

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 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 the construction as needed. The control shall not extend to the Indiana department 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.
 - (B) The judgment of its economic justification.
- (2) Making recommendations for the selection of architects and engineers 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 recommendation as to the award of contracts.
- (6) Composing and administering design and construction contracts with the successful contractors.
- (7) Making periodic visits to 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.
- (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)

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 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 of this rule, acting in a staff function in furnishing technical advice to the several institutions for this work. Whenever such rehabilitation, alteration, demolition, or repair requires services for design or construction, the division performs the necessary functions for obtaining the services as set out in section 1 of this rule. The division:

- (1) is also responsible for the administration of a continuing preventive maintenance program for all state-owned facilities except those structures exempted under section 1 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, the state police department, and the Indiana department of 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)

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 4-13.6-3-3

Sec. 1. The following definitions apply throughout this article:

- (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.
- (2) "Bid" means a sealed proposal to construct or perform services as set out in the information to bidders.
- (3) "Bidder" means a supplier or contractor who submits offers to construct or perform services for the department.
- (4) "Bid officer" means the representative of the division responsible and in charge of the bid opening.
- (5) "Certification board" means the certification board as established by IC 4-13.6-3-3.
- (6) "Commissioner" means the commissioner of the department.
- (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.
- (8) "Contractor" means any firm supplying construction or other services to the state under a direct contract with the state.
- (9) "Department" means the Indiana department of administration created under IC 4-13-1.
- (10) "Designer" means any architect, engineer, surveyor, or other professional who:
 - (A) by formal training 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.
- (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.
- (17) "Project manager" means a division professional assigned to coordinate projects.
- (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)

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:

- (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*)

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA*)

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 the assignment of a contract designer is required:

- (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 certification board; and

(2) the commissioner shall select a contract designer for the purpose of negotiating a contract for the proposed design work. The negotiations will be predicated upon a showing that 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 the proposed subcontract professionals shall be subject to the same prequalifications as the contract designer and must be approved for the subcontract design work by the director before use. Approval of a contract design firm shall only be considered where a sufficient number of the personnel of 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*)

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 the fee proposal for this design work, the director shall consider the project as a whole, including its location, complexity, need for expediency, and 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 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 the circumstances to the commissioner; and
- (2) the commissioner shall decide whether to continue the negotiations or contact another designer 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)

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA)*

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 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 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)*

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, have expressed an interest in contracting with the state to perform construction work within the 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)*

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 perform construction work for the division must, before being allowed to bid on projects with a valuation of one hundred fifty thousand dollars (\$150,000) or more:

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

(2) obtain their prequalification approval;

as set out in this article. A contractor shall not be considered to have legally received plans on a particular project having a valuation of one hundred fifty thousand dollars (\$150,000) or more without being prequalified by the certification board. *(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)*

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 that has a valuation of one hundred fifty thousand dollars (\$150,000) or more shall also be prequalified as set out in section 2 of this rule before the 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*)

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA*)

Rule 5. Solicitation of Bids

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 seventy-five thousand dollars (\$75,000), contracts may be issued without taking competitive bids upon receipt of at least one (1) offer from contractors interested in the subject project.

(b) Competitive bids shall not be required for contractual services where:

(1) no competition exists, such as:

(A) manufacturer representatives' expert service on specialized equipment; and

(B) rates or prices are fixed by law or ordinance; or

(2) purchases are made from the United States government.

Competitive bids shall not be required for repair parts for machinery or equipment that can only be procured from the manufacturer of 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*)

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 is valued at seventy-five thousand dollars (\$75,000) but less than one hundred fifty thousand dollars (\$150,000), sealed bids shall be solicited 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*)

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 in accordance with IC 4-13.6-5-8. A project may be listed using electronic access. A common construction wage determination shall be secured and 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 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*)

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 may authorize contracts to perform necessary work or construction in an emergency as described in 25 IAC 2-11 without calling for bids under normal procedures. Authorization for such emergency work will be given verbally by the commissioner or the director if so delegated. In either case, the award shall be confirmed in writing with copies filed with the department as provided under 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*)

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA*)

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA*)

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 the bidder's name and address clearly shown; and

(2) plainly marked as a bid with job and time identification 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*)

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 designee shall, immediately before the designated time for acceptance of bids for projects estimated 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 prequalified with the certification board;

the bid shall be 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*)

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA*)

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;

(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.

