

# Chapter 468-16 WAC

## PREQUALIFICATION OF CONTRACTORS

### WAC

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**WAC 468-16-010 General.** No contract for the construction, improvement or repair of any state highway, or of any other public highway to be awarded and administered by the department of transportation, may be awarded to any contractor who has not first been prequalified to perform the work. Bidding proposals will be issued only to prequalified contractors.

[Statutory Authority: RCW 47.01.101, 47.28.030 and 47.28.070. WSR 91-04-014 (Order 128), § 468-16-010, filed 1/28/91, effective 2/28/91.]

**WAC 468-16-020 Purpose.** This chapter is promulgated to assure that contractors engaged in the improvement and construction of state highways possess the necessary qualifications as required by RCW 47.28.070. It is further intended to:

(1) Establish a method for determining a contractor's qualifications to undertake department work and for the retention of that qualification.

(2) Provide a means for contractors to enhance their prequalification status and bidding capacity through higher standards of performance.

(3) Increase the opportunity for a better relationship between the department and construction contracting firms.

(4) Provide for the award, denial, suspension, or revocation of qualification; denial of proposal issuance; and for a hearing procedure, if required, for such actions.

[Statutory Authority: RCW 47.01.101, 47.28.030 and 47.28.070. WSR 91-04-014 (Order 128), § 468-16-020, filed 1/28/91, effective 2/28/91.]

**WAC 468-16-030 Definitions.** The definitions set forth in this section apply throughout this chapter and have the fol-

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lowing meanings, unless the context clearly indicates otherwise.

(1) **Above standard** - Performance ranging from standard to that meeting the lower range of superior.

(2) **Active contractor** - A contractor who has participated in department activities through maintaining required prequalification and having a history of performing department work.

(3) **Affiliate** - An associate, subordinate associate, or subsidiary firm which may involve the intermingling of funds, officers, or officials of one or more firms.

(4) **Assistant secretary for field operations support** - The primary representative of the secretary of transportation responsible for the highway construction program and for the qualification of contractors employed thereon.

(5) **Below standard** - Performance bordering on standard extending to the limits of inadequate.

(6) **Bidding proposal** - A form issued by the department for the submission of a contractor's bid containing spaces for entering bid amounts, authentication, and other data.

(7) **Capacity multiplier** - A number between 5.0 and 7.5 multiplied by a firm's net worth to calculate its maximum bidding capacity.

(8) **Conditional qualification** - A temporary qualification status given a contractor who has received a "below standard" or "inadequate" overall rating or for other reasons which result in restrictions to a contractor's ability to bid on department work.

(9) **Contractor** - Any person, partnership, firm, corporation or joint venture who or which, in the pursuit of an independent business, undertakes, offers to undertake, or submits a bid to perform construction work for the department.

(10) **Department** - The department of transportation.

(11) **Endorser** - The region operations engineer or immediate supervisor of the construction project engineer, or project architect or, under specified conditions, the region administrator responsible for reviewing contractor's performance reports.

(12) **Inadequate** - Performance failing completely to meet the prescribed standard or requirement.

(13) **Integrity** - The quality of being of sound moral principle, uprightness, honesty, and sincerity.

(14) **Joint venture** - Two or more persons, sole proprietorships, companies, corporations, or combinations thereof, entering into an agreement for a business venture such as a construction project.

(15) **Limited work class** - A work classification given when a contractor lacks the total experience, organization, equipment, or skills required to perform the entire range of work within a work class.

(16) **Maximum capacity rating** - The total value of uncompleted prime contract work a contractor is permitted to have under contract with the department at any time.

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(17) **Performance inquiry** - A request made to a contractor's previous employers for an evaluation of the quality and manner of that contractor's performance.

(18) **Performance rating** - A numerical rating which is equal to the grand total of the evaluation elements of the prime contractor's performance report used to measure and quantify the quality of contractor performance.

(19) **Prequalification** - The process of evaluating a contractor's financial status, organizational structure, experience, integrity, and other required qualifications to determine a contractor's responsibility and suitability for performing department work. This term is used interchangeably with qualification.

(20) **Prime contractor performance report** - A report prepared to evaluate the performance of a prime contractor upon completion of, or at an interim period during a department project which is used to adjust a prime contractor's qualification status.

(21) **Project estimate** - A document prepared by the department establishing the estimated value of all items of work, the total estimated value of work within each class of work, and the estimated total value of a project.

(22) **Rater** - The designated individual, normally the project engineer, responsible for evaluation of the quality and manner of performance of a contractor in the completion of a project.

(23) **Revocation of qualification** - The act by which a contractor's qualification is terminated.

(24) **Secretary** - The secretary of transportation who may delegate his or her functions under this chapter to the assistant secretary for field operations support or such other individual as deemed appropriate.

(25) **Standard** - The expected, acceptable quality of performance, considered to meet the demand, need or requirement.

(26) **Standard questionnaire** - The application form completed by a contractor to present information relating to the applicant's financial status, experience, organization, and equipment for the purpose of becoming qualified to perform department work.

(27) **Superior** - Preeminent performance consistently at an extremely high level.

(28) **Suspension of qualification** - The termination of a contractor's qualification for a specified period of time.

(29) **Unsatisfactory** - Below standard or inadequate performance, failing to meet requirements.

(30) **Work class** - A specific type of work within the various classifications of work, e.g., grading, draining, fencing, etc.

(31) **Work class rating** - The maximum value within a class of work that is used to determine a firm's eligibility to receive a bid proposal document for a single project.

[Statutory Authority: RCW 47.01.101, 47.28.030, and 47.28.070. WSR 15-01-170, § 468-16-030, filed 12/23/14, effective 1/23/15; WSR 97-09-045 (Order 168), § 468-16-030, filed 4/15/97, effective 5/16/97; WSR 93-03-020 (Order 134), § 468-16-030, filed 1/12/93, effective 2/12/93; WSR 91-04-014 (Order 128), § 468-16-030, filed 1/28/91, effective 2/28/91.]

**WAC 468-16-040 Criteria for a determination of an unsatisfactory record of performance.** The following list of deficiencies may be considered cause for a determination that an unsatisfactory record of performance exists:

- (1) Failure to complete project on time; or
- (2) Continued workmanship below the level of standard; or
- (3) Failure to adhere to the plans and specifications; or
- (4) Disregard for the welfare or safety of traveling public; or
- (5) Inadequate supervision and control of subcontractors; or
- (6) Insufficient supervision available on project site; or
- (7) Inadequate coordination and planning with owner; or
- (8) Inadequate procurement and delivery of supplies and materials; or
- (9) Inadequate control and utilization of equipment; or
- (10) An overall performance rating in the prime contractor performance report of less than standard as defined in WAC 468-16-030 and 468-16-150.

[Statutory Authority: RCW 47.01.101, 47.28.030 and 47.28.070. WSR 93-03-020 (Order 134), § 468-16-040, filed 1/12/93, effective 2/12/93; WSR 91-04-014 (Order 128), § 468-16-040, filed 1/28/91, effective 2/28/91.]

**WAC 468-16-050 Criteria for a determination of an unsatisfactory record of integrity and judgment.** (1) The following deficiencies may be cause for a determination that an unsatisfactory record of integrity and judgment exists:

- (a) Conviction of the firm or its principals of violating a federal or state antitrust law by bid-rigging, collusion, or restraint of competition between bidders; or conviction of violating any other federal or state law related to bidding or contract performance; or
  - (b) Knowingly concealing any deficiency in the performance of a prior contract; or
  - (c) Falsification of information or submission of deceptive or fraudulent statements in connection with prequalification, bidding, performance of a contract, or in legal proceedings; or
  - (d) Debarment of the contractor by a federal or state agency; or
  - (e) Willful disregard for applicable laws, rules or regulations.
- (2) Only such data relating to subsection (1)(a) through (e) of this section having taken place within three years next preceding the date of the most recently submitted standard questionnaire may be used for the purpose of this section.

