TITLE 25 INDIANA DEPARTMENT OF ADMINISTRATION

Final Rule
LSA Document #06-515(F)

DIGEST

Amends 25 IAC 2-1-1, 25 IAC 2-1-2, 25 IAC 2-2-1, 25 IAC 2-3-1, 25 IAC 2-3-3, 25 IAC 2-3-4, 25 IAC 2-3-6, 25 IAC 2-4-1 through 25 IAC 2-4-3, 25 IAC 2-5-1 through 25 IAC 2-5-4, 25 IAC 2-6-2, 25 IAC 2-6-3, 25 IAC 2-6-5, 25 IAC 2-7-1, 25 IAC 2-8-1, 25 IAC 2-9-3, 25 IAC 2-10-1, 25 IAC 2-12-1, 25 IAC 2-13-1, 25 IAC 2-13-3 through 25 IAC 2-13-5, 25 IAC 2-14-1 through 25 IAC 2-14-3, 25 IAC 2-15-1, 25 IAC 2-15-4, 25 IAC 2-16-2 through 25 IAC 2-16-5, 25 IAC 2-16-7, 25 IAC 2-17-7, and 25 IAC 2-18-1 through 25 IAC 2-18-4 to include changes to the duties of the public works division, a designer's bidding duty, the threshold for prequalification, application for prequalification approval, criteria for bidding, the bidding process, nonpayment of subcontractors, the Certification Board and purposes of the Certification Board, prequalification procedures and requirements, bid acceptance, application of foreign corporations, application of designers, and qualifications for certification in architecture, professional engineering, and nonlicensed fields. Makes technical and clarifying corrections. Repeals 25 IAC 2-9-4, 25 IAC 2-15-2, 25 IAC 2-15-3, 25 IAC 2-15-5, 25 IAC 2-16-1, and 25 IAC 2-17-1 through 25 IAC 2-17-6. Effective 30 days after filing with the Publisher.

25 IAC 2-1-1; 25 IAC 2-1-2; 25 IAC 2-2-1; 25 IAC 2-3-1; 25 IAC 2-3-3; 25 IAC 2-3-4; 25 IAC 2-3-6; 25 IAC 2-4-1; 25 IAC 2-4-2; 25 IAC 2-4-3; 25 IAC 2-5-1; 25 IAC 2-5-2; 25 IAC 2-5-3; 25 IAC 2-5-4; 25 IAC 2-6-2; 25 IAC 2-6-3; 25 IAC 2-6-5; 25 IAC 2-7-1; 25 IAC 2-8-1; 25 IAC 2-9-3; 25 IAC 2-9-4; 25 IAC 2-10-1; 25 IAC 2-12-1; 25 IAC 2-13-1; 25 IAC 2-13-3; 25 IAC 2-13-4; 25 IAC 2-13-5; 25 IAC 2-14-1; 25 IAC 2-14-2; 25 IAC 2-14-3; 25 IAC 2-15-1; 25 IAC 2-15-2; 25 IAC 2-15-3; 25 IAC 2-15-4; 25 IAC 2-15-5; 25 IAC 2-16-1; 25 IAC 2-16-2; 25 IAC 2-16-3; 25 IAC 2-16-4; 25 IAC 2-16-5; 25 IAC 2-16-7; 25 IAC 2-17-1; 25 IAC 2-17-2; 25 IAC 2-17-3; 25 IAC 2-17-4; 25 IAC 2-17-5; 25 IAC 2-17-6; 25 IAC 2-17-7; 25 IAC 2-18-1; 25 IAC 2-18-2; 25 IAC 2-18-3; 25 IAC 2-18-4

SECTION 1. 25 IAC 2-1-1 IS AMENDED TO READ AS FOLLOWS:

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~~ **the** construction as needed. ~~Such~~ **The** 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 **the following:**

