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DEPARTMENT OF
TRANSPORTATION

CITY OF SACRAMENTO
CALIFORNIA

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CONTINUED
FROM 05-25-04
TO 06-01-04

April 21, 2004

City Council
Sacramento, California

CONTINUED
FROM 5-18-04
TO 5-25-04

Honorable Members in Session:

**SUBJECT: ADOPT REVISED CONTRACTORS MINIMUM QUALIFICATIONS
QUESTIONNAIRE**

LOCATION AND COUNCIL DISTRICT: Citywide. All Districts.

RECOMMENDATION:

This report recommends that the City Council adopt the attached resolution authorizing adoption of the revised Minimum Qualifications Questionnaire (Exhibit A) for use in all City construction contract bid solicitations and repealing Resolution No. 2002-280 adopted May 14, 2002 (see Attachment A).

CONTACT PERSONS: David Flores Jr., Administrative Analyst, 808-8277
Fran Halbakken, Planning and Policy Manager, 808-7194

FOR COUNCIL MEETING OF: May 18, 2004

SUMMARY:

Sacramento City Code section 3.60.020 authorizes the Sacramento City Council to adopt standard minimum qualifications for bidders on competitively bid public works construction projects and requires, among other provisions, that a bidder meet such minimum qualifications at the time of bid opening to be considered responsible. On May 14, 2002, the City Council adopted Resolution No. 2002-280 establishing these standard minimum qualifications. Pursuant to City Code section 3.60.020, a bidder failing to meet these minimum qualifications at the time of bid opening is not be considered a responsible bidder. A Minimum Qualifications Questionnaire is used to verify contractor qualifications.

City Council
Contractors Minimum Qualifications Questionnaire
April 21, 2004

After using the questionnaire for a short time, it was determined that there was a need to revise the document and seek Council approval of the revision. On June 24, 2003, staff was directed to suspend use of the questionnaire on any City project until Council approval of a revision was obtained.

The revisions apply to questions #6 and #8 of the original questionnaire adopted by the City Council. Revisions were made to the questions to further define the geographic region in which liquidated damages and/or Cal OSHA violations may have occurred. Staff and contractors were concerned that the questions, as originally drafted, created a potential competitive imbalance between large and small firms bidding for City construction projects.

COMMITTEE/COMMISSION ACTION:

None.

BACKGROUND INFORMATION:

All bidders must demonstrate compliance with the minimum qualifications set forth in Resolution No. 2002-280 by completing all of the questions contained in the questionnaire. Exhibit A is the proposed revised policy. If a bidder answers "yes" to any single question, fails to submit a fully completed questionnaire, or submits false information, a determination is made that the minimum qualifications are not met and the bidder is not considered a responsible bidder for purposes of bidding on the contract. If two or more entities submit a bid on a contract as a Joint Venture, each entity within the Joint Venture must separately meet the minimum qualifications for the Joint Venture to be considered a responsible bidder.

It is the intent of the questionnaire to assist the City in determining whether bidders possess the minimum qualifications necessary to submit bids on the City's competitively bid public works construction contracts. Revisions to questions #6 and #8 will eliminate the perception that the questionnaire creates a competitive imbalance between large and small firms bidding for City construction projects. Considering liquidated damage and Cal OSHA project information from a smaller demographic region rather than state-wide data does not unfairly penalize larger firms who do a greater volume of work state-wide and in all likelihood have a greater number of liquidated damage claims and/or "serious or willful" Cal OSHA violation simply by virtue of the larger volume of business activity within the state.

FINANCIAL CONSIDERATIONS:

There is no fiscal impact associated with the proposed action.

ENVIRONMENTAL CONSIDERATIONS:

Adoption of the revised Minimum Qualifications Questionnaire is not a "project" as defined by the California Environmental Quality Act (CEQA) under Section 15378. The current request consists of administrative policy and procedure making and will not cause a direct or indirect physical change in the environment.

POLICY CONSIDERATIONS:

Approval of the revised Minimum Qualifications Questionnaire is consistent with Title 3 of the Sacramento City Code. This project is consistent with the City's Strategic Plan goal to retain, attract and develop a highly qualified and diverse City workforce and implement organizational improvements.

ESBD CONSIDERATIONS: There are no goods or services being purchased.