[Statutory Authority: RCW 47.01.101, 47.28.030 and 47.28.070. WSR 93-03-020 (Order 134), § 468-16-050, filed 1/12/93, effective 2/12/93; WSR 91-04-014 (Order 128), § 468-16-050, filed 1/28/91, effective 2/28/91.]

**WAC 468-16-060 Criteria for a determination of inability to comply with performance schedules.** The following discrepancies may be cause for a determination of inability to comply with performance schedules:

- (1) A majority of responses to inquiries made to owners of previously completed projects reveal that projects have not been completed on time; or
- (2) A major portion of projects completed within the last three years for the department have not been completed on time; or

(3) When two or more consecutive performance reports are rated below standard in the area of "progress of work"; or

(4) Neglectful or willful failure to meet interim completion dates as defined in the contract.

[Statutory Authority: RCW 47.01.101, 47.28.030 and 47.28.070. WSR 93-03-020 (Order 134), § 468-16-060, filed 1/12/93, effective 2/12/93; WSR 91-04-014 (Order 128), § 468-16-060, filed 1/28/91, effective 2/28/91.]

**WAC 468-16-070 Criteria for a determination of the lack of necessary experience, organization, or technical qualifications.** A determination of lack of necessary experience, organization, or technical qualification may be made when data has been presented which reveals:

(1) A lack of prior experience in the classes of work for which qualification is sought; or

(2) That supervisory experience of key personnel responsible for prior projects has been reported predominantly below standard or less than satisfactory on performance reports and responses to inquiries made to other project owners or agencies; or

(3) That permanent employment status of key supervisory personnel has not been of a duration of at least one year or for the duration of the project in which they have been engaged; or

(4) That previous work experience in a work class presented for qualification did not conform to plans and specifications for the project; or

(5) That work claimed by the contractor was completed by others.

[Statutory Authority: RCW 47.01.101, 47.28.030 and 47.28.070. WSR 93-03-020 (Order 134), § 468-16-070, filed 1/12/93, effective 2/12/93; WSR 91-04-014 (Order 128), § 468-16-070, filed 1/28/91, effective 2/28/91.]

**WAC 468-16-080 Qualification procedures for projects under one hundred thousand dollars.** (1) Contractors may be qualified for projects valued under one hundred thousand dollars through submission of a project specific prequalification questionnaire. Submission of a limited prequalification questionnaire (DOT form 272-063) to the contract advertisement and award office or designee is required, except when the contractor is currently prequalified with the department of transportation under the provisions of chapter 468-16 WAC.

(2) Procedures for letting contracts valued under one hundred thousand dollars are published in the *Contract Advertisement and Award Manual*.

[Statutory Authority: RCW 47.01.101, 47.28.030, and 47.28.070. WSR 15-01-170, § 468-16-080, filed 12/23/14, effective 1/23/15; WSR 00-14-055, § 468-16-080, filed 7/3/00, effective 8/3/00; WSR 97-09-045 (Order 168), § 468-16-080, filed 4/15/97, effective 5/16/97; WSR 91-04-014 (Order 128), § 468-16-080, filed 1/28/91, effective 2/28/91.]

**WAC 468-16-090 Standard questionnaire.** The standard questionnaire and financial statement shall be prepared and transmitted to the secretary, Attn: Contract advertisement and award office. The questionnaire shall include the following information:

(1) The contractor's name, address, phone number, facsimile number, email address, and type of organization (corporation, partnership, sole proprietorship, etc.).

(2) A list of the classes of work for which the contractor seeks qualification.

(3) A statement of the ownership of the firm and, if a corporation, the name of the parent corporation, if any, and the names of any affiliated or subsidiary companies.

(4) A certificate of authority from the office of the secretary of state to do business in Washington state if the applicant is an out-of-state corporation.

(5) A list of officials within the applicant firm who are also affiliated with other firms involved in construction work as a contractor, subcontractor, supplier, or consultant; including the name of the firm and their relationship with the affiliate firm.

(6) A complete list of the highest valued contracts or subcontracts performed in whole or in part within the immediate three years preceding application. The contract amount, contract number, date of completion, class of work; and the name, mailing address, email address, and phone number of the project owner or agency representative must be provided for those projects listed. Only that work completed by the contractor's own organization under its own supervision will be considered for prequalification purposes. A minimum of five completed projects must be listed.

(7) Personnel requirements.

(a) A listing of the principal officers and key employees indicating their years of experience in the classes of work for which prequalification is sought. For qualification in a class of work based on newly acquired personnel rather than the firm's past contract experience, the newly acquired personnel must be available for future employment for the full year for which qualification is sought unless replacement personnel have been approved. The loss of such personnel during the year of qualification, will result in revocation of qualification for the class of work granted pursuant to their acquisition. The department may require resumes of such personnel as deemed proper for making its determination. The firm's performance on department contracts must be currently rated standard or better to be used for qualification purposes.

(b) A firm must have, within its own organization, qualified permanent, full time personnel having the skills and experience including, if applicable, technical or specialty licenses, for each work class for which prequalification is sought. Those firms seeking qualification for electrical work (classes 9 and 16) must provide photocopies of current Washington state electrical licenses. The skills and experience must be substantiated by education and practical experience on completed construction projects.

(c) "Its own organization" shall be construed to include only the contractor's permanent, full time employed office and site supervisory personnel as shown on the most recently submitted or amended prequalification questionnaire. Workers of the organization shall be employed and paid directly by the prime contractor. The term "its own organization," shall also include the equipment owned or rented by the contractor with or without equipment operators. Such term does not include employees or equipment of another contractor, subcontractor, assignee, or agent of the applicant contractor although they are placed on the applicant contractor's payroll.

(8) A financial statement.

For a firm showing a net worth in excess of one hundred thousand dollars, the applicant must provide, with the ques-

tionnaire, a copy of its financial statement as audited or reviewed for its last fiscal year, prepared in accordance with the standards of the American Institute of Certified Public Accountants. The statement must be prepared by an independent certified public accountant registered and licensed under the laws of any state. Balance sheets, income statements, a statement of retained earnings, supporting schedules and notes, and the opinion of the independent auditor must accompany the financial statement.

(9) A wholly owned subsidiary firm may file the latest consolidated financial statement of its parent corporation in lieu of a financial statement prepared solely for the subsidiary. When a consolidated financial statement is submitted, the requirements of subsection (8) of this section and WAC 468-16-140 (2)(b) must be fulfilled.

(10) The applicant shall list the following occurrences within the previous three years:

(a) Instances of having been denied qualification, or a license, or instances of having been deemed other than responsible by any public agency.

(b) Convictions for felonies listed in WAC 468-16-050.

(c) Failure to complete a contract.

(11) The standard questionnaire shall be processed as follows:

(a) The application for qualification shall be prepared on a standard questionnaire provided by the department and sworn to before a notary public or other person authorized to take oaths.

(b) A standard questionnaire will be reviewed and a written notice provided to the applicant, within thirty days of its receipt, stating whether the applicant has been prequalified or qualification has been denied. The applicant will be advised of lack of receipt of data corroborating project completion and errors or omissions in the questionnaire and a request made for additional information necessary to complete evaluation of the applicant. If the information is not provided within twenty calendar days of the request, the application will be processed, if possible, with the information available or it will be returned to the applicant without further action.

