

PREQUALIFICATION COMMITTEE
OPEN SESSION
MINUTES – SEPTEMBER 7, 2017
9:00 A.M. EST

The following Committee members attended the meeting:

Mark Tidd	Director of Prequalification Division; Committee Chair and Voting Member only in case of tie
Jose Murillo	Prequalification Engineer; Committee Secretary and Non-Voting Member
Jeff Clanton	Consultant Contracting Manager; Voting Member
Joe Gustin	Senior Director of Finance; Voting Member
Jim Stark	Deputy Commissioner of Innovative Project Delivery; Voting Member
Louis Feagans	Statewide Technical Services Director; Voting Member
Heather Kennedy	Crawfordsville Capital Program Management Director; Voting Member

Also in attendance:

Aggie Wagoner	Prequalification Specialist; INDOT
Alison Grand	Deputy Commissioner and Chief Legal Counsel; INDOT
Steve Duncan	Director of Contract Administration Division; INDOT
Linda Jelks	Attorney; INDOT
Teresa Giller	Attorney; INDOT
David Alyea	Contract Compliance Manager; INDOT
Derrick Casson	DBE Certification Manager; INDOT
Joan Widdifield	Compliance Investigator; INDOT
Chris Whitehead	President; CRI Construction Services, Inc.
Carolyn Patterson	Controller; CRI Construction Services, Inc.

The Committee reviewed the following agenda items:

1. Adoption of August 3, 2017 meeting minutes
2. CRI Construction Services, Inc.
3. New Committee Business

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Mr. Tidd, Committee Chair, called the meeting to order at 9:03 a.m. EST. All Committee members were present, with the exception of Joe Novak and David Holtz.

1. Adoption of August 3, 2017 meeting minutes.

Mr. Tidd called for consideration of the meeting minutes from the August 3, 2017 meeting.

Mr. Gustin moved to adopt the meeting minutes from the August 3, 2017 meeting. Ms. Kennedy seconded Mr. Gustin's motion. All members voted in favor, except for Louis Feagans, who abstained.

2. CRI Construction Services, Inc.

Mr. Tidd explained that the second item on the agenda related to an item discussed during last month's Prequalification Committee Meeting relating to CRI Construction, Inc., CRI Construction Co., LLC and E & B Paving, Inc. Chris Whitehead (subsequent to the meeting on August 3, 2017) submitted a W-9 for CRI Construction Services, Inc. to INDOT's Prequalification Division. The inputting of this W-9 by the Division into the Preconstruction system would normally entitle this company (CRI Construction Services, Inc.) to become an approved subcontractor. Because of the issues that were raised during the August 3, 2017 Prequalification Committee Meeting, the Prequalification Division thought the Committee should review the situation and determine if CRI Construction Services, Inc. should be approved as a subcontractor. Mr. Tidd then asked Mr. Murillo to give more detail on the situation.

Mr. Murillo gave an overview of Mr. Whitehead's involvement with CRI and the issues regarding CRI Construction, Inc., CRI Construction Co., LLC and E & B Paving, Inc.

Mr. Whitehead had been the primary contact to Prequalification for both CRI companies. Mr. Whitehead was also assumed to be in operation of CRI Construction, Inc. when it entered into a contract with E & B Paving, Inc. for an amount far exceeding their \$300,000 limit. Mr. Murillo asked for the input of the Committee members.

Mr. Tidd gave Mr. Whitehead an opportunity to speak before the Committee members asked any questions.

Mr. Whitehead said some of the allegations made about him were incorrect. Mr. Whitehead gave his side of the story regarding his background with CRI. He said he was asked to sign a non-compete agreement and he did not want to do so. Per Mr. Whitehead, this resulted with him working 5 weeks without pay before parting ways with CRI Construction Co LLC, in which he was a part owner. Mr. Whitehead also said he never intentionally conducted business on behalf of CRI Construction, Inc. after their prequalification experience was assumed by CRI Construction Co LLC. Mr. Whitehead has started CRI Construction Services, Inc. as the President and only owner. Mr. Whitehead said since he currently does not have the assets to become a prime contractor, but wants to begin to build his business by becoming an approved subcontractor on INDOT projects.

