

**INDIANA DEPARTMENT OF TRANSPORTATION
PREQUALIFICATION COMMITTEE
Revised as Adopted by the Committee on April 1, 2010**

Authorization:

The Department's Prequalification Committee is created by 105 IAC 11-2-4(a).

Charter:

The Prequalification Committee has jurisdiction over all recommendations to the Commissioner regarding all actions affecting the qualification of contractors to bid for Department contracts under 105 IAC 11. It also has jurisdiction to consider actions affecting a consultant's prequalification status under INDOT's Consultant Prequalification Manual (Manual). The Committee may act on referrals or on its own initiative. 105 IAC 11-2-4(e) and Manual Section I.1.

Mandatory Activities of the Committee:

The Committee must take the following actions:

1. Meet monthly and as called by the Chairman. 105 IAC 11-2-4(c).
2. Consider a contractor's appeal of a Department decision affecting the contractor's qualification status if the contractor follows the appeals process outlined in 105 IAC 11-2-9 and asks for a two-step appeal process. Consider a consultant's appeal if the consultant follows the appeals procedure in Section I.5 of the Manual. The Committee must make a recommendation to the Commissioner after considering an appeal. 105 IAC 11-2-9(b) and Manual Section I.5.
3. As a Committee appointed by the Department's Commissioner, the Committee is subject to the Indiana Open Door Law; therefore, the Committee must open all meetings to the public and observe the requirements and restrictions of the Open Door Law. *See* I.C. 5-14-1.5.

Permissive Activities of the Committee:

Under 105 IAC 11-2, the Prequalification Committee may take the following actions:

1. Obtain all information which is pertinent with respect to an applicant's financial worth, assets and liabilities, organization, personnel, construction experience, prosecution of work on previous contracts, condition and adequacy of equipment and its attitude towards department regulations and the general public. 105 IAC 11-2-1(a).
2. Send evaluation forms to those with whom the contractor has had present or previous business relationships or persons and entities who have utilized the past or present services of the contractor's employees for purposes of determining competency and responsibility. 105 IAC 11-2-1(h).
3. Act on existing Certificates of Qualifications or applications for Certificates of Qualification consistent with the Manual. Manual Section I.1.(c).

4. Extend actions taken for an entity controlled by certain owners or officers to other entities controlled by those same owners or officers if the Committee determines extension is necessary. 105 IAC 11-2-1(k) and Manual Section I.6.
5. Meet in executive session to consider initial applications, renewal, suspension, change of classification or rating, revocation, appeal or other matters pursuant to Indiana's Open Door Law (I.C. 5-14-1.5-6(b)). The Committee can consider confidential information during executive session. 105 IAC 11-2-4(d).
6. Investigate, request documents, interview witnesses and other persons or entities with information deemed relevant to a contractor's or consultant's qualification status. 105 IAC 11-2-4(f) and Manual Section I.1.(b).
7. Recommend a course of action to the Commissioner. 105 IAC 11-2-4(g) and Manual Section I.2. These recommendations include:
 - a. Change in the contractor's or consultant's qualification status – if the Committee receives additional information. 105 IAC 11-2-5 (a) and Manual Section I.2.(a).
 - b. Suspension of a contractor's qualification status – if the contractor's work is unsatisfactory, it is apparent that the contractor will be unable to complete contracts on time or the contractor has failed to adequately document a current or previous contract. 105 IAC 11-2-6(a).
 - c. Suspension of a consultant's qualification status – if the consultant committed an error or omission or if the consultant's work is otherwise unsatisfactory, if it is apparent the consultant has not or will not be able to complete its contracts on time, or if the consultant has failed to comply with a state or federal law, regulation or rule or an INDOT policy or procedure. Manual Section I.2.(b).
 - d. Revocation of a contractor's Certificate of Qualification – if the Committee determines that the contractor or subcontractor has done any of the following: (1) failed to timely pay, or satisfactorily settle, any bills due to labor and material on former or existing contracts; (2) is found to be in violation of either a state or federal law or regulation or the rules of a state or federal: department; board; bureau; agency; or commission; (3) defaulted on a contract; (4) Failed to enter into a department contract; (5) Falsified any document required by: the department, the state board of accounts, or any agency of the state of Indiana ("falsify" means an intentional act of omission or commission); (6) was convicted of a bidding crime resulting from a jury or bench trial, entered into a plea of guilty or nolo contendere, made a public admission, made a presentation as an unindicted co-conspirator, or gave testimony, which is protected by a grant of immunity, in any jurisdiction; (7) failed to perform any part or portion of an existing or previous contract; (8) failed to submit in a timely manner: information; documented explanations; or evidence required in the contract documents or proposal form; (9) Has been debarred by a federal agency; (10) failed to comply with any and all proposal form requirements concerning disadvantaged business enterprise (DBE) and women business enterprise (WBE) goals; (11) had knowledge that a subcontractor further subcontracted its work; (12) offered or gave a gift with a market value of ten dollars (\$10) or more, to a unit, officer, or employee of the department, or repetitively offered or gave gifts of a value of ten dollars (\$10) or less to a unit, officer, or employee of the department.