(c) When qualification is denied, the applicant shall be advised in writing by certified mail (return receipt requested) of the reasons for the denial and of the right to a hearing upon written request.

(d) Applicants not satisfied with the qualification granted may request in writing, a review of their questionnaire and qualification ratings. The request must be filed within thirty calendar days of the date of receipt of the notice of qualification and must specifically state the basis for the request.

(e) The secretary or designee shall advise the applicant of his or her decision on the reconsideration within thirty calendar days of receipt of the request.

(12) Criteria for initial qualification, renewal, and submission of supplemental data:

(a) Qualification may be established in any calendar quarter and must be renewed annually. Information submitted in the questionnaire will be used as a basis for the contractor's initial prequalification, work class ratings, and maximum capacity ratings. Qualification will be valid for the remainder of the applicant's fiscal year plus two calendar quarters as established by the date of the year-end financial

statement. Prequalification will be renewed annually thereafter or at other times as designated by the department.

(b) A standard questionnaire from a contractor, not previously qualified under this chapter, must have been received no less than fifteen calendar days and prequalification must be granted by the department prior to the scheduled bid opening to receive consideration for issuance of a bidding proposal for that bid opening unless the contract is under one hundred thousand dollars, in which case the department may waive the fifteen-day requirement.

(c) The department may, during the period for which the contractor has been prequalified, require the submission of a new standard questionnaire. If the questionnaire is not provided within thirty calendar days of the date of request, the notice of qualification held by the contractor will be declared invalid and the contractor will not be permitted to bid with the department until the contractor is again prequalified.

(d) A supplemental questionnaire shall be submitted when a significant change in the structure of the firm occurs, e.g., incorporation, officers, ownership, etc., or when required by the department.

(e) If prequalification has lapsed for more than six months, the applicant will again be required to submit a fully executed standard questionnaire and financial statement.

(f) The applicant shall authorize the department to request and receive such additional information from any sources deemed necessary for the completion of the qualification process.

(g) Inquiries will be made and investigations, if necessary, will be conducted to verify the applicant's statements and to determine eligibility for qualification.

(h) The department may, upon request, require a list of all major items of equipment used to perform those classes of work for which prequalification is sought. The description, quantity, condition, present location, and age of such equipment must be shown. The schedule must show whether the equipment is owned, leased, or rented.

(i) The department may require a personal interview with a principal or principals of the contracting firm when considering its qualification.

(j) Qualified contractors in good standing shall be notified of impending expiration of their qualification and will be provided the necessary questionnaire forms for renewal at least forty-five days before the expiration date.

(13) Financial information supplied by, or on behalf of, a contractor for the purpose of qualification under RCW 47.28.070 shall not be made available for public inspection and copying, pursuant to RCW 42.56.270. The foregoing restriction shall not prohibit the department's providing such information in evidence or in pretrial discovery in any court action or administrative hearing involving the department and a contractor. Insofar as permitted by public disclosure statutes, qualification ratings shall be treated as confidential information.

(14) Qualified contractors will be provided with notices which list projects currently being advertised.

[Statutory Authority: RCW 47.01.101, 47.28.030, and 47.28.070. WSR 15-01-170, § 468-16-090, filed 12/23/14, effective 1/23/15; WSR 97-09-045 (Order 168), § 468-16-090, filed 4/15/97, effective 5/16/97; WSR 94-05-004, § 468-16-090, filed 2/2/94, effective 3/5/94; WSR 93-03-020 (Order 134), § 468-16-090, filed 1/12/93, effective 2/12/93; WSR 91-04-014 (Order 128), § 468-16-090, filed 1/28/91, effective 2/28/91.]

**WAC 468-16-100 Conditional qualification.** (1) A firm may be conditionally qualified when it has been given a below standard (less than 100) performance rating on a final performance report. A firm may also be qualified conditionally by the secretary when performance has become below standard in either "quality of work" or "progress of work" on an interim report for a current project. The region administrator or designated assistant may, under the foregoing condition, request in writing that a contractor be placed in conditional status. A conditionally qualified contractor will be denied bidding proposals while in that status but may receive, at the discretion of the secretary, a bidding proposal for one project.

(2) The assistant secretary for field operations support shall advise the contractor and the region administrator or designated assistant when a contractor has been placed in conditional status.

(3) Should the contractor be the low successful bidder and be awarded a contract subsequent to being placed in conditional status, the issuance of further bidding proposals will be considered only when an interim report is submitted in accordance with WAC 468-16-160 or when a final performance report is submitted in accordance with WAC 468-16-150(12) and the rating thereon is standard or better.

(4) Normally a contractor may have only one active prime contract for the department while qualified conditionally.

(5) Return to fully qualified status of a conditionally qualified contractor will be effected by:

(a) A performance rating of standard or above on contracts completed during the current prequalification year; or

(b) An interim rating of standard or above on all concurrent contracts; or

(c) A standard or above rating on the first interim report for a project awarded subsequent to conditional qualification.

(6) Should the rating continue to be less than standard, the contractor's prequalification will be suspended in accordance with WAC 468-16-180.

[Statutory Authority: RCW 47.01.101, 47.28.030, and 47.28.070. WSR 00-14-055, § 468-16-100, filed 7/3/00, effective 8/3/00; WSR 97-09-045 (Order 168), § 468-16-100, filed 4/15/97, effective 5/16/97; WSR 93-03-020 (Order 134), § 468-16-100, filed 1/12/93, effective 2/12/93; WSR 91-04-014 (Order 128), § 468-16-100, filed 1/28/91, effective 2/28/91.]

**WAC 468-16-110 Joint ventures.** (1) Joint ventures are prequalified under two categories as follows:

(a) Individual project joint venture - An association of two or more firms formed for the specific purpose of submitting a bid on a specific project.

(i) All firms must be individually prequalified with the contracting agency. The joint venture must have the experience to perform a percentage of the total work (by work class) as specified in the current issue of the *Standard Specifications*. When both firms have experience in the same work class, the higher of the two amounts will be used to determine if the joint venture meets the experience requirements. The maximum bidding capacities of the firms shall be added together, increasing the size of the contract that the joint venture may bid on.

(ii) The firms must file an "individual project statement of joint venture" and a joint venture agreement in the formats prescribed.

(iii) Individual project joint ventures must maintain a standard or higher performance. Should the individual project joint venture receive a less than standard rating, the provisions of WAC 468-16-100 shall apply.

(b) Continuing joint venture - An association of two or more firms formed for the purpose of submitting bids for projects to be advertised over a period of time.

(i) All firms must be individually prequalified with the contracting agency. The joint venture must have the experience to perform a percentage of the total work (by work class) as specified in the current issue of the *Standard Specifications*. When both firms have experience in the same work class, the higher of the two amounts will be used to determine if the joint venture meets the experience requirements. The maximum bidding capacities of the firms shall be added together, increasing the size of the contract that the joint venture may bid on.

(ii) The firms must file a "statement of continuing joint venture."

(iii) Continuing joint ventures must maintain a standard or higher performance rating in order to remain qualified.

(iv) A rating of less than standard will cause the joint venture to be placed in conditional qualification status.

(2) A standard questionnaire and financial statement for each member, if not on file, and a standard questionnaire and financial statement designating the assets and liabilities of the venture shall be submitted for the joint venture with a copy of the joint venture agreement. The agreement shall specify the name under which the joint venture will operate and the names of those individuals authorized to sign proposals, contracts, and other documents on behalf of the joint venture. It shall contain provisions which will unequivocally bind the parties, jointly and severally, to any contract entered into thereunder.