(1) Making on-site investigations to ascertain **the following:**
  (A) The physical need for the proposed project. ~~as well as~~
  (B) The judgment of its economic justification.
(2) Making recommendations for the selection of architects and engineers ~~to do~~ **for** 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~~ **recommendation** as to **the** award of contracts.
(6) Composing and administering **design and construction** 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 **designers and** 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 p.m.: Rules and Regs. 1973, p. 1; filed Feb 3, 1982, 1:05 p.m.: 5 IR 508; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 2. 25 IAC 2-1-2 IS AMENDED TO READ AS FOLLOWS:

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. **In addition to the duties described in section 1 of this rule,** 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 ~~above,~~ **of this rule,** acting in a staff function in furnishing technical advice to the several institutions ~~in~~ **for** this work. Whenever such rehabilitation, alteration, demolition, or repair ~~require the~~ **requires** services ~~of outside designers and contractors,~~ **for design or construction,** the division performs the necessary functions ~~of~~ **for** obtaining ~~outside Designer~~ **the** services as set out in ~~the preceding~~ section ~~(25 IAC 2-1-1). It also~~ **1 of this rule. The division:**

(1) is **also** responsible for the administration of a continuing preventive maintenance program for all state-owned ~~buildings~~ **facilities** except those structures exempted under section 1 ~~above,~~ **of this rule;** and

(2) has the authority to:

(A) authorize emergency parts and supplies; **or**

(B) initiate remedial programs of:

(i) construction; or

(ii) 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 **department of** natural resources, ~~Department,~~ the ~~Indiana~~ state police **department,** and the **Indiana** department of ~~Highway~~ **transportation** 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 p.m.: Rules and Regs. 1973, p. 1; filed Feb. 3, 1982, 1:05 p.m.: 5 IR 508; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 3. 25 IAC 2-2-1 IS AMENDED TO READ AS FOLLOWS:

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 4-13.6-3-3

Sec. 1. The following ~~words and phrases, as used in these rules and regulations shall have the following meaning:~~ **definitions apply throughout this article:**

~~(a) "Department" means the Indiana Department of Administration created by IC 4-13-1.~~
~~(b) "Commissioner" means the Commissioner of the Department of Administration.~~
~~(c) "Division" means the Division of Public Works, Indiana Department of Administration.~~
~~(d) "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.~~
~~(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.~~

(1) "Approved bidder" means a bidder who is prequalified with the department in accordance with the rules and regulations as promulgated by the certification board.

~~(g)~~ **(2)** "Bid" means a sealed proposal to construct or perform services as set out in the information to bidders.

~~(h)~~ **(3)** "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.~~

(4) "Bid officer" means the representative of the division responsible and in charge of the bid opening.

~~(j)~~ **(5)** "Certification board" means the ~~prequalification~~ certification board as established by ~~IC 4-13-7.~~ **IC 4-13.6-3-3.**

(6) "Commissioner" means the commissioner of the department.

~~(k)~~ **(7)** "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)~~ **(8)** "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.~~
(9) "Department" means the Indiana department of administration created under IC 4-13-1.
~~(p)~~ **(10)** "Designer" means any architect, engineer, surveyor, or other professional who:
(A) by formal training ~~and/or~~ **or** registration, **or both,** are otherwise legally authorized to perform services and design work for the state; and
(B) may be either a contract or state designer.
(11) "Director" means the director of the division.
(12) "Division" means the division of public works of the department.
(13) "Executive secretary" means the secretary for the certification board.
(14) "Inspector" means an employee of the division having the responsibility for review of progress on state construction projects.
(15) "Operating department" means the unit of government that will be responsible for the operation, maintenance, and use of structure, equipment, or apparatus being contracted.
~~(q) "Professional Contractural~~ **(16) "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)~~ **(17)** "Project manager" means ~~Public Work's~~ **a division** professional assigned to coordinate projects.
~~(s) "Executive Secretary" means secretary for Certification Board.~~
(18) "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.
(19) "Subcontractor" means any firm supplying construction or other services to the contractor under a contract with the contractor.