Mr. Tidd asked Mr. Whitehead if he was president of CRI Construction LLC. Mr. Whitehead said he was Vice President along with his brothers.

Mr. Tidd asked Mr. Whitehead why he signed a power of attorney, relinquishing his control of CRI Construction Co LLC. Mr. Whitehead said he thought it made sense and all other owners of the company agreed.

Ms. Kennedy asked Mr. Whitehead if he is the sole owner of the new company, CRI Construction Services, Inc. Mr. Whitehead said he is the sole owner.

Ms. Kennedy asked what equipment is owned by Mr. Whitehead. Mr. Whitehead said at this point he does not own any equipment.

Ms. Kennedy and Mr. Tidd asked Mr. Whitehead if he is going to do subcontract work, what equipment he is going to use to complete the work. Mr. Whitehead said he has multiple contacts, including one of his brothers, which are willing to rent equipment to him as needed. Mr. Whitehead recently leased equipment from a brother to complete work on I-90 for Rieth-Riley Construction.

Mr. Tidd explained to the Committee members the normal process for entering subcontractors into SiteXchange. Mr. Tidd said since the issues with CRI were discussed during the August 3, 2017 Prequalification Committee Meeting, the Committee should hear from Mr. Whitehead and determine if there are any reasons CRI Construction Services, Inc. should not be entered into SiteXchange, which would approve them to be a subcontractor for INDOT.

Mr. Feagans asked if subcontractors get performance evaluations. Mr. Tidd said they are evaluated if the subcontract amount is over \$10,000.

Mr. Feagans asked if the Committee can put a limit on the aggregate of \$300,000. Mr. Tidd said it is unlawful for a subcontractor to enter into work above the \$300,000, but the Committee can reduce that amount for any amount of time.

Ms. Kennedy asked Mr. Whitehead if he has any pending work. Mr. Whitehead said he is waiting to be approved as a subcontractor; therefore, he does not have any current work.

Mr. Feagans asked Mr. Whitehead how he did the work on I-90. Mr. Whitehead said with a lease agreement.

Mr. Tidd said INDOT is currently reevaluating our position on rental agreements with operators and that may not be an option in the future.

Mr. Murillo asked Mr. Whitehead to further explain his history with CRI Construction, Inc. Mr. Whitehead said he worked from 1991-2007 as a managing officer of CRI.

Mr. Murillo asked why Mr. Whitehead was removed or was no longer a managing officer or member after 2007. Mr. Whitehead gave some additional information regarding his personal and family matters. Mr. Whitehead said he was convicted of criminal conversion for actions he did as an officer of CRI Construction, Inc.

Mr. Stark said he doesn't believe the Committee should get in the way of family disputes. He said we should only be looking at performance based recommendations and consider any illegal acts committed.

Mr. Feagans agreed the Committee should not consider family disputes, but said he is struggling with the issue regarding CRI Construction, Inc., CRI Construction LLC and E & B Paving, Inc.

Mr. Stark asked who is truly at fault for the issue with CRI and E & B Paving, Inc. Mr. Tidd said the issue could be looked at in a number of ways. Mr. Tidd said mistakes were made by every company involved, including INDOT. Mr. Tidd said Mr. Whitehead should not have relied on another employee to cross out Inc. and write LLC after he already provided his signature. Mr. Tidd said the Committee will have to revisit the issue if CRI Construction Services, Inc. applies for prequalification in the future.

Mr. Tidd said he also agrees with Mr. Stark that the Committee should not consider family disputes and is comfortable accepting CRI Construction Services, Inc. as a subcontractor, but wanted to present the information to the Committee before entering the company into SiteXchange.

