenticeship program (approved by the California Apprenticeship Council) from whom you intend to request the dispatch of apprentices to your company for use on any public work project for which you are awarded a contract by the County.



39. If your firm operates its own State-approved apprenticeship program:

- a. Identify the craft or crafts in which your firm provided apprenticeship training in the past year.
- b. State the year in which each such apprenticeship program was approved, and attach evidence of the most recent California Apprenticeship Council approval(s) of your apprenticeship program(s).
- c. State the number of individuals who were employed by your firm as apprentices at any time during the past three years in each apprenticeship and the number of persons who, during the past three years, completed apprenticeships in each craft while employed by your firm.

40. At any time during the last five years, has your firm been found to have violated any provision of California apprenticeship laws or regulations, or the laws pertaining to use of apprentices on public works?

☐ Yes ☐ No

If "yes," provide the date(s) of such findings, and attach copies of the Department's final decision(s).



PART III. RECENT CONSTRUCTION PROJECTS COMPLETED

41. Contractor shall provide information about its six most recently completed public works projects and its three largest completed private projects within the last three years.⁷ Names and references must be current and verifiable. Use separate sheets of paper that contain all of the following information:

Project Name: _____

Location: _____

Owner: _____

Owner Contact (name and current phone number):

Architect or Engineer: _____

Architect or Engineer Contact (name and current phone number):

Construction Manager (name and current phone number):

⁵ If you wish, you may, using the same format, also provide information about other projects that you have completed that are similar to the project(s) for which you expect to bid.



Description of Project, Scope of Work Performed:

Total Value of Construction (including change orders): _____

Original Scheduled Completion Date: _____

Time Extensions Granted (number of days): _____

Actual Date of Completion: _____

* * * * *

I, the undersigned, certify and declare that I have read all the foregoing answers to this pre-qualification questionnaire and know their contents. The matters stated in the questionnaire answers are true of my own knowledge and belief, except as to those matters stated on information and belief, and as to those matters I believe them to be true. I declare under penalty of perjury under the laws of the State of California, that the foregoing is correct.

(Print Name and Title)

(Signature)

(Date)



A LIST OF THE SCORABLE QUESTIONS AND THE SCORING INSTRUCTIONS



A LIST OF THE SCORABLE QUESTIONS AND THE SCORING INSTRUCTIONS

The scorable questions address the following three different areas:

- (I) History of the business and organizational performance;
- (II) Compliance with occupational safety and health laws, workers' compensation and other labor legislation; and
- (III) Completion of recent projects and quality of performance.

The interview questions (interviews by the public agency of project managers on projects completed recently by the contractor) are included in Group III, including a scoring of recently completed projects that are similar to the Project at issue.

Note: Not all questions in the questionnaire are scorable; some questions simply ask for information about the contractor firm's structure, officers and history. This document (Appendix B) includes only those questions that are "scorable". Therefore, the numbering of each question herein does not necessarily correspond with the numbering of the same question in Appendix A.

The Scores Needed for Pre-qualification

To pre-qualify, a contractor would be required to have a passing grade within each of the three large categories referred to above.

For Section I, "History of the business and organizational performance," DIR recommends use of a passing score of **57** on this portion of the questionnaire (of a maximum score of 76 on this portion of the questionnaire).

For Section II, Compliance with occupational safety and health laws, workers' compensation and other labor legislation DIR recommends use of a passing score of **38** on this portion of the questionnaire (of a maximum score of 53 points on this portion of the questionnaire).

Section III, Completion of recent projects and quality of performance, includes a series of interview questions, and may also include questions about recently completed (public or



private) construction projects. For the interview questions, DIR recommends that a public agency interview project managers for the owners of two completed projects. DIR recommends a scoring system that would allow a maximum score of 120 points for each interview. For these questions, DIR recommends qualification for a contractor whose score on each of two interviews is 72 points or more; a denial of pre-qualification for a contractor whose score on either interview is less than 55 points; and an additional interview with another reference if the score resulting from one interview is between 55 points and 72 points.

DIR makes no recommendation about how to score a contractor's answers about recently completed past projects. DIR explained that the wide range of projects that a public agency may be planning, and the similarly wide range in the skills, abilities, and experience that a public agency will consider most important for a pending project, made it impossible for DIR to propose a useful model scoring system to apply to the answers given about a contractor's completed projects.