- e. Revocation of a consultant's Certificate of Qualification – if the Committee determines that the consultant committed any of the applicable infractions that would allow the Committee to revoke a contractor's qualification (as listed in subsection f. above) or if the consultant violated an ethics policy or committed an error or omission as determined by INDOT. Manual Section I.2.(d).
8. The Committee may withdraw a contractor's or consultant's Certificate of Qualification if the Committee determines the firm or corporation is no longer active or in existence. 105 IAC 11-2- 7 and Manual Section I.2.(c).
9. Review policies or changes to the Consultant Prequalification Manual. Manual Section I.1.(d).

Purposes/Goals:

1. Ensure the integrity of the Department's process for qualifying contractors to bid on Department contracts, as required by I.C. 8-23-10, and the Department's process for qualifying consultants as part of the quality based selection process under the Manual.
2. Provide fair and consistent treatment of contractors and consultants through strict adherence to Indiana law and INDOT policy affecting the qualification status of contractors and consultants, specifically found in I.C. 8-23-10, 105 IAC 11-2, and the Manual.
3. Provide contractors and consultants an opportunity to be heard consistent with 105 IAC 11-2 and Section I.5 of the Manual and to provide clear and reliable communication to contractors and consultants when recommending to the Commissioner an action that will affect the contractor's or consultant's qualification status.

Membership:

INDOT's Commissioner must appoint the members of the Prequalification Committee and designate one member as Chairman. 105 IAC 11-2-4(a). Each member may designate an alternate member by submitting the name in writing to the Secretary. 105 IAC 11-2-4(b).

Officers:

A. Chairman:

The Chairman shall preside at Committee meetings and cannot vote unless there is a tie among the voting members. He or she casts the deciding vote in a tie. 105 IAC 11-2-4(b).

B. Secretary:

The Department's Prequalification Engineer serves as Secretary of the Committee. The Secretary is not entitled to a vote. 105 IAC 11-2-4(b). He or she has the following responsibilities:

1. Take minutes that include the date, place and time of the Committee meetings. The minutes must also include the names of all members present or absent and record all motions made and votes cast on each motion. 105 IAC 11-2-4(c).
2. Post annual notices and notices of emergency meetings. 105 IAC 11-2-4(c).

Meetings and Votes:

The Committee must meet monthly and can meet as called by the Chairman. 105 IAC 11-2-4(c).

To take action, the Committee must:

1. Have a quorum present to conduct business; and
2. Have a majority of votes to adopt a motion.
3. Abstentions shall not count as votes cast.

Commissioner's Responsibilities and Activities:

1. If the Commissioner issues, changes, suspends or revokes a Certificate of Qualification for a contractor, the Commissioner must notify the contractor in writing. 105 IAC 11-2-4(g).
2. The Commissioner's decision as to a contractor's qualification status is effective only after all avenues of appeal under 105 IAC 11-2-9 are exhausted, unless the decision is an addition of a classification or an increase in rating, in which case the certification will be effective on the date the Commissioner signs the notification and will be in effect during the appeals process. 105 IAC 11-2-4(g).
3. The Commissioner can lift the suspension of a contractor's Certificate of Qualification if he or she determines that corrective action taken by the contractor is to his or her personal satisfaction. 105 IAC 11-2-6(b).
4. The Commissioner or Prequalification Engineer will provide written notice to the consultant of any action taken by the Commissioner based on the Committee's recommendation. Manual Section I.3.
5. If the consultant chooses to appeal the Commissioner's action, the action is effective after completion of the Appeals Procedure under Section I.5 of the Manual.