Respectfully submitted,



Francesca Lee Halbakken
Planning and Policy Manager

RECOMMENDATION APPROVED:

Approved:



ROBERT P. THOMAS
City Manager



Marty Hanneman
Director, Department of Transportation

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- 2) Resolution/Exhibit A, Revised Minimum Qualifications Questionnaire, page 11

*Repealed***RESOLUTION NO. 2002-280**

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF MAY 14 2002**A RESOLUTION ADOPTING STANDARD MINIMUM
QUALIFICATIONS FOR BIDDERS ON COMPETITIVELY BID
CONTRACTS FOR PUBLIC PROJECTS**

WHEREAS, on MAY 14 2002, 2002, the Sacramento City Council adopted Ordinance No. 2002-013, amending Section 3.60.020 of the Sacramento City Code to authorize the City Council, by resolution, to adopt standard minimum qualifications for bidders on competitively bid contracts for public projects.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
SACRAMENTO THAT:**

1. The standard minimum qualifications for bidders on competitively bid contracts for public projects that are set forth in the Minimum Qualifications Questionnaire attached hereto as Exhibit A are hereby adopted.
2. Bidders on competitively bid contracts for public projects shall demonstrate compliance with the standard minimum qualifications by completing all of the questions contained in the Minimum Qualifications Questionnaire. If a bidder answers "yes" to any single question, fails to submit a fully completed Questionnaire, or submits false information, this will result in a determination that the minimum qualifications are not met, and the bidder shall not be considered a responsible bidder, pursuant to Sacramento City Code Section 3.60.020 (as amended by Ordinance No. 2002-013). If two or more entities submit a bid on a contract as a Joint Venture, each entity within the Joint Venture must separately meet the standard minimum qualifications for the Joint Venture to be considered a responsible bidder.

FOR CITY CLERK USE ONLY

RESOLUTION NO. 2002-280DATE ADOPTED: MAY 14 2002

3. This resolution shall become effective 30 days after the adoption of the ordinance amending Section 3.60.020 of the Sacramento City Code authorizing adoption of Standard Minimum Qualifications.

Heather Long
MAYOR

ATTEST:

Teresa A. Burrows
CITY CLERK

FOR CITY CLERK USE ONLY

RESOLUTION NO. 2002-280

DATE ADOPTED: MAY 14 2002

EXHIBIT A
MINIMUM QUALIFICATIONS QUESTIONNAIRE

Sacramento City Code section 3.60.020 authorizes the Sacramento City Council to adopt standard minimum qualifications for bidders on competitively bid public works construction projects, and requires, among other provisions, that a bidder meet such minimum qualifications at the time of bid opening to be considered responsible. On _____, 2001, the City Council adopted Resolution No. _____, establishing these standard minimum qualifications. Pursuant to City Code section 3.60.020, a bidder failing to meet these minimum qualifications at the time of bid opening shall not be considered a responsible bidder.

All bidders must demonstrate compliance with the minimum qualifications established by Resolution No. _____ by completing all of the questions contained in this questionnaire. If a bidder answers "yes" to any single question, fails to submit a fully completed questionnaire, or submits false information, this will result in a determination that the minimum qualifications are not met, and the bidder shall not be considered a responsible bidder for purposes of bidding on this contract. If two or more entities submit a bid on a contract as a Joint Venture, each entity within the Joint Venture must separately meet these minimum qualifications for the Joint Venture to be considered a responsible bidder.

The City of Sacramento ("City") shall make its determination on the basis of the submitted questionnaire, as well as any relevant information that is obtained from others or as a result of investigation by the City. While it is the intent of this questionnaire to assist the City in determining whether bidders possess the minimum qualifications necessary to submit bids on the City's competitively bid public works construction contracts, the fact that a bidder submits a questionnaire demonstrating that it meets these minimum qualifications shall not in any way limit or affect the City's ability to: (1) review other information contained in the bid submitted by the bidder, and additional relevant information, and determine whether the contractor is a responsive and/or responsible bidder; or (2) establish pre-qualification requirements for a specific contract or contracts.

By submitting this questionnaire, the bidder consents to the disclosure of its questionnaire answers: (i) to third parties for the purposes of verification, investigation, and ; (ii) in connection with any protest, challenge or appeal of any action taken by the City; and (iii) as required by any law or regulation, including without limitation the California Public Records Act (Calif. Gov't Code sections 6250 et seq.). 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 bidder submitting the questionnaire. If any information provided by a bidder becomes inaccurate, the bidder shall immediately notify the City and provide updated accurate information in writing, under penalty of perjury.

