

PRE-QUALIFICATION OF CONTRACTORS SEEKING TO BID ON PUBLIC WORKS PROJECTS:

*The 1999 State Legislation and the
Model Forms Created by the
Department of Industrial Relations*



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INTRODUCTION AND OVERVIEW OF THE 1999 LAW AND ITS APPLICATION

I. IMPORTANT PROVISIONS OF THE 1999 LAW

In 1999, the Legislature enacted a law that allows many public agencies to require licensed contractors that wish to bid for public works jobs to “pre-qualify” for the right to bid on a specific public works project, or on public works project undertaken by a public agency during a specified period of time. Public Contract Code section 20101 has the relevant provisions; it was enacted as part of Assembly Bill 574.

The law applies to all cities, counties, and special districts but does not apply to K-12 school districts (which have similar authority to create pre-qualification procedures, described in Public Contract Code section 20111.5, which was enacted in 1997).¹

The law does not require any public agency to adopt a pre-qualification system. Instead, it authorizes every public agency to adopt a pre-qualification system, and describes certain requirements that must be met (described below), if a public agency chooses to adopt such a system.

In fact, the 1999 law allows a public agency to establish two different kinds of pre-qualification procedures for public works projects. The law allows a public agency to establish a pre-qualification procedure linked to a single project (Section 20101[d]). Or, the public agency may adopt a procedure by which a contractor may qualify to bid on projects which are put out for bid by that agency for a period of one year after the date of initial pre-qualification. (Section 20101[c]).

The law requires every public agency that creates either kind of pre-qualification procedure to:

(1) use a “standardized questionnaire and financial statement in a form specified by the public entity”(Section 20101[a]);

(2) adopt and apply a uniform system of rating bidders on objective criteria, on the basis of the completed questionnaires and financial statements (Section 20101[b]);

(3) create an appeal procedure, by which a contractor that is denied pre-qualification may seek a reversal of that determination. (Section 20101[d]).

II. ROLE OF THE DEPARTMENT OF INDUSTRIAL RELATIONS

AB 574 required the Department of Industrial Relations (DIR) to “develop model guidelines for rating bidders, and draft the standardized questionnaire.” It required DIR to “consult with affected public agencies, cities and counties, the construction industry, the surety industry, and other interested parties.”

¹ Community College Districts also have specific authority to carry out prequalification procedures, in Public Contract Code section 20651.5, enacted in 1998. Community College Districts may also be covered by AB 574, since they are not specifically exempted.

From January through October 2000, DIR held a series of meetings in Sacramento with representatives of public agencies and other interested parties. Each meeting was attended by more than 25 representatives of interested parties. All told, more than 60 people participated in at least one such meeting, and most representatives participated in more than one. Contractors, public agencies both large and small, and associations of each were well represented throughout the series of meetings. DIR's initial draft of a questionnaire was revised after each meeting, and each revised draft was discussed at the next meeting, leading to additional revisions. Eventually, there was widespread consensus that the model questionnaire provided in this package offers a system of rating bidders based on objective criteria, and a useful and appropriate series of questions.

In addition, DIR, in compliance with the 1999 legislation, created model guidelines for rating bidders. The model rating system also is included in this package.

III. AN OVERVIEW OF THE DOCUMENTS IN THIS PACKAGE

Included in this package are:

1. A model questionnaire to be sent to contractors. The questionnaire includes spaces for answers to be provided by the contractors, with the forms to be returned to the public agency.² As required by the legislation, the information provided to the public agency by the contractors, other than the names, addresses and contractor license numbers of the contractors applying – is to be kept confidential
2. A model scoring system, for rating the answers given by the contractors and by the references. Note: the documents provided here by DIR are designed to collect the information that a public agency will need to carry out a pre-qualification procedure, and the DIR has proposed a rating system. Each public agency, however, is free to devise its own “uniform system of rating prospective bidders . . . based on objective criteria.” That is, each public agency may determine its own scoring system and its own passing scores for different portions of the questionnaire and for the interviews.
3. A model series of questions to be used by representatives of the public agency when interviewing persons who are identified by contractors as their “references” – owners of projects that have been completed by each contractor in the recent past.
4. DIR's suggestions for procedures to be used for conducting the reference interviews.
5. Two alternative forms: model announcements of pre-qualification procedures. Each is a summary and explanation of the pre-qualification procedure, prepared primarily for licensed contractors, although available for the general public as well. There are two slightly different versions of this document: one explains the pre-qualification procedure linked to a single project,³

² The documents included in this package can be found at the Department of Industrial Relations web site, www.dir.ca.gov. Click on “Data bases.”

³ The explanation included in this document assumes that the prequalification procedure is taking place after the RFP or project announcement is published. A public agency may choose, instead, to have the prequalification

while the other explains the procedure of pre-qualification valid for a year and for more than one project.

6. A list of sources of information that may be used by a public agency to verify the accuracy of many of the answers given by the contractors to the questions on the questionnaire.⁴

IV. APPEAL PROCEDURE

Section 20101(d) requires every public agency that requires prospective bidders to prequalify pursuant to this law to establish “a process that will allow prospective bidders to dispute their proposed prequalification rating prior to the closing time for receipt of bids.” The appeal process must include written notification by the public agency of the basis for the prospective bidder’s disqualification “and any supporting evidence that has been received from others or adduced as a result of an investigation by the public entity.” (section 20101[d][1]). The prospective bidder must be given an opportunity to rebut any evidence used as a basis for disqualification and to present evidence to the public entity as to why the prospective bidder should be found qualified.” (section 20101[d][2]). The law does not describe the appeal procedure in any additional detail; each public agency is free to adopt its own procedures, as long as the statutory requirements are met. As an example, while Part I of the model questionnaire includes nine “Essential Requirements for Qualification,” a public agency may choose to allow contractors to appeal a disqualification based solely on an answer to a question in Part I.

DIR has devised two different schedules for appeal procedures. One schedule would be used in a system for prequalification for a single project. The sequence of steps in this appeal procedure are scheduled to allow for an appeal decision at least four business days prior to the submission for bids for the single project. The other schedule for an appeal is applicable to a system in which prospective bidders seek prequalification valid for one year, without a link to the bidding on a specific project. These two appeal sequences are described in the explanation to contractors (the two documents referred to in paragraph 5, above).

Each public agency should be certain that it distributes to licensed contractors only the description that is appropriate for the prequalification procedures that are in use.

There are a number of laws and court decisions that affect the nature of an appeal hearing provided by a public agency. Each public agency should consult its own attorneys for advice in this area.

procedure start and end prior to the solicitation of bids for the specific project. If that is the case, the public agency would have to modify the document offered here to explain the sequence of events.

⁴ **A CAUTIONARY NOTE:** The information that will be given to public agencies by contractors seeking pre-qualification is provided under oath, with the understanding that the intentional providing of false information is, in itself, grounds for disqualification. We expect that the information given should be and will be accepted at face value in most instances. Our list of sources of information available to the public is provided for use in the few instances in which a public agency reviewing the answers given in a questionnaire has specific reason to believe that one or more answers should be verified in this manner.

V. APPLICATION OF THE PUBLIC RECORDS ACT

AB 574 provides that “The questionnaires and financial statements shall not be public records and shall not be open to public inspection; however, records of the names of contractors applying for prequalification status shall be public records subject to disclosure” under the Public Records Act. (Section 20101[a]). The model questionnaire forms provided by DIR indicate that the cover page of each questionnaire is a public record, and that all other pages of the questionnaire are not public records.

VI. WHAT ARE THE LAW’S PROVISIONS REGARDING PREQUALIFICATION OF SUBCONTRACTORS?

Public agencies are not required to pre-qualify sub-contractors, nor are public agencies prohibited from doing so. Section 20101(f) says:

Nothing in this section shall preclude the awarding agency from prequalifying or disqualifying a subcontractor. The disqualification by an awarding agency does not disqualify an otherwise prequalified [general] contractor.

MODEL PRE-QUALIFICATION QUESTIONNAIRE

CONTACT INFORMATION

Firm Name: _____ Check One: Corporation
(as it appears on license) Partnership

Sole Prop.

