

**PREQUALIFICATION OF BIDDERS
FOR CONSTRUCTION PROJECTS**

Policy Code: **9115**

A. GENERAL

1. The purpose of this prequalification process is to impartially evaluate a contractor, and to properly determine by its responsible business practices, work experience, manpower, and equipment that it is qualified to bid on a Transylvania County Board of Education (the “board”) construction project, including prime contracts awarded by construction managers pursuant to the Construction Manager at Risk (“CM at Risk”) process. The award of contracts should be the result of open competition in bidding; impartiality in the selection of contractors; integrity in business practices; and skillful performance of public contracts.
2. The administration shall be responsible for prequalifying individual contractors to bid on board construction projects when the administration believes prequalification is preferred. The administration is not required to prequalify contractors for any particular project or projects. However, a contractor shall not be allowed to submit a bid on a construction project subject to prequalification, unless it has been prequalified in accordance with board policy. ~~Prequalification shall not relieve the contractor from compliance with the certification requirements of G.S. 147, art. 6E at the time the contractor’s bid is submitted or the contract is executed.~~
3. The construction manager and the administration shall jointly develop the assessment tool and criteria for each CM at Risk project, including the prequalification scoring values and minimum requirement score. The construction manager shall use the process outlined in this policy for the prequalification of contractors on CM at Risk projects.
4. Notwithstanding the fact that a contractor was prequalified, the board, administration, and construction manager reserve the right to reject a contractor’s bid if it is determined that the contractor has not submitted the lowest responsible and responsive bid. The prequalification of the contractor shall not preclude the board, administration, or construction manager from subsequently concluding that the contractor is not a responsible bidder pursuant to G.S. 143-129. The prequalification of a contract for a project shall only apply to the individual project. All construction and repair contracts shall be awarded to the lowest responsive and responsible bidder, taking into consideration quality, performance, and the time specified in the proposals for the performance of the contract.

B. APPLICATION PROCESS

1. The superintendent or designee shall designate a school official to oversee the prequalification process for each individual project (“School Prequalification Official”).

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2. Each prospective bidder on contracts identified for prequalification by the administration and all CM at Risk projects shall submit an application on the approved prequalification application form in order to become prequalified. The approved prequalification application form will require information to be provided on the ownership of the firm, experience of the firm’s personnel, any affiliations with other construction firms, bonding capacity, financial resources, the type of work performed by the firm, and other objective criteria rationally related to the contract to be awarded.
 3. The administration shall ensure that applications prepared for the projects comply with this policy and State law. The application is to be submitted by the deadline established in the notice of prequalification. The act of submitting the application does not permit the firm to submit a bid. Incomplete applications will be rejected or returned for further detail or correction in the sole discretion of the school system or construction manager.

61 **C. APPLICATION**

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63 The application used by the school system or the construction manager must be approved
64 by the School Prequalification Official and shall, at a minimum, address the following
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- a. **Organizational Structure** – The firm shall provide a list of all owners, officers, partners, or individuals authorized to represent or conduct business for or sign legal documents for the firm. This list must include the full legal name, typed or printed in a clear legible form. Firms experiencing changes in ownership, organizational structure, or material changes in assets must inform the school system prior to the award of a contract. Failure of the firm to comply with this requirement may result in the termination of any contract awarded by the school system or construction manager.
 - b. **Classification** – The firm shall indicate the type(s) of work the firm’s workforce and equipment normally perform, licensure, and other pertinent information. The firm shall provide its MWSBE (Minority, Women, Small Business Enterprise) status.
 - c. **Experience** – The firm shall furnish information that documents the ability of the firm to undertake a project involving the type(s) of work for which prequalification is requested.

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- 86 d. Financial – Firms will be required to provide a complete current annual
87 financial statement (current within the previous 12-month period).
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89 e. Litigation/Claims – Firms must provide information on its success at
90 completing projects on time, including the payment of liquidated damages.
91 The firm will be required to submit information regarding its litigation
92 history, including litigation with owners.
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94 f. Capacity – Firms shall demonstrate sufficient bonding capacity, insurance,
95 and resources for the project. Firms must provide relevant information on
96 the personnel that will be directly responsible for the work, including the
97 location of the office that will be primarily responsible for work. Firms
98 shall also demonstrate an acceptable safety history for construction
99 projects.
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101 g. Legal Authorization – All firms must show that they are legally authorized
102 to conduct business in the State of North Carolina **and with the school**
103 **system** and have all required licensure for the work to be performed.
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105 **D. REVIEW OF APPLICATION – SCHOOL SYSTEM BID PROJECTS**

