

#### **IC 4-13.6-4**

##### **Chapter 4. Qualification for State Public Works Projects**

#### **IC 4-13.6-4-1**

##### **Application of chapter**

Sec. 1. This chapter governs the qualification and classification of contractors and of persons desiring to perform professional services relating to a public works project.

*As added by P.L.24-1985, SEC.7.*

#### **IC 4-13.6-4-2**

##### **Applications for qualification; forms; confidentiality**

Sec. 2. (a) All persons desiring to perform professional services relating to a public works project must apply to the board for qualification.

(b) A contractor is not required to apply to the board for qualification before submitting a bid on a public works contract unless the estimated cost of the project is one hundred fifty thousand dollars (\$150,000) or more.

(c) An applicant for qualification under this chapter shall use the forms prescribed by the board. The board shall provide separate and specific forms for contractors and for persons desiring to perform professional services.

(d) An applicant must verify the applicant's application.

(e) Notwithstanding IC 5-14-3-4(a)(5), a financial statement submitted to the board under this chapter is considered confidential financial information for purposes of IC 5-14-3.

*As added by P.L.24-1985, SEC.7. Amended by P.L.29-1993, SEC.4; P.L.12-2002, SEC.1.*

#### **IC 4-13.6-4-3**

##### **Examination of applications**

Sec. 3. The board shall examine an application for qualification within forty-five (45) days after receiving it. In making its examination, the board shall make any necessary investigations and determine whether the applicant is competent and responsible and possesses the financial resources and experience necessary to comply with this chapter and the board's rules.

*As added by P.L.24-1985, SEC.7.*

#### **IC 4-13.6-4-4**

##### **Certificates of qualification**

Sec. 4. (a) If, after its examination, the board finds that an applicant possesses the qualifications prescribed by this chapter and by its rules, the board shall issue the applicant a certificate of qualification. A certificate of qualification issued under this chapter is valid for a period of twenty-seven (27) months from the date of its issuance, unless revoked by the board for cause.

(b) Except for restrictions as to the amount or class of work or services that the board may place in the certificate, the certificate of

qualification authorizes a contractor to bid on all proposed public works contracts and authorizes a person offering to perform professional services to perform those services.

(c) A person that holds a certificate of qualification shall notify the board of any material changes in information in the application submitted to the board.

(d) The board may revoke a certificate of qualification after it notifies the holder of the certificate and provides the holder with an opportunity to be heard on the proposed revocation. The notice must be in writing and must state the grounds of the proposed revocation. *As added by P.L.24-1985, SEC.7. Amended by P.L.58-1999, SEC.7 and P.L.172-1999, SEC.7.*

#### **IC 4-13.6-4-5**

##### **Applications for qualification; contents**

Sec. 5. (a) The board shall require an application for qualification submitted by a person seeking to perform professional services to include the following information:

- (1) Name of the firm.
- (2) Principal members of the firm.
- (3) Registrations of the principal members of the firm.
- (4) Experience of the principal members of the firm.
- (5) Office or position occupied by each principal member of the firm.
- (6) Professional affiliations of each principal member of the firm.
- (7) History of the firm.
- (8) Statistics on staff of the firm.
- (9) Experience of the firm classified as to types of work and providing the names of and status of work, both public and private.
- (10) The geographical location of all offices of the firm.
- (11) Financial and general references.
- (12) If the person is a trust (as defined in IC 30-4-1-1(a)), the name of each:
  - (A) beneficiary of the trust; and
  - (B) settlor empowered to revoke or modify the trust.

(b) In addition to the information required by subsection (a), each applicant must supply a list of at least five (5) specific projects that the applicant has completed within the past five (5) years, together with the name and address of the person with whom the applicant contracted for the work.

(c) The board may require an applicant to submit any other information that it requires to make a determination regarding the application.

*As added by P.L.24-1985, SEC.7. Amended by P.L.336-1989(ss), SEC.8.*

#### **IC 4-13.6-4-6**

##### **Certificates of qualification; standards for issuance**

Sec. 6. (a) The board may issue an applicant a certificate of qualification as a contractor only if:

(1) the applicant's stated bonding limit, as evidenced by a verified statement from a bonding company licensed to do business in Indiana, is one hundred fifty thousand dollars (\$150,000) or more; and

(2) the applicant's experience, past performance, and reputation are such that, in the judgment of the board, the contractor will satisfactorily execute and perform contracts that may be awarded under this article.

(b) An application for qualification as a contractor must expressly authorize the board to obtain all information that it considers pertinent with respect to the reputation for honesty and fair dealing of the applicant and to obtain this information from surety companies, dealers in material, equipment, and supplies, or other persons having business transactions with the applicant. The application must also expressly authorize all financial institutions or other persons to furnish this information, as requested by the board.