Contact Person: _____

Address: _____

Phone: _____ Fax: _____

If firm is a sole proprietor or partnership:

Owner(s) of Company _____

Contractor's License Number(s):

PART I. ESSENTIAL REQUIREMENTS FOR QUALIFICATION

Contractor will be immediately disqualified if the answer to any of questions 1 through 5 is “no.”⁵

Contractor will be immediately disqualified if the answer to any of questions 6, 7, 8 or 9 is “yes.”⁶ If the answer to question 8 is “yes,” and if debarment would be the sole reason for denial of pre-qualification, any pre-qualification issued will exclude the debarment period.

1. Contractor possesses a valid and current California Contractor’s license for the project or projects for which it intends to submit a bid.
 Yes No
2. Contractor has a liability insurance policy with a policy limit of at least \$1,000,000 per occurrence and \$2,000,000 aggregate.
 Yes No
3. Contractor has current workers’ compensation insurance policy as required by the Labor Code or is legally self-insured pursuant to Labor Code section 3700 et. seq.
 Yes No Contractor is exempt from this requirement, because it has no employees
4. Have you attached your latest copy of a reviewed or audited financial statement with accompanying notes and supplemental information.⁷
 Yes No

NOTE: A financial statement that is not either reviewed or audited is not acceptable. A letter verifying availability of a line of credit may also be attached; however, it will be considered as supplemental information only, and is not a substitute for the required financial statement.

5. Have you attached a notarized statement from an admitted surety insurer (approved by the California Department of Insurance) and authorized to issue bonds in the State of California, which states: (a) that your current bonding capacity is sufficient for the project for which

⁵ A “no” answer to Question 4 will not be disqualifying if the contractor is exempt from complying with Question 4, for reasons explained in footnote 7.

⁶ A contractor disqualified solely because of a “Yes” answer given to question 6, 7, or 9 may appeal the disqualification and provide an explanation of the relevant circumstances during the appeal procedure.

⁷ Public Contract Code section 20101(e) exempts from this requirement a contractor who has qualified as a small business pursuant to Government Code section 14837(d)(1), if the bid is “no more than 25 per cent of the qualifying amount provided in section 14837(d)(1).” As of January 1, 2001, the qualifying amount is \$10 million, and 25 per cent of that amount, therefore, is \$2.5 million.

you seek pre-qualification if you are seeking pre-qualification for a single project; or (if you are seeking pre-qualification valid for a year) (b) your current available bonding capacity?⁸

Yes No

NOTE: Notarized statement must be from the surety company, not an agent or broker.

6. Has your contractor's license been revoked at any time in the last five years?

Yes No

7. Has a surety firm completed a contract on your behalf, or paid for completion because your firm was default terminated by the project owner within the last five (5) years?

Yes No

8. At the time of submitting this pre-qualification form, is your firm ineligible to bid on or be awarded a public works contract, or perform as a subcontractor on a public works contract, pursuant to either Labor Code section 1777.1 or Labor Code section 1777.7?

Yes No

If the answer is "Yes," state the beginning and ending dates of the period of debarment:

9. At any time during the last five years, has your firm, or any of its owners or officers been convicted of a crime involving the awarding of a contract of a government construction project, or the bidding or performance of a government contract?

Yes No

⁸ An additional notarized statement from the surety may be requested by *Public Entity* at the time of submission of a bid, if this pre-qualification package is submitted more than 60 days prior to submission of the bid.

PART II. ORGANIZATION, HISTORY, ORGANIZATIONAL PERFORMANCE, COMPLIANCE WITH CIVIL AND CRIMINAL LAWS

A. Current Organization and Structure of the Business

For Firms That Are Corporations:

- 1a. Date incorporated : _____
- 1b. Under the laws of what state: _____
- 1c. Provide all the following information for each person who is either (a) an officer of the corporation (president, vice president, secretary, treasurer), or (b) the owner of at least ten per cent of the corporation’s stock.

Name	Position	Years with Co.	% Ownership	Social Security #

- 1d. Identify every construction firm that any person listed above has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years.
NOTE: For this question, “owner” and “partner” refer to ownership of ten per cent or more of the business, or 10 per cent or more of its stock, if the business is a corporation.

Person’s Name	Construction Firm	Dates of Person’s Participation with Firm

For Firms That Are Partnerships:

- 1a. Date of formation: _____
- 1b. Under the laws of what state: _____
- 1c. Provide all the following information for each partner who owns 10 per cent or more of the firm.

Name	Position	Years with Co.	% Ownership	Social Security #

- 1d. Identify every construction company that any partner has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years.
NOTE: For this question, “owner” and “partner” refer to ownership of ten per cent or more of the business, or ten per cent or more of its stock, if the business is a corporation.

Person’s Name	Construction Company	Dates of Person’s Participation with Company

For Firms That Are Sole Proprietorships:

- 1a. Date of commencement of business. _____
 1b. Social security number of company owner. _____
 1c. Identify every construction firm that the business owner has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years.
NOTE: For this question, “owner” and “partner” refer to ownership of ten per cent or more of the business, or ten per cent or more of its stock, if the business is a corporation.

Person’s Name	Construction Company	Dates of Person’s Participation with Company

For Firms That Intend to Make a Bid as Part of a Joint Venture:

- 1a. Date of commencement of joint venture. _____
 1b. Provide all of the following information for each firm that is a member of the joint venture that expects to bid on one or more projects:

Name of firm	% Ownership of Joint Venture

B. History of the Business and Organizational Performance

2. Has there been any change in ownership of the firm at any time during the last three years?
NOTE: A corporation whose shares are publicly traded is not required to answer this question.

Yes No

If "yes," explain on a separate signed page.

3. Is the firm a subsidiary, parent, holding company or affiliate of another construction firm?
NOTE: Include information about other firms if one firm owns 50 per cent or more of another, or if an owner, partner, or officer of your firm holds a similar position in another firm.

Yes No

If "yes," explain on a separate signed page.

4. Are any corporate officers, partners or owners connected to any other construction firms.
NOTE: Include information about other firms if an owner, partner, or officer of your firm holds a similar position in another firm.

Yes No

If "yes," explain on a separate signed page.

5. State your firm's gross revenues for each of the last three years:

6. How many years has your organization been in business in California as a contractor under your present business name and license number? _____ years

7. Is your firm currently the debtor in a bankruptcy case?

Yes No

If "yes," please attach a copy of the bankruptcy petition, showing the case number, and the date on which the petition was filed.

8. Was your firm in bankruptcy at any time during the last five years? (This question refers only to a bankruptcy action that was not described in answer to question 7, above)

Yes No

If "yes," please attach a copy of the bankruptcy petition, showing the case number and the date on which the petition was filed, and a copy of the Bankruptcy Court's discharge order, or of any other document that ended the case, if no discharge order was issued.

Licenses

9. List all California construction license numbers, classifications and expiration dates of the California contractor licenses held by your firm:

10. If any of your firm's license(s) are held in the name of a corporation or partnership, list below the names of the qualifying individual(s) listed on the CSLB records who meet(s) the experience and examination requirements for each license.
- _____
- _____
11. Has your firm changed names or license number in the past five years?
 Yes No
 If "yes," explain on a separate signed page, including the reason for the change.
12. Has any owner, partner or (for corporations:) officer of your firm operated a construction firm under any other name in the last five years?
 Yes No
 If "yes," explain on a separate signed page, including the reason for the change.
13. Has any CSLB license held by your firm or its Responsible Managing Employee (RME) or Responsible Managing Officer (RMO) been suspended within the last five years?
 Yes No
 If "yes," please explain on a separate signed sheet.

Disputes

14. At any time in the last five years has your firm been assessed and paid liquidated damages after completion of a project under a construction contract with either a public or private owner?
 Yes No
 If yes, explain on a separate signed page, identifying all such projects by owner, owner's address, the date of completion of the project, amount of liquidated damages assessed and all other information necessary to fully explain the assessment of liquidated damages.
15. In the last five years has your firm, or any firm with which any of your company's owners, officers or partners was associated, been debarred, disqualified, removed or otherwise prevented from bidding on, or completing, any government agency or public works project for any reason?
NOTE: "Associated with" refers to another construction firm in which an owner, partner or officer of your firm held a similar position, and which is listed in response to question 1c or 1d on this form.
 Yes No
 If "yes," explain on a separate signed page. State whether the firm involved was the firm applying for pre-qualification here or another firm. Identify by name of the company, the name of the person within your firm who was associated with that company, the year of the event, the owner of the project, the project and the basis for the action.
16. In the last five years has your firm been denied an award of a public works contract based on a finding by a public agency that your company was not a responsible bidder?

