



RULES OF
Missouri Department of
Transportation
Division 10—Missouri Highways and
Transportation Commission
Chapter 15—Contractor Prequalification

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**TITLE 7 – MISSOURI DEPARTMENT OF
TRANSPORTATION
Division 10 – Missouri Highways and
Transportation Commission
Chapter 15 – Contractor Prequalification**

7 CSR 10-15.010 Prequalification to Bid of Certain Contractors

PURPOSE: This rule implements the requirements set forth in section 227.105, RSMo, concerning the prequalification of certain contractors to bid for highway projects with an estimated cost in excess of two million dollars.

(1) Definitions.

(A) The following definitions apply to this rule:

1. "Commission" means the Missouri Highways and Transportation Commission and all its members, jointly and severally;

2. "Department" means the Missouri Highways and Transportation Department, which may also be commonly referred to as the Missouri Department of Transportation. "Department" includes the chief engineer and all other officers and employees of the department, unless the text of this rule clearly indicates a contrary construction is intended;

3. "Chief engineer" means the chief engineer of the department; or if that position is vacant, then it means the assistant chief engineer;

4. "Highway project" means any type or combination of excavation, construction, demolition, maintenance, fabrication, paving, dredging, repair, erection, electrical, landscaping, seeding and mulching, erosion control, installation, manufacturing, transportation, or other work done under a contract with the commission or department on or for any existing or proposed road, highway, or bridge in the Missouri state highway system;

5. "Contract" means a written agreement between a contractor and the commission or department, including, but not limited to, a purchase order or similar writing. A contract may include two (2) or more different highway projects as part of a required or permissive combination; and

6. "Cost estimate" means the contractor's own estimate, in the form of a complete and responsive bid, submitted by a contractor for a highway project.

(B) For purposes of this rule, work performed for or under contract with the commission is also performed for the department, and work performed for or under contract with the department is also performed for the commission. The term "work" shall be construed liberally in determining whether work has been performed for the department or commission. Work performed as a subcontractor on a project for the department or commission shall be deemed work performed for the department.

(C) For purposes of this rule, bids opened by the department are deemed to be opened by or for the commission as well, unless the circumstances clearly require a contrary conclusion.

(2) Application of this Rule.

(A) This rule applies to a contractor which intends to or does submit a bid (or cost estimate) for any one (1) highway project, whether that highway project is bid separately or in combination with any other highway project(s).

(3) Contractor Prequalification Required to Submit Bid, When –

(A) The department shall not accept any bid (or cost estimate) for a single highway project (whether it is bid individually or

in combination with others), which bid is submitted by a contractor, unless the department has determined that the contractor is prequalified, under this rule, to bid; and

(B) A bid (or cost estimate) on any highway project submitted by a contractor which is not prequalified under this rule shall not be accepted by the department or commission. Acceptance by the department or commission only occurs if the highway project bid by the contractor is received, opened, and the total bid publicly posted by the department. If the department inadvertently errs in accepting a bid on a highway project which it should not have accepted under this rule and section 227.105, RSMo, the department, prior to any contract award, shall notify all contractors which bid on that highway project and the commission of the erroneous acceptance of the bid from a contractor which was not properly prequalified under this rule, showing that the matter has been corrected, and that action shall render null and void the prior erroneous bid acceptance.

(4) Contractor Prequalification Responsibility.

(A) Contractor (which, with reference to a partnership or joint venture, includes all component contractors jointly and severally) must supply the following information to the satisfaction of the department, on a prequalification contractor questionnaire form obtained from the department, in order to become prequalified to bid on any highway project:

1. The type(s) of highway project in which the contractor desires to be prequalified. A contractor may apply to be prequalified in any one (1), more than one (1), or all types of highway project work. For the purposes of this rule, the various general highway project work types are –

A. Earthwork, including excavation, fill, grading, hauling, wasting, compaction, and/or landscaping, including signing and signaling and other related work;

B. Bituminous pavement, including signing and signaling, guardrails, shoulders, and other related work;

C. Portland cement concrete pavement, including signing and signaling, guardrails, shoulders, and other related work;

D. Bridges, culverts and other similar structures, including signing and signaling, guardrails, shoulders, and other related work; and

E. Other miscellaneous highway project types of work (which the contractor must describe specifically);

2. The contractor's experience in performing the type(s) of highway project for which prequalification is requested. The contractor must include the construction experience of the contractor's key personnel necessary to complete the type(s) of highway project designated;