I - Questions on History of the Business and Organizational Performance

(16 questions)

1. How many years has your organization been in business in California as a contractor under your present business name and license number? _____ years

3 years or more = 2 points
4 years = 3 points 5 years = 4
pts. 6 years or more = 5 points

2. Is your firm currently the debtor in a bankruptcy case?
☐ Yes ☐ No

“No” = 3 points“ “Yes” = 0 points

3. Was your firm in bankruptcy any time during the last five years? (This question refers only to a bankruptcy action that was not described in answer to question 7, above).
☐ Yes ☐ No

“No” = 3 points“ “Yes” = 0 points



4. Has any CSLB license held by your firm or its Responsible Managing Employee (RME) or Responsible Managing Officer (RMO) been suspended within the last five years?
- ☐ Yes ☐ No

No = 5 points Yes = 0 points

5. At any time in the last five years, has your firm been assessed and paid liquidated damages after completion of a project, under a construction contract with either a public or private owner?
- ☐ Yes ☐ No

No projects with liquidated damages of more than \$50,000, or one project with liquidated damages = 5 points.

Two projects with liquidated damages of more than \$50,000 = 3 points

Any other answer: no points

6. In the last five years has your firm, or any firm with which any of your company's owners, officers or partners was associated, been debarred, disqualified, removed or otherwise prevented from bidding on, or completing, any government agency or public works project for any reason?

NOTE: "Associated with" refers to another construction firm (if any) in which an owner, partner or officer of your firm held a similar position, and which is listed in your response to question 1c or 1d in Part II, Section A of the Questionnaire

☐ Yes ☐ No

No = 5 points Yes = 0 points

7. In the last five years, has your firm been denied an award of a public works contract based on a finding by a public agency that your company was not a responsible bidder?
- ☐ Yes ☐ No

No = 5 points Yes = 0 points

* * * * *

NOTE: The following two questions refer only to disputes between your firm and the owner of a project. You need not include information about disputes between your firm and a supplier, another contractor, or subcontractor. You need not include information about "pass-through" disputes in which the actual dispute is between a sub-contractor and a project owner. Also, you may omit reference to all disputes about amounts of less than \$50,000.



8. In the past five years, has any claim **against** your firm concerning your firm's work on a construction project, been **filed in court or arbitration?**
- ☐ Yes ☐ No

If the firm's average gross revenue for the last three years was less than \$50 million, scoring is as follows:

5 points for either "No" or "Yes" indicating 1 such instance. 3 points for "Yes" indicating 2 such instances. 0 points for "Yes" if more than 2 such instances.

If your firm's average gross revenue for the last three years was more than \$50 million, scoring is as follows:

5 points for either "No" or "Yes" indicating 1, 2, or 3 such instances. 3 points for "Yes" indicating either 4 or 5 such instances.

0 points for "Yes" if more than 5 such instances.

9. In the past five years, has your firm made any claim against a project owner concerning work on a project or payment for a contract, and **filed that claim in court or arbitration?**
- ☐ Yes ☐ No

If your firm's average gross revenues for the last three years was less than \$50 million scoring is as follows:

5 points for either "No" or "Yes" indicating 1 such instance. 3 points for "Yes" indicating 2 such instances.

0 points for "Yes" if more than 2 such instances.



If your firm's average gross revenues for the last three years was more than \$50 million, scoring is as follows:

5 points for either "No" or "Yes" indicating 1, 2, or 3 such instances. 3 points for "Yes" indicating either 4 or 5 such instances.

0 points for "Yes" if more than 5 such instances.

10. At any time during the past five years, has any surety company made any payments on your firm's behalf as a result of a default, to satisfy any claims made against a performance or payment bond issued on your firm's behalf in connection with a construction project, either public or private?

☐ Yes ☐ No

5 points for either "No" or "Yes" indicating 1 such claim. 3 points for "Yes" indicating no more than 2 such claims Subtract five points for "Yes" if more than 2 such claims

11. In the last five years, has any insurance carrier, for any form of insurance, refused to renew the insurance policy for your firm?

☐ Yes ☐ No

5 points for either "No" or "Yes" indicating 1 such instance. 3 points for "Yes" indicating 2 such instances. 0 points for "Yes" or if more than 2 such instances.

12. Has your firm, or any of its owners, officers, or partners ever been found liable in a civil suit, or found guilty in a criminal action, for making any false claim or material misrepresentation to any public agency or entity?

☐ Yes ☐ No

No = 5 points Yes = subtract 5 points

13. Has your firm, or any of its owners, officers or partners ever been convicted of a crime involving any federal, state, or local law related to construction?