[Statutory Authority: RCW 47.01.101, 47.28.030, and 47.28.070. WSR 15-01-170, § 468-16-110, filed 12/23/14, effective 1/23/15; WSR 94-05-004, § 468-16-110, filed 2/2/94, effective 3/5/94; WSR 91-04-014 (Order 128), § 468-16-110, filed 1/28/91, effective 2/28/91.]

**WAC 468-16-120 Work class ratings.** (1) Qualification shall be granted a contractor in one or more classes of work in which the firm has shown the capability to satisfactorily perform with its own forces under its own immediate supervision.

(2) The department's project estimate shall be the only estimate used to determine the value of the various classes of work within a project for determining a contractor's eligibility to bid that specific project. The contractor will be required to perform a specified percentage of the total work as provided for in the current issue of the *Standard Specifications*.

(3) Contractors will be given work class ratings on the basis of their financial status, performance record, previous experience, organization, and condition and suitability of equipment.

(4) When it has been determined that adequate competition cannot be afforded as a result of either the lack of prequalified bidders, or the lack of applicants for qualification with sufficient experience in the work class required, the

department may take in consideration the firm's experience in performing other related work in order to create competition providing that:

(a) The work class does not require a specialty license.

(b) The firm seeking the work class is deemed qualified in another work class under chapter 468-16 WAC.

(c) The firm seeking such work meets all other requirements prescribed under this chapter including the availability of the necessary equipment for the project being let.

(5) Data provided by project owners, other than the department, to inquiries made concerning new applicants seeking qualification, shall be used to determine initial work class ratings and maximum capacity ratings. Initial work class ratings for new applicants and those of firms which have not renewed their qualification within two years, will be based on performance data provided by agencies or organizations having previously employed the applicant. Such other data as the department may have on file may also be used. Work submitted by the new contractor and verified by the department will be given an initial work class rating equal to 2.5 times the highest value of the work the contractor has completed within that work class during the past three years. If a specific portion of a work class is performed by the contractor, the prequalification for that class will be limited to that portion of the work.

(6) Work reported as less than satisfactory will not be accepted for qualification purposes, but may be included with performance reports in determining the status of the contractor's prequalification.

(7) Work class ratings previously granted will not be reduced providing the contractor has maintained a standard performance record on department work and the contractor continues to submit the required questionnaire annually. Should a significant reduction of resources occur, the contractor's work class ratings may be modified or reduced to an amount within the contractor's current capacity.

(8) A contractor's work class ratings will be reviewed annually effective on the date the renewal questionnaire has been received. Work class ratings for those contractors renewing prequalification will be reviewed for increases, decreases, and additional work classes not previously granted. In determining the annual status of the contractor's work class ratings, prime work completed for the department and the performance rating given for that work shall be weighted more heavily than work completed for other agencies.

(9) Work class ratings shall be computed by multiplying the highest value of the work class completed satisfactorily during the preceding prequalification year by a factor of 2.5 provided that the currently established work class rating is not higher. In that event, the currently established work class shall become the work class rating for the ensuing qualification year. Work class ratings will not change if the contractor has not performed in that work class during the prequalification year.

[Statutory Authority: RCW 47.01.101, 47.28.030 and 47.28.070. WSR 97-09-045 (Order 168), § 468-16-120, filed 4/15/97, effective 5/16/97; WSR 94-05-004, § 468-16-120, filed 2/2/94, effective 3/5/94; WSR 93-03-020 (Order 134), § 468-16-120, filed 1/12/93, effective 2/12/93; WSR 91-04-014 (Order 128), § 468-16-120, filed 1/28/91, effective 2/28/91.]

**WAC 468-16-130 Prequalification work classes.** A contractor seeking prequalification under this chapter will be classified for one or more of the following listed work classes in accordance with the adequacy of the firm's equipment and plant facilities and its demonstrated ability to perform the work class sought.

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|----------|---|
| Class 1  | <b>Clearing, grubbing, grading and draining</b><br>Removal of tree stumps, shrubs, modification of the ground surface by cuts and fills, excavating of earth materials, placement of drainage structures, and construction of structural earth walls. |
| Class 2  | <b>Production and placing of crushed materials</b><br>Production and placing crushed surfacing materials and gravel.  |
| Class 3  | <b>Bituminous surface treatment</b><br>Placing of crushed materials with asphaltic application.   |
| Class 4  | <b>Asphalt concrete paving</b><br>Production and placing Asphalt Concrete Plant Mix Pavement.   |
| Class 5  | <b>Cement concrete paving</b><br>Production and placing cement concrete pavement.   |
| Class 6  | <b>Bridges and structures</b><br>Construction of bridges and other major structures of timber, steel, and concrete.   |
| Class 7  | <b>Buildings</b><br>Construction of buildings and related structures and major reconstruction and remodeling of such buildings.   |
| Class 8  | <b>Painting</b><br>Painting bridges, buildings, and related structures.   |
| Class 9  | <b>Traffic signals</b><br>Installation of traffic signal and control systems.   |
| Class 10 | <b>Structural tile cleaning</b><br>Cleaning tunnels, large buildings and structures and storage tanks.  |
| Class 11 | <b>Guardrail</b><br>Construction of a rail secured to uprights and erected as a barrier between, or beside lanes of a highway.  |
| Class 12 | <b>Pavement marking (excluding painting)</b><br>Thermoplastic markings, stripes, bars, symbols, etc. Traffic buttons, lane markers, guide posts.  |

Class 13	<b>Demolition</b> Removal of timber, steel, and concrete structures and obstructions.	Class 26	<b>Not used</b>
Class 14	<b>Drilling and blasting</b> Controlled blasting of rock and obstructions by means of explosives.	Class 27	<b>Signing</b> Sign structures and sign foundations.
Class 15	<b>Sewers and water mains</b> Draining, pipe jacking, water systems, pumping stations, storm drainage systems, sewer rehabilitation, sewage pumping stations, pressurized lines.	Class 28	<b>Drilled large diameter slurry shafts</b> Drilled shafts 4' diameter or larger and greater than 15' deep when excavation is performed utilizing the wet method and concrete is placed by tremie methods under slurry.
Class 16	<b>Illumination and general electrical</b> Highway illumination, navigational lighting, wiring, junction boxes, conduit installation.	Class 29	<b>Slurry diaphragm and cut-off walls</b> Slurry excavation and the construction of structural concrete walls and slurry cut-off walls.
Class 17	<b>Cement concrete curb and gutter</b> Sidewalks, spillways, driveways, monument cases and covers, right of way markers, traffic curbs, and gutters.	Class 30	<b>Surveying</b> Highway construction surveying.
Class 18	<b>Asphalt concrete curb and gutter</b> Sidewalks, spillways, driveways, monument cases and covers, right of way markers, traffic curbs, and gutters.	Class 31	<b>Water distribution and irrigation</b> Irrigation systems and heavy duty water distribution.
Class 19	<b>Riprap and rock walls</b> Mortar, rubble, and masonry walls; rock retaining walls, and placing of large broken stone on earth surfaces for protection against the action of water.	Class 32	<b>Landscaping</b> Landscape irrigation, planting, sodding, seeding, fertilizing, mulching, herbicide application, insecticide application, weed control, mowing, liming, soil binder, topsoil.
Class 20	<b>Concrete structures except bridges</b> Cast-in-place median barrier, prestressing, post-tensioned structures, footings, prefabricated panels and walls, retaining walls, and ramps, foundations, rock bolts, and concrete slope protection.	Class 33	<b>Engineering</b> Work other than surveying, including engineering calculations, drawing and other related work for highway construction.
Class 21	<b>Tunnels and shaft excavation</b> Tunnel excavation, rock tunneling, and soft bore tunneling.	Class 34	<b>Erosion control</b> Seeding, fertilizing, mulching, slope protection, topsoil application, hydro-seeding, soil stabilization, soil sampling.
Class 22	<b>Piledriving</b> Driving concrete, steel, and timber piles.	Class 35	<b>Precast median barrier</b> A concrete barrier that is cast and cured in other than its final position used to divide the median of two adjacent highways or temporarily placed to divert traffic in construction zones.
Class 23	<b>Concrete surface finishes</b> Architectural concrete surface finishes (fractured fin, random board, exposed aggregate, etc.). Waterproofing concrete surfaces (clear or pigmented sealer).	Class 36	<b>Earth retention and anchoring</b> Installation of permanent soil nails, soldier piles, timber lagging and micropiles. Soldier pile tie-back anchor wall construction.
Class 24	<b>Fencing</b> Wire and metal fencing, glare screens.	Class 37	<b>Impact attenuators</b> Installation of approved protective systems filled with sand, water, foam, or other substances which prevent errant vehicles from impacting roadside hazards.
Class 25	<b>Bridge deck repair</b> Bridge expansion joint repair and modification, bridge deck resurfacing and repair, deck seal.	Class 38	<b>Paint striping</b> Painted bars, letters, symbols, and striping.