(Indiana Department of Administration; Public Works Division Sec B; filed Feb 29, 1972, 4:10 p.m.: Rules and Regs. 1973, p.2; filed Feb 3, 1982, 1:05 p.m.: 5 IR 509; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 4. 25 IAC 2-3-1 IS AMENDED TO READ AS FOLLOWS:

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:
(1) architects;
(2) engineers;
(3) surveyors; and
(4) 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 p.m.: Rules and Regs. 1973, p.2; filed Feb 3, 1982, 1:05 p.m.: 5 IR 509; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 5. 25 IAC 2-3-3 IS AMENDED TO READ AS FOLLOWS:

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 **for** 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~~

(1) the director shall recommend at least three **(3)** who:

(A) qualify in **the particular** classification of work; and

(B) are currently in good standing with the ~~State~~ certification board; and

(2) the commissioner shall select a contract designer for **the purpose of** negotiating a contract for the proposed design work.

~~Such~~ **The** negotiations will be predicated upon a showing that ~~his~~ **the designer's** 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~~ **the** proposed subcontract professionals shall be subject to the same prequalifications as the contract designer and must be approved for ~~such~~ **the** subcontract design work by the director ~~prior to~~ **before** use. Approval of a contract design firm shall only be considered where a sufficient number of the personnel of ~~said~~ **the** 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 p.m.: Rules and Regs. 1973, p.3; filed Feb 3, 1982, 1:05 p.m.: 5 IR 510; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 6. 25 IAC 2-3-4 IS AMENDED TO READ AS FOLLOWS:

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. **The** director shall recommend to the commissioner the fee proposed for the professional work. In making ~~his~~ **the** fee proposal for this design work, the director shall consider the project as a whole, ~~considering~~ **including** 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,~~ **fixed amount,** 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:

(1) the director shall report ~~such~~ **the** circumstances to the commissioner; and ~~he~~

(2) the commissioner shall decide whether to continue the negotiations or contact another designer ~~from the recommendation list.~~ **recommended by the director according to section 3 of this rule.**

(Indiana Department of Administration; Public Works Division Sec C,4; filed Feb 29, 1972, 4:10 p.m.: Rules and Regs. 1973, p.3; filed Feb 3, 1982, 1:05 p.m.: 5 IR 510; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 7. 25 IAC 2-3-6 IS AMENDED TO READ AS FOLLOWS:

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. **The** 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~~ **received exceed the** allocated funds **by more than ten percent (10%)** and additional funds are not available:

(1) the designer shall redesign **the work,** at no additional cost to the state, to ~~bid~~ **a cost** within **the** allocation; or

(2) 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 p.m.: Rules and Regs. 1973, p.3; filed Feb 3, 1982, 1:05 p.m.: 5 IR 510; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 8. 25 IAC 2-4-1 IS AMENDED TO READ AS FOLLOWS:

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 p.m.: Rules and Regs. 1973, p. 3; filed Feb 3, 1982, 1:05 p.m.: 5 IR 510; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 9. 25 IAC 2-4-2 IS AMENDED TO READ AS FOLLOWS:

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~~ **before** being allowed to bid on projects with a valuation ~~exceeding $50,000,~~ **of one hundred fifty thousand dollars ($150,000) or more:**

(1) apply to the ~~State~~ certification board supplying all of the pertinent information required by ~~that~~ **the certification** board; and

(2) obtain their prequalification approval;

as set out in ~~these rules and regulations of the Public Works Division.~~ **this article.** A contractor shall not be considered to have legally received plans on a particular project having a valuation ~~exceeding $50,000,~~ **of one hundred fifty thousand dollars ($150,000) or more** without being ~~currently qualified~~ **prequalified** by ~~said~~ **the certification** 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.~~

(Indiana Department of Administration; Public Works Division Sec D,2; filed Feb 29, 1972, 4:10 p.m.: Rules and Regs. 1973, p. 4; filed Feb 3, 1982, 1:05 p.m.: 5 IR 511; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 10. 25 IAC 2-4-3 IS AMENDED TO READ AS FOLLOWS:

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~~ **that** has a valuation ~~in excess~~ of ~~$50,000,~~ **one hundred fifty thousand dollars ($150,000) or more** shall also be prequalified as set out in section 2 ~~above~~ **of this rule** before the ~~prime contractor can start~~ **subcontractor begins** any work on the site.