☐ Yes ☐ No

No = 5 points Yes = subtract 5 points



14. Has your firm or any of its owners, officers or partners ever been convicted of a federal or state crime of fraud, theft, or any other act of dishonesty?

☐ Yes ☐ No

No = 5 points Yes = subtract 5 points

15. If your firm was required to pay a premium of more than one per cent for a performance and payment bond on any project(s) on which your firm worked at any time during the last three years, state the percentage that your firm was required to pay. You may provide an explanation for a percentage rate higher than one per cent, if you wish to do so.

_____ %

*5 points if the rate is no more than one per cent
3 points if the rate was no higher than 1.10 per cent. 0 points for any other answer.*

16. During the last five years, has your firm ever been denied bond credit by a surety company, or has there ever been a period of time when your firm had no surety bond in place during a public construction project when one was required?

☐ Yes ☐ No

No = 5 points Yes = 0 points

**II. Questions about compliance with safety, workers
compensation, prevailing wage and apprenticeship laws.**

(11 questions)

1. Has CAL OSHA cited and assessed penalties against your firm for any “serious,” “willful” or “repeat” violations of its safety or health regulations in the past five years?

Note: If you have filed an appeal of a citation and the Occupational Safety and Health Appeals Board has not yet ruled on your appeal, you need not include information about it.

☐ Yes ☐ No



If the firm's average gross revenues for the last three years was less than \$50 million, scoring is as follows:

5 points for either "No" or "Yes" indicating 1 such instance. 3 points for "Yes" indicating 2 such instances.

0 points for "Yes" if more than 2 such instances.

If the firm's average gross revenues for the last three years was more than \$50 million, scoring is as follows:

5 points for either "No" or "Yes" indicating 1, 2, or 3 such instances. 3 points for "Yes" indicating either 4 or 5 such instances.

0 points for "Yes" if more than 5 such instances.

2. Has the federal Occupational Safety and Health Administration cited and assessed penalties against your firm in the past five years?

Note: If you have filed an appeal of a citation and the appropriate appeals Board has not yet ruled on your appeal, you need not include information about it.

☐ Yes ☐ No

If yes, attach a separate signed page describing each citation.

If the firm's average gross revenues for the last three years was less than \$50 million, scoring is as follows:

5 points for either "No" or "Yes" indicating 1 such instance. 3 points for "Yes" indicating 2 such instances.

0 points for "Yes" or if more than 2 such instances.

If the firm's average gross revenues for the last three years was more than \$50 million, scoring is as follows:



5 points for either “No” or “Yes” indicating 1, 2, or 3 such instances. 3 points for “Yes” indicating either 4 or 5 such instances.

0 points for “Yes” if more than 5 such instances.

3. Has the EPA or any Air Quality Management District or any Regional Water Quality Control Board cited and assessed penalties against either your firm or the owner of a project on which your firm was the contractor, in the past five years?
NOTE: If you have filed an appeal of a citation and the Appeals Board has not yet ruled on your appeal, or if there is a court appeal pending, you need not include information about the citation.
- ☐ Yes ☐ No

If the firm’s average gross revenues for the last three years was less than \$50 million, scoring is as follows:

5 points for either “No” or “Yes” indicating 1 such instance. 3 points for “Yes” indicating 2 such instances.

0 points for “Yes” or if more than 2 such instances.

If the firm’s average gross revenues for the last three years was more than \$50 million, scoring is as follows:

5 points for either “No” or “Yes” indicating 1, 2, or 3 such instances. 3 points for “Yes” indicating either 4 or 5 such instances.

0 points for “Yes” if more than 5 such instances.

4. How often do you require documented safety meetings to be held for construction employees and field supervisors during the course of a project?



3 points for an answer of once each week or more often. 0 points for any other answer

5. List your firm's Experience Modification Rate (EMR) (California workers' compensation insurance) for each of the past three premium years:
NOTE: An Experience Modification Rate is issued to your firm annually by your workers' compensation insurance carrier.

Current year: _____

Previous year: _____

Year prior to previous year: _____

If your EMR for any of these three years is or was 1.00 or higher, you may, if you wish, attach a letter of explanation.

NOTE: An Experience Modification Rate is issued to your firm annually by your workers' compensation insurance carrier.

***5 points for three-year average EMR of .95 or less
3 points for three-year average of EMR of more than .95 but no more than 1.00 0 points for any other EMR***

6. Within the last five years, has there ever been a period when your firm had employees but was without workers' compensation insurance or state-approved self-insurance?
- ☐ Yes ☐ No

5 points for either "No" or "Yes" indicating 1 such instance. 0 points for any other answer.