Yes No

If “yes,” explain on a separate signed page. Identify the year of the event, the owner, the project and the basis for the finding by the public agency.

* * * * *

NOTE: The following two questions refer only to disputes between your firm and the owner of a project. You need not include information about disputes between your firm and a supplier, another contractor, or subcontractor. You need not include information about “pass-through” disputes in which the actual dispute is between a sub-contractor and a project owner. Also, you may omit reference to all disputes about amounts of less than \$50,000.

17. In the past five years has any claim **against** your firm concerning your firm’s work on a construction project been **filed in court or arbitration?**

Yes No

If “yes,” on separate signed sheets of paper identify the claim(s) by providing the project name, date of the claim, name of the claimant, a brief description of the nature of the claim, the court in which the case was filed and a brief description of the status of the claim (pending or, if resolved, a brief description of the resolution).

18. In the past five years has your firm made any claim against a project owner concerning work on a project or payment for a contract and **filed that claim in court or arbitration?**

Yes No

If “yes,” on separate signed sheets of paper identify the claim by providing the project name, date of the claim, name of the entity (or entities) against whom the claim was filed, a brief description of the nature of the claim, the court in which the case was filed and a brief description of the status of the claim (pending, or if resolved, a brief description of the resolution).

* * * * *

19. At any time during the past five years, has any surety company made any payments on your firm’s behalf as a result of a default, to satisfy any claims made against a performance or payment bond issued on your firm’s behalf, in connection with a construction project, either public or private?

Yes No

If “yes,” explain on a separate signed page the amount of each such claim, the name and telephone number of the claimant, the date of the claim, the grounds for the claim, the present status of the claim, the date of resolution of such claim if resolved, the method by which such was resolved if resolved, the nature of the resolution and the amount, if any, at which the claim was resolved.

20. In the last five years has any insurance carrier, for any form of insurance, refused to renew the insurance policy for your firm?

Yes No

If “yes,” explain on a separate signed page. Name the insurance carrier, the form of insurance and the year of the refusal.

Criminal Matters and Related Civil Suits

21. Has your firm or any of its owners, officers or partners ever been found liable in a civil suit or found guilty in a criminal action for making any false claim or material misrepresentation to any public agency or entity?

Yes No

If “yes,” explain on a separate signed page, including identifying who was involved, the name of the public agency, the date of the investigation and the grounds for the finding.

22. Has your firm or any of its owners, officers or partners ever been convicted of a crime involving any federal, state, or local law related to construction?

Yes No

If “yes,” explain on a separate signed page, including identifying who was involved, the name of the public agency, the date of the conviction and the grounds for the conviction.

23. Has your firm or any of its owners, officers or partners ever been convicted of a federal or state crime of fraud, theft, or any other act of dishonesty?

Yes No

If “yes,” identify on a separate signed page the person or persons convicted, the court (the county if a state court, the district or location of the federal court), the year and the criminal conduct.

Bonding

24. Bonding capacity: Provide documentation from your surety identifying the following:

Name of bonding company/surety: _____

Name of surety agent, address and telephone number:

25. If your firm was required to pay a premium of more than one per cent for a performance and payment bond on any project(s) on which your firm worked at any time during the last three years, state the percentage that your firm was required to pay. You may provide an explanation for a percentage rate higher than one per cent, if you wish to do so.

26. List all other sureties (name and full address) that have written bonds for your firm during the last five years, including the dates during which each wrote the bonds:

27. During the last five years, has your firm ever been denied bond coverage by a surety company, or has there ever been a period of time when your firm had no surety bond in place during a public construction project when one was required?

Yes No

If yes, provide details on a separate signed sheet indicating the date when your firm was denied coverage and the name of the company or companies which denied coverage; and the period during which you had no surety bond in place.

C. Compliance with Occupational Safety and Health Laws and with Other Labor Legislation Safety

28. Has CAL OSHA cited and assessed penalties against your firm for any “serious,” “willful” or “repeat” violations of its safety or health regulations in the past five years?

NOTE: If you have filed an appeal of a citation, and the Occupational Safety and Health Appeals Board has not yet ruled on your appeal, you need not include information about it.

Yes No

If “yes,” attached a separate signed page describing the citations, including information about the dates of the citations, the nature of the violation, the project on which the citation(s) was or were issued, the amount of penalty paid, if any. If the citation was appealed to the Occupational Safety and Health Appeals Board and a decision has been issued, state the case number and the date of the decision.

29. Has the federal Occupational Safety and Health Administration cited and assessed penalties against your firm in the past five years?

NOTE: If you have filed an appeal of a citation and the Appeals Board has not yet ruled on your appeal, or if there is a court appeal pending, you need not include information about the citation.

Yes No

If “yes,” attach a separate signed page describing each citation.

30. Has the EPA or any Air Quality Management District or any Regional Water Quality Control Board cited and assessed penalties against either your firm or the owner of a project on which your firm was the contractor, in the past five years?

NOTE: If you have filed an appeal of a citation and the Appeals Board has not yet ruled on your appeal, or if there is a court appeal pending, you need not include information about the citation.

Yes No

If “yes,” attach a separate signed page describing each citation.

31. How often do you require documented safety meetings to be held for construction employees and field supervisors during the course of a project?

32. List your firm’s Experience Modification Rate (EMR) (California workers’ compensation insurance) for each of the past three premium years:
NOTE: An Experience Modification Rate is issued to your firm annually by your workers’ compensation insurance carrier.

Current year: _____

Previous year: _____

Year prior to previous year: _____

If your EMR for any of these three years is or was 1.00 or higher you may, if you wish, attach a letter of explanation.

33. Within the last five years has there ever been a period when your firm had employees but was without workers’ compensation insurance or state-approved self-insurance?

Yes No

If “yes,” please explain the reason for the absence of workers’ compensation insurance on a separate signed page. If “No,” please provide a statement by your current workers’ compensation insurance carrier that verifies periods of workers’ compensation insurance coverage for the last five years. (If your firm has been in the construction business for less than five years, provide a statement by your workers’ compensation insurance carrier verifying continuous workers’ compensation insurance coverage for the period that your firm has been in the construction business.)

Prevailing Wage and Apprenticeship Compliance Record

34. Has there been more than one occasion during the last five years in which your firm was required to pay either back wages or penalties for your own firm’s failure to comply with the state’s prevailing wage laws?

NOTE: This question refers only to your own firm’s violation of prevailing wage laws, not to violations of the prevailing wage laws by a subcontractor.

Yes No

If "yes," attach a separate signed page or pages, describing the nature of each violation, identifying the name of the project, the date of its completion, the public agency for which it was constructed; the number of employees who were initially underpaid and the amount of back wages and penalties that you were required to pay.

35. During the last five years, has there been more than one occasion in which your own firm has been penalized or required to pay back wages for failure to comply with the **federal Davis-Bacon** prevailing wage requirements?

Yes No

If "yes," attach a separate signed page or pages describing the nature of the violation, identifying the name of the project, the date of its completion, the public agency for which it was constructed; the number of employees who were initially underpaid, the amount of back wages you were required to pay along with the amount of any penalty paid.

36. Provide the **name, address and telephone number** of the apprenticeship program (approved by the California Apprenticeship Council) from whom you intend to request the dispatch of apprentices to your company for use on any public work project for which you are awarded a contract by *[Public Entity]*.

37. If your firm operates its own State-approved apprenticeship program:

- (a) Identify the craft or crafts in which your firm provided apprenticeship training in the past year.
- (b) State the year in which each such apprenticeship program was approved, and attach evidence of the most recent California Apprenticeship Council approval(s) of your apprenticeship program(s).
- (c) State the number of individuals who were employed by your firm as apprentices at any time during the past three years in each apprenticeship and the number of persons who, during the past three years, completed apprenticeships in each craft while employed by your firm.

38. At any time during the last five years, has your firm been found to have violated any provision of California apprenticeship laws or regulations, or the laws pertaining to use of apprentices on public works?

NOTE: You may omit reference to any incident that occurred prior to January 1, 1998, if the violation was by a subcontractor and your firm, as general contractor on a project, had no knowledge of the subcontractor's violation at the time they occurred.

Yes No

If "yes," provide the date(s) of such findings, and attach copies of the Department's final decision(s).

