PERFORMANCE-BASED CONTRACTOR PREQUALIFICATION

Rewarding Good Performers and Encouraging Poor Performers to Improve

Armando M. Armendariz P.E. – New Mexico Department of Transportation (NMDOT) Division Director
Information

• [http://dot.state.nm.us/content/nmdot/en.html](http://dot.state.nm.us/content/nmdot/en.html)
  • Doing Business
  • Contractor Prequalification


• [NMDOT-#GO-prequal-questions@state.nm.us](mailto:NMDOT-#GO-prequal-questions@state.nm.us)

• [prequal.answers@state.nm.us](mailto:prequal.answers@state.nm.us)
Prequalification Requirements

Pursuant to the Contractor Prequalification Rule 10.27.5 NMAC (1207/2000, as amended through 01.01.15), prime contractors shall obtain prequalified status with the New Mexico Department of Transportation as a condition to submitting a bid. Subcontractors shall obtain prequalified status before performing any work or supplying goods or services to the project. To obtain prequalified status, prime contractors and subcontractors shall submit a timely, complete and conforming prequalification packet to the Office of Inspector General at the address on the packet. Prime contractors shall submit a new or renewal packet no later than seven (7) calendar days before the opening of any bid. Subcontractors shall submit a new or renewal packet before performing any work or supplying goods or services to the project. Prequalification status is published on the Office of Inspector General’s prequalified contractors and subcontractors list. Packets and copies of the Contractor Prequalification Rule may be obtained from the Office of Inspector General at 505-476-8991.

- Contractor Prequalification Packet
- Contractor Prequalification List
- Contractor Prequalification 10.27.5 NMAC
- Contractor Prequalification FAQ
- NMDOT Prequalification Annual Report 2016
- NMDOT Prequalification Quarterly Report 2016
  - 2016 1st Quarter
  - 2016 2nd Quarter
- NMDOT Official Interpretations
  - Claims Performance Factor
  - Interpretation of Project Closures

**DO NOT SEND THE W-9 FORM WITH THE PREQUAL PACKET**

The W-9 should be sent to the Accounting Section of NMDOT, link provided below. NMDOT-OIG does not handle the W-9, if sent to the wrong Department this could affect your eligibility to bid on projects.

W-9 form - New contractors must complete and email to: NMDOT.vendor.Requests@state.nm.us

Questions related to any aspect of the NMDOT Prequalification Program can be emailed by typing in the following address into your email browser;

NMDOT-NCQ-prequal-question@state.nm.us

For information regarding and concerning the Contractor Prequalification Process please contact:

NMDOT Office of Inspector General
P.O. Box 1149
Santa Fe, N.M. 87504-1149
Hotline 800-671-STOP
Voice: 505-476-8990
nmdot.prequal@state.nm.us
Outline of Presentation

• Equation, Score and an Example
• Performance Factors and Percentages
  • Liquidated Damages
  • Claims
  • Non-Conformances
  • Safety
  • Disincentive
  • Subcontractor
• NMDOT & Associated Contractors of New Mexico (ACNM) Meetings
• Special Experimental Projects (SEP – 14)
• Conclusion - Q&A, Press
Equation, Score & Examples

\[ Pqfyr1 = \text{Pfc} \times 15\% + \text{Pfd} \times 30\% + \text{Pfld} \times 30\% + \text{Pfn} \times 10\% + \text{Pfs} \times 5\% + \text{Pfsc} \times 10\% \]

\[ Pqfra = \frac{Pqfyr1 \times 0.90 + Pqfyr2 \times 0.60 + Pqfyr3 \times 0.30}{(0.900 + 0.600 + 0.300)} \]

• Example:

1.0 \times \$5,000,000.00 = \$5,000,000.00

1.05 \times \$4,950,000.00 = \$5,197,500.00

0.95 \times \$5,250,000.00 = \$4,987,500.00
# Performance Factors

<table>
<thead>
<tr>
<th>Prequalification Factors (Pqf)</th>
<th>Associated Yearly Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liquidated Damages</td>
<td>30%</td>
</tr>
<tr>
<td>Claims</td>
<td>15%</td>
</tr>
<tr>
<td>Non-Conformances</td>
<td>10%</td>
</tr>
<tr>
<td>Safety</td>
<td>5%</td>
</tr>
<tr>
<td>Disincentives</td>
<td>30%</td>
</tr>
<tr>
<td>Subcontractor</td>
<td>10%</td>
</tr>
</tbody>
</table>

100%
Performance Factor Liquidated Damages (30%)

- The performance factor for liquidated damages is the objective measurement of the Contractor’s timely completion of the Project
The performance factor for Claims is our objective measurement of whether a Claim was made on a project, elevated past the cabinet secretary level, and unsuccessful, meaning a resolution less than the request for compensation or time at the cabinet secretary level.
Performance Factor Non-Conformance (10%)

- The objective measurement of non-conformances evaluates the Contractor’s compliance with the terms and conditions of the Contract
Performance Factor Safety (5%)

- The objective performance factor for safety evaluates and measures the Contractor’s experience modifier rate reported on the prequalification packet.
Performance Factor Disincentive (30%)

- The performance factor for Disincentives is our objective measurement of the Contractor’s quality of work related to certain contract items.
Performance Factor Subcontractor (10%)

- This objective performance factor measures a Contractor’s prompt payment of its subcontractors and suppliers
NMDOT & ACNM Meetings

- NMDOT communicates with ACNM about the operation of the program in a variety of ways
  - Quarterly meetings
  - Answers to prequalification questions
  - FAQs
  - Official interpretations
Construction

Special Experimental Projects No. 14 - Alternative Contracting (formerly Innovative Contracting)

Since 1990, the FHWA has allowed the State DOTs to evaluate non-traditional contracting techniques under a program titled "Special Experimental Project No. 14 - Innovative Contracting." Originally, the contracting practices approved for evaluation were: cost-plus-time bidding, lane rental, design-build contracting, and warranty clauses. After a period of evaluation, the FHWA decided that all four practices were suitable for use as operational practices (non-experimental).

