



Procedures for Performance Matter Hearings INDOT Prequalification Committee

I. Hearing Purpose

Performance matters are escalated to the Prequalification Committee (PQC) when the Department determines that the prequalification status assigned to a contractor should be reviewed and potentially decreased, suspended, or revoked due to serious, ongoing performance shortcomings. PQC hearings are conducted as a collaborative forum, where contractors work with Department leaders to build better, more productive partnerships. The recommendations adopted by the PQC are not formulated to be punitive, but rather a tool to ensure contractors, and the agency, are put in best possible position to succeed in the future.

II. Roles and Responsibilities of Non-Voting Members

The PQC Chair presides over the hearing and regulates the course of proceedings; introduces the matter and questions before the Committee; asks questions of witnesses and participates in INDOT's evidentiary presentation; and facilitates the Committee discussion throughout.

The PQC Secretary helps lead INDOT's evidentiary presentation, including serving as a fact and opinion witness; and participates in Committee discussion and questioning.

III. Pre-Hearing Rules and Procedure

Notice

- a) INDOT shall give the contractor written notice of the PQC hearing at least thirty (30) days before the proceedings.
- b) Initial notice should identify the date and time of the PQC hearing, the questions before the Committee, the contractor's rights and obligations, and all pre-hearing rules and deadlines.

Evidence

- a) Contractors shall have the right to produce evidence, including written evidence, in support of their position. Evidence must be provided to the Chair in electronic format no later than ten (10) days prior to the hearing.
- b) INDOT shall produce all evidence to the contractor no later than ten (10) days prior to the hearing.
- c) A written summary of the matter, including a recitation of the issues and claims underlying the hearing, shall be produced by the Chair to the contractor no later than ten (10) days prior to the hearing date.

Witnesses

- a) INDOT shall disclose in writing the witnesses that will be called by the Department at the hearing.
- b) Contractors may call witnesses from within their own company to appear at the hearing. Contractors must disclose all witness, and the identity of other representatives who will appear on behalf of the company, to the Chair prior to the hearing.
- c) Contractors shall not have the right to cross examine INDOT's witnesses, but can address such witness through the Chair, following the conclusion of their testimony.

IV. Hearing Procedure & Rules

1. Introduction- Chair and Secretary introduce matter and the questions before PQC.
 - a. If the matter was brought to the PQC by a member, that member should be given the opportunity to make a statement after the introduction.
2. Recusals- Chair requests that members make a record of recusals and the reasons for abstaining from the vote.
 - a. Members who bring a matter to the Committee should be recused from voting on the recommendation.
 - b. Members who bring a matter to the Committee are not otherwise prohibited from participating fully in the remaining phases of the proceedings.
3. INDOT Evidence Presentation- INDOT presents its evidence through Chair, Secretary and witnesses.
 - a. Chair/Secretary summarize INDOT's evidence and introduce relevant witnesses.
 - i. INDOT witnesses can provide additional information and otherwise contribute freely to the Chair/Secretary's summation.
 - ii. The Chair/Secretary may ask witnesses questions as necessary during the summation.
 - iii. Members may ask the witnesses questions at any time during the Department's presentation- questions may be asked directly to the witness once the member is recognized by the Chair.
 - b. Contractor Evidence Presentation- after INDOT finishes, the contractor can offer rebuttal and introduce evidence, including witness testimony.
 - i. Contractor can respond to INDOT's presentation.
 - ii. Contractor can solicit testimony from its witnesses.
 - iii. Contractor can present evidence to the Committee.
 - iv. Contractor can address INDOT's witness through the Chair.
 - v. Members may ask questions as they arise during contractor's presentation.
 - c. Committee Discussion
 - i. Upon completion of each side's presentation, a member shall move to proceed to Committee discussion. If that motion is seconded and no members object, the hearing shall proceed to discussion of the PQC's recommendation to the Commissioner.
 - ii. During discussion, members can ask questions to all participants, seek direction from the Committee attorney regarding possible course of action, and take any other steps necessary to formulate a proposed recommendation.
 - iii. When a member has formulated a potential resolution, the member should make a motion to adopt such resolution, including a detailed outline of the proposed recommendation.
 - iv. If that motion is seconded, a roll call vote shall be administered by the Chair and a record made of each member's vote.
 - v. If the recommendation is approved by a majority of members, the hearing is complete and the Chair shall draft the recommendation for the Commissioner's review.
 - vi. If the motion fails, the Committee shall continue discussion until a resolution is adopted.

The above rules and procedures are hereby adopted by the unanimous consent of the PQC this 4th day of March 2021. These rules replace and supersede any previously adopted meeting procedures.

Affirmed and Declared by:

/s/ Chris Serak
Christopher B. Serak,
Prequalification Director & Ethics Officer
Chair, Prequalification Committee