PART III. RECENT CONSTRUCTION PROJECTS COMPLETED

39. Contractor shall provide information about its six most recently completed public works projects and its three largest completed private projects within the last three years.⁹ Names and references must be current and verifiable. Use separate sheets of paper that contain all of the following information:

Project Name: _____

Location: _____

Owner: _____

Owner Contact (name and current phone number):

Architect or Engineer: _____

Architect or Engineer Contact (name and current phone number):

Construction Manager (name and current phone number):

⁹ If you wish, you may, using the same format, also provide information about other projects that you have completed that are similar to the project(s) for which you expect to bid.

Description of Project, Scope of Work Performed:

Total Value of Construction (including change orders): _____

Original Scheduled Completion Date: _____

Time Extensions Granted (number of days): _____

Actual Date of Completion: _____

* * * * *

I, the undersigned, certify and declare that I have read all the foregoing answers to this prequalification questionnaire and know their contents. The matters stated in the questionnaire answers are true of my own knowledge and belief, except as to those matters stated on information and belief, and as to those matters I believe them to be true. I declare under penalty of perjury under the laws of the State of California, that the foregoing is correct.

Dated: _____
(Name)

A LIST OF THE SCORABLE QUESTIONS AND THE SCORING INSTRUCTIONS

A LIST OF THE SCORABLE QUESTIONS AND THE SCORING INSTRUCTIONS

The scorable questions arise in three different areas:

- (I) History of the business and organizational performance;
- (II) Compliance with occupational safety and health laws, workers' compensation and other labor legislation; and
- (III) Completion of recent projects and quality of performance.

The interview questions (interviews by the public agency of project managers on projects completed recently by the contractor) are included in group III. In a pre-qualification procedure for a single project, this last category would also include a scoring of the number of recently completed projects that are similar to the project on which pre-qualification is at issue. However, scoring linked to the similarity of past projects would **probably not be possible or useful** if the public agency as part of a procedure to pre-qualify contractors for an extended period.

Note: Not all questions in the questionnaire are scorable; some questions simply ask for information about the contractor firm's structure, officers and history. This document includes only those questions that are "scorable." The question numbers in this document are the numbers used in the questionnaire. Thus, the questions included here begin with question number 6, and there are a few breaks in the numerical sequence.

The Scores Needed for Prequalification

To prequalify, a contractor would be required to have a passing grade within each of the three large categories referred to above.

For Section I, "History of the business and organizational performance," DIR recommends use of a passing score of **57** on this portion of the questionnaire (of a maximum score of 76 on this portion of the questionnaire).

For Section II, Compliance with occupational safety and health laws, workers' compensation and other labor legislation DIR recommends use of a passing score of **38** on this portion of the questionnaire (of a maximum score of 53 points on this portion of the questionnaire).

Section III, Completion of recent projects and quality of performance, includes a series of interview questions, and may also include questions about recently completed (public or private) construction projects. For the interview questions, DIR recommends that a public agency interview project managers for the owners of two completed projects. DIR recommends a scoring system that would allow a maximum score of 120 points for each interview. For these questions, DIR recommends qualification for a contractor whose score on each of two interviews is 72 points or more; a denial of pre-qualification

for a contractor whose score on either interview is less than 55 points; and an additional interview with another reference if the score resulting from one interview is between 55 points and 72 points.

DIR makes no recommendation about how to score a contractor's answers about recently completed past projects. Because of the wide range of projects that a public agency may be planning, and the similarly wide range in the skills, abilities, and experience that a public agency will consider most important for a pending project, it is impossible to propose a useful model scoring system to apply to the answers given about a contractor's completed projects.

Questions about History of the Business and Organizational Performance

(16 questions)

1. How many years has your organization been in business in California as a contractor under your present business name and license number? _____ years

3 years or more = 2 points

4 years = 3 points 5 years = 4 pts.

6 years or more = 5 points

2. Is your firm currently the debtor in a bankruptcy case?

Yes No

“No” = 3 points“ “Yes” = 0 points

3. Was your firm in bankruptcy any time during the last five years? (This question refers only to a bankruptcy action that was not described in answer to question 7, above).

Yes No

“No” = 3 points“ “Yes” = 0 points

4. Has any CSLB license held by your firm or its Responsible Managing Employee (RME) or Responsible Managing Officer (RMO) been suspended within the last five years?

Yes No

No = 5 points Yes = 0 points

5. At any time in the last five years, has your firm been assessed and paid liquidated damages after completion of a project, under a construction contract with either a public or private owner?
 Yes No

No projects with liquidated damages of more than \$50,000, or one project with liquidated damages = 5 points.

Two projects with liquidated damages of more than \$50,000 = 3 points

Any other answer: no points

6. In the last five years has your firm, or any firm with which any of your company's owners, officers or partners was associated, been debarred, disqualified, removed or otherwise prevented from bidding on, or completing, any government agency or public works project for any reason?

NOTE: "Associated with" refers to another construction firm in which an owner, partner or officer of your firm held a similar position, and which is listed in response to question 1c or 1d on this form.

Yes No

No = 5 points Yes = 0 points

7. In the last five years, has your firm been denied an award of a public works contract based on a finding by a public agency that your company was not a responsible bidder?
 Yes No

No = 5 points Yes = 0 points

* * * * *

NOTE: The following two questions refer only to disputes between your firm and the owner of a project. You need not include information about disputes between your firm and a supplier, another contractor, or subcontractor. You need not include information about "pass-through" disputes in which the actual dispute is between a sub-contractor and a project owner. Also, you may omit reference to all disputes about amounts of less than \$50,000.

8. In the past five years, has any claim **against** your firm concerning your firm's work on a construction project, been **filed in court or arbitration?**

Yes No

If the firm's average gross revenue for the last three years was less than \$50 million, scoring is as follows:

5 points for either "No" or "Yes" indicating 1 such instance.

3 points for "Yes" indicating 2 such instances.

0 points for "Yes" if more than 2 such instances.

If your firm's average gross revenue for the last three years was more than \$50 million, scoring is as follows:

5 points for either "No" or "Yes" indicating 1, 2, or 3 such instances.

3 points for "Yes" indicating either 4 or 5 such instances.

0 points for "Yes" if more than 5 such instances.

9. In the past five years, has your firm made any claim against a project owner concerning work on a project or payment for a contract, and **filed that claim in court or arbitration?**

Yes No

If your firm's average gross revenues for the last three years was less than \$50 million scoring is as follows:

5 points for either "No" or "Yes" indicating 1 such instance.

3 points for "Yes" indicating 2 such instances.

0 points for "Yes" if more than 2 such instances.

If your firm's average gross revenues for the last three years was more than \$50 million, scoring is as follows:

5 points for either "No" or "Yes" indicating 1, 2, or 3 such instances.

3 points for "Yes" indicating either 4 or 5 such instances.

0 points for "Yes" if more than 5 such instances.

10. At any time during the past five years, has any surety company made any payments on your firm's behalf as a result of a default, to satisfy any claims made against a performance or payment bond issued on your firm's behalf in connection with a construction project, either public or private?
 Yes No

***5 points for either "No" or "Yes" indicating 1 such claim.
3 points for "Yes" indicating no more than 2 such claims
Subtract five points for "Yes" if more than 2 such claims***

11. In the last five years, has any insurance carrier, for any form of insurance, refused to renew the insurance policy for your firm?
 Yes No

***5 points for either "No" or "Yes" indicating 1 such instance.
3 points for "Yes" indicating 2 such instances.
0 points for "Yes" or if more than 2 such instances.***

12. Has your firm, or any of its owners, officers, or partners ever been found liable in a civil suit, or found guilty in a criminal action, for making any false claim or material misrepresentation to any public agency or entity?
 Yes No

No = 5 points Yes = subtract 5 points

13. Has your firm, or any of its owners, officers or partners ever been convicted of a crime involving any federal, state, or local law related to construction?
 Yes No

No = 5 points Yes = subtract 5 points

14. Has your firm or any of its owners, officers or partners ever been convicted of a federal or state crime of fraud, theft, or any other act of dishonesty?
 Yes No

No = 5 points Yes = subtract 5 points

15. If your firm was required to pay a premium of more than one per cent for a performance and payment bond on any project(s) on which your firm worked at any time during the last three years, state the percentage that your firm was required to pay. You may provide an explanation for a percentage rate higher than one per cent, if you wish to do so.

