

PREQUALIFICATION PROCESS POLICY

Town of Kure Beach, North Carolina

1. PURPOSE.

It is the policy of the Town of Kure Beach (“Town”) to award construction contracts through impartial, open, and competitive bidding processes which are conducted in accordance with Article 8 of Chapter 143 of the North Carolina General Statutes and are based on business practices and experience in competently performing public construction contracts.

It is also the policy of the Town to maintain an objective process for prequalifying General Contractors (hereinafter “Contractor”) who may bid on certain construction contracts. The intent of this Prequalification Process Policy (“Policy”) is to provide for the impartial evaluation of Contractors and objectively determine, upon considering their business practices, work experience, manpower, and equipment, whether they are appropriately qualified and experienced in the construction, renovation, and/or repair of public buildings.

2. SCOPE.

2.01. Statutory Authority. This Policy applies to the prequalification of Contractors in accordance with N.C.G.S. § 143-135.8.

2.02. Summary of the Prequalification Process. The Town shall be responsible for prequalifying Contractors to bid on certain construction projects when the Town deems such prequalification preferable. While the Town is not required to prequalify Contractors for any particular project, a Contractor shall not be allowed to submit a bid on a construction project subject to prequalification unless that Contractor has been prequalified.

2.03. Standard of Award. Notwithstanding the use of a prequalification process, the Town is statutorily mandated to award a construction contract to the lowest, responsible, and responsive bidder and the prequalification of a Contractor shall not preclude the Town from subsequently concluding that the prequalified Contractor did not submit the lowest, responsible, and responsive bid.

The Town lets and awards contracts without regard to race, religion, color, creed, national origin, sex, age, or disabilities.

3. APPLICATION.

3.01. Form and Delivery. Contractors intending to bid on Town construction projects utilizing a prequalification process are required to complete and submit a prequalification application by the deadline set forth in the respective Invitation to Prequalify to Bid (“Prequalification Invitation”). Applications may be requested from Mandy Sanders, Director of Administration, at m.sanders@townofkurebeach.org.

The application form shall, at a minimum, address the following items:

A. Organizational Structure. A Contractor shall describe the organizational structure of his or her firm and provide the firm's complete legal name, contractor's license number, and a list of all owners, officers, partners, managing members, or individuals who are authorized to represent the firm and conduct business, including the execution of legal instruments, on the firm's behalf. The list must include the telephone numbers and email addresses of the identified individuals. Changes involving the firm's ownership, organizational structure, or assets must be reported to the Town's Director of Administration within 5 business days after the effective date of the change. A Contractor's failure to comply with this notification requirement may result in the termination of a contract awarded to the firm.

B. Historically Underutilized Businesses. A Contractor shall indicate whether his or her firm has been certified by the North Carolina Department of Administration HUB Office as a Historically Underutilized Business ("HUB") and if so, provide the date on which the firm was so certified. Contractors not certified as a HUB entity shall describe their utilization of certified HUB entities over the past 3 years as subcontractors for construction projects and shall identify each such entity by their complete legal name. The Town's HUB Outreach Program is posted on the Town's website.

C. Experience. A Contractor shall describe in sufficient detail the types of work his or her workforce and equipment generally perform and shall furnish information documenting the ability of the firm to undertake a project involving the types of work for which prequalification is required.

D. Litigation/Claims. A Contractor shall document his or her firm's success at completing projects on time and describe each instance over the past 3 years, if any, where the firm was liable for liquidated damages for not timely completing a project.

A Contractor shall also state whether his or her firm, or the Contractor individually, during the past 3 years has been named as a party to any litigation or administrative proceeding, including workers' compensation proceedings before the State's Industrial Commission. For each such instance, the Contractor shall: (i) identify all the parties to the litigation/proceeding; (ii) state whether his or her firm or the Contractor individually appeared therein as a defendant or respondent; (iii) state the date when the litigation/proceeding was commenced and the state and county where it was filed; and (iv) provide a brief description of the litigation/proceeding's subject matter and outcome.