- Class 39 Slope protection**  
The installation of a zinc coated steel wire mesh anchored by wire rope and reinforced concrete posts or anchor rods. Used for dampening the effects of rolling rocks onto the highway. Slope scaling, horizontal drains, rock dowels, and rock bolts for slope stabilization.
- Class 40 Gabion and gabion construction**  
Construction of walls made with containers of galvanized steel hexagonal wire mesh and filled with stone.
- Class 41 Intelligent transportation systems (ITS)**  
Traffic sensors systems, highway advisory radios, environmental sensing stations, variable message signs, nonfiber optic based closed circuit television, and video systems.
- Class 42 Electronics - Fiber optic based communications systems**  
Design and installation of fiber optic based communication systems.
- Class 43 Mechanical**  
Plumbing work and the installation of heating or air conditioning units.
- Class 44 Asbestos abatement**  
Asbestos abatement (L & I certified workers).
- Class 45 Hazardous waste removal**  
The containment, cleanup, and disposal of toxic materials. Companies seeking this classification shall have full-time personnel with current hazardous waste training (certifications).
- Class 46 Concrete restoration**  
Pavement subseal, cement concrete repair, epoxy coatings, epoxy repair, masonry repair, masonry cleaning, special coatings, epoxy injection, gunite, shotcrete grouting, pavement jacking, gunite repair, and pressure grouting.
- Class 47 Concrete sawing, coring, and grooving**  
Concrete sawing, concrete planing, grinding, grooving, bump grinding, joint repair, concrete coring and rumble strips.
- Class 48 Dredging**  
Excavating underwater materials.
- Class 49 Marine work**  
Underwater surveillance, testing, repair, sub-aquatic construction, anchors, and cable replacement, floating concrete pontoon repairs and modifications, disassembly and assembly of floating concrete pontoons.
- Class 50 Ground modification**  
Pressure grouting, blast densification, stone column, jet grouting, compaction, dynamic compaction, soil mixing, gravel drain.
- Class 51 Well drilling**  
Drilling wells, installing pipe casing and pumping stations.
- Class 52 Sewage disposal**  
Hauling and disposing liquid and solid wastes.
- Class 53 Traffic control**  
Providing piloted traffic control, traffic control labor, and maintenance and protection of traffic.
- Class 54 Railroad construction**  
Construction of railroad subgrade, placing of ballast, ties, and track and other items related to railroad work.
- Class 55 Steel fabrication**  
Welding of steel members, heat straightening steel.
- Class 56 Street cleaning**  
Street sweeping with self-propelled sweeping equipment.
- Class 57 Materials transporting**  
Truck hauling.
- Class 58 Sand blasting and steam cleaning**  
Steam cleaning, sand blasting, shot blasting, and water blasting.

[Statutory Authority: RCW 47.01.101, 47.28.030, and 47.28.070. WSR 15-01-170, § 468-16-130, filed 12/23/14, effective 1/23/15; WSR 97-09-045 (Order 168), § 468-16-130, filed 4/15/97, effective 5/16/97; WSR 94-05-004, § 468-16-130, filed 2/2/94, effective 3/5/94; WSR 93-03-020 (Order 134), § 468-16-130, filed 1/12/93, effective 2/12/93; WSR 91-04-014 (Order 128), § 468-16-130, filed 1/28/91, effective 2/28/91.]

**WAC 468-16-140 Maximum capacity rating.** (1) The maximum capacity rating shall be determined by multiplying the contractor's reported net worth by a factor of 5.0. The factor may be increased at a rate of 0.5 annually, provided the contractor has maintained a satisfactory performance record with the department and has completed a contract of fifty thousand dollars or more within the preceding prequalification year. The maximum factor shall be 7.5. The department may at any time decrease the rating factor if the contractor's performance becomes less than standard, however no decrease in the bidding capacity will become effective until action to appeal, as specified in these rules, has been completed.

(2) For the purpose of prequalification and establishing the maximum capacity rating, the following additional resources may be added to net worth if supported with documentation as specified:

(a) An operating line of credit - Documentation from an acceptable financial institution stating the amount of credit

authorized, its expiration date, and the amount currently available. The document must be authenticated by an official authorized to execute lines of credit on behalf of the institution. Should the operating line of credit be revoked, it shall be deducted before computing a new annual maximum capacity rating.

(b) A parent firm guarantee of net worth - A sworn statement from the parent firm that guarantees the performance of the subsidiary for any contracts awarded it. The document shall include a parent firm guarantee in an amount such that when calculated in subsection (1) of this section will not be less than the value of uncompleted contracts of the subsidiary. An audited financial statement, as prescribed in WAC 468-16-090(9), may be requested from the parent firm when deemed appropriate.

(3) Resources listed above will not be accepted in lieu of a minimum net worth of fifty thousand dollars.

(4) For the purpose of prequalification and establishing the maximum capacity rating, a bidding company which has established a leveraged ESOP (Employee Stock Ownership Plan) may use, in place of its net worth, the lesser of:

(a) The company's net worth, as adjusted by eliminating any contra-equity or unearned compensation entry in the net worth section of the balance sheet which is directly related to the ESOP loan; or

(b) The company value as established by the company's most recent valuation for ESOP purposes provided the valuation was performed within the last twelve months which meets federal guidelines for ESOP-related valuations. The department may require submission of a copy of this valuation report for documentation purposes.

(5) When the value of a firm's uncompleted work for the department exceeds its maximum capacity rating, a bidding proposal shall be denied that firm.

[Statutory Authority: RCW 47.01.101, 47.28.030, and 47.28.070. WSR 15-01-170, § 468-16-140, filed 12/23/14, effective 1/23/15; WSR 97-09-045 (Order 168), § 468-16-140, filed 4/15/97, effective 5/16/97; WSR 93-03-020 (Order 134), § 468-16-140, filed 1/12/93, effective 2/12/93; WSR 91-04-014 (Order 128), § 468-16-140, filed 1/28/91, effective 2/28/91.]