_____ %

*5 points if the rate is no more than one per cent
3 points if the rate was no higher than 1.10 per cent.
0 points for any other answer.*

16. During the last five years, has your firm ever been denied bond credit by a surety company, or has there ever been a period of time when your firm had no surety bond in place during a public construction project when one was required?

Yes No

No = 5 points Yes = 0 points

**Questions about compliance with safety, workers compensation,
prevailing wage and apprenticeship laws.**

(11 questions)

1. Has CAL OSHA cited and assessed penalties against your firm for any “serious,” “willful” or “repeat” violations of its safety or health regulations in the past five years?

Note: If you have filed an appeal of a citation and the Occupational Safety and Health Appeals Board has not yet ruled on your appeal, you need not include information about it.

Yes No

If the firm’s average gross revenues for the last three years was less than \$50 million, scoring is as follows:

*5 points for either “No” or “Yes” indicating 1 such instance.
3 points for “Yes” indicating 2 such instances.
0 points for “Yes” if more than 2 such instances.*

If the firm’s average gross revenues for the last three years was more than \$50 million, scoring is as follows:

*5 points for either “No” or “Yes” indicating 1, 2, or 3 such instances.
3 points for “Yes” indicating either 4 or 5 such instances.
0 points for “Yes” if more than 5 such instances.*

2. Has the federal Occupational Safety and Health Administration cited and assessed penalties against your firm in the past five years?

Note: If you have filed an appeal of a citation and the appropriate appeals Board has not yet ruled on your appeal, you need not include information about it.

Yes No

If yes, attach a separate signed page describing each citation.

If the firm's average gross revenues for the last three years was less than \$50 million, scoring is as follows:

5 points for either "No" or "Yes" indicating 1 such instance.

3 points for "Yes" indicating 2 such instances.

0 points for "Yes" or if more than 2 such instances.

If the firm's average gross revenues for the last three years was more than \$50 million, scoring is as follows:

5 points for either "No" or "Yes" indicating 1, 2, or 3 such instances.

3 points for "Yes" indicating either 4 or 5 such instances.

0 points for "Yes" if more than 5 such instances.

3. Has the EPA or any Air Quality Management District or any Regional Water Quality Control Board cited and assessed penalties against either your firm or the owner of a project on which your firm was the contractor, in the past five years?

NOTE: If you have filed an appeal of a citation and the Appeals Board has not yet ruled on your appeal, or if there is a court appeal pending, you need not include information about the citation.

Yes No

If the firm's average gross revenues for the last three years was less than \$50 million, scoring is as follows:

5 points for either "No" or "Yes" indicating 1 such instance.

3 points for "Yes" indicating 2 such instances.

0 points for "Yes" or if more than 2 such instances.

If the firm's average gross revenues for the last three years was more than \$50 million, scoring is as follows:

5 points for either "No" or "Yes" indicating 1, 2, or 3 such instances.

3 points for "Yes" indicating either 4 or 5 such instances.

0 points for "Yes" if more than 5 such instances.

4. How often do you require documented safety meetings to be held for construction employees and field supervisors during the course of a project?

***3 points for an answer of once each week or more often.
0 points for any other answer***

5. List your firm's Experience Modification Rate (EMR) (California workers' compensation insurance) for each of the past three premium years:

NOTE: An Experience Modification Rate is issued to your firm annually by your workers' compensation insurance carrier.

Current year: _____

Previous year: _____

Year prior to previous year: _____

If your EMR for any of these three years is or was 1.00 or higher, you may, if you wish, attach a letter of explanation.

NOTE: An Experience Modification Rate is issued to your firm annually by your workers' compensation insurance carrier.

5 points for three-year average EMR of .95 or less

3 points for three-year average of EMR of more than .95 but no more than 1.00

0 points for any other EMR

6. Within the last five years, has there ever been a period when your firm had employees but was without workers' compensation insurance or state-approved self-insurance?

Yes No

5 points for either "No" or "Yes" indicating 1 such instance.

0 points for any other answer.

7. Has there been more than one occasion during the last five years on which your firm was required to pay either back wages or penalties for your own firm's failure to comply with the **state's** prevailing wage laws?
 Yes No

NOTE: This question refers only to your own firm's violation of prevailing wage laws, not to violations of the prevailing wage laws by a subcontractor.

If your firm's average gross revenues for the last three years was less than \$50 million, scoring is as follows:

*5 points for either "No," or "Yes" indicating either 1 or 2 such instance.
3 points for "Yes" indicating 3 such instances.
0 points for "Yes" and more than 3 such instances.*

If your firm's average gross revenues for the last three years was more than \$50 million, scoring is as follows:

*5 points for either "No" or "Yes" indicating no more than 4 such instances.
3 points for "Yes" indicating either 5 or 6 such instances.
0 points for "Yes" and more than 6 such instances.*

8. During the last five years, has there been more than one occasion on which your own firm has been penalized or required to pay back wages for failure to comply with the **federal** Davis-Bacon prevailing wage requirements?
 Yes No

If your firm's average gross revenues for the last three years was less than \$50 million, scoring is as follows:

*5 points for either "No," or "Yes" indicating either 1 or 2 such instance.
3 points for "Yes" indicating 3 such instances.
0 points for "Yes" and more than 3 such instances.*

If your firm's average gross revenues for the last three years was more than \$50 million, scoring is as follows:

*5 points for either "No" or "Yes" indicating no more than 4 such instances.
3 points for "Yes" indicating either 5 or 6 such instances.
0 points for "Yes" and more than 6 such instances.*

9. Provide the **name, address and telephone number** of the apprenticeship program sponsor(s) (approved by the California Division of Apprenticeship Standards) that will provide apprentices to your company for use on any public work project for which you are awarded a contract by *[Public Entity]*.
-
-

***5 points if at least one approved apprenticeship program is listed.
0 points for any other answer.***

10. If your firm operates its own State-approved apprenticeship program:
- (a) Identify the craft or crafts in which your firm provided apprenticeship training in the past year.
 - (b) State the year in which each such apprenticeship program was approved, and attach evidence of the most recent California Apprenticeship Council approval(s) of your apprenticeship program(s).
 - (c) State the number of individuals who were employed by your firm as apprentices at any time during the past three years in each apprenticeship and the number of persons who, during the past three years, completed apprenticeships in each craft while employed by your firm.

5 points if one or more persons completed an approved apprenticeship while employed by your firm.

0 points if no persons completed an approved apprenticeship while employer by your firm.

11. At any time during the last five years, has your firm been found to have violated any provision of California apprenticeship laws or regulations, or the laws pertaining to use of apprentices on public works?

NOTE: You may omit reference to any incident that occurred prior to January 1, 1998 if the violation was by a subcontractor and your firm, as general contractor on a project, had no knowledge of the subcontractor's violation at the time they occurred.

Yes No.

If yes, provide the date(s) of such findings, and attach copies of the Department's final decision(s).

If your firm's average gross revenues for the last three years was less than \$50 million, scoring is as follows:

5 points for either "No," or "Yes" indicating either 1 or 2 such instance.

3 points for "Yes" indicating 3 such instances.

0 points for "Yes" and more than 3 such instances.

If your firm's average gross revenues for the last three years was more than \$50 million, scoring is as follows:

5 points for either "No" or "Yes" indicating no more than 4 such instances.

3 points for "Yes" indicating either 5 or 6 such instances.

0 points for "Yes" and more than 6 such instances.

Questions concerning recent construction projects completed:
(one question, plus 11 interview questions)

The following question to be scored only where a public agency is undertaking a pre-qualification procedure valid for a single project only.

1. Contractor shall provide information about its six most recently completed public works projects and its three largest completed private projects within the last three years.¹⁰ Names and references must be current and verifiable. Use separate sheets of paper that contain all of the following information:

Project Name: _____

Location: _____

Owner: _____

Owner Contact (name and current phone number):

Architect or Engineer: _____

Architect or Engineer Contact (name and current phone number):

Construction Manager (name and current phone number):

Description of Project, Scope of Work Performed:

Total Value of Construction (including change orders): _____

Original Scheduled Completion Date: _____

Time Extensions Granted (number of days): _____

Actual Date of Completion: _____

* * * * *

¹⁰ If you wish, you may, using the same format, also provide information about other projects that you have completed that are similar to the project(s) for which you expect to bid.