Mr. Stark suggested the Committee keep CRI Construction Services, Inc. on their radar and look at the performance scores, but doesn't believe there is enough information to deny them as a subcontractor or to reduce the \$300,000 aggregate. Mr. Stark suggested that CRI Construction Services Inc. is tracked through 2018 to evaluate a full construction season.

Mr. Tidd said the Prequalification Division will look at the scores in March 2018 and September 2018 and notify the Committee via email regarding any evaluations that are done for the company.

Mr. Stark moved to input the W-9 into SiteXchange and have the Prequalification Division communicate to the Committee via email in March and September 2018 regarding the contractor evaluation results.

Mr. Gustin seconded Mr. Stark's motion. Mr. Feagans said he likes the motion, but he is unsure of the \$300,000 aggregate.

Mr. Feagans initially moved to amend motion to reduce the aggregate, but then dropped that amendment. Mr. Feagans then moved to amend Mr. Stark's motion to input the W-9 into SiteXchange by requiring the monitoring of 3 cycles of reports (instead of only 2 cycles).

Mr. Tidd said the Prequalification Division will look at the scores in March 2018, September 2018, and then March 2019.

Mr. Gustin seconded the amended motion. All members voted in favor.

3. New Committee Business

Mr. Tidd said the new QA/QC Plan for E & B Paving, Inc. was received after the agenda was done for this (September 9, 2017) Committee Meeting. Once he received the plan, Mr. Tidd realized E & B Paving, Inc. was going to require a certificate of prequalification from every subcontractor, which would exclude all subcontractors who were not prequalified. Mr. Tidd suggested to E & B Paving, Inc. that they amend the Plan. E & B Paving, Inc. agreed via email to revise the QA/QC Plan. Part of the QA/QC Plan states, E & B Paving, Inc. will require all subcontractors who wish to submit a quote for inclusion in any bid to supply either their current INDOT certificate of qualification or (for subcontractors who do not have a certificate) a certified IC-108. The IC-108 will detail the amount of the potential subcontractor's unearned work at that time. Additionally, selected subcontractors will be required to submit an additional certified IC-108 immediately prior to E&B executing a subcontract or work order. E&B will not execute a subcontract or work order if the subcontract amount and the current unearned work amount combined exceeds the \$300,000 maximum limit allowed by Indiana Code 8-23-10-4. Disadvantaged Business Enterprise (DBE) subcontractors will be required to submit its current DBE certificate. E & B Paving, Inc. will better utilize a system to track the INDOT certificate of qualification and its expiration date, and will provide training to its personnel to help prevent additional issues.

Mr. Tidd said his recommendation is if E & B Paving, Inc. makes the changes, the Committee should recommend approval of the QA/QC Plan. Mr. Tidd asked that the Committee provide approval of the committed changes that were provided in an email from Steve Varner (Special Project Coordinator; E & B Paving, Inc.).

Ms. Kennedy moved to accept the revised QA/QC Plan.

Mr. Stark seconded Ms. Kennedy's motion. All members voted in favor.

Mr. Tidd asked if there was any additional New Committee Business.

Mr. Stark stated in regards to the new money INDOT is receiving, there is a concern about the amount of contractors and subcontractors available to complete the work. Mr. Stark asked if INDOT is looking at increasing the aggregate limits for subcontractors and prime contractors that do not have an unlimited aggregate. Mr. Tidd said that the amounts have not been changed since 1990 and it is an issue that will be discussed at the next legislative session. In addition, INDOT's Economic Opportunity Department is working with ICI to increase the number of prequalified DBE's.

Mr. Tidd informed the Committee that INDOT is currently reevaluating our position on lease agreements with operators.

Mr. Feagans moved to adjourn meeting and Ms. Kennedy seconded the motion. All members voted in favor of adjourning the meeting.

The meeting adjourned at approximately 10:10am. EST.