

Chatham County Prequalification Policy

A. **Governing Law (Session Law 2014-42)**

This policy is in effect for all prequalifications on Chatham County work, including single prime project delivery and construction manager at risk first-tier subcontractors. G.S. 143-135.8(b)(2) requires the governmental entity to “adopt an objective prequalification policy applicable to all construction or repair work prior to the advertisement of the contract for which the governmental entity intends to prequalify bidders.”

B. **Requirements for Prequalification Criteria Form and Assessment**

1. Uniform, consistent, and transparent in its application to all bidders.
2. All bidders who meet the prequalification criteria to be prequalified are allowed to bid on the construction or repair work project.
3. Criteria must be rationally related to construction or repair work.
4. The bidder is not required to have been previously awarded a construction or repair project by the governmental entity.
5. Bidders are permitted to submit history or experience with projects of similar size, scope, or complexity
6. Assessment process of prequalification is stated in this policy.
7. A process for a denied bidder to protest is stated below in this policy.
8. A process for notifying a denied prequalified bidder is stated below in this policy.

C. **Review of Application**

1. **Prequalification Committee** – The owner and/or construction manager shall agree upon the members of the prequalification committee. The Prequalification Official shall not be on the prequalification committee. The prequalification committee will review prequalification applications submitted by the firms and will determine each firm’s prequalification eligibility for the project.
2. **Review of Application** – The prequalification committee shall use the objective assessment process form as adopted by Chatham County. The prequalification committee shall approve or deny the applications in accordance with the prequalification criteria and scoring system based upon the applicants’ initial response to the Owning Agency’s solicitation for qualified bidders. With the possible protests and appeals on prequalification and the times associated with responses, the owner should have the advertisement for prequalification out to potential applicants at least two (2) months prior to actual bid date.
3. **Notice of Decision** – All firms that submitted applications for prequalification shall be promptly notified of the prequalification committee’s decision, including the reason for denial, via e-mail. Notice shall be provided prior to the opening of bids for the project and with sufficient time for the firm to appeal the denial of prequalification.
4. **Informal Meeting** - Upon denial, the applicant may request an informal meeting with the owner’s representative and/or construction manager to receive feedback and suggestions for

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improvement. The Owner's representative and/or construction manager shall hold a feedback session for the applicants who do not appeal the decision within 2 weeks of the request.

5. Firms wishing to appeal the decision shall follow the appeals process described below.

D. Appeals Procedure

1. The firm may appeal the denial of Prequalification as noted below.
 - a. **Initial Protest** – A firm denied prequalification may protest the prequalification committee's decision by filing a written appeal via hand-delivery or e-mail to the applicable prequalification committee within three (3) business days of emailed notice that the firm has been denied prequalification. The written appeal shall clearly articulate the reasons why the firm is contesting the denial (i.e., explains how the firm satisfied all required criteria for prequalification in the government's solicitation in their initial response) and attach all documents supporting the firm's position. The prequalification committee may contact the firm regarding the information provided prior to ruling on the protest. The Prequalification Committee should review the written protest within five (5) business days. If the prequalification committee is satisfied that the firm should be prequalified, the firm shall be notified that it is prequalified to bid on the project and allowed to participate in the bid process. If the prequalification committee upholds its denial, the firm shall be notified in writing via e-mail.
 - b. **Appeal** – Within three (3) business days of the owner's emailed notice of the Prequalification Committee's written protest decision, the denied prequalified firm may appeal the prequalification committee's decision, in writing, via hand-delivery or e-mail, to the Prequalification Official (see C.1 above). The Prequalification Official should review the appeal within five (5) business days. In the event the Prequalification Official is unable to review in a timely manner, he/she may designate a representative that is not a member of the prequalification committee to handle the appeal.
 - c. **Decision on Appeal** – The decision of the Prequalification Official or Representative on the appeal shall be final, and the firm shall be promptly notified of the decision.
 - d. **General Rules for Protests and Appeals** – Firms submitting prequalification applications shall be provided an e-mail address for the communication with the owner and/or construction manager during the protest and appeal process. The firm shall provide at least two e-mail addresses for use by the owner and/or construction manager in communicating with the firm. In the event the Prequalification Official or Representative is unable to render a decision on either the initial protest or the appeal prior to the bid date, the firm shall be allowed to submit a bid on the project subject to a final decision on the protest or appeal. If the firm's bid is opened prior to a final decision on the protest or appeal and the bid is not the lowest monetary bid for the project, the appeal shall be terminated and rendered moot. Bids received from firms who have been ruled disqualified to bid shall not be opened. A firm's failure to comply with any requirements of the protest and appeals procedures of this section shall result in the firm's protest or appeal being terminated and rendered moot.