Scoring of previous projects completed:

For pre-qualification for a single project that may require specific skills and capabilities, public agencies may choose to score contractors for the number of similar projects completed, and the degree of similarity between past projects and the planned project. DIR has not suggested any scoring for this aspect of the pre-qualification process, because of the numerous possible variations in both the type of project to be built and the points of similarity between the pending project and past projects that may be significant to the public agency.

MODEL INTERVIEW QUESTIONS

MODEL INTERVIEW QUESTIONS

The following questions will be used to interview randomly selected contacts from at least two completed projects. [Public Entity] will conduct the interviews. No action on the contractor's part is necessary. These questions are included on the package given to the contractor for information only.

The highest possible score is 120 Points. A score less than 55 points disqualifies a contractor from bidding on projects that are proposed by [Public Entity]. A score of between 56 and 72 indicates *the Public Entity* should conduct an interview of another contact, that is, a manager of another completed project. A score of 72 or higher on each of two interviews is sufficient for pre-qualification.

First, please give a brief description of the project.

1. Are there any outstanding stop notices, liens, or claims by the contractor that are currently unresolved on contracts for which notices of completion were recorded more than 120 days ago? (1 point for each is deducted from overall score; maximum amount to be deducted is 5 points)
2. On a scale of 1-10, with 10 being the best, did the contractor provide adequate personnel? (Max. 10 points)
3. On a scale of 1-10, with 10 being the best, did the contractor provide adequate supervision? (Max. 10 points)
4. On a scale of 1-10, with 10 being the best, was there adequate equipment provided on the job? (Max. 10 points)
5. On a scale of 1-10, with 10 being the best, was the contractor timely in providing reports and other paperwork, including change order paperwork and scheduling updates? (Max. 10 points)
6. On a scale of 1-10, with 10 being the best, did the contractor adhere to the project schedule that your [agency] [business] approved? (Max. 10 points)
7. Was the project completed on time? (10 points if the answer is "Yes").
Or, if the answer is "no," on a scale of 1-10, with 10 being the best, to what extent was the contractor responsible for the delay in completion?
8. On a scale of 1-10, with 10 being the best, rate the contractor on the timely submission of reasonable cost and time estimates to perform change order work. (Max. 10 points)

9. On a scale of 1-10, with 10 being the best, rate the contractor on how well the contractor performed the work after a change order was issued, and how well the contractor integrated the change order work into the existing work. (Max. 10 points).
10. On a scale of 1-10, with 10 being the best, rate how has the contractor been performing in the area of turning in Operation & Maintenance manuals, completing as-built drawings, providing required training and taking care of warranty items? (Max. 10 points)
11. On a scale of 1-10, with 10 being the best, rate the contractor on whether there were an unusually high number of claims, given the nature of the project, or unusual difficulty in resolving them. (Max. 10 points)
12. On a scale of 1-10, with 10 being the highest, rate the contractor with respect to timely payments by the contractor to either subcontractors or suppliers. (If the person being interviewed knows of no such difficulties, the score on this question should be “10.”)
13. On a scale of 1-10, with 10 being the best, how would you rate the quality of the work overall? (Max. 10 points)

**INSTRUCTIONS FOR PUBLIC
AGENCIES RE:
INTERVIEW QUESTIONS**

INSTRUCTIONS FOR PUBLIC AGENCIES

Re: Interview Questions

The following is meant to assist the public agency to conduct the interviews of the managers of projects previously completed (that is, the people who supervised the projects for the project owners) by the contractor wishing to pre-qualify. The interview questions allow qualitative review of work performance for contractors who choose to bid and pre-qualify for public works contracts. The interview questions will be used to examine randomly selected contacts from at least two completed past projects.

In each question, the person being interviewed is asked to rate a certain aspect of contractor's performance, using a scale of 1 to 10. The highest possible score is 120 points. A score of less than **55** points disqualifies the contractor from bidding on projects that are proposed by the public agency. A score of **72 points or more** on each interview is sufficient for a contractor to qualify on this portion of the prequalification process. If the scores resulting from an interview are between 55 and 72, the public agency should conduct another interview to collect additional information.

It is possible that the score given to any interview answer may be challenged in an appeal. For that reason, be sure to: (a) ask the person being interviewed for specific information or details, to explain or substantiate the numerical answer given; and (b) take written notes of the information provided.

Selection of the Interviewer:

- (a) The public agency should select an individual who is at least moderately well informed about public works construction.
- (b) The individual should be unbiased during the interview; this is to ensure accurate implementation of the interview questions.
- (c) The individual should not use examples or deviate from the questions unless the project manager is unclear and prompts further explanation. The interviewer should offer additional explanation of the questions only if he/she is sure of the intent of the question in the interview.

Locating the respondent to interview:

- (a) The interviewer should attempt to contact a project manager of a past project for the interview. The interviewer should be aware that for one interview to be completed, there may be a need to interview multiple individuals. That is, the interviewer may have to contact multiple individuals, such as the project manager concerning the building process, and a financial manager for warranty items, assessed liens, and the like.
- (b) Once reached, the interviewer should review the information contained in the questionnaire of the past project with the project manager. That is, review who is being interviewed and why (purposes of pre-qualifying for public works), the past project type, completion date, and other pertinent information to ensure that the project manager is sure of the project he/she is asked to review.

Interview Length:

- (a) The interview should take 8-12 minutes, under normal circumstances.
- (b) The interviewer, when contacting the project manager, should convey the expected time which it takes to conduct the interview. This is to ensure the individual is not discouraged from taking part in the interview

Conducting the interviews:

- (a) The interview should examine at least two separate past projects listed in the questionnaire.
- (b) After the interview is scored, the interviewer should compare the interview score with the same contractor's score on the written questionnaire. If the ratings (overall scores) are far apart, the interviewer should conduct at least one/two more interviews to determine how past performance should be weighted.
- (c) While conducting the interview, the interviewer should be consistent with the way the questions are presented. That is, if the interviewer changes the way questions are presented during the review, it could potentially change the way the respondent answers the questions and jeopardize the overall scoring.

**REQUEST FOR
PRE-QUALIFICATION OF
BIDDERS COMMENCING
WITH FORTHCOMING
PUBLIC WORK BID**

**REQUEST FOR PRE-QUALIFICATION OF BIDDERS COMMENCING
WITH FORTHCOMING PUBLIC WORK BID
[Pre-qualification procedure begun at the same time as RFP]**

Notice is hereby given that [Public Entity] has determined that all bidders on [Name of specific project] to be undertaken by the [Public Entity] must be pre-qualified prior to submitting a bid on that project. It is mandatory that all Contractors who intend to submit a bid, fully complete the pre-qualification questionnaire, provide all materials requested herein, and be approved by [Public Entity] to be on the final qualified Bidders list. No bid will be accepted from a Contractor that has failed to comply with these requirements. If two or more business entities submit a bid as part of a Joint Venture, or expect to submit a bid as part of a Joint Venture, each entity within the Joint Venture must be separately qualified to bid. The last date to submit a fully completed questionnaire is mm/dd/yy. [35 days prior to the bid closing date]. Contractors are encouraged to submit pre-qualification packages as soon as possible, so that they may be notified of omissions of information to be remedied or of their pre-qualification status well in advance of the bid advertisement for this project.

Answers to questions contained in the attached questionnaire, information about current bonding capacity, notarized statement from surety, and the most recent reviewed or audited financial statements, with accompanying notes and supplemental information, are required. [Public Entity] will use these documents as the basis of rating Contractors in respect to the size and scope of contracts upon which each Contractor is qualified to bid. [Public Entity] reserves the right to check other sources available. [Public Entity's] decision will be based on objective evaluation criteria.

[Public Entity] reserves the right to adjust, increase, limit, suspend or rescind the pre-qualification rating based on subsequently learned information. Contractors whose rating changes sufficient to disqualify them will be notified, and given an opportunity for a hearing consistent with the hearing procedures described below for appealing a pre-qualification rating.

While it is the intent of the pre-qualification questionnaire and documents required therewith to assist [Public Entity] in determining bidder responsibility prior to bid and to aid [Public Entity] in selecting the lowest responsible bidder, neither the fact of pre-qualification, nor any pre-qualification rating, will preclude [Public Entity] from a post-bid consideration and determination of whether a bidder has the quality, fitness, capacity and experience to satisfactorily perform the proposed work, and has demonstrated the requisite trustworthiness.

