

ARTICLE 2. PUBLIC WORKS DIVISION

Rule 1. Scope of Activities

25 IAC 2-1-1 New construction requisitions; public works division's duties

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13-1-3; IC 4-13-1-4

Sec. 1. The Public Works Division is responsible for the approval and processing of all requisitions and project requests for all new construction by the State and some field control over such construction as needed. Such control shall not extend to the Indiana Department of Highways and Division of Transportation, facilities under the jurisdiction of the State Fair Board, the State Armory Board, and other Commissions or Boards created by law to operate separately or the facilities at the state supported Colleges and Universities. These duties include: (1) making "on site" investigations to ascertain the physical need for the proposed project as well as the judgment of its economic justification, (2) making recommendations for the selection of architects and engineers to do the design of projects where the project is too large or complicated to be performed by the State, (3) designing and writing the specifications for projects, (4) supervising the advertising and bidding of contracts for construction, (5) analyzing the bids and making a bid report with recommendations as to award of contracts, (6) composing and administering contracts with the successful contractors, (7) making periodic visits to the major construction projects, and conferring with the Designer regarding progress and approval of construction, (8) approving all payments to contractors, (9) making a final inspection of the construction, and (10) accepting the construction on behalf of the State. (*Indiana Department of Administration; Public Works Division Sec A,1; filed Feb 29, 1972, 4:10 pm; Rules and Regs. 1973, p. 1; filed Feb 3, 1982, 1:05 pm: 5 IR 508; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-1-2 Public works division duties; building rehabilitation, alteration, repair; preventive maintenance program

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13-1-3; IC 4-13-1-4

Sec. 2. The Division also performs the technical engineering tasks involved in the rehabilitation, alterations and repair of buildings owned by the State, except those structures exempted under Section 1 [25 IAC 2-1-1] above, acting in a staff function in furnishing technical advice to the several institutions in this work. Whenever such rehabilitation, alteration, demolition or repair require the services of outside designers and contractors, the Division performs the necessary functions of obtaining outside Designer services as set out in the preceding section (25 IAC 2-1-1). It also is responsible for the administration of a continuing preventive maintenance program for all State owned buildings except those structures exempted under Section 1 [25 IAC 2-1-1] above, and has the authority to authorize emergency parts and supplies, initiate remedial programs of construction or service contracts whenever needed to ensure an adequate preventive maintenance program. The Division is not intimately involved with, but will be available to aid the Natural Resources Department, the Indiana State Police and the Department of Highway in the implementing and administering of their respective preventive maintenance programs. (*Indiana Department of Administration; Public Works Division Sec A,2; filed Feb 29, 1972, 4:10 pm; Rules and Regs. 1973, p. 1; filed Feb. 3, 1982, 1:05 pm: 5 IR 508; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

Rule 2. Definitions

25 IAC 2-2-1 Definitions

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13-1-3; IC 4-13-1-4; IC 4-13.6

Sec. 1. The following words and phrases, as used in these rules and regulations [25 IAC 2] shall have the following meaning:

- "Department" means the Indiana Department of Administration created by IC 4-13-1.
- "Commissioner" means the Commissioner of the Department of Administration.
- "Division" means the Division of Public Works, Indiana Department of Administration.
- "Operating Department" means the unit of government that will be responsible for the operation, maintenance and use of structure, equipment or apparatus being contracted for.

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- (e) "Director" means the Director of Public Works Division of the Department of Administration.
- (f) "Bid Officer" means the representative of the Division in responsible charge of the bid opening.
- (g) "Bid" means a sealed proposal to construct or perform services as set out in the information to bidders.
- (h) "Bidder" means a supplier or contractor who submits offers to construct or perform services for the Department.
- (i) "Approved Bidder" means a bidder who is certified with the Department in accord with the rules and regulations as promulgated by the prequalification certification board.
- (j) "Certification Board" means the prequalification certification board as established by IC 4-13-7 [*Repealed by P.L.24-1985, SECTION 25.*].
- (k) "Contract Designer" means any Architect, Engineer or other professional under contract with the State to perform certain consultant or design services for the State.
- (l) "State Designer" means any Architect, Engineer or other professional or technician performing certain design services for the State while within the employ of the State.
- (m) "Contractor" means any firm supplying construction or other services to the State under a direct contract with the State.
- (n) "Subcontractor" means any firm supplying construction or other services to the Contractor under a contract with said Contractor.
- (o) "Inspector" means an employee of the Division having the responsibility of inspecting State Construction Projects.
- (p) "Designer" means any Architect, Engineer, Surveyor or other professional who by formal training and/or registration are otherwise legally authorized to perform services and design work for the State and may be either a contract or state designer.
- (q) "Professional Contractual Service" means a professional firm who by formal training, registration or are otherwise legally authorized by the manufacturer or supplier to perform maintenance or repair services on complicated or specialized equipment or controlled systems.
- (r) "Project Manager" means Public Work's professional assigned to coordinate projects.
- (s) "Executive Secretary" means secretary for Certification Board.

(Indiana Department of Administration; Public Works Division Sec B; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.2; filed Feb 3, 1982, 1:05 pm: 5 IR 509; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265)

Rule 3. Approved Designer List and Selection of Designer

25 IAC 2-3-1 List of prequalified designers

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6

Sec. 1. The Division shall maintain a list of prequalified Designers, composed of Architects, Engineers, Surveyors, and other professionals who by an application to the Certification Board have expressed an interest in furnishing their services for proposed State work. *(Indiana Department of Administration; Public Works Division Sec C, 1; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.2; filed Feb 3, 1982, 1:05 pm: 5 IR 509; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265)*

25 IAC 2-3-2 Application for prequalification; approval as precondition for selection

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6; IC 5-16-1-2

Sec. 2. A Designer desiring to do design work for the Division must, as an act prior to being considered for such services, apply to the State Certification Board, supply all of the pertinent information required by that Board and obtain prequalification approval of said Board. The designer must keep said prequalification current as set out in these rules and regulations [25 IAC 2]. *(Indiana Department of Administration; Public Works Division Sec C,2; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.2; filed Feb 3, 1982, 1:05 pm: 5 IR 509; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265)*

25 IAC 2-3-3 Selection procedure for contract designers; qualifications; limitations on subcontractors

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6; IC 5-16-1-2

Sec. 3. For any project which the Director determines that the assignment of a contract designer is required, the head of the interested facility requesting the project shall be asked to submit his recommendations to the Director and the Director shall recommend at least three who qualify in classification of work and are currently in good standing with the State Certification Board, and the Commissioner shall select a Contract Designer for negotiating a contract for the proposed design work. Such negotiations will be predicated upon a showing that his personnel availability and work in progress will warrant that the work contemplated can be done in a timely manner. The Contract Designer shall not subcontract any of the contracted design work, considered to be part of the prime contract work, except those functions normally subcontracted in similar circumstances, and such proposed subcontract professionals shall be subject to the same prequalifications as the Contract Designer and must be approved for such subcontract design work by the Director prior to use. Approval of a Contract Design firm shall only be considered where a sufficient number of the personnel of said firm shall have valid professional qualification and requisites to ensure intimate, competent control over all facets of the design work under consideration as evidenced by professional registration. (*Indiana Department of Administration; Public Works Division Sec C,3; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.3; filed Feb 3, 1982, 1:05 pm: 5 IR 510; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-3-4 Fee proposals for design work; selection procedure for alternate contract designer