The intent of the department is to not waive technicalities of the bidding procedure. The award of a contract shall be made on the basis of the lowest responsible and responsive 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*)

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA*)

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA*)

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA*)

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 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 seventy-five thousand dollars (\$75,000), the 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 canceling the project, commensurate with the provisions of 25 IAC 2-3-6 and 25 IAC 2-6-8. (*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*)

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA*)

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA)*

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA)*

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA)*

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 that has been designed by the division. The division shall also make periodic reviews of all construction that has been designed by contract designers; however, the designers by their contract are held responsible for the primary inspection. Periodic review by the state does not relieve the designer of the responsibility for the primary inspection, control, and coordination of the project. 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 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*)

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA*)

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA*)

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. Under IC 5-16-5, as amended, partial payments may be temporarily held by the division if 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 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 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 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*)

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

Sec. 4. (*Repealed by Indiana Department of Administration; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA*)

Rule 10. Acceptance of Project and Final Payment

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, a review shall be made by the designer accompanied by the following:

- (1) The contractor.
- (2) A representative of the division.
- (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 on behalf of the state, 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*)

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA*)

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA*)

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA)*

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA)*

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA)*

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA)*

Rule 12. Certification Board; Authority

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 may be found in 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*)

Rule 13. Certification Board; Organization

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 shall have its files and other administrative materials quartered in space allocated by the 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*)

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA*)

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 chairperson of the certification board shall be the 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*)

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 no more than forty-five (45) days apart. Special meetings may be called at any time if:

(1) a majority of members agree thereto; and

(2) it is deemed that a special meeting will serve the best interests of the state.

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 the division and notice given to all news media representatives who annually in writing request the notice be given. The agenda of each meeting will be posted with the time, date, and place at least forty-eight (48) hours 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)

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 if 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*)

Rule 14. Certification Board; Purposes

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. 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 at one hundred fifty thousand dollars (\$150,000) or more that are implemented through the facilities of the division and all other agencies so required by statute.

(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 likewise implemented through the 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*)

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 that receive certification board approval are prequalified for future state work to the time and classification limits set forth on the certificate of qualification (hereinafter called 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*)

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 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 (\$150,000) unless otherwise restricted by the 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)

Rule 15. Prequalification and Bidding

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 at one hundred fifty thousand dollars (\$150,000) or more, the contractor's bid will not be opened unless the contractor currently maintains a valid certificate of 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*)

25 IAC 2-15-2 Restrictions on prequalified bid acceptance (Repealed)

Sec. 2. (*Repealed by Indiana Department of Administration; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA*)

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

Sec. 3. (*Repealed by Indiana Department of Administration; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA*)

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 at one hundred fifty thousand dollars (\$150,000) or more under a prime contractor to be awarded a state contract must be prequalified before the start of the work. (*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*)

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

Sec. 5. (*Repealed by Indiana Department of Administration; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA*)

Rule 16. General Prequalification Procedures and Requirements

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

Sec. 1. (*Repealed by Indiana Department of Administration; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA*)

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 give limited prequalification to an applicant if circumstances suggest to the certification board that a 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*)

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
- (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 canceled by the department.

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

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 prequalification shall submit a fully completed prequalification application, which is available from the division upon request. An application will be considered incomplete if:

- (1) all applicable information is not supplied; or
- (2) that information rendered proves to be false;

and the incomplete 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*)

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 application or in this document will be critically evaluated in the consideration of the application. (*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*)

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA*)

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 statute or of this rule. Additionally, verified reports or indications of misfeasance, malfeasance, or other undesirable practices made by any reliable source 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:

- (1) fails to pay, or satisfactorily settle, all bills due to labor and material on former or existing contracts;
- (2) is convicted of a violation of a state or federal law in relation to a public contract;
- (3) defaults on a previous contract; or
- (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*)

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA*)

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

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

Sec. 1. (*Repealed by Indiana Department of Administration; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA*)

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

Sec. 2. (*Repealed by Indiana Department of Administration; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA*)

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

Sec. 3. (*Repealed by Indiana Department of Administration; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA*)

25 IAC 2-17-4 Method for determining base qualification rating; "unlimited" classification defined (Repealed)

Sec. 4. (*Repealed by Indiana Department of Administration; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA*)

25 IAC 2-17-5 Method for determining "total maximum qualification rating"; written agenda for meeting supplied (Repealed)

Sec. 5. *(Repealed by Indiana Department of Administration; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)*

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

Sec. 6. *(Repealed by Indiana Department of Administration; filed Nov 14, 2007, 11:10 a.m.: 20071212-IR-025060515FRA)*

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. 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)

Rule 18. Application of Designers

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 a prequalification application. The designer applicant may supply any new informational booklets or brochures relating to the capabilities of the applicant whenever the documents become available. However, 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)*

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
- (2) listed in that capacity in the prequalification application.

The architect on whose qualifications certification is to be granted must also be shown as the architect in charge of at least 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)*

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

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

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 that are not registered in Indiana, but that are certified by the certification board, the applicant designer must show an employee with a minimum of thirty (30) hours each week in each 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)*

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; readopted filed Aug 26, 2008, 8:31 a.m.: 20080910-IR-025080549RFA)*

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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