(c) The board may require a qualified contractor to provide information relating to its qualifications at the intervals set by the board. However, the board may not require this information more often than quarterly or with the submission of a public works contract bid.

*As added by P.L.24-1985, SEC.7. Amended by P.L.22-1997, SEC.2.*

#### **IC 4-13.6-4-7**

##### **Foreign corporations; applications for qualifications**

Sec. 7. If an applicant for qualification is a foreign corporation, the applicant's application must be accompanied by a certificate of the secretary of state that the applicant is authorized to do business in Indiana or a statement from the secretary of state that the applicant is not required to register under relevant Indiana corporation laws.

*As added by P.L.24-1985, SEC.7.*

#### **IC 4-13.6-4-8**

##### **Residency of applicants**

Sec. 8. This chapter shall be administered without reference to the residence of an applicant. This chapter and the rules of the board adopted under section 9 of this chapter apply equally to residents and nonresidents of the state of Indiana.

*As added by P.L.24-1985, SEC.7.*

#### **IC 4-13.6-4-9**

##### **Rules**

Sec. 9. The board may adopt rules under IC 4-22-2 that the board considers proper for the purpose of carrying out this chapter and insuring to the state of Indiana and to the public the award of all public works and professional service contracts to competent and responsible persons. These rules may cover the requirements of the board with respect to past record, experience, equipment, personnel

of the organization, ability to perform, and other matters that the board considers necessary to enable it to pass upon the qualifications of applicants.

*As added by P.L.24-1985, SEC.7.*

#### **IC 4-13.6-4-10**

##### **Subcontracts; breach of contract**

Sec. 10. (a) A contractor having a contract with the division for a public works project may enter into a subcontract with a value of one hundred fifty thousand dollars (\$150,000) or more, involving the performance of any part of the public work upon which the contractor may be engaged only if the subcontractor has been properly qualified under the terms of this chapter for the work subcontracted.

(b) A contractor that enters into a public works contract with an estimated cost of one hundred fifty thousand dollars (\$150,000) or more must complete at least twenty percent (20%) of the work (measured in dollars of the total contract price) with its own forces. The director may determine whether a contractor has completed at least twenty percent (20%) of the work with its own forces, and this determination is final and conclusive.

(c) The director may find a contractor violating this section to be in breach of the contract and may employ any legal remedies or administrative remedies that the department may prescribe by rule or in the contract documents. The division may develop contract provisions that assure compliance by contractors with this section and provide for remedies if a contractor breaches these provisions.  
*As added by P.L.24-1985, SEC.7. Amended by P.L.58-1999, SEC.8.*

#### **IC 4-13.6-4-11**

##### **Necessity of qualifications**

Sec. 11. (a) The director may not recommend to the commissioner the awarding of a contract to perform professional services to any person who is not qualified under this chapter.

(b) The division may not accept a bid on a public works project with an estimated cost of one hundred fifty thousand dollars (\$150,000) or more from a contractor who is not qualified under this chapter.

*As added by P.L.24-1985, SEC.7. Amended by P.L.12-2002, SEC.2.*

#### **IC 4-13.6-4-12**

##### **False statements by applicant; institution of proceedings**

Sec. 12. If an applicant knowingly makes a false statement in an application for qualification or in any other written instrument filed with the board under this chapter or under rules adopted under this chapter, the division may institute appropriate legal proceedings and administrative action against the applicant.

*As added by P.L.24-1985, SEC.7.*

#### **IC 4-13.6-4-13**

**Hearings; judicial review**

Sec. 13. (a) Any person whose application is denied or is not acted upon within the time specified under section 3 of this chapter may request a hearing before the board under IC 4-21.5-3.

(b) The board shall conduct proceedings for the revocation of a certificate under IC 4-21.5-3.

(c) Judicial review of an adverse decision in any hearing held under this chapter shall be in accordance with IC 4-21.5-5.

*As added by P.L.24-1985, SEC.7. Amended by P.L.7-1987, SEC.4; P.L.1-1999, SEC.3.*

**IC 4-13.6-4-14**

**Violations; reports of convictions; disqualification of convicted persons**

Sec. 14. (a) A person who knowingly violates section 10 or section 12 of this chapter commits a Class C misdemeanor.

(b) The trial court shall report all convictions under this section to the division, and the board shall disqualify the convicted person from performing any public works contracts under this article for a period of two (2) years from the date of conviction.

*As added by P.L.24-1985, SEC.7.*