

**INDIANA DEPARTMENT OF TRANSPORTATION  
PREQUALIFICATION COMMITTEE  
Revised as Adopted by the Committee on October 4, 2018**

**I. Authorization:**

Ind. Code 5-16-13 outlines the requirements for persons who contract for part of an agency public works project.

As part of these requirements, Ind. Code 5-16-13-10(c) mandates “contractors” that provide part of the work or services for an INDOT public works project to first be prequalified by the Department under Ind. Code 8-23-10.

INDOT’s prequalification requirement is adopted as follows: “...a contractor must be qualified [by INDOT] under this chapter [Ind. Code 8-23-10] before doing any work on a public works project.” Ind. Code 8-23-10-0.5(b).

An INDOT “public works project” is “the construction, improvement, alteration, repair, or maintenance of a highway, street, or road (as defined by IC 8-23-1-23) or alley.”

As used in Ind. Code. 8-23-10-0.5, the term “contractor” means “each person that has a contract with the public agency to perform some part of the work on, supply some of the materials for, or supply a service for, a public works project.”<sup>1</sup>

The term “person” means the prime contractor, subcontractor, sub-subcontractor, and lower-tier subcontractors for public works projects.<sup>2</sup>

Pursuant to the above law, INDOT must prequalify persons who contract for construction work or professional services on a public works project.

Notwithstanding the legal definitions of the terms, INDOT refers to persons who provide construction work as “contractors”, while service providers are known as “consultants”.

Both contractors and consultants are prequalified by INDOT under Ind. Code 8-23-10.

While the prequalification requirement applies to suppliers as well, INDOT does not contract directly with suppliers on public works projects.

To administer the prequalification of contractors and consultants, the Department established the Prequalification Committee (“Committee”) under 105 IAC 11-2-4.

The Committee’s duties and powers, and the rules and procedures governing its exercise thereof, are contained in the provisions of 105 IAC 11-1 through 105 IAC 11-3.

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<sup>1</sup> Per Ind. Code 8-23-10-0.5(a), terms used in the code section have the definitions delineated by Ind. Code 5-13-16. The term “contractor” is defined by Ind. Code 5-16-13; Ind. Code 5-13-16-3 and Ind. Code 5-13-16-4.

<sup>2</sup> A “person” can be any entity that contracts for an INDOT public works project, including a sole proprietorship, partnership, association, corporation, limited liability company, fiduciary, or individual. *See e.g.* 5-16-1-1.1(a).

Although the Committee has jurisdiction over both contractors and consultants by virtue of its enabling law, most provisions of Ind. Code 8-23-10 and governing administrative code pertain only to the regulation of contractors.

The policy and procedure governing the Committee's exercise of authority over consultants is contained in the Consultant Prequalification Manual.

**II. Purpose:**

The Committee's purpose is to promote and ensure the satisfactory performance of contractors and consultants on INDOT projects by limiting work and services to qualified, competent, and responsible persons.

**III. Activities of the Committee:**

The Committee may take any lawful action within the scope of its delegated authority to regulate INDOT's qualification of contractors and consultants.

**IV. Membership:**

Members of the Prequalification Committee are designated by the Commissioner. 105 IAC 11-2-4(a). Each member may elect an alternate member by submitting the name in writing to the Administrative Coordinator. 105 IAC 11-2-4(b).

**V. Officers:**

**Chairman**

- (1) The Chairman must preside at Committee meetings.
- (2) Pursuant to 105 IAC 11-2-4(b) the Chairman does not have voting power except in the event of a tie.
- (3) The Chairman shall be the Director of the Prequalification Division.

**Secretary**

- (1) Pursuant to 105 IAC 11-2-4(b), the Prequalification Engineer shall serve as Secretary of the Committee as a non-voting member.
- (2) The Prequalification Engineer may organize and present matters to the Prequalification Division involving the status of a contractor or consultant's qualification.
- (3) As a non-voting member, the Prequalification Engineer is not subject to an expectation of neutrality, and may use his experience and technical expertise to make recommendations to the Committee on behalf of the Prequalification Division. The Committee shall be under no obligation to follow the Secretary's recommendations but may consider his/her position in reaching an independent determination.

## **Executive Designee**

(1) INDOT Chief Legal Counsel shall serve as Executive Designee, a non-voting member of the Committee.

(2) The Executive Designee shall represent the policy interests of the agency in the discussion of Committee business.

(3) The Executive Designee may bring new business to the Committee and provide regular briefings regarding agency goals, policy issues, and other relevant information related to agency operations.

## **Administrative Coordinator**

The Administrative Coordinator shall serve at the direction of the Prequalification Engineer.

The Administrative Coordinator shall be an employee of the Prequalification Division. The Administrative Coordinator is not be a voting member of the Committee.

The Administrative Coordinator shall be responsible for coordinating all administrative and logistical requirements for conducting Committee business.

## **VI. Meetings and Votes:**

The Committee will meet monthly and as otherwise called by the Chairman.

A quorum shall be that number of voting members constituting a majority of voting members. The Chairman shall not be considered a voting member for the purpose of establishing quorum.

To take action, the Committee must have a quorum present to conduct business, and have a majority of votes to adopt a motion.

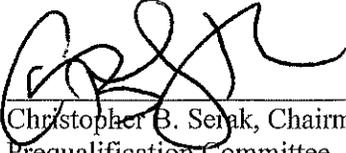
- Abstentions shall not count as votes cast.
- Alternate members shall have full voting rights.
- Members who participate by electronic means shall be considered present for the purpose of quorum and may vote.
- Votes must be taken by roll call if any member is participating electronically.

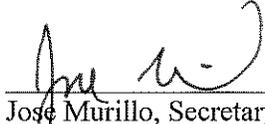
Members are expected to participate in every Committee meeting and should participate electronically if they cannot be physically present.

Members who are absent more than three (3) meetings during a calendar year may be removed from the Committee.

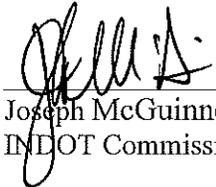
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THE FOREGOING CHARTER WAS ADOPTED, AND RECOMMENDED TO THE COMMISSIONER, BY THE PREQUALIFICATION COMMITTEE ON THIS 4<sup>th</sup> DAY OF OCTOBER 2018, BY A VOTE OF 5-0.

  
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Christopher B. Senak, Chairman  
Prequalification Committee

  
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Jose Murillo, Secretary  
Prequalification Committee

Accepted for Adoption by INDOT Commissioner Joe McGuinness this 5<sup>th</sup> day of October, 2018.

  
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Joseph McGuinness,  
INDOT Commissioner