MINORITY BUSINESS ENTERPRISE (MBE) PARTICIPATION PLAN

INTRODUCTION:

Bordeaux Construction is committed to promote practices that will promote full and equal access to business opportunities on projects which the company is jointly or individually affiliated. Our Historically Underutilized Business (HUB) participation program has been specifically designed to ensure that Historically Underutilized Businesses have increased and equal opportunities for participation in our projects.

Additional Support for becoming certified through the State of North Carolina is available by contacting Rachel Sayre at rachel@bordeauxconstruction.com.

HUB PLAN OBJECTIVES:

1. Bordeaux Construction has established the Historically Underutilized Business participation goal established for this project as:
20% HUB participation
2. The Chatham County Animal Shelter project is one of the larger projects that Chatham County has awarded in recent history. We recognize the financial impact this has to the local Chatham County Community. To this extent, local participation will be incorporated into the project to the greatest extent possible
3. Achieve an equitable distribution of construction contract awards with both local Chatham County and Historically Underutilized Businesses
4. A minimum participation has been established by Chatham County as:
10% HUB participation

HUB PLAN APPROACH:

1. **Extensive outreach and local contracting opportunity conferences**
The goal of our outreach sessions is to identify all applicable HUB contractors that may participate in the project. During these outreach sessions, we will communicate the proposed project scope and encourage the subcontractor to submit prequalification information. Much of the HUB participation will come from local and HUB suppliers. The goal of the outreach sessions will be to partner the prequalified subcontractors with interested suppliers.
2. **Increase awareness of the project & plan availability**
We will publish the project prequalification in numerous industry publications, newspapers, bid advertisement publications, and with Historically Underutilized Business Outreach Coordinators throughout North Carolina. Plans, drawings, and addendum will be made available free of charge to minimize the entry cost of obtaining and bidding on the project.
3. **Reduced Barrier Packages (RBPs)**
We understand that some of the bid packages required on a project of this magnitude may be of sufficient size or scope that would create a "Barrier of Entry" to compete in the market. To ensure that equitable participation is achieved, we have developed specific Reduced Barrier Packages that are of size (typically considered less than \$300,000) or scope that allow emerging as well as established Historically Underutilized Businesses a fair chance to compete. These Reduced Barrier Packages are noted on the prequalification form with an asterisk.
4. **Financial assistance**



In order to increase participation of Historically Underutilized Businesses, Bordeaux Construction will waive the requirement for payment and performance bonding on bid packages less than \$300,000. In addition, joint check agreements and quick pay agreements may also be implemented to assist Historically Underutilized Businesses establish credit

5. Certification Assistance

We have staff trained to assist subcontractors apply for Statewide Uniform Certification (SWUC) with the state of North Carolina

6. HUB Reporting

We will prepare monthly reports on contracts awarded to all contractors to ensure commitments made under 1st tier subcontractor's good faith efforts are met. We will prepare monthly reports with each pay application.

7. List of approved HUB firms

HUB list can be found at <https://www.ips.state.nc.us/vendor/SearchVendor.aspx> and then selecting "HUB Certification" – "Yes" and relevant "Construction/Design Services

SUBCONTRACTOR BIDDING REQUIREMENTS

Provide with the bid - Under GS 143-128.2(c) the undersigned bidder shall identify on its bid (Identification of Minority Business Participation Form) the minority businesses that it will use on the project with the total dollar value of the bids that will be performed by the minority businesses. Also list the good faith efforts (Affidavit A) made to solicit minority participation in the bid effort.

Note: A contractor that performs all of the work with its own workforce may submit an Affidavit (B) to that effect in lieu of Affidavit (A) required above. The MB Participation Form must still be submitted even if there is zero participation.

After the bid opening - The Construction Manager will consider all bids and alternates and determine the lowest responsible, responsive bidder. Upon notification of being the apparent low bidder, the bidder shall then file within 72 hours of the notification of being the apparent lowest bidder, the following:

An Affidavit (C) that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, which is equal to or more than the 10% goal established. This affidavit shall give rise to the presumption that the bidder has made the required good faith effort and Affidavit D is not necessary;

* Or *

If less than the 10% goal, Affidavit (D) of its good faith effort to meet the goal shall be provided. The document must include evidence of all good faith efforts that were implemented, including any advertisements, solicitations and other specific actions demonstrating recruitment and selection of minority businesses for participation in the contract.

Note: Bidders must always submit with their bid the Identification of Minority Business Participation Form listing all MB contractors, vendors and suppliers that will be used. Affidavit A or Affidavit B, as applicable, also must be submitted with the bid. Failure to file a required affidavit or documentation with the bid or after being notified apparent low bidder is grounds for rejection of the bid.