The pre-qualification packages should be submitted under seal and marked "CONFIDENTIAL" to _____ [address].

The pre-qualification packages (questionnaire answers and financial statements) submitted by Contractors are not public records and are not open to public inspection. All information provided will be kept confidential to the extent permitted by law. However, the contents may be disclosed to third parties for purpose of verification, or investigation of substantial allegations, or in the appeal hearing. State law requires that the names of contractors applying for pre-qualification status shall be public records subject to disclosure, and the first page of the questionnaire will be used for that purpose.

Each questionnaire must be signed under penalty of perjury in the manner designated at the end of the form, by an individual who has the legal authority to bind the Contractor on whose behalf that person is signing. If any information provided by a Contractor becomes inaccurate, the Contractor must immediately notify *[Public Entity]* and provide updated accurate information in writing, under penalty of perjury.

[Public Entity] reserves the right to waive minor irregularities and omissions in the information contained in the pre-qualification application submitted, to make all final determinations, and to determine at any time that the pre-qualification procedures will not be applied to a specific future public works project.

Contractors may submit pre-qualification packages during regular working hours on any day that the offices of *Public Entity* are open. Contractors who submit a complete pre-qualification package will be notified of their qualification status no later than ten business days after submission of the information.

[Public Entity] may refuse to grant pre-qualification where the requested information and materials are not provided, or not provided by mm/dd/yy *[date specified in first paragraph – 35 days before bid closing]* There is no appeal from a refusal for an incomplete or late application, but re-application for a later project is permitted. The closing time for bids will not be changed in order to accommodate supplementation of incomplete submissions, or late submissions.

Where a timely and completed application results in a rating below that necessary to pre-qualify, an appeal can be made. An appeal is begun by the Contractor delivering notice to *[Public Entity]* of its appeal of the decision with respect to its pre-qualification rating, no later than ten business days prior to the closing time for the receipt of bids for this public works project. Without a timely appeal, the Contractor waives any and all rights to challenge the decision of *[Public Entity]*, whether by administrative process, judicial process or any other legal process or proceeding.

If the Contractor gives the required notice of appeal and requests a hearing, the hearing shall be conducted so that it is concluded no later than five business days after *Public Entity's* receipt of the notice of appeal, and no later than five business days prior to the last date for the receipt of bids on the project. The hearing shall be an informal process conducted by a panel to whom the *[governing body of Public Entity]* has delegated responsibility to hear such appeals (the "Appeals Panel"). At or prior to the hearing, the Contractor will be advised of the basis for *[Public Entity's]* pre-qualification determination. The Contractor will be given the opportunity to present information and present reasons in opposition to the rating. Within one day after the conclusion of the hearing, the Appeals Panel will render its decision. It is the intention of *[Public Entity]* that the date for the submission and opening of bids will not be delayed or postponed to allow for completion of an appeal process.

Note: A contractor may be found not pre-qualified for bidding on a specific public works contract to be let by *Public Entity*, or on all contracts to be let by *Public Entity* until the contractor meets *Public Entity's* requirements. In addition, a contractor may be found not pre-qualified for either:

- (1) Omission of requested information or

(2) Falsification of information

* * * * *

NOTICE: To contractors who are using subcontractors for this job, please be advised that *Public Entity* **may** require, as to subcontractors, one of the following:

The qualification of subcontractors in the following crafts or trades, following acceptance of your bid, but before the award is made:

- Pre-qualification of all subcontractors.
- Pre-qualification of subcontractors in certain crafts.
- Post-bid qualification review.

**ANNOUNCEMENT OF
PRE-QUALIFICATION
PROCEDURES AND OPEN
DATES FOR ANNUAL
PRE-QUALIFICATION**

ANNOUNCEMENT OF PRE-QUALIFICATION PROCECURES AND OPEN DATES FOR ANNUAL PRE-QUALIFICATION

Notice is hereby given that on _____, 2000, the _____ [Public Entity] determined that all bidders on public works to be undertaken by the [Public Entity] must be pre-qualified prior to submitting bids for public works. It is mandatory that all Licensed Contractors who intend to submit bids fully complete the pre-qualification questionnaire, provide all materials requested herein, and be approved by [Public Entity] to be on the final Bidders list. No bid will be accepted from a Contractor that has failed to comply with these requirements. If two or more business entities submit a bid on a project as a Joint Venture, or expect to submit a bid as part of a Joint Venture, each entity within the Joint Venture must be separately qualified to bid.

Pre-qualification applications may be submitted four times each year: (1) from January 1 through January 10; (2) from April 1 through April 10; (3) from July 1 through July 10; and (4) from October 1 through October 10. Contractors who submit a complete pre-qualification package will be notified by first class mail of their qualification status, such notice to be mailed no later than fifteen business days after submission of the information.

Answers to questions contained in the attached questionnaire, information about current bonding capacity on an aggregate and per project limit, notarized statement from surety, and the most recent reviewed or audited financial statements, with accompanying notes and supplemental information, are required. [Public Entity] will use these documents as the basis of rating Contractors in respect to the size and scope of contracts upon which each Contractor is qualified to bid. [Public Entity] reserves the right to check other sources available. [Public Entity's] decision will be based on objective evaluation criteria.

Pre-qualification approval will remain valid for one (1) calendar year from the date of notice of qualification, except that [Public Entity] reserves the right during that calendar year to adjust, increase, limit, suspend or rescind the pre-qualification ratings based on subsequently learned information and after giving notice of the proposed action to the Contractor and an opportunity for a hearing consistent with the hearing procedures described below for appealing a pre-qualification determination.

While it is the intent of the pre-qualification questionnaire and documents required therewith to assist [Public Entity] in determining bidder responsibility prior to the submission of bids and to aid [Public Entity] in selecting the lowest responsible bidder, neither the fact of pre-qualification, nor any pre-qualification rating, will preclude [Public Entity] from a post-bid consideration and determination on a specific project of whether a bidder has the quality, fitness, capacity and experience to satisfactorily perform the proposed work, and has demonstrated the requisite trustworthiness. Contractors are encouraged to submit pre-qualification packages as soon as possible, so that they may be notified of pre-qualification status well in advance of upcoming projects.

The pre-qualification packages should be submitted under seal and marked "CONFIDENTIAL" to _____ [address].

The pre-qualification packages (questionnaire answers and financial statements) submitted by Contractors are not public records and are not open to public inspection. All information provided will be kept confidential to the extent permitted by law, although the contents may be disclosed to third parties for the purpose of verification, investigation of substantial allegations, and in the process of an appeal hearing. State law requires that the names of contractors applying for pre-qualification status shall be public records subject to disclosure, and the first page of the questionnaire will be used for that purpose.

Each questionnaire must be signed under penalty of perjury in the manner designated at the end of the form, by an individual who has the legal authority to bind the Contractor on whose behalf that person is signing. If any information provided by a Contractor becomes inaccurate, the Contractor must immediately notify *[Public Entity]* and provide updated accurate information in writing, under penalty of perjury.

[Public Entity] reserves the right to waive minor irregularities and omissions in the information contained in the pre-qualification application submitted, to make all final determinations, and to determine at any time that the pre-qualification procedures will not be applied to a future public works project.

A contractor who has submitted a completed application form, and who receives a rating of “not qualified” from *[Public Entity]* may appeal that determination. There is no appeal from a finding that a contractor is not pre-qualified because of a failure to submit required information, but re-application during one of the designated time periods is permitted. A contractor may appeal *[Public Entity’s]* decision with respect to its request for pre-qualification, and request a hearing, by giving notice to *[Public Entity]* no later than ten business days after receipt of notice of its qualification status. Unless a Contractor files a timely appeal, the Contractor waives any and all rights to challenge the qualification decision of *[Public Entity]*, whether by administrative process, judicial process or any other legal process or proceeding.

If the Contractor gives the required notice of appeal and requests a hearing, the hearing shall be conducted so that it is concluded no later than ten business days after *Public Entity’s* receipt of its Notice of Appeal. The hearing so provided shall be an informal process conducted by a panel to whom the *[governing body of Public Entity]* has delegated responsibility to hear such appeals (the “Appeals Panel”). At or prior to the hearing, the Contractor will be advised of the basis for *[Public Entity’s]* pre-qualification determination. The Contractor will be given the opportunity to present information and present reasons in opposition to the pre-qualification determination. At the conclusion of the hearing or no later than one day after completion of the hearing, the Appeals Panel will render its decision. The date for submission and opening of bids for a specific project will not be delayed or postponed to allow for completion of an appeal process.