(Indiana Department of Administration; Public Works Division Sec D,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 511; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed

Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 11. 25 IAC 2-5-1 IS AMENDED TO READ AS FOLLOWS:

25 IAC 2-5-1 Projects less than $75,000; 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~~ **seventy-five thousand** dollars ~~($500),~~ **($75,000),** contracts may be issued without taking competitive bids upon receipt of ~~two or more offers~~ **at least one (1) offer** from ~~firms~~ **contractors** interested in the subject project.

(b) Competitive bids shall not be required for ~~professional contractural~~ **contractual** services where:
(1) no competition ~~exist~~ **exists,** such as:
(A) manufacturer representatives' ~~special expertise~~ **expert** service on specialized equipment; and ~~where~~
(B) rates or prices are fixed by law or ordinance; or ~~where~~
(2) purchases are made from the United States government. ~~or any agency, division or instrumentality there of.~~
Competitive bids shall not be required for repair parts for machinery or equipment ~~which~~ **that** can only be procured from the manufacturer of ~~such~~ **the** machinery or equipment.

(Indiana Department of Administration; Public Works Division Sec E,1; filed Feb 29, 1972, 4:10 p.m.: Rules and Regs. 1973, p.4; filed Feb 3, 1982, 1:05 p.m.: 5 IR 511; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 12. 25 IAC 2-5-2 IS AMENDED TO READ AS FOLLOWS:

25 IAC 2-5-2 Projects between $75,000 and $150,000; criteria for bidding

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6-5-8; IC 5-16-1-3

Sec. 2. When the estimated cost of construction ~~exceeds five hundred~~ **is valued at seventy-five thousand** dollars ~~($500)~~ **($75,000)** but less than ~~five~~ **one hundred fifty** thousand dollars ~~($5,000),~~ **($150,000),** 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.~~ **in accordance with IC 4-13.6-5-8.**

(Indiana Department of Administration; Public Works Division Sec E,2; filed Feb 29, 1972, 4:10 p.m.: Rules and Regs. 1973, p.4; filed Feb 3, 1982, 1:05 p.m.: 5 IR 511; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 13. 25 IAC 2-5-3 IS AMENDED TO READ AS FOLLOWS:

25 IAC 2-5-3 Projects estimated at $150,000 or more; criteria for bidding; wage determination

Authority: IC 4-13-2-9; IC 4-13.6-3-1
Affected: IC 4-13.6-5-8; 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.~~ **in accordance with IC 4-**

13.6-5-8. A project may be listed ~~with one (1) or more private bid service organizations.~~ **using electronic access.** A ~~prevailing~~ **common construction** wage ~~scale~~ **determination** shall be secured and ~~such~~ **the** 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 **Indiana** 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; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 14. 25 IAC 2-5-4 IS AMENDED TO READ AS FOLLOWS:

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 of this document~~ **25 IAC 2-11** without calling for bids under normal procedures. ~~If the estimated cost is less than $5,000~~ Authorization for such emergency work ~~may~~ **will** 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.~~ **or the director if so delegated.** In either case, the award shall be confirmed in writing with copies filed with the ~~Director and~~ department as provided under ~~Rule 11 of these rules.~~ **25 IAC 2-11.**

(Indiana Department of Administration; Public Works Division Sec E,4; 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; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 15. 25 IAC 2-6-2 IS AMENDED TO READ AS FOLLOWS:

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:
(1) with ~~attached blue label as supplied by the Division or marked as specified and/or supplied by~~ the ~~Designer. It shall be~~ **bidder's name and address clearly shown; and**
(2) 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 p.m.: Rules and Regs. 1973, p.5; filed Feb 3, 1982, 1:05 p.m.: 5 IR 512; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 16. 25 IAC 2-6-3 IS AMENDED TO READ AS FOLLOWS:

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 **or** her ~~designate~~ **designee** shall, immediately ~~prior to~~ **before** the designated time for acceptance of bids for projects estimated ~~to exceed $50,000,~~ **at one hundred fifty thousand dollars ($150,000) or more,** review the prequalification of all bidders submitting bids. If:
(1) a bid packet is received; and
(2) the bidder is not currently ~~qualified~~ **prequalified** with ~~said~~ **the certification** 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.~~ **rejected.**

(Indiana Department of Administration; Public Works Division Sec F,3; filed Feb 29, 1972, 4:10 p.m.: Rules and Regs. 1973, p.5; filed Feb 3, 1982, 1:05 p.m.: 5 IR 512; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 17. 25 IAC 2-6-5 IS AMENDED TO READ AS FOLLOWS:

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:
(1) tentatively reject any bid failing to adhere to or conform to such; ~~and shall~~
(2) inform the director or in his **or her** absence the commissioner of this fact; and
(3) await a decision as to the acceptability of the bid. ~~It is~~
The intent of the department **is** to not waive technicalities of the bidding procedure. The award of ~~such~~ **a** contract shall be made on the basis of the lowest ~~qualified~~ **responsible and responsive** bid. ~~deemed to be the best bid.~~

(Indiana Department of Administration; Public Works Division Sec F,5; filed Feb 29, 1972, 4:10 p.m.: Rules and Regs. 1973, p.5; filed Feb 3, 1982, 1:05 p.m.: 5 IR 513; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 18. 25 IAC 2-7-1 IS AMENDED TO READ AS FOLLOWS:

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~~ **seventy-five thousand dollars ($75,000),** the designer **shall** 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~~ **seventy-five thousand dollars ($75,000),** 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~~ **canceling** 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 p.m.: Rules and Regs. 1973, p.6; filed Feb 3, 1982, 1:05 p.m.: 5 IR 513; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 19. 25 IAC 2-8-1 IS AMENDED TO READ AS FOLLOWS:

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~~ **that** has been designed by the division. The division shall also make periodic reviews of all construction ~~which~~ **that** has been designed by contract designers; however, ~~such~~ **the** designers by their contract are held responsible for the primary inspection. ~~Such~~ Periodic ~~inspection~~ **review** 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:

(1) change in the methods or performing an item of work;
(2) substitution of material;
(3) revision to schedule;
(4) extra work orders;
(5) extension of completion time; or
(6) interpretation of the plans and specifications;

shall originate with the designer and be approved by ~~Public Works~~ **the** division.

(Indiana Department of Administration; Public Works Division Sec H,1; filed Feb 29, 1972, 4:10 p.m.: Rules and Regs. 1973, p.7; filed Feb 3, 1982, 1:05 p.m.: 5 IR 514; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 20. 25 IAC 2-9-3 IS AMENDED TO READ AS FOLLOWS:

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; IC 15-14-3-1

Sec. 3. ~~Pursuant to~~ **Under** IC 5-16-5, as amended, partial payments may be temporarily held ~~up~~ by the division if ~~it~~ **the division** has received a certificate from a subcontractor asserting that his **or her** work, having been completed within the past **sixty** (60) days was billed to the prime contractor and not paid. Copies of ~~such~~ **the** certified claim shall be forwarded to the contractor's bond surety, **if applicable,** 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:

(1) reduce the partial billing by the amount claimed; and
(2) pass ~~partial~~ **the balance** on for payment.

Copies of all correspondence pertaining to the alleged nonpayment 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 nonpayment 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.~~ **pursuant to the Public Records Act, IC 5-14-3-1 et seq.**

(Indiana Department of Administration; Public Works Division Sec I,3; filed Feb 29, 1972, 4:10 p.m.: Rules and Regs. 1973, p.8; filed Feb 3, 1982, 1:05 p.m.: 5 IR 515; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 21. 25 IAC 2-10-1 IS AMENDED TO READ AS FOLLOWS:

25 IAC 2-10-1 Final project review; 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~~ **a review** shall be made by the ~~contract~~ designer accompanied by **the following:**

(1) The contractor.