3. The contractor's ability to complete the type(s) of highway project that the contractor has requested to be prequalified in. At a minimum, this shall include a showing of the contractor's ability to complete highway projects in a timely manner, by furnishing to the department a listing of all projects completed within the last five (5) years similar to the type(s) of highway project that the contractor requests prequalification on;

4. A contractor requesting to be approved to bid on highway projects in excess of two (2) million dollars must submit a signed and notarized document from the contractor's surety bonding company or broker, stating the type(s) of highway projects (as designated above) for which that company or broker will issue a performance and payment bond in an amount in excess of two (2) million dollars, to cover the highway project work and debts of that contractor;



5. The contractor shall confirm they can obtain insurance coverage. The contractor shall obtain the required types and amounts of insurance required by the commission and section 227.105, RSMo, with the required endorsements, prior to commencing work if the contractor is awarded a highway project contract;

6. The contractor's designation of a Missouri resident individual or firm as its agent for the receipt of legal process. This designation must include the complete name, street and mailing address, and phone number of that designated agent;

7. The contractor's listing of all current work in progress, whether or not the work is a highway project. This listing shall include the total value of all such work not yet completed, and the contract and estimated actual completion dates of these projects;

8. The equipment that the contractor has available for the type(s) of highway project for which prequalification is requested. For the purposes of this rule, equipment is available if the contractor currently owns, rents, or leases that equipment, or if the contractor has the present ability to rent, lease, or purchase such equipment so that it is available for use on such designated type(s) of highway project. The designation of available equipment shall include a specific list of all equipment available to perform the type(s) of highway project work designated for prequalification; and

9. Where practical, the contractor shall provide from its highway project surety bonding company copies of records from the most recent audit issued of that company (and not the brokerage company which merely sells the surety bonds issued by another company). Audit report documents and records from independent public accounting or certified public accountant (C.P.A.) firms are preferred, rather than internal bonding company audits. This information should indicate the general financial stability of the surety bonding company the contractor anticipates using to bond its highway projects in Missouri. If the bonding company is listed in the "United States Department of the Treasury, Fiscal Service, Department Circular 570, Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" and is authorized to issue surety bonding instruments in Missouri, only a photocopy of the bonding company's audit assets and liabilities balance sheet is necessary. The department prefers that the bonding company electronically submit these audit record copies directly to the Construction and Materials Division. If it is not practical to obtain or submit these documents from the surety bonding company's most recent audit, a complete and detailed explanation of why it is not practical to provide that information at present, when that information will be provided to the department, or why that information is not necessary to be provided must be submitted in lieu thereof, with supporting documentation. The department will determine if the justification for why it is not practical to obtain or submit the bonding company audit information is satisfactory.

(B) Submitting the Prequalification Contractor Questionnaire to the Department.

1. The prequalification contractor questionnaire must be completed fully and accurately, signed by a representative of the contractor with the authority to sign on the company's behalf or their designee. The prequalification contractor questionnaire must be submitted electronically to the Construction and Materials Division so that it is received by the appropriate departmental staff no less than seven (7) calendar days prior to the date and hour of the published letting date.

2. The prequalification contractor questionnaire may

be obtained on the department's website and must be electronically submitted to the Construction and Materials Division at the email address provided on the department's website.

(C) If the contractor fails to electronically submit the completed form to the department within this specified time frame, or does not submit any form at all, the contractor shall not be allowed to bid on any highway project.

(5) Departmental Review and Contractor Prequalification.

(A) Once the department receives the complete electronic form from the contractor, the department will review the prequalification contractor questionnaire form for accuracy and completeness, and will verify such information contained or attached to the form as the department deems appropriate. The department's review of the contractor's form will be conducted by the unit or staff designated by the chief engineer.

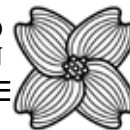
(B) If, in the discretion of the designated staff of the department, the contractor's prequalification contractor questionnaire and attachments show that the contractor should be qualified to bid on highway projects of the type(s) the contractor has requested prequalification for, the department will notify the contractor electronically. The contractor may also contact the department by phone or email to confirm that its prequalification contractor questionnaire has been approved.

(C) If, in the discretion of the designated staff of the department, the contractor's prequalification contractor questionnaire and attachments do not show that the contractor is qualified to bid on any one (1) or more of the type(s) of highway project for which the contractor has requested prequalification, that departmental staff shall notify the contractor applicant electronically that the application is still undergoing review, and shall refer the matter to the chief engineer; or if the chief engineer is unavailable, the assistant chief engineer; or if they are unavailable, to the appropriate division engineer. That individual shall make the final administrative decision on behalf of the department, as to whether the contractor is or is not prequalified to bid on any or all types of highway projects for which prequalification is requested. That individual shall act no later than twenty-one (21) calendar days after the date the completed prequalification contractor questionnaire with all attachments was received. The contractor applicant shall be notified electronically of the final administrative decision.