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6; IC 5-16-11.1

Sec. 4. Director shall recommend to the Commissioner the fee proposed for the professional work. In making his fee proposal for this design work, the Director shall consider the project as a whole considering its location, complexity, need for expediency, and the aid to be given by the State in the design and control of construction. The various points considered in reaching the fee, be it a percentage of eventual cost or as a firm figure, shall be reflected in the design contract itself. If after a review of the project and negotiations as to scope and fee, an agreement is not reached, then the director shall report such circumstances to the Commissioner and he shall decide whether to continue the negotiations or contact another Designer from the Recommendation List. (*Indiana Department of Administration; Public Works Division Sec C,4; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.3; filed Feb 3, 1982, 1:05 pm: 5 IR 510; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-3-5 Supervision of designer contracts

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6

Sec. 5. The Director shall be responsible for seeing that all points of the Designer contract are adhered to administratively. Should the designer fail to so adhere to the contract to any significant degree, the Director shall inform the Commissioner and/or Attorney General of this fact and request guidance in the successful promulgating of the design contract. (*Indiana Department of Administration; Public Works Division Sec C,5; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p. 3; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-3-6 Designer's duty to assure a bid within budget

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6

Sec. 6. Designer shall make every effort possible to ensure that the scope and cost of the project remains within the budget allocation. Where bids are over allocated funds and additional funds are not available, the Designer shall redesign, at no additional cost to the State, to bid within allocation or the project shall be abandoned at the option of the State. (*Indiana Department of Administration; Public Works Division Sec C,6; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.3; filed Feb 3, 1982, 1:05 pm: 5 IR 510; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

Rule 4. Approved Contractors List and Contractors Qualifications

25 IAC 2-4-1 List of prequalified contractors

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6; IC 5-16-1-2

Sec. 1. The Division shall maintain a list of prequalified contractors who, by an application to the Certification Board of the Division have expressed an interest in contracting with the State to perform construction work within the financial and experience limits of their prequalification as set out in their current certificate. (*Indiana Department of Administration; Public Works Division Sec D,1; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p. 3; filed Feb 3, 1982, 1:05 pm: 5 IR 510; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-4-2 Application for prequalification approval as precondition to bidding

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6

Sec. 2. A Contractor desiring to so perform construction work for the Division must, as an act prior to being allowed to bid on projects with a valuation exceeding \$50,000, apply to the State Certification Board supplying all of the pertinent information required by that Board and obtain their prequalification approval, as set out in these rules and regulations [25 IAC 2] of the Public Works Division. A Contractor shall not be considered to have legally received plans on a particular project having a valuation exceeding \$50,000 without being currently qualified by said Board both in the classification of work involved and having the financial availability to do the work, said financial position being based on the criteria and formula as also set out in these rules and regulations [25 IAC 2]. (*Indiana Department of Administration; Public Works Division Sec D,2; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p. 4; filed Feb 3, 1982, 1:05 pm: 5 IR 511; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-4-3 Subcontractors' prequalification as precondition to starting work

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6; IC 5-16-1-2

Sec. 3. Any subcontractor proposing to do work which has a valuation in excess of \$50,000 shall also be prequalified as set out in Section 2 [25 IAC 2-4-2] above before the prime contractor can start any work on the site. (*Indiana Department of Administration; Public Works Division Sec D,3; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.4; filed Feb 3, 1982, 1:05 pm: 5 IR 511; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-4-4 Limitation on subcontracting

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6

Sec. 4. Any prime contractor or subcontractor doing work for the State is required to complete at least (20%) twenty percent of the work, measured in dollars of the total contract price, with his own forces. (*Indiana Department of Administration; Public Works Division; 25 IAC 2-4-4; filed Feb 3, 1982, 1:05 pm: 5 IR 511; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

Rule 5. Solicitation of Bids

25 IAC 2-5-1 Projects less than \$500; criteria for bid exemption

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6

Sec. 1. (a) When the estimated cost of construction is less than five hundred dollars (\$500), contracts may be issued without taking competitive bids upon receipt of two or more offers from firms interested in the subject project.

(b) Competitive bids shall not be required for professional contractual services where no competition exist such as manufacturer representatives special expertise service on specialized equipment, and where rates or prices are fixed by law or ordinance or where purchases are made from the United States government or any agency, division or instrumentality thereof [*sic.*].

Competitive bids shall not be required for repair parts for machinery or equipment which can only be procured from the manufacturer of such machinery or equipment. (*Indiana Department of Administration; Public Works Division Sec E,1; filed Feb 29, 1972, 4:10 pm; Rules and Regs. 1973, p.4; filed Feb 3, 1982, 1:05 pm: 5 IR 511; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-5-2 Projects between \$500 and \$5,000; personal and general bid notices

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6; IC 5-16-1-3

Sec. 2. When the estimated cost of construction exceeds five hundred dollars (\$500) but less than five thousand dollars (\$5,000), sealed bids shall be solicited by posting a notice on the bulletin board in the office of the Commissioner and in office of Director at least seven working days preceding the date set for the opening of bids. The Division shall also contact contractors in the immediate area of the work involving them to consider bidding the project. (*Indiana Department of Administration; Public Works Division Sec E,2; filed Feb 29, 1972, 4:10 pm; Rules and Regs. 1973, p.4; filed Feb 3, 1982, 1:05 pm: 5 IR 511; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-5-3 Sealed bids awarded under IC 4-13.6-5; posted solicitation; wage scale limitation

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6-5; IC 5-16-1-3; IC 5-16-7-2

Sec. 3. When required under IC 4-13.6-5, sealed bids will be solicited by posting on a public bulletin board in the office of the director seven (7) days before the final date for submitting bids, and public notice shall be inserted at least once each week for two (2) successive weeks before the final date of submitting bids in one (1) newspaper of general circulation in Marion County, Indiana, and, if any part of the project is located in an area outside Marion County, Indiana, one (1) newspaper of general circulation in that area. A project may be listed with one (1) or more private bid service organizations. A prevailing wage scale shall be secured and such rates incorporated in every project, except those under 25 IAC 2-11 when time will not permit. The contractor shall post rates to be paid on the job on state premises and file with the Department of Administration, Public Works Division, Indiana Government Center-South, 402 West Washington Street, Room W467, Indianapolis, Indiana 46204-2743. (*Indiana Department of Administration; Public Works Division Sec E,3; filed Feb 29, 1972, 4:10 p.m.: Rules and Regs. 1973, p. 4; filed Feb 3, 1982, 1:05 p.m.: 5 IR 512; filed May 4, 1992, 9:30 a.m.: 15 IR 1906; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-5-4 Exception from bidding; emergency work