A Contractor shall also provide information documenting his or her firm's safety history on construction projects over the past 3 years.

E. Capacity. A Contractor shall provide information documenting his or her firm's sufficient bonding and insurance capacity and shall also provide information on the personnel who will be directly responsible for performing the work for which prequalification is required.

Contractors shall identify their contact person for the project and include that individual's title, telephone number and physical, mailing, and email addresses.

F. Legal Authorization. A Contractor shall provide information documenting that his or her firm is legally authorized to conduct business in the State of North Carolina and that the firm has all the licenses required for the project work that is to be performed.

G. Certification. A Contractor shall, prior to submitting the prequalification application to the Town, execute the certification thereon certifying that the contents of the application are complete, truthful, and accurate based on his or her own personal knowledge.

3.02. Submittal. A prequalification application shall be submitted to the Town in the manner and by the deadline prescribed in the Prequalification Invitation. The application shall be signed and notarized. Incomplete applications may be rejected or, in the Town's sole discretion, returned to the submitting contractor for additional detail or correction. For projects where prequalification is required, the act of submitting a prequalification application in and of itself does not authorize the Contractor to submit a bid on the project; only prequalified Contractors may bid on projects where prequalification is required.

3.03. Supplemental Information. Depending on the project, the Town may request that a Contractor who has applied for prequalification provide supplemental information including, without limitation, specific reference forms or a current annual audit statement of his or her firm's financial statements.

4. APPLICATION REVIEW.

4.01. Prequalification Committee. The Town shall establish a Prequalification Committee ("Committee") to review submitted prequalification applications and determine the Contractors' prequalification eligibility for the project.

4.02. Review of Applications. The Committee shall use an objective assessment process when reviewing prequalification applications. The prequalification criteria used by the Committee shall include scoring values and the minimum required score to prequalify for the project. The prequalification criteria shall not require the Contractor to have previously been awarded a Town construction or repair contract. The Committee shall, no later than 14 calendar days after the deadline for submitting applications, approve or deny the applications in accordance with the prequalification criteria and scoring system.

4.03. Notice of Decision. Contractors who have submitted prequalification applications shall be notified in writing, no later than 14 calendar days after the deadline for submitting applications, of the Committee's decision and said notice shall be delivered to the Contractors via email. If an application is denied, the written notice shall set forth the reason(s) for the denial. Notice of the Committee's decision shall be provided to the Contractors prior to opening the bids for the project and sufficiently in advance of the bid opening date to allow a Contractor to appeal a denial of prequalification and if the appeal is successful, to timely submit a bid.

5. APPEALS.

A denied prequalification application may be appealed as follows:

5.01. Written Appeal. An effective appeal of a denied prequalification application shall be in writing and submitted to the Town's Director of Administration via hand-delivery or email within 3 business days after the date on which notice of the denial was provided to the Contractor. Ineffective appeals will not be considered. The appeal shall clearly set forth the reasons why the Contractor is contesting the denial and include all documents and additional information supporting the appeal. Prior to ruling on the appeal, the Committee may contact the Contractor to clarify the information provided. Written notice of the Committee's decision on the appeal shall be provided to the Contractor via email within 5 business days after the date on which the appeal was delivered to the Director of Administration.

5.02. Decision. If the Committee decides that the appellant Contractor should have been prequalified, then that Contractor shall be allowed to participate in the bidding process for the project. If the Committee upholds its denial, that decision shall be final. In the event the Committee is unable to render a decision prior to the bid opening date, the appellant Contractor shall be allowed to submit a bid subject to the Committee's decision on the appeal. If the appellant Contractor's bid is opened prior to a decision on the appeal and the bid is not the lowest, responsible, and responsive bid, then that Contractor's appeal shall be automatically terminated and rendered moot.