(D) If a contractor is dissatisfied with the final administrative decision made by the department on its prequalification contractor questionnaire, the contractor may request in writing, or electronically, within twenty-one (21) calendar days of the date of receiving the final administrative decision by the department that the commission review the final administrative decision made by the department. A contractor is not obligated to seek commission review in order to preserve its rights. Any request for commission review shall be made to –

Commission Secretary
Missouri Highways and
Transportation Commission
105 West Capitol Avenue
PO Box 270
Jefferson City, MO 65102-0270
MHTC@modot.mo.gov

The request for review shall state specifically and completely the legal and factual basis upon which the contractor believes its prequalification application was denied in error. At the commission's sole discretion, the commission shall decide if



it wishes to review the final administrative decision. If the commission elects to review that decision, it shall make its review when it deems best, upon the records and documents in the possession of the department. There will be no further briefing, personal appearance, argument, or presentation to the commission by the contractor or its representative, agent, or attorney. The commission's decision on that record shall supersede the prior decision of the department, and shall then constitute the final administrative decision. If the commission elects in its sole discretion to not review the department's decision, then that administrative decision shall stand as the final administrative decision.

(E) A contractor which was denied prequalification to perform any type of highway project may reapply for prequalification for that or other types of highway projects in sixty (60) calendar days or more from the date of the final administrative decision by the department (or commission), or when the circumstances which caused the denial have changed significantly, whichever is less. If the contractor reapplies on the basis of a significant change of circumstances, a complete explanation and supporting documentation showing the significant change of circumstances must be attached, in addition to all other information and documentation required by this rule.

(F) The department and commission will not entertain appeals, requests for reconsideration, or other objections from any third parties that a contractor was prequalified wrongfully or improperly.

(6) Effect of Contractor Prequalification.

(A) The contractor shall be entitled to bid on all highway projects for which it is prequalified to bid by the final administrative decision of the department (or where applicable, the commission). If the contractor bids on any highway project for which it has not been prequalified, its bid may be rejected.

(B) A contractor remains prequalified if they have been awarded a contract by the commission in the last twelve (12) months. The contractors that remain prequalified must review a verification report to ensure the contractor information on file is accurate and current. The verification report will be sent from the department electronically to the email address on file on an annual basis. If no information needs to be changed, the contractor must sign and electronically submit, as noted in paragraph (4)(B)2. The verification report must be signed by a representative of the contractor with the authority to sign on the company's behalf or their designee. The verification report must be received on or before the expiration date to extend their prequalified status by one (1) year. If there is a lapse of time, or information needs to be updated, a new prequalification contractor questionnaire should be completed in its entirety and electronically submitted for review.

(C) A contractor remains prequalified for a period of one (1) year from the date of approval if not successfully awarded a contract by the commission.

(7) Miscellaneous Provisions.

(A) All information submitted by a contractor, its bonding company or others to the department relevant to a determination of minimum qualifications to bid under section 227.105, RSMo, and all information used by the department to determine the contractor's prequalification to bid under that statute and this rule, is protected from disclosure pursuant to the provisions of that statute and section 610.021, RSMo.

(B) The provisions of this rule are intended to be severable. If any provision is found by a court of competent jurisdiction to be invalid, unlawful, or unconstitutional, the remaining

provisions of the rule are intended to be valid unless the court finds the valid provisions of the rule are so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed the commission would have promulgated the valid provisions without the void one; or unless the court finds that the valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the commission's intent or with section 227.105, RSMo.

AUTHORITY: sections 226.130 and 227.105, RSMo 2016. Emergency rule filed Aug. 15, 1996, effective Aug. 28, 1996, terminated Nov. 22, 1996. Emergency rule filed Nov. 12, 1996, effective Nov. 22, 1996, expired March 31, 1997. Original rule filed Aug. 15, 1996, as 7 CSR 10-15.900, changed to 7 CSR 10-15.010, effective Feb. 28, 1997. Amended: Filed Dec. 8, 2016, effective July 30, 2017. Amended: Filed Dec. 6, 2024, effective July 30, 2025.*

**Original authority: 226.130, RSMo 1939, amended 1993, 1995, and 227.105, RSMo 1996.*