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6; IC 5-16-1-1.1; IC 36-1-12

Sec. 4. The Commissioner of the Department of Administration may authorize contracts to perform necessary work or construction in an emergency as described in Rule 11 [25 IAC 2-11] of this document without calling for bids under normal procedures. If the estimated cost is less than \$5,000, authorization for such emergency work may be given verbally by the Director. If the emergency is estimated to exceed \$5,000 in cost, then approval of the Commissioner shall be obtained prior to giving verbal approval. In either case the award shall be confirmed in writing with copies filed with the Director and Department as provided under Rule 11 [25 IAC 2-11] of these rules. (*Indiana Department of Administration; Public Works Division Sec E,4; filed Feb 29, 1972, 4:10 pm; Rules and Regs. 1973, p.4; filed Feb 3, 1982, 1:05 pm: 5 IR 512; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-5-5 Scope and design of project commensurable with allocation

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6; IC 5-16-1-3

Sec. 5. It shall be the intent of the Division, Designer and operating unit to make every effort in the scope and design of the project to ensure that the low bid will be within the allocation prior to soliciting bids in order to preclude the bidders from expending efforts and costs to formulate bids with little possibility of being awarded and in so doing divulging their bid to others prior to a possible rebid. (*Indiana Department of Administration; Public Works Division Sec E,5; filed Feb 29, 1972, 4:10 pm; Rules and Regs. 1973, p. 4; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

Rule 6. Receipt and Acceptance of Bids

25 IAC 2-6-1 Receipt of bids; time requirement

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6; IC 5-16-2-1

Sec. 1. All bids shall be received prior to the appointed bid opening time, in the office of the Director and shall be dated and time stamped showing the time and date of receiving the bid. (*Indiana Department of Administration; Public Works Division Sec F,1; filed Feb 29, 1972, 4:10 pm; Rules and Regs. 1973, p. 5; filed Feb 3, 1982, 1:05 pm: 5 IR 512; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-6-2 Bid preparation and submittal requirements

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6; IC 5-16-1-3

Sec. 2. Bids shall be contained in a sealed envelope with attached blue label as supplied by the Division or marked as specified and/or supplied by the Designer. It shall be plainly marked as a bid with job and time identification clearly stated. (*Indiana Department of Administration; Public Works Division Sec F,2; filed Feb 29, 1972, 4:10 pm; Rules and Regs. 1973, p.5; filed Feb 3, 1982, 1:05 pm: 5 IR 512; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-6-3 Bidder's prequalification review by executive secretary; bid acceptance conditions

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6; IC 5-16-1-2

Sec. 3. The Executive Secretary of the Certification Board or his/her designate shall, immediately prior to the designated time for acceptance of bids for projects estimated to exceed \$50,000, review the prequalification of all bidders submitting bids. If a bid packet is received and the bidder is not currently qualified with said Board or his financial availability is not approved at the time, then this fact shall be brought to the attention of the Director or in his absence the Commissioner and the bid shall not be opened until receiving a decision as to the acceptability of the bid. The Director may solicit the aid of the Attorney General in making such a decision. (*Indiana Department of Administration; Public Works Division Sec F,3; filed Feb 29, 1972, 4:10 pm; Rules and Regs. 1973, p.5; filed Feb 3, 1982, 1:05 pm: 5 IR 512; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-6-4 Opening and reading bids; notifying bidders of delay or changes

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6; IC 5-16-2-1

Sec. 4. All bids shall be opened publicly and read at the place and time stated in the public notice and/or instructions to bidders, unless some condition or situation makes it impractical or impossible to do so. Should the time of opening be delayed or place of opening be changed for reason, every effort shall be expended in bringing knowledge of the change to the interested bidders as soon as the need for such a change becomes known to the Director. Bids shall never be opened prior to the appointed time. (*Indiana Department of Administration; Public Works Division Sec F,4; filed Feb 29, 1972, 4:10 pm; Rules and Regs. 1973, p.5; filed Feb 3, 1982, 1:05 pm: 5 IR 513; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-6-5 Contract bid award criteria; rejection or waiver of nonconforming bids

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6; IC 5-16-1-2

Sec. 5. All bids shall conform to all applicable requirements of the specifications including the instructions to bidders, general conditions, and special conditions. The Bid Officer shall tentatively reject any bid failing to adhere to or conform to such and shall inform the Director or in his absence the Commissioner of this fact and await a decision as to the acceptability of the bid. It is the intent of the Department to not waive technicalities of the bidding procedure. The award of such contract shall be made on the basis

of the lowest qualified bid, deemed to be the best bid. (*Indiana Department of Administration; Public Works Division Sec F,5; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.5; filed Feb 3, 1982, 1:05 pm: 5 IR 513; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-6-6 Single bid received; criteria for acceptance

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6

Sec. 6. If after proper solicitation of bids, only one bid is received, the Director shall make a thorough review of the situation in consort with the operating department to determine whether the one bid should be accepted or rejected and rebid. In making this judgment they should consider the type of work, its competitiveness, the timely need of the project, the possibility of unfavorable prices if rebid, the possible loss of the low bidder if rebid, and the equitable fairness to the single bidder of having his bid divulged to subsequent bidders if the project is rebid. (*Indiana Department of Administration; Public Works Division Sec F,6; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p. 5; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-6-7 Confirmation of significantly low bid

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6; IC 5-16-2-1

Sec. 7. A bid significantly below the other bids or the project cost estimate shall not be treated as prima facie evidence of mistake and no bid will be rejected based on presumed error in bid. In such instances the Bid Officer shall ask the low bidder, if represented at the opening, to quickly confirm his bid, while the bid opening is still in session, and if an error is alleged to have been made to submit evidence of such error in a timely manner to the Director, for consideration by the State. If the apparent low bidder is not present at the bid opening, the Bid Officer shall contact him as soon as possible and secure a confirmation of his bid or evidence of error. (*Indiana Department of Administration; Public Works Division Sec F,7; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p. 5; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-6-8 Low bid exceeds available funds

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6

Sec. 8. If the low bid exceeds the allocation, and additional funds are requested but not approved, then bids shall be rejected and project suspended or rebid with design revised in value equivalent to the overrun. (*Indiana Department of Administration; Public Works Division Sec F,8; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p. 6; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

Rule 7. Award of Contracts

25 IAC 2-7-1 Bid acceptance or rejection; written contracts; director's recommendation

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6; IC 5-16-1-1.1; IC 36-1-12

Sec. 1. For all proposals under \$5,000 the Public Works Project Manager shall, after consultation with the Designer, make a recommendation to the Director as to acceptance or rejection of the bids. If the Director concurs in a recommendation for acceptance, a letter type contract may be sent to the successful bidder with approval by the Commissioner. For bids that exceed \$5,000 the project manager and Designer, after a full review of the bid and discussion with all interested parties to the bid, shall make recommendation to the Director as to acceptance or rejection of the bids. If the Director concurs in a recommendation for acceptance the Director shall compose a formal contract for the signature of the Commissioner, for said work after determining that funds are available. If bids are rejected, the Director shall consult all parties concerned to ascertain the advisability of rebidding or cancelling the project, commensurate with the provisions of Rule 25 IAC 2-3-6 and Rule 25 IAC 2-6-8 above. (*Indiana Department of Administration; Public Works Division Sec G,1; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.6; filed Feb 3, 1982, 1:05 pm: 5 IR 513;*

readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265)