RESOLUTION NO. 2002-280
MAY 14 2002

QUESTIONNAIRE

NOTICE: All of the following questions regarding "your firm" refer to the firm (corporation, partnership or sole proprietor) submitting this questionnaire, as well as any firm(s) with which any of your firm's owners, officers, or partners are or have been associated as an owner, officer, partner or similar position within the last five years.

The firm submitting this questionnaire shall not be considered a responsible bidder if the answer to any of these questions is "yes", or if the firm submits a questionnaire that is not fully completed or contains false information.

1. **Classification & Expiration Date(s) of California Contractor's License Number(s) held by firm:**

2. **Has your firm's contractor's license been revoked at any time in the last five years?**
☐ Yes ☐ No
3. **Within the last five years, has a surety firm completed a contract on your firm's behalf, or paid for completion of a contract to which your firm was a party, because your firm was considered to be in default or was terminated for cause by the project owner?**
☐ Yes ☐ No
4. **At the time of submitting this minimum qualifications questionnaire, 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 California Labor Code section 1777.1 or Labor Code section 1777.7 (copies attached)?**
☐ Yes ☐ No

Minimum Qualifications Questionnaire
Page 2 of 5

RESOLUTION NO. 2002-280

MAY 14 2002

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

☐ Yes ☐ No

6. Answer ~~either~~ subsection A or B, as applicable:

~~A. Your firm has completed three or more construction contracts for the City within the last five years. Within those five years, has the City assessed your firm a total of 15 days or more in liquidated damages for failure to complete contract work on time?~~

NOTE: If there is a pending court action challenging the City's assessment of liquidated damages on a City contract within the last five years, you need not include that contract in responding to this question.

☐ Yes ☐ No ☐ Not applicable

~~B. Your firm has not completed at least three construction contracts for the City within the last five years. Within the last three years, has your firm been assessed a total of 15 days or more in liquidated damages on government construction contracts?~~

NOTE: If there is a pending administrative or court action challenging an assessment of liquidated damages on a government contract within the last three years, you need not include that contract in responding to this question.

☐ Yes ☐ No ☐ Not applicable

7. In the last three years has your firm been debarred from bidding on, or completing, any government agency or public works construction contract for any reason?

NOTE: If there is a pending administrative or court action challenging a debarment, you need not include that debarment in responding to this question.

☐ Yes ☐ No

Minimum Qualifications Questionnaire
Page 3 of 5

RESOLUTION NO. 2002-280
MAY 14 2002

8. ~~Has CAL OSHA or federal OSHA assessed a total of three or more penalties against your firm for any "serious" or "willful" violation at any time within the last three years?~~

☐ Yes ☐ No

9. In the last three years has your firm had a three year average incident rate for total lost workday cases exceeding 4.5?

NOTE: Incident rates represent the number of lost workday cases per 100 full-time workers and is to be calculated as: $(N/EH) \times 200,000$, where

N	=	number of lost workday cases (as defined by the U.S. Dept. of Labor, Bureau of Labor Statistics)
EH	=	total hours worked by all employees during the calendar year
200,000	=	base for 100 equivalent full-time working (working 40 hours per week, 50 weeks per year)

☐ Yes ☐ No

10. In the past three years, has the federal EPA, Region IX or California Air Quality Management District or Regional Water Quality Control Board assessed penalties either against your firm, or against an owner for violations occurring on a project on which your firm was the contractor, three or more times?

NOTE: If there is a pending administrative or court action appealing a penalty assessment, you need not include that penalty assessment in responding to this question.

☐ Yes ☐ No

11. In the past three years, has the federal EPA, Region IX or California Air Quality Management District or Regional Water Quality Control Board assessed a single penalty either against your firm, or against an owner for a violation occurring on a project on which your firm was the contractor, for a penalty amount over \$100,000?

NOTE: If there is a pending administrative or court action appealing a penalty assessment, you need not include that penalty assessment in responding to this question.