**WAC 468-16-150 Prime contractor performance reports.** (1) Performance reports described in this section, substantially in the format as that appearing at WAC 468-16-210, will be completed for prime contractors only for projects valued at one hundred thousand dollars or more. Each prime contractor's performance report will be classified as to the primary work class being rated. This shall be stated in Section I of the report by listing the major classes of work performed by the contractor e.g., clearing, grading, surfacing, etc.

(2) Performance will be rated under the following headings: Administration, management, and supervision; quality of work; progress of work; and compliance with laws and contract requirements.

(3) The following adjectival ratings are established for performance reports:

(a) Superior	131-150
(b) Above standard	101-130
(c) Standard	100

(12/23/14)

(d) Below standard	70-99
(e) Inadequate	50-69

(4) The performance report shall be used in evaluating a contractor's prequalification status.

(5) The report shall contain a narrative section which verbally provides the details substantiating the numerical rating. The narrative section shall be based upon documentation prepared during the life of the project, such as the project engineer's diary, the inspector's daily report and other pertinent documents. This documentation shall constitute the major portion of the administrative record to be used for any hearings or litigation that may arise from the rating process.

(6) The performance report will be prepared and discussion held with the contractor by the project engineer. The report will include a numerical rating substantiated by a narrative report which describes the contractor's typical performance. The narrative will reference such documents as will substantiate the given numerical rating.

(7) The report will be endorsed by the region operations engineer or designated assistant who will provide a copy to the contractor.

(8) The contractor may appeal the rating to the region administrator in writing within twenty calendar days of the date the report is received by the contractor. If the report is not delivered to the contractor in person, it shall be forwarded by certified mail with a return receipt requested. The appeal must set forth the specific basis upon which it has been made.

(9) The region administrator or designated assistant will review all contractor performance reports after they have been endorsed and may modify the numerical or narrative rating if such is deemed appropriate. The contractor will be advised of any changes made. The region administrator will be required to make comments thereon only when the contractor's overall performance rating has been rated inadequate, below standard, or superior.

(10) Performance reports, when completed at region level, will be submitted to the secretary, Attn: Manager, contractor prequalification office, not later than forty-five calendar days following final completion of the project.

(11) The region administrator or designated assistant shall review the appeal and provide a written response to the contractor by certified mail (return receipt requested) within twenty calendar days of its receipt. A copy of the appeal and the response thereto will be forwarded to the secretary, Attn: Contract advertisements and award office.

(12) The contractor may further appeal to the secretary in writing setting forth the specific basis for the appeal. The contractor's appeal shall be made within ten calendar days of the date of receipt of the region administrator's response. When making an appeal, the contractor may also present information in person. The secretary will consider the appeal and respond to it by certified mail within sixty calendar days of its receipt. This determination shall be the final administrative act of the department.

(13) All prime contractor performance reports shall be reviewed by the office of the secretary for completeness, objectivity, and substantiation of numerical ratings. The secretary may modify the report as deemed appropriate as a result of the review. The rated contractor and region administrator shall be given a copy of the modified report. The con-

tractor may appeal the modified report in the manner and within the time allotted in subsection (12) of this section to which the secretary shall respond as cited therein.

(14) A prime contractor performance report shall be considered a preliminary paper until all reviews and appeals have been accomplished and it shall have been stamped and initialed as having been "filed in the office of the secretary."

(15) DOT Form 421-010 is authorized.

[Statutory Authority: RCW 47.01.101, 47.28.030, and 47.28.070. WSR 15-01-170, § 468-16-150, filed 12/23/14, effective 1/23/15; WSR 00-14-055, § 468-16-150, filed 7/3/00, effective 8/3/00; WSR 97-09-045 (Order 168), § 468-16-150, filed 4/15/97, effective 5/16/97; WSR 94-05-004, § 468-16-150, filed 2/2/94, effective 3/5/94; WSR 93-03-020 (Order 134), § 468-16-150, filed 1/12/93, effective 2/12/93; WSR 91-04-014 (Order 128), § 468-16-150, filed 1/28/91, effective 2/28/91.]

**WAC 468-16-160 Interim reports.** (1) Interim performance reports will be completed for contracts of long duration, particularly those in excess of one year and submitted to the contract advertisement and award office. They will be completed annually on the anniversary of the start date of the contract. An interim report will also be completed when a contractor's total, overall work has become less than standard and the firm has been advised in writing of such performance. An interim report may never cover a period of more than one year. The report will be used by the secretary as a basis for determining whether a contractor will be placed in conditional status.

(2) In the case of a conditionally qualified firm, an interim report shall be submitted at sixty calendar day intervals for the project being undertaken by that firm subsequent to its being placed in conditional status. When a contractor's overall performance has not been brought up to standard after two consecutive interim reports have been prepared, no further interim reports shall be made except at the written request of the contractor. The date of the report will be the date of the contractor's request.

(3) The project engineer shall submit an interim report when it becomes evident that he or she will no longer be involved in the project, providing that project has been in progress for twenty-five percent of the working days assigned the project or ninety working days whichever is less.

(4) Interim performance reports will supplement and will be made a part of the final performance report.

(5) The procedures specified in WAC 468-16-150 (5) through (14) are also applicable to the processing of the interim performance report.

(6) DOT Form 421-010 is authorized.

[Statutory Authority: RCW 47.01.101, 47.28.030, and 47.28.070. WSR 15-01-170, § 468-16-160, filed 12/23/14, effective 1/23/15; WSR 97-09-045 (Order 168), § 468-16-160, filed 4/15/97, effective 5/16/97; WSR 94-05-004, § 468-16-160, filed 2/2/94, effective 3/5/94; WSR 93-03-020 (Order 134), § 468-16-160, filed 1/12/93, effective 2/12/93; WSR 91-04-014 (Order 128), § 468-16-160, filed 1/28/91, effective 2/28/91.]

**WAC 468-16-170 Refusal to issue proposal.** The secretary may refuse to issue a proposal for reasons as enumerated in WAC 468-16-040 through 468-16-070, inclusive. Refusal to issue a proposal may continue in effect until the cause for the refusal has been eliminated. One or more of the following additional conditions may be considered sufficient for refusal to issue a proposal:

(1) The value of outstanding work plus the contract total of the work proposed to be bid exceeds the contractor's maximum capacity rating.

(2) Being placed in conditional status.

(3) Making false, fraudulent, or deceptive statements on the standard questionnaire, related documents, or documents prepared in the course of prosecuting the work.

(4) Debarment or suspension from participation in federal or state projects.

(5) Expiration of qualification.

(6) Failure to update the latest questionnaire to fairly represent the contractor's current organization and financial status.

(7) Bankruptcy.

(8) The existence of any conditions described in WAC 468-16-040 through 468-16-070 inclusive.

[Statutory Authority: RCW 47.01.101, 47.28.030 and 47.28.070. WSR 97-09-045 (Order 168), § 468-16-170, filed 4/15/97, effective 5/16/97; WSR 93-03-020 (Order 134), § 468-16-170, filed 1/12/93, effective 2/12/93; WSR 91-04-014 (Order 128), § 468-16-170, filed 1/28/91, effective 2/28/91.]

**WAC 468-16-180 Suspension of qualification.** (1) A suspension may be ordered for cause or for a period pending the completion of investigation and any ensuing legal action for revocation of qualification.

(2) The secretary may, upon determination from reports, other documents, or through investigation that cause exists to suspend the qualification of a contractor, impose suspension upon a contractor.