7. Has there been more than one occasion during the last five years on which your firm was required to pay either back wages or penalties for your own firm's failure to comply with the **state's** prevailing wage laws?
- ☐ Yes ☐ No

NOTE: This question refers only to your own firm's violation of prevailing wage laws, not to violations of the prevailing wage laws by a subcontractor.

If your firm's average gross revenues for the last three years was less than \$50 million, scoring is as follows:



5 points for either “No,” or “Yes” indicating either 1 or 2 such instance. 3 points for “Yes” indicating 3 such instances.

0 points for “Yes” and more than 3 such instances.

If your firm’s average gross revenues for the last three years was more than \$50 million, scoring is as follows:

5 points for either “No” or “Yes” indicating no more than 4 such instances. 3 points for “Yes” indicating either 5 or 6 such instances.

0 points for “Yes” and more than 6 such instances.

8. During the last five years, has there been more than one occasion on which your own firm has been penalized or required to pay back wages for failure to comply with the **federal** Davis-Bacon prevailing wage requirements?

☐ Yes ☐ No

If your firm’s average gross revenues for the last three years was less than \$50 million, scoring is as follows:

5 points for either “No,” or “Yes” indicating either 1 or 2 such instance. 3 points for “Yes” indicating 3 such instances.

0 points for “Yes” and more than 3 such instances.

If your firm’s average gross revenues for the last three years was more than \$50 million, scoring is as follows:

5 points for either “No” or “Yes” indicating no more than 4 such instances. 3 points for “Yes” indicating either 5 or 6 such instances.

0 points for “Yes” and more than 6 such instances.



9. Provide the **name, address and telephone number** of the apprenticeship program sponsor(s) (approved by the California Division of Apprenticeship Standards) that will provide apprentices to your company for use on any public work project for which you are awarded a contract by *[Public Entity]*.

5 points if at least one approved apprenticeship program is listed. 0 points for any other answer.

10. If your firm operates its own State-approved apprenticeship program:
- (a) Identify the craft or crafts in which your firm provided apprenticeship training in the past year.
 - (b) State the year in which each such apprenticeship program was approved, and attach evidence of the most recent California Apprenticeship Council approval(s) of your apprenticeship program(s).
 - (c) State the number of individuals who were employed by your firm as apprentices at any time during the past three years in each apprenticeship and the number of persons who, during the past three years, completed apprenticeships in each craft while employed by your firm.

5 points if one or more persons completed an approved apprenticeship while employed by your firm.

0 points if no persons completed an approved apprenticeship while employed by your firm.



11. At any time during the last five years, has your firm been found to have violated any provision of California apprenticeship laws or regulations, or the laws pertaining to use of apprentices on public works?

☐ Yes ☐ No.

If yes, provide the date(s) of such findings, and attach copies of the final decision(s) issued by the California Department of Industrial Relations or its Division of Apprenticeship Standards.

If your firm's average gross revenues for the last three years was less than \$50 million, scoring is as follows:

5 points for either "No," or "Yes" indicating either 1 or 2 such instance. 3 points for "Yes" indicating 3 such instances.

0 points for "Yes" and more than 3 such instances.

If your firm's average gross revenues for the last three years was more than \$50 million, scoring is as follows:

5 points for either "No" or "Yes" indicating no more than 4 such instances. 3 points for "Yes" indicating either 5 or 6 such instances.

0 points for "Yes" and more than 6 such instances.



III. Questions concerning recent construction projects completed:

(one question, plus 11 interview questions)

The following question to be scored only where a public agency is undertaking a pre-qualification procedure valid for a single project only.

1. Contractor shall provide information about its six most recently completed public works projects and its three largest completed private projects within the last three years.¹⁰ Names and references must be current and verifiable. Use separate sheets of paper that contain all of the following information:

Project Name: _____

Location: _____

_____ Owner:

_____ Owner

Contact (name and current phone number):

Architect or Engineer: _____

Architect or Engineer Contact (name and current phone number):

Construction Manager (name and current phone number):



Description of Project, Scope of Work Performed:

Total Value of Construction (including change orders): _____

Original Scheduled Completion Date: _____

Time Extensions Granted (number of days): _____

Actual Date of Completion: _____

* * * * *

¹⁰ If you wish, you may, using the same format, also provide information about other projects that you have completed that are similar to the project(s) for which you expect to bid.