(2) A representative of ~~this~~ **the** division. ~~and~~

(3) 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~~ **on** 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 p.m.: Rules and Regs. 1973, p.8; filed Feb 3, 1982, 1:05 p.m.: 5 IR 515; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 22. 25 IAC 2-12-1 IS AMENDED TO READ AS FOLLOWS:

25 IAC 2-12-1 Certification

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

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~~ **IC 4-13.6-3-3,** 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 p.m.: Rules and Regs. 1973, p.9; filed Feb 3, 1982, 1:05 p.m.: 5 IR 516; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 23. 25 IAC 2-13-1 IS AMENDED TO READ AS FOLLOWS:

25 IAC 2-13-1 Files; space allocation

Authority: IC 4-13.6-1-2; IC 4-13.6-3-1; IC 4-13.6-4-9
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 p.m.: Rules and Regs. 1973, p. 9; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 24. 25 IAC 2-13-3 IS AMENDED TO READ AS FOLLOWS:

25 IAC 2-13-3 Chairperson

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

Sec. 3. The ~~Chairman~~ **chairperson** of the **certification** 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.~~ **director.**

(Indiana Department of Administration; Public Works Division Sec M,3; filed Feb 29, 1972, 4:10 p.m.: Rules and Regs. 1973, p. 10; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 25. 25 IAC 2-13-4 IS AMENDED TO READ AS FOLLOWS:

25 IAC 2-13-4 Certification 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~~ **no** more than forty-five (45) days apart. Special meetings may be called at any time if: ~~all~~
(1) a majority of members agree thereto; and ~~if~~
(2) it is deemed that ~~such~~ **a** 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~~ **the** division and notice given to all news media representatives who annually in writing request ~~such~~ **the** notice be given. The agenda of each meeting will be posted with the time, date, and place at least **forty-eight** (48) hours ~~prior.~~ **before the meeting.**

(Indiana Department of Administration; Public Works Division Sec M,4; filed Feb 29, 1972, 4:10 p.m.: Rules and Regs. 1973, p.10; filed Feb 3, 1982, 1:05 p.m.: 5 IR 517; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 26. 25 IAC 2-13-5 IS AMENDED TO READ AS FOLLOWS:

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 **certification** board may meet ~~with one member absent~~ if ~~it has the consent of the absent member.~~ **a quorum is present.** At least two **(2)** members must agree if a motion is to be passed whether there be two **(2)** or three **(3)** members present.

(Indiana Department of Administration; Public Works Division Sec M,5; filed Feb 29, 1972, 4:10 p.m.: Rules and Regs. 1973, p. 10; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 27. 25 IAC 2-14-1 IS AMENDED TO READ AS FOLLOWS:

25 IAC 2-14-1 Purposes of the 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)~~ **The purposes of the certification board are** to determine **the following:**
(1) Which applicant contractors have the:
(A) experience;
(B) physical capabilities; and
(C) financial resources;
to bid or to subcontract on state construction projects valued ~~in excess of~~ **at one hundred** fifty thousand dollars ~~($50,000) which~~ **($150,000) or more that** are implemented through the facilities of the ~~Public Works~~ division and all other agencies so required by statute. ~~and~~
~~(b) To determine~~ **(2)** Which applicant designers have the:
(A) professional capabilities;
(B) manpower; and
(C) 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 p.m.: Rules and Regs. 1973, p.10; filed Feb 3, 1982, 1:05 p.m.: 5 IR 517; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 28. 25 IAC 2-14-2 IS AMENDED TO READ AS FOLLOWS:

25 IAC 2-14-2 Certification 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~~ **that** 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 p.m.: Rules and Regs. 1973, p.10; filed Feb 3, 1982, 1:05 p.m.: 5 IR 517; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 29. 25 IAC 2-14-3 IS AMENDED TO READ AS FOLLOWS:

25 IAC 2-14-3 Prequalification denial; eligibility for projects under $150,000

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

Sec. 3. Those contractors ~~which~~ **that** apply for, but are denied, prequalification by the **certification** board are still eligible to bid or to subcontract on all public works projects valued at less than **one hundred** fifty thousand dollars ~~($50,000),~~ **($150,000)** unless otherwise restricted by the ~~Public Works~~ division.