25 IAC 2-7-2 Lowest responsible bid acceptance criteria; rejection conditions

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6-1-15; IC 5-16-1-1.1; IC 36-1-12

Sec. 2. A bid may only be awarded to a responsible contractor. Factors to be used in making a responsibility determination are quality of material, experience, efficiency, and reputation of the bidder, the character, integrity, credit, and conscientiousness of the bidder, the ability of the bidder to respond and answer in accordance with what is expected or demanded and to fulfill letter and spirit the contract made with him, the accessibility of the bidder, and any other factor that the commissioner determines to affect responsibility as defined in IC 4-13.6-1-15. (*Indiana Department of Administration; Public Works Division Sec G,2; filed Feb 29, 1972, 4:10 p.m.: Rules and Regs. 1973, p. 6; filed Feb 3, 1982, 1:05 p.m.: 5 IR 513; filed May 4, 1992, 9:30 a.m.: 15 IR 1906; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265)*)

25 IAC 2-7-3 Conditional acceptance of bid; work load of bidder exceeding prequalification rating (Repealed)

Sec. 3. (*Repealed by Indiana Department of Administration; Public Works Division; filed Feb 3, 1982, 1:05 pm: 5 IR 523*)

25 IAC 2-7-4 Contract letter; documents required to initiate work

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6

Sec. 4. The Contract shall be transmitted to the Contractor for his execution by a letter stating that the Contractor unless otherwise instructed in writing, should not commence any work or take delivery of noninventory materials until he receives a copy of the fully executed contract signed by all required signatories and all auxiliary documents including but not limited to insurance and bonds are completed and furnished to the state. (*Indiana Department of Administration; Public Works Division Sec G,4; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.6; filed Feb 3, 1982, 1:05 pm: 5 IR 513; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-7-5 Restriction on meetings between state and contractor; notifying attorney general (Repealed)

Sec. 5. (*Repealed by Indiana Department of Administration; filed Dec 17, 1992, 5:00 p.m.: 16 IR 1366*)

25 IAC 2-7-6 Limitations on contract renewals

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13-2; IC 36-1-12

Sec. 6. For professional contractual services the Commissioner of the Department of Administration may, before expiration of existing contracts and with the consent of both parties, renew the contract annually not to exceed a total period of four years, except in those cases where no competition exists (25 IAC 2-5-1). Contract renewals shall be made at the same price or by reasonable escalations based on an independently published index specified in the contract documents and agreeable to both parties. (*Indiana Department of Administration; Public Works Division; 25 IAC 2-7-6; filed Feb 3, 1982, 1:05 pm: 5 IR 514; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-7-7 Contractor provided information

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6; IC 5-16-1-1.1; IC 36-1-12

Sec. 7. The prospective contractor shall supply information requested by the state concerning the responsibility of such contractor. If such contractor fails to supply the requested information, the state shall base the determination of responsibility upon any available information or may find the prospective contractor nonresponsible if such failure is unreasonable. (*Indiana Department*

of Administration; 25 IAC 2-7-7; filed May 4, 1992, 9:30 a.m.: 15 IR 1907; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265)

Rule 8. Inspection of Construction

25 IAC 2-8-1 Construction inspection duties; designer's rights to approve design changes and interpretation

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6

Sec. 1. The Division has the responsibility for the inspection of all construction which has been designed by the Division. The Division shall also make periodic reviews of all construction which has been designed by Contract Designers, however such Designers by their contract are held responsible for the primary inspection. Such periodic inspection by the State does not relieve the Designer of the responsibility for the primary inspection, control and coordination of the project. The inspectors for the Division have for their primary purpose ensuring that such functions are properly carried out by the Contract Designer and secondarily to aid in the resolution of problems arising between the Contract Designer, the Institution personnel and the Contractor. On projects designed by a Contract Designer, the inspectors or institutional employees shall not give instructions to any Contractor or Subcontractor directly, except in an emergency, instead bringing the facts to the attention of the Contract Designer for resolution. Any change in the methods or performing an item of work, substitution of material, revision to schedule, extra work orders, extension of completion time or interpretation of the plans and specifications shall originate with the Designer and be approved by Public Works Division. *(Indiana Department of Administration; Public Works Division Sec H,1; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.7; filed Feb 3, 1982, 1:05 pm: 5 IR 514; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265)*

25 IAC 2-8-2 Delegation of duties to other units of government (Repealed)

Sec. 2. *(Repealed by Indiana Department of Administration; Public Works Division; filed Feb 3, 1982, 1:05 pm: 5 IR 523)*

Rule 9. Approval of Partial Payments

25 IAC 2-9-1 Partial pay estimates; submission, review and approval procedure

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 5-16-5-2

Sec. 1. Contractor shall submit partial pay estimates as set out in the respective contract documents, but not more frequently than once a month, using the established forms supplied by the Division. Such estimates shall be submitted to the Designer for his review and approval. Designer must warrant that the work as described in the estimate has been accomplished and materials listed have been received and secured. The estimate shall then be transmitted to the Division for approval and then submitted to the Director and Commissioner for approval of payment. *(Indiana Department of Administration; Public Works Division Sec I, 1; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.7; filed Feb 3, 1982, 1:05 pm: 5 IR 515; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265)*

25 IAC 2-9-2 Materials storage and identification for partial payment request

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 5-16-5-2

Sec. 2. In order to be considered for inclusion in a partial payment request, materials must either be stored in a secure manner on the site or be separated and properly identified as being the property of the State and/or its Contractor if remaining in an off-the-site warehouse not considered the place of business of the vendor. *(Indiana Department of Administration; Public Works Division Sec I, 2; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.7; filed Feb 3, 1982, 1:05 pm: 5 IR 515; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265)*

25 IAC 2-9-3 Nonpayment of subcontractors; documentation of nonpayment; procedure

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6; IC 5-16-5

Sec. 3. Pursuant to IC 5-16-5, as amended, partial payments may be temporarily held up by the Division if it has received a certificate from a subcontractor asserting that his work, having been completed within the past 60 days was billed to the Prime Contractor and not paid. Copies of such certified claim shall be forwarded to the Contractor's bond surety for information and possible action. The partial pay request shall be released for payment upon satisfactory evidence that the Subcontractor has been paid. If it is evident that a disagreement exists as to the billing in question, then the State shall reduce the partial billing by the amount claimed and pass partial on for payment. Copies of all correspondence pertaining to the alleged non-payment to Subcontractors in violation of the contract between the State and the Prime Contractor shall be placed in their respective prequalification file for review by the Certification Board. Information relative to the alleged non-payment of bills due involving a contractor, subcontractor or materialman, shall be released to persons only when reasons for such information are set out in writing, or the one seeking such information appears in person and requests to see such financial records. (*Indiana Department of Administration; Public Works Division Sec I,3; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.8; filed Feb 3, 1982, 1:05 pm: 5 IR 515; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-9-4 Partial payments administered by highway commission