☐ Yes ☐ No

Minimum Qualifications Questionnaire
Page 4 of 5

RESOLUTION NO. 2002-280

MAY 14 2002

VERIFICATION AND SIGNATURE

I, the undersigned, certify and declare that I have read all the foregoing answers to this Minimum Qualifications Questionnaire, and know their contents. The matters stated in these 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 true and correct.

Signed at _____, on _____
(Location) (Date)

Signature: _____

Print name: _____

Title: _____

NOTE: If two or more entities submit a bid on a contract as a Joint Venture, each entity within the Joint Venture must submit a separate Minimum Qualifications Questionnaire.

Minimum Qualifications Questionnaire
Page 5 of 5

RESOLUTION NO. 2002-280

2002 1 1 2002

RESOLUTION NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

ADOPT REVISED CONTRACTORS MINIMUM QUALIFICATIONS QUESTIONNAIRE

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO THAT:

- The revised Minimum Qualifications Questionnaire (Exhibit A) be adopted for use in all City construction contract bid solicitations effective this date.

MAYOR

ATTEST:

CITY CLERK

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____

DATE ADOPTED: _____

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11

MINIMUM QUALIFICATIONS QUESTIONNAIRE

Sacramento City Code section 3.60.020 authorizes the Sacramento City Council to adopt standard minimum qualifications for bidders on competitively bid public works construction projects, and requires, among other provisions, that a bidder meet such minimum qualifications at the time of bid opening to be considered responsible. The City Council adopted Resolution No. **2002-280**, establishing these standard minimum qualifications. Pursuant to City Code section 3.60.020, a bidder failing to meet these minimum qualifications at the time of bid opening shall not be considered a responsible bidder.

All bidders must demonstrate compliance with the minimum qualifications established by Resolution No. **2002-280** by completing all of the questions contained in this questionnaire. If a bidder answers "yes" to any single question, fails to submit a fully completed questionnaire, or submits false information, this will result in a determination that the minimum qualifications are not met, and the bidder shall not be considered a responsible bidder for purposes of bidding on this contract. If two or more entities submit a bid on a contract as a Joint Venture, each entity within the Joint Venture must separately meet these minimum qualifications for the Joint Venture to be considered a responsible bidder.

The City of Sacramento ("City") shall make its determination on the basis of the submitted questionnaire, as well as any relevant information that is obtained from others or as a result of investigation by the City. While it is the intent of this questionnaire to assist the City in determining whether bidders possess the minimum qualifications necessary to submit bids on the City's competitively bid public works construction contracts, the fact that a bidder submits a questionnaire demonstrating that it meets these minimum qualifications shall not in any way limit or affect the City's ability to: (1) review other information contained in the bid submitted by the bidder, and additional relevant information, and determine whether the contractor is a responsive and/or responsible bidder; or (2) establish pre-qualification requirements for a specific contract or contracts.

By submitting this questionnaire, the bidder consents to the disclosure of its questionnaire answers: (i) to third parties for the purposes of verification, investigation, and; (ii) in connection with any protest, challenge or appeal of any action taken by the City; and (iii) as required by any law or regulation, including without limitation the California Public Records Act (Calif. Gov't Code sections 6250 et seq.). 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 bidder submitting the questionnaire. If any information provided by a bidder becomes inaccurate, the bidder shall immediately notify the City and provide updated accurate information in writing, under penalty of perjury.

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RESOLUTION NO.: _____

DATE ADOPTED: _____

QUESTIONNAIRE

NOTICE: All of the following questions regarding "your firm" refer to the firm (corporation, partnership or sole proprietor) submitting this questionnaire, as well as any firm(s) with which any of your firm's owners, officers, or partners are or have been associated as an owner, officer, partner or similar position within the last five years.

The firm submitting this questionnaire shall not be considered a responsible bidder if the answer to any of these questions is "yes", or if the firm submits a questionnaire that is not fully completed or contains false information.

1. **Classification & Expiration Date(s) of California Contractor's License Number(s)** held by firm:

2. Has a contractor's license held by your firm and/or any owner, officer or partner of your firm been revoked at anytime in the last five years?

☐ Yes ☐ No

3. Within the last five years, has a surety firm completed a contract on your firm's behalf, or paid for completion of a contract to which your firm was a party, because your firm was considered to be in default or was terminated for cause by the project owner?