(3) The secretary may suspend qualification for:

(a) Incompetency found detrimental to timely project completion or to the safety of the public or employees.

(b) Inadequate performance on one or more projects.

(c) Infractions of rules, regulations, specifications, and instructions which may adversely affect public health, welfare, and safety.

(d) Uncompleted work which might prevent the prompt completion of other work.

(e) A finding of noncompliance and refusal to agree to take corrective action, and/or failure to implement agreed upon corrective action to comply with equal employment opportunity, women's, minority and disadvantaged business enterprise requirements or state apprentice utilization requirements.

(f) Repeated findings of noncompliance (two or more) with equal employment opportunity, women's, minority, and disadvantaged business enterprise requirements or state apprentice utilization requirements.

(g) Debarment or suspension from participation in federal or state projects.

(h) Pending completion of debarment proceedings in federal or state projects.

(4) The periods of suspension for acts or deficiencies enumerated above are as follows:

(a) For subsection (3)(a) and (e) of this section - Three months.

(b) For subsection (3)(b), (c), (d), and (f) of this section - Six months.

(c) For subsection (3)(g) of this section - For duration of debarment or suspension by the federal or other state agency.

(d) For subsection (3)(h) of this section - Until a determination is made by the federal or other state agency.

(5) The secretary may reduce the period of suspension upon the contractor's supported request for reasons including, but not limited to:

- (a) Newly discovered evidence;
- (b) Elimination of causes for which the suspension was imposed.

[Statutory Authority: RCW 47.01.101, 47.28.030, and 47.28.070. WSR 15-01-170, § 468-16-180, filed 12/23/14, effective 1/23/15; WSR 97-09-045 (Order 168), § 468-16-180, filed 4/15/97, effective 5/16/97; WSR 94-05-004, § 468-16-180, filed 2/2/94, effective 3/5/94; WSR 93-03-020 (Order 134), § 468-16-180, filed 1/12/93, effective 2/12/93; WSR 91-04-014 (Order 128), § 468-16-180, filed 1/28/91, effective 2/28/91.]

**WAC 468-16-190 Revocation of qualification.** (1) The secretary, upon determination from reports, other documents, or investigation that cause exists to revoke the qualification of a contractor, may revoke the contractor's qualifications for a maximum period of two years.

(2) The secretary may revoke the qualification of a contractor upon a plea by the firm of nolo contendere, conviction, judgment, or admission for any of the following causes:

(a) Existence of any condition cited in WAC 468-16-050.

(b) Intentional falsification with intent to defraud or unauthorized destruction of project related records.

(3) Revocation of qualification may also be imposed for the following reasons:

(a) Default on a contract within three years prior to the date of application for qualification.

(b) Bankruptcy or insolvency.

(c) Breach of contract.

(d) Having been suspended two or more times within a two-year period.

(4) When qualification has been revoked, a contractor shall be required to reapply for qualification upon again reaching eligibility status.

(5) Revocation of qualification shall be final after twenty calendar days following receipt of notification thereof by certified mail unless a hearing has been requested.

(6) The secretary may reverse the decision to revoke qualifications upon the contractor's supported request for reasons including, but not limited to:

(a) Newly discovered evidence;

(b) Reversal of the conviction or judgment upon which the revocation was based; and

(c) Elimination of causes for which the revocation was imposed.

[Statutory Authority: RCW 47.01.101, 47.28.030 and 47.28.070. WSR 93-03-020 (Order 134), § 468-16-190, filed 1/12/93, effective 2/12/93; WSR 91-04-014 (Order 128), § 468-16-190, filed 1/28/91, effective 2/28/91.]

**WAC 468-16-200 Hearings procedure.** (1) A contracting firm which has been notified by the secretary that the department is contemplating suspending or revoking its qualification, may request in writing within twenty calendar days of the date of notification by certified mail, that a hearing be conducted. Unless the department is otherwise prohibited from contracting with the contractor, the suspension or revocation shall not become effective until the final decision of the secretary has been rendered. The hearing shall be con-

ducted in accordance with the procedure set forth in this section.

(2) The secretary shall designate a hearing official to conduct any hearing held under this chapter. The hearing official shall furnish written notice by certified mail of a hearing to the contractor and any named affiliates at least twenty calendar days before the effective date of suspension or revocation of qualifications. The notice shall state:

(a) That suspension or revocation of qualification is being considered.

(b) The effective date of the proposed action.

(c) The facts giving cause for the proposed action.

(d) The cause or causes relied upon for proposing the action, i.e., fraud, statutory violations, etc.

(e) If suspension is proposed, the duration of the suspension.

(f) That the contractor may, within twenty calendar days of receipt of the notice, submit to the hearing official by certified mail, return receipt requested, information and argument in opposition to or in clarification of the proposed action.

(g) When the action is based on a conviction, judgment, or admission, fact-finding shall be conducted if the hearing official determines that the contractor's submission raises a genuine dispute over material facts upon which the suspension or revocation is based or whether the causes relied upon for proposing suspension or revocation exist.

(h) The time, place, and date of the hearing.

(i) The name and mailing address of the hearing official.

(j) That proposals shall not be issued nor contracts awarded to the contractor subsequent to the dispatch of the notice of hearing pending the final decision of the secretary.

(3) The hearing official may extend the date of any hearing upon request of the contractor, but the hearing shall not be extended beyond forty-five calendar days from the date of the notice of the hearing. The hearing official shall schedule and conduct the hearing within thirty calendar days of the date of the notice, except when an extension is granted as provided in this subsection.

(4) In the course of the hearing, the hearing official shall:

(a) Regulate the course and scheduling of the hearings;

(b) Rule on offers of proof, receipt of relevant evidence, and acceptance of proof and evidence as part of the record;

(c) Take action necessary to insure an orderly hearing; and

(d) At the conclusion of the hearing, issue written findings of fact and recommended administrative action to the secretary. The hearing officer shall deliver the entire record to the secretary.

(5) The contractor shall have the opportunity to be present and appear with counsel, submit evidence, present witnesses, and cross-examine all witnesses. A transcribed or taped record shall be made of the hearing unless the secretary and the contractor waive the transcript or taping requirement. The transcript or tape shall be made available, at cost, to the contractor and all named affiliates upon request.

In actions where it has been established by conviction, judgment or admission, or where it has been established by findings made in accordance with this chapter, that the named contractor has engaged in conduct described in WAC 468-16-050 and the sole issue before the hearing official is the

appropriateness of revocation of qualification or the length of suspension of qualification to be recommended to the secretary, prior judicial or administrative decision or findings shall not be subject to collateral attack.

The secretary, after receiving the record, findings of fact, and recommendations of the hearing official shall determine the administrative action to be taken. The secretary shall notify the contractor of his determination in writing.

Upon denial, suspension or revocation of prequalification, the respondent may appeal therefrom to the superior court of Thurston County pursuant to RCW 47.28.070. If the appeal is not made within the time prescribed in that statute, the department's action shall be conclusive.

[Statutory Authority: RCW 47.01.101, 47.28.030, and 47.28.070. WSR 15-01-170, § 468-16-200, filed 12/23/14, effective 1/23/15; WSR 93-03-020 (Order 134), § 468-16-200, filed 1/12/93, effective 2/12/93; WSR 91-04-014 (Order 128), § 468-16-200, filed 1/28/91, effective 2/28/91.]

**WAC 468-16-210 Prime contractor performance report.** (1) The evaluation of contractor performance shall be made on a form substantially in the format as illustrated herein.