Note: A contractor may be found not pre-qualified for bidding on a specific public works contract to be let by *Public Agency*, or on all contracts to be let by *Public Agency* until the contractor meets *Public Agency’s* requirements. In addition, a contractor may be found not pre-qualified for either:

- (1) Omission of requested information or
- (2) Falsification of information

* * * * *

NOTICE: To contractors who are using subcontractors for this job, please be advised that *Public Entity* **may** require, as to subcontractors, one of the following:

The qualification of subcontractors in the following crafts or trades, following acceptance of your bid, but before the award is made:

- Pre-qualification of all subcontractors.
- Pre-qualification of subcontractors in certain crafts.
- Post-bid qualification review.

SOURCES FOR VERIFICATION OF INFORMATION GIVEN BY CONTRACTORS

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A CAUTIONARY NOTE: *The information that will be given to public agencies by contractors seeking pre-qualification is provided under oath, with the understanding that the intentional providing of false information is, in itself, grounds for disqualification. We expect that the information given should be and will be accepted at face value. The following information is provided for use in the few instances in which a public agency reviewing the answers given in a questionnaire has specific reason to believe that one or more answers should be verified by reference to publicly available information.*

Information about a contractor's license(s) (Questionnaire Part I, question 6, and Part II, questions 6 and 9-13)

Names and addresses of licensed contractors, information about the type of license(s) issued and the dates when licenses were issued (and certain other information), are available from the Contractors' State Licensing Board (CSLB), 9821 Business Park Drive, Sacramento, CA 95827. Telephone number 800-321-2752. The CSLB web site for public information is: www.CSLB.ca.gov.

Information about workers' compensation insurance (Part I, question 3 and Part II, questions 32-33)

Every workers' compensation insurance carrier issues to each of its insured businesses a Certificate of Insurance. The contractor should be willing to provide a copy upon request.

Each contractor's Experience Modification Rate for the year should be stated in a letter to the contractor from the contractor's workers' compensation insurance carrier.

Some large companies are legally self-insured for workers' compensation, with the consent and authorization of the Department of Industrial Relations. The names of companies that are legally self-insured are available from the Department's Office of Self-Insurance Plans, Workers' Compensation, 2265 Watt Avenue, Suite 1, Sacramento, CA 95825; (916) 483-3392.

The names of each business's current and recent workers' compensation insurance carriers are available from the Workers' Compensation Insurance Reporting Bureau (WCIRB), 575 Market Street, San Francisco, telephone (415) 777-0777. WCIRB is not a public agency but it provides information to the public. It will provide the names of the current and recent workers' compensation insurance carriers of every employer in California, in response to a written request, for a fee of \$8 for every year for which you seek information.

**Information about whether surety insurance carriers
are “admitted” to do business in California**
(Part I, question 5)

The California Department of Insurance will verify whether an insurance carrier is “admitted” to issue insurance policies within the State. The Department has a “Hot-Line” number – 800-927-4357, and a web-site from which the information is available: www.insurance.ca.gov

Information on disqualification from bidding on public contracts
(Part I, question 8 and Part II, question 15)

Information on the identities of contractors that have been disqualified from bidding on public works contracts is available from the California Labor Commissioner, Division of Labor Standards Enforcement, 455 Golden Gate Avenue, San Francisco, telephone (415) 703-4810.

Information available from the Secretary of State about corporations
(Part II, questions 1a-1d, 2-4)

The California Secretary of State has certain current and historical information about all corporations that operate in California: dates of incorporation, articles of incorporation, the name of the original incorporators, the names of the corporate officers (who are not necessarily the corporate stockholders) and an agent for service of process for the corporation. This information is available from the Secretary of State upon written request. (Secretary of State, Business Programs Division, 1500 Eleventh Street, Sacramento, CA 95814. Telephone (916) 653-2121 or 653-1239). The Secretary of State does not ordinarily have a listing of the names of initial stockholders or current stockholders, and that information is generally not available in any public record.

**Information available from County Clerks about
partnerships and sole proprietorships**
(Part I, questions 1a-1d,2-4)

Every business, including a partnership, that operates under a “fictitious name” (for example, “Ajax Sheet Metal Contractors” or “Smith Brothers Electrical Contractors”) is required to file with the County Clerk in the county in which its home office is located a “Fictitious Business Name” statement. This statement will indicate the owner of the business, if the business is a sole proprietorship, and the names of partners, if the business is a partnership. The information is available to the public from the County Clerk upon request. A written request may be necessary.

**Information about bankruptcy proceedings
(Part II, questions 7 and 8)**

Bankruptcy petitions, which include the names of the person or business that is seeking protection from the Bankruptcy Court, are available for public inspection at the office of the Clerk of each Bankruptcy Court (which are federal courts). In California, Bankruptcy Courts are located in Sacramento, Modesto, Fresno, San Francisco, Oakland, San Jose, Los Angeles, Santa Ana, Riverside, and San Diego. Most documents filed in court in bankruptcy proceedings are available for public inspection, at the Bankruptcy Court clerk's office. Some information on bankruptcy filings may also be available from commercial enterprises that collect and sell information from public records). In addition some information about bankruptcy cases filed August 1990 and later is available on-line through the "PACER" (Public Access to Court Electronic Records) system. To obtain information from PACER, you must register with the system, and pay a fee for the materials obtained. Call 1-800-676-6856 or you may register online at <http://pacer.psc.uscourts.gov/>.

**Information about civil suits and arbitration cases
(Part II, questions 14, 17 and 18)**

Each court keeps records of every civil suit filed in that court, and of the judgments that are issued after trials. However, the exact terms of pre-trial settlements are generally not recorded in court files. Documents related to disputes submitted to arbitration are generally not available for public inspection. Public agencies, however, are required to disclose the terms of such settlements, when documents are requested under the California Public Records Act.

**Information about criminal convictions
(Part I, question 9, and Part II, questions 21, 22, and 23)**

Criminal convictions are a matter of public record. Each courthouse (in both the federal and state court systems) has an index of its own criminal records. In addition, a few data collection businesses have collected criminal conviction information from public records throughout the state, and the collected information about particular individuals or businesses is available for sale from these private businesses.

**Information about Federal court civil and criminal cases
(Part I, question 9)**

Information about federal criminal cases (filed August 1991 and later) and civil cases (filed August 1990 and later) is available on-line through the "PACER" (Public Access to Court Electronic Records) system. To obtain information from PACER, you must register with the system, and pay a fee for the materials obtained. Call 1-800-676-6856 or you may register online at <http://pacer.psc.uscourts.gov/>.

**Information about citations issued for violation of
industrial safety and health laws**
(Part II, questions 28 and 29)

Information about citations issued by both the federal Occupational Safety and Health Administration and the California Division of Occupational Safety and Health (Cal OSHA) are available on a web-site maintained by federal OSHA, <http://www.osha.gov>. At that web site, click on "Library." On the Library page, click on "Statistics and Inspection Data." Next, click on "Establishment Search." When the next screen appears, enter the name of the contractor about whom you seek information in the "Establishment" window. In the "Process" window, enter the number 999999. Click on California in the "State" window. In the "Inspection Date" window, enter "1990." Then click the submit button.

Information about prevailing wage law violations
(Part II, question 34)

Information about recent prevailing wage law violations is available from the Division of Labor Standards Enforcement, at 2424 Arden Way, Suite 360, Sacramento, CA 95825. A model letter asking for such information is enclosed.

**Citations from either Air Quality or Water Quality Board
for violations of regulations**
(Part II, question 30)

Information about citations issued by the California Air Resources Board is available from that agency under the Public Records Act. Their address is 2020 L Street, Sacramento, CA 95814, or Post Office Box 2815, Sacramento, 95812. In addition, Regional Air Quality Management Districts and Regional Water Quality Control Boards throughout the state may issue citations for violation of air quality or water quality standards. Consult the appropriate board in your area for information about how to gather appropriate information.

**Information about state-approved apprenticeship plans
and violations of state apprenticeship laws**
(Part II, questions 36-38)

Information about violations of state apprenticeship laws can be obtained from the Division of Apprenticeship Standards, 455 Golden Gate Avenue, 8th Floor, Post Office Box 420603, San Francisco, CA 94142.