For pre-qualification for a single project that may require specific skills and capabilities, public agencies may choose to score contractors for the number of similar projects completed, and the degree of similarity between past projects and the planned project. DIR has not suggested any scoring for this aspect of the pre-qualification process, because of the numerous possible variations in both the type of project to be built and the points of similarity between the pending project and past projects that may be significant to the public agency.



TEMPLATE NOTICE /ANNOUNCEMENT OF PRE-QUALIFICATION PROCEDURE



ANNOUNCEMENT OF PRE-QUALIFICATION PROCEDURE

Notice is hereby given that on _____, 20__, the County of Fresno's Department of Public Works and Planning (Department) determined that all bidders on [insert name of specific project] to be undertaken by the County must be pre-qualified prior to submitting bids for that public works project. It is mandatory that all Licensed Contractors who intend to submit bids fully complete the pre-qualification questionnaire, provide all materials requested herein, and be approved by the County to be on the final list of qualified Bidders. It is the intention of the County that no bid will be accepted from a Contractor that has failed to comply with these requirements. If two or more business entities submit a bid on a project as a Joint Venture, or expect to submit a bid as part of a Joint Venture, each entity within the Joint Venture must be separately qualified to bid.

The last date to submit a fully completed questionnaire is [mm/dd/yy, which generally will be 35 days prior to the bid closing date]. Contractors are encouraged to submit pre-qualification packages as soon as possible, so that the County may notify them at the earliest practicable date of their pre-qualification status, or of any omissions of required information from their submission package that must be remedied.

Answers to questions contained in the attached questionnaire, including information about current bonding capacity on an aggregate and per project limit, notarized statement from surety, and the most recent reviewed or audited financial statements, with accompanying notes and supplemental information, are required. The County will use these documents as the basis of rating Contractors with respect to the size and scope of contracts upon which each Contractor is qualified to bid. The County reserves the right to check other sources available. The County's decision will be based on objective evaluation criteria.

The County reserves the right to adjust, increase, limit, suspend or rescind the pre-qualification ratings for the project at issue, based on subsequently learned information. Contractors whose rating changes to an extent sufficient to disqualify them will be notified, and given an opportunity for a hearing consistent with the hearing procedures described below for appealing a pre-qualification determination.

While it is the intent of the pre-qualification questionnaire and documents required therewith to assist the County in determining bidder responsibility prior to the submission of bids and to aid the County in selecting the lowest responsible bidder, neither the fact of pre-qualification, nor any pre-qualification rating, will preclude the County from a post-bid consideration and determination on a specific project of whether a bidder has the quality, fitness, capacity and experience to satisfactorily perform the proposed work, and has demonstrated the requisite trustworthiness.



The pre-qualification packages should be marked “CONFIDENTIAL” and submitted under seal to Department of Public Works and Planning, Attn: Manager, Design Division, 2220 Tulare Street, Sixth Floor, Fresno, CA 93721. The pre-qualification packages (questionnaire answers and financial statements) submitted by Contractors are not public records and are not open to public inspection. All information provided will be kept confidential to the extent permitted by law, although the contents may be disclosed to third parties for the purpose of verification, investigation of substantial allegations, and in the process of an appeal hearing. State law requires that the names of contractors applying for pre-qualification status shall be public records subject to disclosure, and the first page of the questionnaire will be used for that purpose.

Each questionnaire must be signed under penalty of perjury in the manner designated at the end of the form, by an individual who has the legal authority to bind the Contractor on whose behalf that person is signing. If any information provided by a Contractor becomes inaccurate, the Contractor must immediately notify the County and provide updated accurate information in writing, under penalty of perjury.

The County reserves the right to waive minor irregularities and omissions in the information contained in the pre-qualification application submitted, to make all final determinations, and to determine at any time, in the discretion of the Department’s Director, whether these pre-qualification procedures will be applicable with respect to any future individual public works project(s).

Contractors may submit pre-qualification packages during regular working hours on any day that the offices of the County are open. Contractors who submit a complete pre-qualification package will, in most cases, be notified of their qualification status within ten (10) business days after submission of the information.

The County may refuse to grant pre-qualification status where the requested information and materials are not provided, or not provided by the deadline specified in first paragraph of this Notice. There is no appeal from denial of pre-qualification status when based on Contractor’s submission of an incomplete or late application. The closing time for bids will not be changed in order to accommodate supplementation of incomplete submissions, or late submissions.