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13-1-3

Sec. 4. Pursuant to I.C. 4-13-1, the Division has delegated authority to the State Highway Commission to administer the partial payments for both Contract Designers and Contractors. (*Indiana Department of Administration; Public Works Division Sec I,4; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p. 8; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

Rule 10. Acceptance of Project and Final Payment

25 IAC 2-10-1 Final project inspection; final billing

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 5-16-5

Sec. 1. Whenever the project has progressed to the point of substantial completion, an inspection shall be made by the Contract Designer accompanied by the Contractor, a representative of this Division and a representative of the Operating Department. After all deficiencies have been substantially remedied, the Designer shall recommend to the Director that the construction project be accepted. After the Director has accepted the project in behalf of the State (DAPW 5), the final billing may be submitted, accompanied by affidavits and other documents evidencing that all subcontracts and bills for materials and services have been paid. (*Indiana Department of Administration; Public Works Division Sec J,1; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.8; filed Feb 3, 1982, 1:05 pm: 5 IR 515; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-10-2 Approval of bill for payment; deduction for amounts disputed with subcontractors or materialmen

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 5-16-5

Sec. 2. Upon receipt of such final payment request and necessary affidavits, the billing will be passed for payment unless certificates of non-payment as submitted by subcontractors or materialmen have not yet been resolved. In that event, the amounts alleged to be owed shall be deducted from the contractor billings and the balance passed for payment as a partial payment. (*Indiana Department of Administration; Public Works Division Sec J,2; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p. 8; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-10-3 Final payment billing; preconditions

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 5-16-5; IC 5-16-5.5-6

Sec. 3. Billing for final payment shall not be passed for payment until 60 days after (1) all contractor and subcontractor work has been totally completed including all punch list items, (2) all equipment has been delivered to the site, and (3) all equipment to be installed by contractor, supplier or a subcontractor has been installed and accepted. Final payment can be released only if all punch list items are completed by the contractor. (*Indiana Department of Administration; Public Works Division Sec J,3; filed Feb 29, 1972, 4:10 pm; Rules and Regs. 1973, p.8; filed Feb 3, 1982, 1:05 pm: 5 IR 515; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-10-4 Final payment by highway commission (Repealed)

Sec. 4. (*Repealed by Indiana Department of Administration; Public Works Division; filed Feb 3, 1982, 1:05 pm: 5 IR 523*)

Rule 11. Emergencies

25 IAC 2-11-1 Emergency conditions; imminent threat of substantial loss

Authority: IC 4-13-2-9
Affected: IC 5-16-1-1.6

Sec. 1. Prima facie evidence of an emergency exists whenever a substantial loss or service to the State would result if immediate remedial action is not taken. In addition to IC 5-16-1-1.6 and 25 IAC 2-5-4 emergency may include expiration of bids where loss of bids and rebidding would cause substantial loss to the State either by additional cost or lost revenue. (*Indiana Department of Administration; Public Works Division Sec K,1; filed Feb 29, 1972, 4:10 pm; Rules and Regs. 1973, p.9; filed Feb 3, 1982, 1:05 pm: 5 IR 516; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-11-2 State as non-occupying lessor; emergency procedures

Authority: IC 4-13-2-9
Affected: IC 5-16-1-1.6

Sec. 2. If state owned property is under lease to others and is in a state of disrepair to an extent that a continuance in this state may cause a default in such contract, and time is not available to pursue the regular procedures for securing the necessary labor, materials and services to remedy the fault, then prima facie evidence of an emergency exists. If, in the opinion of the chief administrative officer of the department having jurisdiction over the property that an emergency exists and a need exists for procuring materials, labor or services outside the normal procurement procedures, he shall inform the Department of Administration and if the Commissioner concurs that an emergency exists, the materials, labor or services can be secured on an emergency basis as set out in IC 5-16-1-1.6 and 25 IAC 2-5-4. (*Indiana Department of Administration; Public Works Division Sec K,2; filed Feb 29, 1972, 4:10 pm; Rules and Regs. 1973, p.9; filed Feb 3, 1982, 1:05 pm: 5 IR 516; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-11-3 State as occupant lessor; emergency procedures

Authority: IC 4-13-2-9
Affected: IC 5-16-1-1.6

Sec. 3. If State-owned property under the jurisdiction and control of the State is in a state of disrepair so as to be harmful to the safety of the structure or a hazard to life, then prima facie evidence of an emergency exists. In such instances, the procedure described in 25 IAC 2-11-2 shall apply. This procedure also applies to property leased by the State wherein the State has the responsibility for the maintenance and upkeep of the building or where terms of the lease dictate contract work procedures. (*Indiana Department of Administration; Public Works Division Sec K,3; filed Feb 29, 1972, 4:10 pm; Rules and Regs. 1973, p.9; filed Feb 3, 1982, 1:05 pm: 5 IR 516; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-11-4 Documentation by person requesting emergency declaration

Authority: IC 4-13-2-9
Affected: IC 5-16-1-1.6

Sec. 4. The officer who initiated the emergency request shall set out in writing all pertinent facts involved in the problem as soon as possible, but not longer than one week after the discovery of the emergency with copies for the Director and Department affected by the emergency. All confirming emergency requisitions shall include the name and agency of the person giving the emergency authorization. Justification forms shall be filled out by the agency as required. (*Indiana Department of Administration; Public Works Division Sec K,4; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.9; filed Feb 3, 1982, 1:05 pm: 5 IR 516; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

Rule 12. Certification Board; Authority

25 IAC 2-12-1 Certification; construction of article 2

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6

Sec. 1. Statutory provisions governing the Certification Board of the Indiana Department of Administration, Public Works Division, may be found in IC 4-13-7 [*Repealed by P.L.24-1985, SECTION 25.*] as amended. Rules and Regulations incorporated herein are additional and supplemental to the Act and its amendments. (*Indiana Department of Administration; Public Works Division Sec L,1; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.9; filed Feb 3, 1982, 1:05 pm: 5 IR 516; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

Rule 13. Certification Board; Organization

25 IAC 2-13-1 Members of certification board; file room

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6

Sec. 1. The Certification Board, composed of the State Building Commissioner, Examiner or Deputy Examiner of the State Board of Accounts, and the Director of the Public Works Division, no more than two (2) of whom shall be members of the same political party, shall have its files and other administrative materials quartered in space allocated by the Public Works Division. (*Indiana Department of Administration; Public Works Division Sec M,1; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p. 9; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-13-2 Executive secretary of board; administrative duties

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6

Sec. 2. An executive secretary, answerable directly to the Board and the Director of Public Works Division, shall handle all administrative functions of the Board; and shall, similarly, be provided office space, clerical and secretarial help by the Public Works Division. (*Indiana Department of Administration; Public Works Division Sec M,2; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.9; filed Feb 3, 1982, 1:05 pm: 5 IR 516; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-13-3 Election of chairman