Today, SEP-14 remains as a functional experimental program that may be used to evaluate promising non-traditional contracting techniques. In fact, the term "alternative contracting" may be a better descriptor than "innovative contracting" as some of these techniques are widely used and are no longer considered to be innovative by some contracting agencies. Thus in 2002, the title of SEP-14 was changed from "Innovative Contracting" to "Alternative Contracting.

General Information About SEP-14 -- Alternative Contracting

- SEP-14 Background Information
- SEP-14 Objectives
- When is SEP-14 necessary?
- How do I request FHWA's approval under SEP-14?
  - SEP-14 Workplan Requirements
  - Sample Workplan
  - Sample Evaluation
- SEP-14 FHWA/HUD Livability Initiative
- FHWA's Current SEP-14 Approval List - This list summarizes the FHWA's SEP-14 approvals after 01/01/2003. It provides links to workplans and evaluation reports for selected contracting techniques.

Other Alternative Contracting Web Pages and References

- Arizona DOT - Alternative Contracting web page
- Florida DOT - Alternative Contracting web page
- Minnesota DOT - Innovative Contracting web page
- North Carolina DOT - Alternative Delivery Unit web page
- Ohio DOT - Innovative Contracting Manual (pdf, 0.3 mb) - (Report dated: 4/10/2005)
- Washington State DOT - Alternative Project Delivery web page
- Utah State University - Innovative Contracting Web Site - SEP-14 Evaluations
- The AASHTO Subcommittee on Construction's Primer on Contracting for the 21st Century
- 2001 SCAN Report - "Contract Administration: Technology and Practice in Europe" - Chapter 3 of this SCAN report documents the use of alternative project delivery methods by several European countries in meeting their program goals. (Report Date - October 2002)
# Conclusion

## Prequalification Factors (Pqf) and Performance Factor Year (Pqfyr) Calculations

<table>
<thead>
<tr>
<th>Prequalification Factors (Pqf)</th>
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</thead>
<tbody>
<tr>
<td>Liquidated Damages</td>
<td>30% Pfd</td>
</tr>
<tr>
<td>Claims</td>
<td>15% Pfc</td>
</tr>
<tr>
<td>Non-Conformances</td>
<td>10% Pfn</td>
</tr>
<tr>
<td>Safety</td>
<td>5% Pfs</td>
</tr>
<tr>
<td>Disincentives</td>
<td>30% Pfd</td>
</tr>
<tr>
<td>Subcontractor</td>
<td>10% Pfsc</td>
</tr>
</tbody>
</table>

100%

## Contractor Data Outputs for individual Prequalification Factors (Pqf) and resulting (Pqfyr) yearly calculation

<table>
<thead>
<tr>
<th>Pqfyr</th>
<th>Pfld</th>
<th>Pfc</th>
<th>Pfns</th>
<th>Pfs</th>
<th>Pfd</th>
<th>Pfsc</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.019</td>
<td>0.19</td>
<td>1.455</td>
<td>0.900</td>
<td>0.900</td>
<td>1.048</td>
<td>1.000</td>
</tr>
</tbody>
</table>

$$\text{Pqfyr} = \text{Pfc} \times 15\% + \text{Pfd} \times 30\% + \text{Pfld} \times 30\% + \text{Pfn} \times 10\% + \text{Pfs} \times 5\% + \text{Pfsc} \times 10\%$$

## Rolling Average Performance Quality Factor (Pqfrya) Calculations

<table>
<thead>
<tr>
<th>Years Evaluated</th>
<th>Pqfyr</th>
<th>Yearly Weighting Factor</th>
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</thead>
<tbody>
<tr>
<td>Pqfyr 1</td>
<td>2011</td>
<td>0.900</td>
</tr>
<tr>
<td>Pqfyr 2</td>
<td>2010</td>
<td>0.600</td>
</tr>
<tr>
<td>Pqfyr 3</td>
<td>2009</td>
<td>0.300</td>
</tr>
</tbody>
</table>

Total Divisible Factor = 1.800

## Pqfra Calculations

<table>
<thead>
<tr>
<th>Pqfyr</th>
<th>Year</th>
<th>Pqfyr</th>
<th>Yearly Weighting Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.164</td>
<td>2011</td>
<td>1.040</td>
<td>2009</td>
</tr>
<tr>
<td>0.900</td>
<td></td>
<td>0.600</td>
<td></td>
</tr>
<tr>
<td>0.980</td>
<td></td>
<td>0.300</td>
<td></td>
</tr>
</tbody>
</table>

$$\text{Pqfra} = 1.092$$

$$\text{Pqfra} = \frac{\text{Pqfyr1} \times 0.90 + \text{Pqfyr2} \times 0.60 + \text{Pqfyr3} \times 0.30}{0.90 + 0.60 + 0.30}$$
Q&A
Press

• The Magazine of the American Society of Civil Engineers (ASCE), Kevin Wilcox, NMDOT Tests New Contracting Plan, https://www.asce.org/magazine/20150407-nmdot-tests-new-contracting-plan/


• The Report to the Utah Legislature, Office of the Legislative Auditor General, A Performance Audit of the Utah Department of Transportation, https://le.utah.gov/audit/16_06rpt.pdf