Mitigate Risks with Contractor Prequalification

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Mitigate Risks with Contractor Prequalification

- Taking risks is part of doing business, take too many risks and you put your organization in jeopardy, take too few risks and you decrease your chance at success. Despite the risks in business, CEO’s and risk managers, no matter the size of the organization, can prepare for them, if they know what they are;
  - Occupational risk – worker injury and fatalities.
  - Financial risk – how will the conduct of the contractor effect your bottom line?
  - Natural risk – floods, earthquakes, tornadoes.
  - Security risk – vandalism, negligence, terrorism.
  - Contractual and legal risk – project delays, payment schedule, change orders negotiation, insolvency of a contractor or their sub-contractor.
The Risks of Hiring Construction Contractors

- Hiring a contractor for your construction project can be a risky proposition.
  - Does the contractor have the financial stability to fund the project?
  - Do they have the technical expertise to successfully complete the project on time and within budget?
  - Does the contractor have sufficient insurance to cover potential losses caused by their employees or subcontractors?
  - Does the contractor have a safety culture that is in tune with yours?
Why Prequalify Contractors?

- Prequalifying contractors before they are permitted to submit bids or proposals is an effective risk management tool enabling Owners;
  - To assess the interest in the project by qualified firms,
  - To make adjustments in the procurement process prior to the contract award (lessening change order requests),
  - To reduce the amount of labor and time in evaluating bids submitted by unqualified contractors,
  - To reduce problems associated with artificially low bids submitted by contractors that may not be capable of performing successfully.
Benefits of Prequalification

- **Benefits to the Owner**
  - Owner has a pool of contractors that meet their criteria to bid projects and provide emergency services.
  - Provides the Owner a chance to review the list of qualified contractors to add and remove as necessary.
  - Qualified contractors may price their bids more competitively because they know they are competing with qualified firms.

- **Benefits to contractors**
  - Contractors that do not meet the Owner’s criteria will not waste resources bidding on projects they cannot win.
  - Encourages contractors to improve to meet the Owner’s criteria.
  - Encourages contractors to form joint ventures to give them a better chance of success.
The Prequalification Process

- The qualification of contractors is a separate process from the bid evaluation.

- Before a company is permitted to bid a project they should have successfully completed the prequalification process.

- In emergency situations, companies may be permitted to bid projects prior to completing the prequalification process. This should only be permitted with the understanding that if they fail to meet the prequalification criteria, their bids will be rejected.

- A clear statement of the requirements for qualifications should be sent to all applicants.

- Applicants to be prequalified shall have met predefined, precise minimum requirements.

- The prequalification process should utilize pass/fail criteria to eliminate ambiguities in the selection process.
Prequalification Required Information

▪ Contractors should be only requested to provide essential information to perform the project’s scope of work successfully.

- A standardized form should be developed for contractors to complete. The following information should be requested;

➢ Company name,
➢ Company address,
➢ Contact name,
➢ Contact phone number and e-mail address,
➢ What type of work does the company perform? (general contractor, electrical, roofing, mechanical, etc.)
➢ Experience Modification Rate Statements from their insurer from the previous three years
Prequalification Required Information

- OSHA 300 and OSHA 300a logs for the past three years (if fewer than 11 employees a Loss Run Report from their insurer)
- Duns & Bradstreet Number
- NAICS Code
- Certificate of Insurance
- Financial Information
- List of OSHA and EPA citations

**Owner Point of Contact**

- The applicant should be provided with an Owner’s point of contact to submit questions and the application.
- All correspondence and questions should be channeled through the Owner’s point of contact.
- All questions should be shared with all those submitting applications.
Prequalification Required Information

- **General Experience**
  - The applicant should provide a narrative related to their relevant experience over the last 3-5 years.
  - The value of relevant work over the last 3-5 years shall be reported on an annual basis. This requirement is to help verify the contractor will not be overwhelmed by the size of the proposed contracts.

- **Particular Experience**
  - The applicant should demonstrate that they have worked on projects of a similar nature, size, value and complexity within the last 3-5 years.
  - This experience can be as a general or sub-contractor.
  - Experience should be considered for projects that are similar to those proposed by the Owner.

- **Financial Position**
  - Applicants should provide the following background information to support the financial information provided;
    - Audited annual financial statement for the last 3-5 years.
    - Names and addresses of the applicant’s banks and financial intuitions.
Prequalification Required Information

- **Personnel Capabilities**
  - Applicants should be required to name principal and alternate for each key position. The Owner should base their evaluation on;
    - Their number of years with the applicant,
    - The number of years experience at this or similar positions,
    - Their work performed on similar projects,
    - Relevant certifications such as Professional Engineer, Certified Safety Professional, etc.

- **Litigation History**
  - Owners should be wary of contractors that have a history of excessive arbitration and litigation against and those firms that use these avenues to increase income.
  - Evaluation litigation history by a pass/fail method is difficult, Owners should consult their legal consul when issues arise.
Prequalification Required Information

- Environmental Health and Safety Requirements
  - The Owner should look at the safety culture, safety management systems, regulatory compliance and safety performance of the applicant.
  - Environmental Health and Safety requirements should be objectively stated to avoid ambiguity and interpretation issues.
  - Frequent OSHA and EPA citations are indications of contractors that do not have a strong safety culture.
  - It is common for Owners to require contractors to have an Experience Modification Rate of 1 or less.
  - Owners should ask to review the contractors Health and Safety Plans.
  - Contractors should provide names and resumes of their safety professionals, whether they are in-house or consultants.
  - Contractor shall provide proof if the Contractor’s employees have specialized training as required.
Notification of Acceptance or Rejection

- The Owner should notify the applicant in writing of the decision to allow or restrict them from bidding on their projects.
  - The Owner should notify the applicant of the reason for rejection,
  - The Owner should maintain a list of all qualified contractors and share that information between the contractors to assist in bidding.
Reasons for Rejecting Prequalification

The following are reasons to deny companies from the Prequalification list;

- High EMR >1.0
- Worker Fatality in the past three years,
- Evidence of a safety culture that is not in line with the Owners,
- Failure to submit the requested pre-qualification information,
- Failure to update the requested pre-qualification information,
- Failure to obtain valid insurance liabilities,
- Failure to provide OSHA logs.
Conditional Prequalification

- When an applicant fails to meet some of the qualifying criteria or provides a service that is “mission critical” to the Owner, they may choose to “Conditional Prequalify” the applicant.
  - The Owner may require the contractor to post a performance bond if awarded the project,
  - The contractor may only work as a subcontractor, under the supervision of a “Qualified Contractor”,
  - The Owner may require the contractor to buy supplemental insurance,
  - The Owner may only qualify the contractor for a specific project.
  - The Owner may require the contractor to hire a third-party safety professional.
Updating Prequalification Information

- Contractors that have met the prequalification criteria should be made to update their information on an annual basis by providing all the information in the initial request on an annual basis.

- Contractors not meeting the requirements set by the Owner will be removed from the list and not permitted to bid projects.

- Contractors will be made aware of changes to the requirements to remain a “qualified” contractor.
Additional Resources

- [www.vpppa.org](http://www.vpppa.org) - Voluntary Protection Program Participants Association
- [www.irmi.com](http://www.irmi.com) – International Risk Management Institute, Inc.
- [www.dnb.com](http://www.dnb.com) – Duns and Bradstreet
- [www.osha.gov](http://www.osha.gov) – Occupational Safety and health Administration
- [www.epa.gov](http://www.epa.gov) – Environmental Protection Agency

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Thank You

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