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6

Sec. 3. The Chairman of the Board shall be nominated and elected from and by the members of the board for a yearly term dating from each January. It is permissible for the Chairman to succeed himself. (*Indiana Department of Administration; Public Works Division Sec M,3; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p. 10; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR*

1265)

25 IAC 2-13-4 Board meetings

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6; IC 5-14-1.5

Sec. 4. Meetings shall be held on the second Wednesday of each month unless circumstances require that another date be set. Rescheduling of meetings may be made upon unanimous consent of the members, but meetings shall never be more than forty-five (45) days apart. Special meetings may be called at any time if all members agree thereto, and if it is deemed that such special meeting will serve the best interests of the State of Indiana. In accordance with the Indiana Open Door Law, (IC 5-14-1.5, Acts of 1977), notice of all meetings will be posted on the bulletin board in the office of Public Works Division and notice given to all news media representatives who annually in writing request such notice be given. The agenda of each meeting will be posted with the time, date and place at least 48 hours prior. (*Indiana Department of Administration; Public Works Division Sec M,4; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.10; filed Feb 3, 1982, 1:05 pm: 5 IR 517; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-13-5 Quorum; majority

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6

Sec. 5. The board may meet with one member absent if it has the consent of the absent member. At least two members must agree if a motion is to be passed whether there be two or three members present. (*Indiana Department of Administration; Public Works Division Sec M,5; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p. 10; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

Rule 14. Certification Board; Purposes

25 IAC 2-14-1 Purposes of certification board; contractor's prequalification approval

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6

Sec. 1. (a) To determine which applicant contractors have the experience, physical capabilities, and financial resources to bid or to subcontract on State construction projects valued in excess of fifty thousand dollars, (\$50,000) which are implemented through the facilities of the Public Works Division and all other agencies so required by statute, and

(b) To determine which applicant designers have the professional capabilities, manpower, and experience necessary to perform architectural, engineering, or related professional work on State projects of the same magnitude likewise implemented through the Public Works Division. (*Indiana Department of Administration; Public Works Division Sec N,1; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.10; filed Feb 3, 1982, 1:05 pm: 5 IR 517; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-14-2 Board approval; "certificate of qualification"

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6

Sec. 2. Those applicant contractors and designers which receive Certification Board approval are prequalified for future State work to the time and classification limits set forth on the annually-renewed "certificate of qualification", (hereinafter called the certificate). Contractors are, additionally, qualified to perform work up to a dollar limit (maximum qualification rating) indicated on the certificate. (*Indiana Department of Administration; Public Works Division Sec N,2; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.10; filed Feb 3, 1982, 1:05 pm: 5 IR 517; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-14-3 Prequalification denial; eligibility for projects under \$50,000

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6

Sec. 3. Those contractors which apply for, but are denied, prequalification by the Board are still eligible to bid or to sub-contract on all Public Works projects valued at less than fifty thousand dollars (\$50,000), unless otherwise restricted by the Public Works Division. (*Indiana Department of Administration; Public Works Division Sec N,3; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.10; filed Feb 3, 1982, 1:05 pm: 5 IR 517; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

Rule 15. Prequalification and Bidding

25 IAC 2-15-1 Prequalification certificate required for project bids over \$50,000

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6; IC 5-16-1-2

Sec. 1. If a contractor intends to bid on a Public Work's project valued in excess of fifty thousand dollars (\$50,000), his bid will not be opened unless he currently maintains a valid "certificate of prequalification" indicating that he is prequalified in the field of work for which the bid is being taken. (*Indiana Department of Administration; Public Works Division Sec O,1; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.10; filed Feb 3, 1982, 1:05 pm: 5 IR 517; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-15-2 Restrictions on prequalified bid acceptance

Authority: IC 4-13-2-9; IC 4-13.6-3-2

Affected: IC 4-13.6; IC 5-16-1-2

Sec. 2. A bid exceeding fifty thousand dollars (\$50,000) by a prequalified contractor will not be considered for contract award on such project unless:

(a) The total dollar volume of his work to be completed on current and pending contracts when coupled with the estimated cost of the Public Works project to be bid amounts to a total less than his "maximum qualification rating" as shown on his current "certificate of qualification," and

(b) A current notarized "Statement of Availability" (DAPW 11) for each bid reporting the dollar volume of work yet to be completed is submitted with the sealed bid.

(*Indiana Department of Administration; Public Works Division Sec O,2; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.10; filed Feb 3, 1982, 1:05 pm: 5 IR 518; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-15-3 Exception to statement of availability requirement

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6; IC 5-16-1-2

Sec. 3. The notarized "Statement of Availability" need not be submitted by those prequalified firms holding an "unlimited maximum qualification rating" (\$100,000,000 or more), but such firms must still be currently qualified in the area of construction concerned. (*Indiana Department of Administration; Public Works Division Sec O,3; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.11; filed Feb 3, 1982, 1:05 pm: 5 IR 518; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-15-4 Subcontractor's prequalification; qualification rating

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6; IC 5-16-1-2

Sec. 4. Subcontractors who intend to perform State work valued in excess of fifty thousand dollars (\$50,000) under a prime contractor to be awarded a State contract, must be prequalified prior to the start of work by the prime. They may also be required to have a "total maximum qualification rating" which exceeds the total value of all their current and pending work combined when coupled with their subcontract amount. (*Indiana Department of Administration; Public Works Division Sec O,4; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.11; filed Feb 3, 1982, 1:05 pm: 5 IR 518; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-15-5 Conditional bid acceptance; exceptions to ineligibility

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6; IC 5-16-1-2

Sec. 5. In those instances in which the Bidder would be precluded from bidding a particular project because the value of his workload at the time of bidding combined with his anticipated bid exceeds his qualification rating, the Bid Officer, with the concurrence of the Director, may conditionally accept his bid and consideration may be given offering him the contract if:

(a) he is the low bidder, and

(b) his "Statement of Availability" is supplemented with an affidavit affirming that he anticipates his outstanding obligations will be reduced to fall within his prequalification rating within sixty (60) days after the bid date. If the Director makes a decision to offer the contract to the apparent low bidder under such circumstances and with such assurances, then he may require the bidder to warrant that, in such interim, he will not further obligate his firm to new work to the extent that the above condition would not be met during the given time period.

