

# **Union County Policy for Pre-Qualification of Bidders for Construction Projects**

## **A. General**

Prequalification is a process of evaluating and determining whether potential bidders have the skill, judgment, integrity, sufficient financial resources, and ability necessary to the faithful performance of a contract for construction or repair work. This policy is an objective prequalification policy applicable to all construction or repair work for which Union County intends to prequalify bidders.

The County is not required to prequalify bidders on any particular project. Prequalification of a bidder for a project shall only apply to that individual project. The use of prequalification pursuant to this policy is limited to construction or repair projects (regardless of cost) that are bid under the single-prime, separate-prime (multi-prime), or dual bidding methods. Prequalification is prohibited for contracts for architectural services, engineering services, surveying services, construction management at risk services, design-build services, design-build bridging services, and public private partnership construction services.

A construction manager at risk shall use the process outlined in this Policy for prequalification of contractors being utilized on construction management at risk projects. In such an instance, the construction manager at risk and the County shall jointly develop the assessment tool and criteria for each construction management at risk project, including the prequalification scoring values and minimum required score for prequalification on the project.

If the County determines it is appropriate to use prequalification for a project, a bid shall be deemed nonresponsive if a bidder submits a bid on a construction project subject to prequalification for which it has not been prequalified in accordance with this Policy. The previous statement does not apply to bidders initially denied prequalification that are subsequently prequalified pursuant to a protest under this Policy.

Notwithstanding the fact that a bidder is prequalified, the County reserves the right to reject a bidder's bid if it is determined that the bidder has not submitted the lowest responsible and responsive bid. The prequalification of a bidder shall not preclude the County from subsequently concluding that the bidder is not a responsible bidder pursuant to applicable law. All construction and repair contracts shall be awarded to the lowest responsive and responsible bidder, taking into consideration quality, performance, and time specified in the bids for the performance of the project.

The County shall advertise for prequalification for a particular project at least nine (9) weeks prior to the actual bid opening date for a project and have a prequalification submission deadline at least seven (7) weeks prior to the bid opening date for a project.

## **B. Requirements for Prequalification Criteria and Assessment Tool**

The criteria and assessment tool for each project must be uniform, consistent, and transparent in its application to all bidders. All bidders who meet the prequalification criteria required to be prequalified for a project are allowed to bid on that project. The criteria must be rationally related to the construction or repair work at issue for a project. The criteria and assessment tool shall, at a minimum, address the following factors listed below. However, additional or

more detailed factors may be used in an assessment tool for a project that are appropriate for that particular project.

1. **Organizational Structure** - The bidder shall provide a list of all owners, officers, partners, or individuals authorized to sign legal documents for the bidder on a project. The bidder must include its full legal name, typed or printed in a clear and legible manner.
2. **Classification**- A bidder shall indicate the type(s) of work the bidder normally performs, information regarding licensure, and any other required pertinent information.
3. **Experience**- A bidder shall be permitted to submit history or experience with projects of similar size, scope, or complexity compared to the project subject to prequalification. The bidder shall not be required to have been previously awarded a construction or repair contract by Union County.
4. **Financial**- A bidder shall be required to provide any solicited financial information appropriate to demonstrate its financial capability to perform the work for the project.
5. **Capacity**- A bidder shall demonstrate sufficient bonding capacity, insurance, and resources for the project.
6. **Safety**- A bidder shall demonstrate an acceptable safety history.
7. **Legal Authorization**- A bidder shall provide a copy of their North Carolina contractor's license, or provide a statement indicating that they are able to acquire one before submitting a bid on any project for which such license is required. If a statement is necessary, the bidder shall identify the states in which they are licensed for the type of work contemplated for a project.

### C. Review of Prequalification Submittals Process

1. **Prequalification Committee** – A County service area's assigned project manager for a particular project shall establish a prequalification committee for that project to review and score qualifications submitted by bidders to determine prequalification eligibility utilizing the prequalification process set forth herein. If a construction manager at risk is utilized, the construction manager and project manager shall agree upon the members of the project's prequalification committee. The names of the prequalification committee members shall be submitted to Union County's Procurement Division prior to the commencement of the review and scoring process.
2. **Review of Qualifications** – The prequalification committee shall adopt and use an objective assessment tool and criteria for the specific project as outlined in this Policy. The prequalification criteria shall not require a bidder to have previously been awarded a construction or repair project by the County. The assessment tool and prequalification criteria used by the prequalification committee shall include prequalification scoring values and the minimum required score to be prequalified for the project. The prequalification committee shall determine whether each bidder is prequalified for a project in accordance with the assessment tool and criteria and scoring system established for the project.
3. **Notice of Decision** – Bidders that submit prequalification applications shall be notified by e-mail and first class mail of the prequalification committee's decision regarding prequalification. Notice to a bidder determined not to be prequalified shall include the reason(s) for denial. Notice shall be provided prior to the opening of bids for the project, with sufficient time for the bidder to protest the denial of prequalification.

### D. Protest Procedure

1. **Protest**– A bidder may protest denial of prequalification by filing a written protest via hand delivery or e-mail. The written protest must be received by the Procurement Division Director, or designee (hereinafter the “Director”), within three (3) business days of notice of denial. The date of the notice of denial shall be the date the notice of denial was emailed to the bidder. The written protest shall be addressed to the Director, list the assigned County representative for the project, articulate the reasons why the bidder is contesting the decision, and attach any documents or information that support the bidders position. The Director shall contact the bidder within five (5) business days of a receipt of a protest to schedule a date and time to review the protest, which review meeting shall be held within ten (10) business days of the date the protest was received.
2. **Protest Decision** - The Director shall evaluate the protest within five (5) business days of the scheduled date and time of the protest review meeting and make a finding that: (1) bidder did meet the prequalification requirements and is prequalified for bidding on the project, or (2) uphold the denial. If after review, the Director finds that the bidder meets the criteria for prequalification, then the bidder shall be notified via e-mail and first class mail that they are prequalified for the specified project and are allowed to submit a bid for the project. If the Director upholds the denial, the bidder shall be notified in writing via e-mail and first class mail.
3. **General Rules for Protests** – The e-mail address for the Director will be given to bidders submitting prequalification applications to assist with communication regarding the protest process. A bidder shall submit at least two e-mail addresses for use by the County and/or construction manager at risk (if applicable) in communicating decisions regarding a protest. Bids received from bidders who have been disqualified shall not be opened and shall be returned to the bidder. A bidder’s failure to comply with any requirements of the protest procedure in this Policy shall result in the bidder’s protest being denied.