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107 1. Prequalification Committee – The School Prequalification Official shall establish
108 a committee to review and score applications, including approving and denying
109 prequalification (“Prequalification Committee”). The superintendent or designee
110 shall not be a member of the Prequalification Committee.
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112 2. Review of Applications – The school system’s Prequalification Committee shall
113 use the school system’s objective assessment process. The prequalification
114 criteria shall not require the firm to have previously been awarded a construction
115 or repair project by the school system. The prequalification criteria used by the
116 Prequalification Committee shall include prequalification scoring values and the
117 minimum required score to be prequalified for the project. The school system’s
118 Prequalification Committee shall approve or deny the applications in accordance
119 with the prequalification criteria and scoring system.
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121 3. Notice of Decision – The firms shall be promptly notified of the school system’s
122 Prequalification Committee’s decision, including the reason for denial, via e-mail.
123 Notice shall be provided prior to the opening of bids for the project and with
124 sufficient time for the firm to appeal the denial of prequalification.
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126 **E. REVIEW OF APPLICATION – CM AT RISK PROJECTS**

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- 128 1. Prequalification Committee – The construction manager and the School
129 Prequalification Official shall agree upon the members of the construction
130 manager’s Prequalification Committee. The superintendent or designee shall not
131 be on the Prequalification Committee. The construction manager’s
132 Prequalification Committee will review prequalification applications submitted by
133 the firms and will determine the firm’s prequalification eligibility for the CM at
134 Risk project.
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- 136 2. Review of Applications – The construction manager’s Prequalification Committee
137 and the School Prequalification Official shall agree upon an objective assessment
138 process. The construction manager and the School Prequalification Official shall
139 develop prequalification criteria, including prequalification scoring values and the
140 minimum required score to be prequalified for the project. The prequalification
141 criteria shall not require the firm to have previously been awarded a construction
142 or repair project by the construction manager or the school system. The
143 construction manager’s Prequalification Committee shall approve or deny the
144 applications in accordance with the prequalification criteria and scoring system.
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- 146 3. Notice of Decision – The firms shall be promptly notified of the construction
147 manager’s Prequalification Committee’s decision, including the reason for denial,
148 via e-mail. Notice shall be provided prior to the opening of bids for the project
149 and with sufficient time for the firm to appeal the denial of prequalification.
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F. APPEALS PROCEDURE

The firm may appeal from the denial of prequalification as noted below:

- a. Written Appeal – A written appeal may be filed via hand-delivery or e-
mail to the applicable Prequalification Committee within three business
days of receipt of notice that the firm has been denied prequalification.
The written appeal shall clearly articulate the reasons why the firm is
contesting the denial and attach all documents and additional information
supporting the firm’s position. The Prequalification Committee may
contact the firm regarding the information provided prior to ruling on the
appeal. 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 promptly
notified in writing via e-mail.
- b. Hearing – The firm may appeal the Prequalification Committee’s decision
on the written appeal by requesting a hearing before the superintendent or
designee via hand-delivery or e-mail within three (3) business days of the

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171 receipt of the Prequalification Committee’s decision. The hearing shall be
172 held within five (5) business days. The firm shall not be allowed to
173 submit additional information without the written consent of the
174 superintendent or designee. The firm shall be allowed thirty (30) minutes
175 for the hearing. In the event the superintendent or designee is unable to
176 hold a hearing in a timely manner, he/she may designate a school official
177 to handle the appeal.
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179 c. Decision – For projects bid by the school system, the decision of the
180 superintendent or designee or designee shall be final, and the firm shall be
181 promptly notified of the decision via e-mail. For CM at Risk projects, the
182 superintendent or designee shall notify the construction manager of its
183 recommended decision. The construction manager shall review the
184 recommended decision and issue a final decision to the school system and
185 firm. In the event the construction manager rejects a recommendation
186 from the superintendent or designee to prequalify the firm, the
187 construction manager shall provide a written explanation of the denial to
188 both the superintendent or designee and the firm.
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190 d. General Rules for Appeals – Firms submitting applications shall be
191 provided an e-mail address for communication with the construction
192 manager or school system during the appeal process. The firm shall
193 provide at least two e-mail addresses for use by the school system or
194 construction manager in communicating with the firm. All appeals shall
195 be completed prior to the date and time for the receipt and opening of bids.
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197 Legal References: G.S. 143-128.1, -129, and -135.8; 147, art. 6E, **art. 6G**

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199 Cross References:

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201 Adopted: June 20, 2016

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203 Revised: [DATE]