☐ Yes ☐ No

4. At the time of submitting this minimum qualifications questionnaire, 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 California Labor Code section 1777.1 (prevailing wage violations) or Labor Code section 1777.7 (apprenticeship violations)?

☐ Yes ☐ No

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____

DATE ADOPTED: _____

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

☐ Yes ☐ No

6. Within the past five years, has your firm been assessed liquidated damages of fourteen (14) calendar days or more on any project performed for the City of Sacramento, the County of Sacramento or any of the incorporated cities within Sacramento County?

☐ Yes ☐ No

NOTE: If there is a pending court action challenging the City's assessment of liquidated damages on a City contract within the last five years, you need not include that contract in responding to this question.

7. In the last three years has your firm been debarred from bidding on, or completing, any government agency or public works construction contract for any reason?

NOTE: If there is a pending administrative or court action challenging a debarment, you need not include that debarment in responding to this question.

☐ Yes ☐ No

8. Has CAL OSHA assessed a total of three or more penalties against your firm for any "serious" or "willful" violation at any time within the last three years for any project performed for the City of Sacramento, the County of Sacramento or any of the incorporated cities within Sacramento County?

NOTE: If there is a pending administrative or court action appealing a penalty assessment, you need not include that penalty assessment in responding to this question.

☐ Yes ☐ No

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RESOLUTION NO.: _____

DATE ADOPTED: _____

9. Answer **either** subsection A **or** B, as preferred:

A. In the last three years has your firm had a three year average Workers' Compensation experience modification rate exceeding 1.1?

☐ Yes ☐ No

OR

B. In the last three years has your firm had a three year average incident rate for total lost workday cases exceeding 10?

NOTE: Incident rates represent the number of lost workday cases per 100 full-time workers and is to be calculated as: $(N/EH) \times 200,000$, where

N = number of lost workday cases (as defined by the U.S. Dept. of Labor, Bureau of Labor Statistics)

EH = total hours worked by all employees during the calendar year

200,000 = base for 100 equivalent full-time working (working 40 hours per week, 50 weeks per year)

☐ Yes ☐ No

10. In the past three years, has the federal EPA, Region IX or a California Air Quality Management District or Regional Water Quality Control Board assessed penalties three or more times, either against your firm, or against an owner for a violation resulting in whole or in part from any action or omission by your firm on a project on which your firm was a contractor?

NOTE: If there is a pending administrative or court action appealing a penalty assessment, you need not include that penalty assessment in responding to this question.

☐ Yes ☐ No

11. In the past three years, has the federal EPA, Region IX or a California Air Quality Management District or Regional Water Quality Control Board assessed a single

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penalty of \$100,000 or more, either against your firm, or against an owner for a violation resulting in whole or in part from any action or omission by your firm on a project on which your firm was the contractor?

NOTE: If there is a pending administrative or court action appealing a penalty assessment, you need not include that penalty assessment in responding to this question.

☐ Yes ☐ No

12. In the past three years, have civil penalties been assessed against your firm pursuant to California Labor Code 1777.7 for violation of California public works apprenticeship requirements, three or more times?

NOTE: If there is a pending administrative or court action appealing a penalty assessment, you need not include that penalty assessment in responding to this question.

☐ Yes ☐ No

13. In the past three years, has a public agency in California withheld contract payments or assessed penalties against your firm for violation of public works prevailing wage requirements, three or more times?

NOTE: If there is a pending administrative or court action appealing a withholding or penalty assessment, you need not include that withholding or penalty assessment in responding to this question.

☐ Yes ☐ No

14. Has your firm been assessed penalties for violation of public works prevailing wage requirements in California, in an aggregate amount for the past three years of \$50,000 or more?

NOTE: If there is a pending administrative or court action appealing a penalty assessment, you need not include that penalty assessment in responding to this question.

☐ Yes ☐ No

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____

DATE ADOPTED: _____

VERIFICATION AND SIGNATURE

I, the undersigned, certify and declare that I have read all the foregoing answers to this Minimum Qualifications Questionnaire, and know their contents. The matters stated in these 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 true and correct.

Signed at _____, on _____.
(Location) (Date)

Signature: _____

Print name: _____

Title: _____

NOTE: If two or more entities submit a bid on a contract as a Joint Venture, each entity within the Joint Venture must submit a separate Minimum Qualifications Questionnaire.

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DATE ADOPTED: _____