(Indiana Department of Administration; Public Works Division Sec O,5; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.11; filed Feb 3, 1982, 1:05 pm: 5 IR 518; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265)

Rule 16. General Prequalification Procedures and Requirements

25 IAC 2-16-1 Annual prequalification renewal period; grace period

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6; IC 5-16-1-2

Sec. 1. Prequalification, specifying those fields in which a firm may engage in contract with the State of Indiana and the dollar limit (maximum qualification rating) to which a contractor may be committed, shall be on an annual basis with a three-month "grace" period dating from the scheduled annual renewal date. This thereby allows for a total of fifteen (15) months of prequalification dating from each renewal date. *(Indiana Department of Administration; Public Works Division Sec P,1; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p. 11; filed Feb 3, 1982, 1:05 pm: 5 IR 519; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265)*

25 IAC 2-16-2 Temporary prequalification; term

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6; IC 5-16-1-2

Sec. 2. The Certification Board may temporarily prequalify an applicant for any period of time from one (1) month to fifteen (15) months if circumstances suggest to the board that a full-term prequalification is not appropriate. *(Indiana Department of Administration; Public Works Division Sec P,2; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p. 11; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265)*

25 IAC 2-16-3 Prequalification expiration period; 90 day certificate extension

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6; IC 5-16-1-2

Sec. 3. If the period of prequalification expires and no acceptable renewal materials are rendered by the expired certificate holder, or if the certificate is revoked or suspended for cause before completion of an awarded contract and no acceptable provisions are made to the contrary, the contract may be cancelled by the Department of Administration.

The certification board may extend a valid certificate for a period of not more than ninety (90) days upon written request from the certificate holder prior to the original expiration date justifying such extension. The request will be acknowledged in writing and the board so informed at the next scheduled meeting. Only one such extension may be granted for each certificate. *(Indiana Department of Administration; Public Works Division Sec P,3; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.11; filed Feb 3, 1982, 1:05 pm: 5 IR 519; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265)*

25 IAC 2-16-4 Initial prequalification application; prequalification booklet

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6; IC 5-16-1-2

Sec. 4. Any applicants for initial prequalification shall submit a fully-completed "prequalification booklet" which is available from the Public Works Division upon request. A booklet will be considered incomplete if all applicable information is not supplied, or if that information rendered proves to be false and such incomplete booklet will accordingly not be considered. All applicants for prequalification should allow up to forty-five (45) days for complete review of application materials and consideration by the Certification Board. (*Indiana Department of Administration; Public Works Division Sec P,4; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.11; filed Feb 3, 1982, 1:05 pm: 5 IR 519; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-16-5 Effect of failure to meet qualifications

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6

Sec. 5. Any deviation from requirements set forth in the booklet or in this document will be critically evaluated in the consideration of the application and either a lesser rating or revocation may be expected. (*Indiana Department of Administration; Public Works Division Sec P,5; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p. 12; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-16-6 Board's application review; recommendation

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6; IC 5-16-1-2

Sec. 6. Following examination and evaluation of all prequalification materials, the members of the board shall review each application and make their recommendations according to their findings. (*Indiana Department of Administration; Public Works Division Sec P,6; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.12; filed Feb 3, 1982, 1:05 pm: 5 IR 519; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-16-7 Prequalification suspension; denial, revocation; sanctions; grounds

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6; IC 5-16-1-2

Sec. 7. The board may suspend, deny, or revoke the prequalification of those applicants not complying with the stipulations of the act or of these regulations [25 IAC 2-16]. Additionally, verified reports or indications of misfeasance, malfeasance, or other undesirable practices made by any reliable source (including agent or representatives of the Public Works Division as it concerns the Division's projects) or financial statements indicating instability, a precarious financial position or poor business procedures in the eyes of the board shall each be further due cause for denial, revocation, or suspension of prequalification by the board. A certificate of qualification may be revoked if the contractor:

- (a) fails to pay, or satisfactorily settle, all bills due to labor and material on former or existing contracts, or
- (b) is convicted of a violation of a state or federal law in relation to a public contract
- (c) defaults on a previous contract, or
- (d) fails to enter into a Public Works implemented project contract.

Notification of such pending action will be made in writing, setting forth the grounds for the proposed certificate revocation. The action shall become final unless an appeal in writing is filed. Any appeal must be filed as prescribed hereinafter. The period of disqualification shall not exceed two (2) years. (*Indiana Department of Administration; Public Works Division Sec P,7; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.12; filed Feb 3, 1982, 1:05 pm: 5 IR 519; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-16-8 Prequalification renewal request; board decision; appeals

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6; IC 5-16-1-2

Sec. 8. Acceptance or rejection of an applicant's request for initial prequalification or renewal shall be decided at the board's meeting, and the executive secretary shall thereafter carry out the administration of the board's decision including notifying each applicant of the board's action thereon.

Any applicant dissatisfied with the decision of the Board may, within fifteen (15) days after receiving such notification, request in writing a reconsideration of that decision and submit additional written evidence bearing on his qualification. The Certification Board will consider any such request within forty-five (45) days of receipt thereof. If the written evidence supports the contractor and a favorable decision is rendered, a revised certificate or written notice of reinstatement will be issued. (*Indiana Department of Administration; Public Works Division Sec P,8; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.12; filed Feb 3, 1982, 1:05 pm: 5 IR 520; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

Rule 17. Application of Contractors and Sub-contractors

25 IAC 2-17-1 Submission of prequalification booklet; annual supplemental documentation

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6

Sec. 1. Contractors and subcontractors shall complete and submit a copy of the "prequalification booklet" every third year, but must annually submit, as a minimum a verified financial statement, list of projects under contract, and notice of any organizational changes. Other materials and/or forms may be submitted with the prequalification booklet as supplementary data, but no form may be submitted in lieu of the booklet when it is due. (*Indiana Department of Administration; Public Works Division Sec Q,1; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.12; filed Feb 3, 1982, 1:05 pm: 5 IR 520; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-17-2 Annual financial statements; form; certificate forfeiture; grounds for application rejection

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-1-6; IC 4-13.6; IC 5-16-1-2

Sec. 2. Financial statements submitted annually by contractors and subcontractors with other renewal materials may be in the applicant's standard pamphlet form as prepared by their accountants, or may be transposed to the financial section of the prequalification booklet if that booklet is to be submitted. All statements must be complete and explicit. All financial statements must be verified as to their accuracy and legitimacy by a Certified Public Accountant (C.P.A.) or a licensed Public Accountant (P.A.) not directly affiliated with the applicant. All financial statements will be kept in confidence by the Certification Board and Public Works Division subject to IC 4-1-6.

The Board may, at any time during which a certificate is in effect, demand a new financial statement and if same is not forthcoming within sixty (60) days of the date of the request, the certificate held will be considered forfeited and the party concerned will not be permitted to bid on contracts implemented through Public Works until such a new statement has been received and acted upon by the Board.

If, at any time during the valid period of a certificate of qualification the latest statement on record with the Board ceases to represent fairly and substantially the financial position or the construction equipment of the contractor to whom the certificate was issued, it shall be the responsibility of that contractor to so notify the Board and to refrain from further bidding on Public Works projects until his qualification has been confirmed or revised. Failure to give such notice will constitute a violation of these rules and regulations [25 IAC 2-17].

The Certification Board reserves the right to require a personal interview with any contractor when considering qualification.

If the date of the financial statement is more than six (6) months old when submitted, the Board may request a new statement.