(Indiana Department of Administration; Public Works Division Sec N,3; filed Feb 29, 1972, 4:10 p.m.: Rules and Regs. 1973, p.10; filed Feb 3, 1982, 1:05 p.m.: 5 IR 517; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 30. 25 IAC 2-15-1 IS AMENDED TO READ AS FOLLOWS:

25 IAC 2-15-1 Certificate of qualification required for project bids at $150,000 or more

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 works project valued ~~in excess of~~ **at one hundred** fifty thousand dollars ~~($50,000), his~~ **($150,000) or more, the contractor's** bid will not be opened unless ~~he~~ **the contractor** currently maintains a valid certificate of ~~prequalification"~~ **qualification** indicating that he **or she** 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 p.m.: Rules and Regs. 1973, p.10; filed Feb 3, 1982, 1:05 p.m.: 5 IR 517; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 31. 25 IAC 2-15-4 IS AMENDED TO READ AS FOLLOWS:

25 IAC 2-15-4 Subcontractor's prequalification

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~~ **at one hundred** fifty thousand dollars ~~($50,000)~~ **($150,000) or more** under a prime contractor to be awarded a state contract must be prequalified ~~prior to~~ **before** the start of **the** 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 p.m.: Rules and Regs. 1973, p.11; filed Feb 3, 1982, 1:05 p.m.: 5 IR 518; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 32. 25 IAC 2-16-2 IS AMENDED TO READ AS FOLLOWS:

25 IAC 2-16-2 Limited 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~~ **give limited prequalification to** an applicant ~~for any period of time from one (1) month to fifteen (15) months~~ if circumstances suggest to the **certification** board that a ~~full-term~~ **full** prequalification is not appropriate.

(Indiana Department of Administration; Public Works Division Sec P,2; filed Feb 29, 1972, 4:10 p.m.: Rules and Regs. 1973, p. 11; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 33. 25 IAC 2-16-3 IS AMENDED TO READ AS FOLLOWS:

25 IAC 2-16-3 Prequalification expiration period; 60 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. **(a)** If the:
(1) period of prequalification expires and no acceptable renewal materials are rendered by the expired certificate holder; or ~~if the~~
(2) 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~~ **canceled** by the department. ~~of Administration.~~

(b) The certification board may extend a valid certificate for a period of not more than ~~ninety (90)~~ **sixty (60)** days upon written request from the certificate holder ~~prior to~~ **before** the original expiration date justifying ~~such~~ **the** extension. The request will be acknowledged in writing and the **certification** board so informed at the next scheduled meeting. Only one ~~such~~ **(1)** extension may be granted for each certificate.

(Indiana Department of Administration; Public Works Division Sec P,3; filed Feb 29, 1972, 4:10 p.m.: Rules and Regs. 1973, p.11; filed Feb 3, 1982, 1:05 p.m.: 5 IR 519; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 34. 25 IAC 2-16-4 IS AMENDED TO READ AS FOLLOWS:

25 IAC 2-16-4 Prequalification application

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"~~

application, which is available from the ~~Public Works~~ division upon request. ~~A booklet~~ **An application** will be considered incomplete if:

(1) all applicable information is not supplied; or ~~if~~

(2) that information rendered proves to be false;

and ~~such~~ **the** incomplete ~~booklet~~ **application** 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 p.m.: Rules and Regs. 1973, p.11; filed Feb 3, 1982, 1:05 p.m.: 5 IR 519; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 35. 25 IAC 2-16-5 IS AMENDED TO READ AS FOLLOWS:

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~~ **application** 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 p.m.: Rules and Regs. 1973, p. 12; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 36. 25 IAC 2-16-7 IS AMENDED TO READ AS FOLLOWS:

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 **certification** board may suspend, deny, or revoke the prequalification of those applicants not complying with the stipulations of the ~~act~~ **statute** or of ~~these regulations.~~ **this rule.** 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 **certification** board shall each be further due cause for denial, revocation, or suspension of prequalification by the **certification** board. A certificate of qualification may be revoked **or denied** if the contractor:

~~(a)~~ **(1)** fails to pay, or satisfactorily settle, all bills due to labor and material on former or existing contracts; ~~or~~

~~(b)~~ **(2)** is convicted of a violation of a state or federal law in relation to a public contract;

~~(c)~~ **(3)** defaults on a previous contract; or

~~(d)~~ **(4)** 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 p.m.: Rules and Regs. 1973, p.12; filed Feb 3, 1982, 1:05 p.m.: 5 IR 519; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 37. 25 IAC 2-17-7 IS AMENDED TO READ AS FOLLOWS:

Rule 17. Application of Foreign (Out-of-State) Corporations

25 IAC 2-17-7 Supplemental documentation for 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:

(1) current status with the corporations division of the secretary of state's office will be checked at the time of renewal; and

(2) any foreign corporation not in good standing will not be issued a prequalification certificate even though approved by the **certification** board until good standing is verified.

(Indiana Department of Administration; Public Works Division; 25 IAC 2-17-7; filed Feb 3, 1982, 1:05 p.m.: 5 IR 522; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 38. 25 IAC 2-18-1 IS AMENDED TO READ AS FOLLOWS:

25 IAC 2-18-1 Prequalification renewal; prequalification application 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~~ **a** prequalification ~~Booklet" for the purpose of yearly prequalification renewal.~~ **application.** The designer applicant ~~is urged to~~ **may** supply any new informational booklets or brochures relating to the capabilities of the applicant whenever ~~such~~ **the** documents become available. However, ~~such~~ **the** 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 p.m.: Rules and Regs. 1973, p.13; filed Feb 3, 1982, 1:05 p.m.: 5 IR 522; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 39. 25 IAC 2-18-2 IS AMENDED TO READ AS FOLLOWS:

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:

(1) employed at least thirty (30) hours each week by the applicant firm; and ~~is~~

(2) listed in that capacity in the prequalification ~~booklet.~~ **application.**

The architect on whose qualifications certification is to be granted must also be shown as the architect in charge of at least ~~three (3)~~ **five (5)** 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 p.m.: Rules and Regs. 1973, p.13; filed Feb 3, 1982, 1:05 p.m.: 5 IR 522; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 40. 25 IAC 2-18-3 IS AMENDED TO READ AS FOLLOWS:

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 (PE) is:

(1) working at least thirty (30) hours a week as an employee of the applicant; and ~~who is~~

(2) shown as the engineer in charge of at least ~~three (3)~~ **five (5)** projects listed in the experience data portion of the ~~booklet.~~ **application.**

~~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 p.m.: Rules and Regs. 1973, p.13; filed Feb 3, 1982, 1:05 p.m.: 5 IR 522; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 41. 25 IAC 2-18-4 IS AMENDED TO READ AS FOLLOWS:

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~~ **that** are not registered in Indiana, but ~~which~~ **that** are certified by the **certification** board, the applicant designer must show ~~a full-time~~ **an** employee **with a minimum of thirty (30) hours each week** in each ~~such~~ field with sufficient training and adequate experience to satisfy the **certification** board that certification should be granted.

(Indiana Department of Administration; Public Works Division Sec R,4; filed Feb 29, 1972, 4:10 p.m.: Rules and Regs. 1973, p.13; filed Feb 3, 1982, 1:05 p.m.: 5 IR 523; readopted filed Nov 20, 2001, 9:30 a.m.: 25 IR 1265; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)

SECTION 42. THE FOLLOWING ARE REPEALED: 25 IAC 2-9-4; 25 IAC 2-15-2; 25 IAC 2-15-3; 25 IAC 2-15-5; 25 IAC 2-16-1; 25 IAC 2-17-1; 25 IAC 2-17-2; 25 IAC 2-17-3; 25 IAC 2-17-4; 25 IAC 2-17-5; 25 IAC 2-17-6.

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