Where a timely and completed application results in a rating below that necessary to pre-qualify, an appeal can be made. An appeal is initiated by the Contractor delivering notice to the County of its appeal of the decision with respect to its pre-qualification rating, no later than ten (10) business days prior to the closing time for the receipt of bids for this Project. Without a timely appeal, the Contractor waives any and all rights to challenge the decision of the County, whether by administrative process, judicial process or any other legal process or proceeding.



If the Contractor gives the required notice of appeal and requests a hearing, the hearing shall be conducted so that it is concluded no later than ten (10) business days after the County's receipt of contractor's Notice of Appeal. The hearing so provided shall be an informal process conducted by the Reviewing Officer selected pursuant to the authority delegated to the Director by the Fresno County Board of Supervisors. Prior to such informal hearing, the Contractor will be advised of the basis for the County's pre-qualification determination. The Contractor will be given the opportunity to present information and present reasons in opposition to the pre-qualification determination. Within three (3) business days of the conclusion of the hearing, the Reviewing Officer will render his or her decision. It is the intention of the County that the date for submission and opening of bids for a specific project will not be delayed or postponed to allow for completion of an appeal process.

Note: A contractor may be found not pre-qualified for bidding on a specific public works contract to be let by *Public Agency*, or on all contracts to be let by *Public Agency* until the contractor meets *Public Agency's* requirements. In addition, a contractor may be found not pre-qualified for either:

- (1) Omission of requested information or
- (2) Falsification of information

* * * * *

NOTICE: To contractors who are using subcontractors for this Project, please be advised that the County **may** require, as to subcontractors, one of the following:

- ☐ The qualification of subcontractors in the following crafts or trades, following acceptance of your bid, but before the award is made:

- ☐ Pre-qualification of all subcontractors.
- ☐ Pre-qualification of subcontractors in certain crafts.
- ☐ Post-bid qualification review.



PRE-QUALIFICATION APPEAL PROCEDURE



APPEAL OF PRE-QUALIFICATION DETERMINATION

Where a timely and completed pre-qualification application results in a Contractor receiving a pre-qualification rating below that which is necessary to pre-qualify, the Contractor may dispute the proposed pre-qualification rating through the appeal process, as set forth herein.

Appeal Procedure

Upon conclusion of the pre-qualification process, the County will provide, to any Contractor determined by the County not to be pre-qualified, a written notice of the County's **Qualification Determination**, which will set forth the basis for the prospective bidder's disqualification. Such notice will be sent to the Contractor by the County by Certified Mail, Return Receipt Requested. Upon the request of the Contractor, the County shall provide a copy of any supporting evidence for that determination resulting from the County's investigation and review.

An appeal may be initiated only by the Contractor's delivery of written notice to: Department of Public Works and Planning, Attn: Manager, Design Division, 2220 Tulare Street, Sixth Floor, Fresno, CA 93721. A Contractor's written request to appeal must be received by the County no later than five (5) business days after Contractor's receipt of notice from the County that the Contractor is not pre-qualified. Without a timely appeal, the Contractor waives any and all rights to challenge the decision of the County, whether by administrative process, judicial process or any other legal process or proceeding.

Providing Contractor has submitted its appeal in a timely manner, the County will schedule an informal hearing on the Contractor's appeal, to be conducted by the Reviewing Officer appointed by the Director of the Department of Public Works and Planning for that purpose. The Director, in his or her sole discretion, may select as the Reviewing Officer either: (1) a Hearing Officer appointed pursuant to Chapter 2.81 of the Fresno County Ordinance Code; or (2) any individual, other than one who served as a member of the Evaluation Committee, that the Director deems qualified to conduct the informal hearing.

The informal hearing will take place within (10) business days of the County's receipt of the Contractor's timely appeal. At the hearing, the County will present any evidence used as a basis for its determination that the Contractor should not be pre-qualified. The Contractor then will be given the opportunity to rebut any evidence used as a basis for the County's pre-qualification determination and to present evidence as to why the Contractor should be determined pre-qualified. This informal hearing is not subject to the rules of evidence. Within three (3) business days after the conclusion of the informal hearing, the Reviewing Officer will provide a written decision to the Contractor. The Reviewing Officer's decision is final and not subject to further appeal. It is the



intention of the County that the date for the submission and opening of bids will not be delayed or postponed to allow for completion of an appeal process.

If the Contractor chooses not to avail itself of this appeal process, the proposed pre-qualification determination will be adopted without further proceedings.

Note: A contractor may be found not pre-qualified for bidding on the project to be awarded by the County until the Contractor meets the County's requirements. In addition, a contractor may be found not pre-qualified for either: (1) Omission of requested information or (2) Falsification of information.