Different organizations controlled by the same owners and/or officers that desire prequalification must use financial statements of a common date. (*Indiana Department of Administration; Public Works Division Sec Q,2; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.12; filed Feb 3, 1982, 1:05 pm: 5 IR 520; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-17-3 Prequalification limited to field experience areas; data required

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6

Sec. 3. Applicant contractors shall be prequalified only in those areas in which their prequalification booklet indicates that they are experienced and investigation indicates satisfactory performance. Experience data given in the booklet, and in the interim renewal application shall specifically show each classification for which the contractor wishes to be qualified. (*Indiana Department of Administration; Public Works Division Sec Q,3; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.12; filed Feb 3, 1982, 1:05 pm: 5 IR 521; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-17-4 Method for determining base qualification rating; “unlimited” classification defined

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6; IC 5-16-1-2

Sec. 4. A standard mathematical formula is described as being:

$10 \times (\text{Current Assets} - \text{Current Liabilities}) + 5 \times (\text{Net Worth} - \text{New Working Capital})$ will be applied to each applicant's financial statement to determine the “Base Qualification Rating”. Those contractors showing a base qualification rating of one hundred million or more (\$100,000,000) shall be classified as “UNLIMITED”. An experience and performance factor reduction of 25% will be made in the case of new applications applied to the base qualification rating, unless otherwise recommended by the State Architect, State Engineer, Deputy Director or Board Member. (*Indiana Department of Administration; Public Works Division Sec Q,4; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.13; filed Feb 3, 1982, 1:05 pm: 5 IR 521; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-17-5 Method for determining “total maximum qualification rating”; written agenda for meeting supplied

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6; IC 5-16-1-2

Sec. 5. The “total maximum qualification rating” is determined by applying a plus or minus percentage, not exceeding 25%, to the base qualification rating. That percentage shall be determined in the investigation of references, past performance, reports filed pertaining to the company (PQ-3), or on the basis of recommendations of the State Architect, State Engineer, Deputy Director, and board members. A copy of the agenda will be given to all of the aforementioned prior to the meeting to allow such recommendations to be made before action is taken by the Board. (*Indiana Department of Administration; Public Works Division Sec Q, 5; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.13; filed Feb 3, 1982, 1:05 pm: 5 IR 521; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-17-6 Prequalification denial; base qualification rating less than \$50,000

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6; IC 5-16-1-2

Sec. 6. Prequalification will not be granted to contractors having current liabilities in excess of current assets or a “Base Qualification Rating” of less than fifty thousand dollars (\$50,000). (*Indiana Department of Administration; Public Works Division Sec Q,6; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.13; filed Feb 3, 1982, 1:05 pm: 5 IR 522; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-17-7 Supplemental documentation; corporation's signing authority; out-of-state corporations

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6; IC 5-16-1-2

Sec. 7. The initial application of a corporation shall be accompanied by a certified copy of the minutes covering the election of current officers and a certified copy of the official action assigning the current authority for individuals' personal signature to contracts of the corporation, such official actions may be either a portion of the original Articles of Incorporation or some subsequent

official action of the stockholders or the board of directors. If personnel or authority for individuals' personal signature are changed in any manner, the Board shall be immediately notified and furnished with certified copies of appropriate documents.

An initial application submitted by an out-of-state (foreign) corporation must be accompanied by a copy of the certificate issued by the Indiana Secretary of State admitting them to do business in Indiana. Thereafter, a copy of the certificate will not be required, but current status with the Corporation's Division of the Secretary of State's office will be checked at the time of renewal, and any foreign corporation not in good standing will not be issued a prequalification certificate even though approved by the Board until good standing is verified. (*Indiana Department of Administration; Public Works Division; 25 IAC 2-17-7; filed Feb 3, 1982, 1:05 pm: 5 IR 522; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

Rule 18. Application of Designers

25 IAC 2-18-1 Annual prequalification renewal; prequalification booklet submission

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6; IC 5-16-1-2

Sec. 1. Designers must fully complete and annually submit the "Prequalification Booklet" for the purpose of yearly prequalification renewal. The designer applicant is urged to supply any new informational booklets or brochures relating to the capabilities of the applicant whenever such documents become available. However, such supplemental materials are not to be submitted in lieu of the prequalification application. (*Indiana Department of Administration; Public Works Division Sec R,1; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.13; filed Feb 3, 1982, 1:05 pm: 5 IR 522; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-18-2 Certification in field of architecture; staff requirements

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6

Sec. 2. Designers will receive certification in the field of architecture only if a professional architect currently registered as such in Indiana is employed at least thirty (30) hours each week by the applicant firm and is listed in that capacity in the prequalification booklet. The architect on whose qualifications certification is to be granted must also be shown as the architect in charge of at least three (3) projects listed in the experience data portion of the booklet. (*Indiana Department of Administration; Public Works Division Sec R,2; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.13; filed Feb 3, 1982, 1:05 pm: 5 IR 522; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-18-3 Certification in fields of professional engineering; certification in related nonlicensed fields

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6

Sec. 3. Certification will be granted only in those fields of engineering in which the applicant designer indicates that an Indiana Registered Professional (P.E.) is working at least thirty (30) hours a week as an employee of the applicant, and who is shown as the engineer in charge of at least three (3) projects listed in the experience data portion of the booklet.

Resumes or experience data outlines for each Designer will be accepted in lieu of the requirement that each must be listed as the architect or engineer in charge as specified in Section 2 and 3 above (25 IAC 2-18-2) and this section. Such information must show explicitly the specialties for which the applicant firm is requesting certification.

Applicant designers may be certified for more than one classification when classifications are closely related, i.e., Sanitary Engineering and Waste Water Engineering, or when one classification does not require licensing, i.e., Interior Design, or when one classification is Photogrammetry, or when the firm shows overwhelming evidence of the capability to satisfactorily handle classification combinations other than those previously mentioned. (*Indiana Department of Administration; Public Works Division Sec R,3; filed Feb 29, 1972, 4:10 pm: Rules and Regs. 1973, p.13; filed Feb 3, 1982, 1:05 pm: 5 IR 522; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-18-4 Certification of other nonlicensed fields

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6

Sec. 4. For those professional areas which are not registered in Indiana, but which are certified by the Board, the applicant designer must show a full time employee in each such field with sufficient training and adequate experience to satisfy the Board that certification should be granted. (*Indiana Department of Administration; Public Works Division Sec R,4; filed Feb 29, 1972, 4:10 pm; Rules and Regs. 1973, p.13; filed Feb 3, 1982, 1:05 pm: 5 IR 523; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

25 IAC 2-18-5 Joint venture application conditions

Authority: IC 4-13-2-9; IC 4-13.6-3-1

Affected: IC 4-13.6

Sec. 5. Joint venture contract applications will be considered when the parties to the joint venture separately hold valid certification. (*Indiana Department of Administration; Public Works Division; 25 IAC 2-18-5; filed Feb 3, 1982, 1:05 pm: 5 IR 523; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265*)

Rule 19. Minority Business Development; State Public Works (Repealed)

(*Repealed by Indiana Department of Administration; filed May 30, 2003, 11:00 a.m.: 26 IR 3313*)

Rule 20. Minority Business Development; State Procurement (Repealed)

(*Repealed by Indiana Department of Administration; filed May 30, 2003, 11:00 a.m.: 26 IR 3313*)

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