(2) A *Prime Contractor Performance Report Manual* provides detailed instructions for preparation of the prime contractor performance report.

## Prime Contractor Performance Report Instructions

The Prime Contractor Performance Report, DOT Form 421-010, consists of two parts — page 1 and page 2. Page 1 consists of Sections I, II, and III. Page 2 consists of Sections IV and V.

### Section I CONTRACTOR DATA

This section denotes the type report being submitted and provides data relating to the contracting firm, its status and supervisors. Interim reports must be submitted annually on the anniversary of the project start date for all projects exceeding a duration of one year.

### Section II PROJECT DATA

This section provides basic project data to assist those reviewing or otherwise using the report to place this evaluation in proper perspective with regard to project size, costs, complexity, and completion time. Under Work Class Performed by Contractor, list that work using the general headings in the description of project documents (e.g., preparation, grading, structure, asphalt concrete paving, etc.)

### Section III NUMERICAL RATING

This section contains the four weighted rating areas of (A) Administration/Management and Supervision, (Q) Quality of Work, (P) Progress of Work, and (C) Compliance with Laws and Contract Requirements. Each area contains statements which are weighted as to their importance within the rating area. The rater must consult the Prime Contractor Performance Report Manual (M 41-40) for criteria used for rating contractor performance. There is only one value for the rating of standard. If more space is needed, use additional blank sheets.

\* Shaded areas indicate the range of Inadequate and Superior ratings. Unshaded areas indicate Below Standard and Above Standard ranges, which are separated by a line representing a standard rating.

### Section IV NARRATIVE RATING

This section is divided into three parts.

- A General Elements — Make any general statements pertinent to reporting the contractor's work activity, e.g., innovativeness in performing the work and any other noteworthy contractor activities.
- B Below Standard Elements — List any actions or activities which substantiate a numerical rating for each statement falling within the range of inadequate or below standard. Each comment must be correlated to identify the rating area and statement number. Each comment must be related to substantiating data reported during the life of the project in the Inspector's Daily Report, Project Engineer's Diary, correspondence, or other pertinent records. This data must be available as a part of the administrative record in the event of hearings or litigation.
- C Superior Elements — Make supportive comments for superior ratings. Substantiation by recorded data should be available in the form of reports, letters, and other documents if not included in diaries and journals.

Comments made in response to B and C above should make reference to documented activities that describe the typical performance of the contractor.

### Section V REVIEW AND AUTHENTICATION

This section provides for the recording of the review and authentication of the report by the rater, endorser, and reviewer. Its purpose is to verify that the contractor has been given a copy of the report and that the contractor is aware of his right to appeal. It also serves the purpose of verifying that the report has been reviewed for the purposes of assuring objectivity in its preparation and for the elimination of the influences of personalities. The report will be reviewed by the Region Administrator. The Region Administrator will enter narrative comments thereon only when the contractor's overall performance has been rated below standard, inadequate, or superior. The completed report is to be forwarded to the Secretary (Attn: Prequalification Branch) to arrive not later than 45 calendar days after project completion.



# Prime Contractor Performance Report

Section I Contractor Data			Section II Project Data			
Report Type <input type="checkbox"/> Interim <input type="checkbox"/> Final <input type="checkbox"/> Special	Contractor No. (HQ Use Only)		Region	Contract No.	County	SR
				Federal-Aid No.		
Company Name			Project Title			
Address		Phone No.	Auth. Working Days	Working Days Charged	Work Starting Date	Completion Date
Superintendent		Foreman	Contract Award Amount		Contract Completion Amount	
Work Class Performed by Contractor:						
Description of Work:						

Section III Numerical Rating						
	* Inadequate	* Below Std	Standard	Above Std	* Superior	Rating
<b>A Administration / Management / Supervision</b>						
A1. Supervision/Decision Making/Coordination with Subcontractors and suppliers	3	4	6	8	10	
A2. Submission of Documents and Reports	3	4	6	8	10	
A3. Coordination and Cooperation with Department Personnel on Project Matters	3	4	6	8	10	
A4. Relations with General Public, Other Agencies and Adjacent Contractors	2	4	5	6	7	
A5. Maintenance of Employee Safety Standards	1	1.5	2	2.5	3	
<b>Section A Total</b>	<b>12</b>	<b>17.5</b>	<b>25</b>	<b>32.5</b>	<b>40</b>	
<b>Q Quality of Work</b>						
Q1. Adherence to Plans and Specifications	9	12.5	15	18	21	
Q2. Standards of Workmanship	6	8	10	12.5	15	
Q3. Public Safety and Traffic Control	2	3	4	5	6	
Q4. Environmental Compliance	4	5	6	7	8	
<b>Section Q Total</b>	<b>21</b>	<b>28.5</b>	<b>35</b>	<b>42.5</b>	<b>50</b>	
<b>P Progress of Work</b>						
P1. Completion of project within allotted time	6	8	10	12	14	
P2. Baseline scheduling	2.5	3.5	5	7	8.5	
P3. Weekly look ahead schedule & schedule update	1.5	2.5	4	5.5	7.5	
P4. Number of days from Physical Completion Until contract completion	3	4.5	6	8	10	
<b>Section P Total</b>	<b>13</b>	<b>18.5</b>	<b>25</b>	<b>32.5</b>	<b>40</b>	
<b>C Compliance with Laws and Contract Requirements</b>						
C1. Compliance with EEO, On-the-Job Training and D/M/W/SBE Requirements	1.3	3.5	5	6.5	8	
C2. Compliance with Apprenticeship Requirements	1.3	3.5	5	6	7	
C3. Compliance with Laws, Ordinances and Regulations	1.4	3.5	5	5	5	
<b>Section C Total</b>	<b>4</b>	<b>10.5</b>	<b>15</b>	<b>17.5</b>	<b>20</b>	
<b>Project Total</b>	<b>50</b>	<b>75</b>	<b>100</b>	<b>125</b>	<b>150</b>	

\* Explain any Inadequate, Below Standard, and Superior ratings in Narrative Section (IV)

NOTE: An inadequate or below standard rating in any section shall limit the section total to a standard rating.

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Contract No. \_\_\_\_\_

<b>Section IV Narrative Rating</b>		
<b>A General Elements</b> Enter comments that describe the contractor's overall performance and provide background data on the project.		
<b>B Below Standard Elements</b> Enter comments here to substantiate below standard ratings. (See Instructions)		
<b>C Superior Elements</b> Enter comments here to substantiate superior ratings. (See Instructions)		

<b>Section V Authentication and Review</b>		
I certify that I have objectively prepared this report basing it upon data contained in available project records and discussed the report with the contractor.		
_____	_____	_____
Project Engineer's Name (Print)	Project Engineer's Signature	Date
I have reviewed this report for objectivity and accuracy. I have given a copy of this report to the rated contractor and I have advised the contractor that any appeal must be made within twenty (20) calendar days.		
Date Copy Given / Mailed to Contractor _____		
_____	_____	_____
Operations Engineer or Designee's Name (Print)	Operations Engineer or Designee's Signature	Date
I have reviewed this Contractor Performance Report and make the following comments and changes as cited herein or on attached sheets.		
_____	_____	_____
Region Administrator's Name (Print)	Region Administrator's Signature	Date

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[Statutory Authority: RCW 47.01.101, 47.28.030, and 47.28.070. WSR 15-01-170, § 468-16-210, filed 12/23/14, effective 1/23/15; WSR 94-05-004, § 468-16-210, filed 2/2/94, effective 3/5/94; WSR 91-04-014 (Order 128), § 468-16-210, filed 1/28/91, effective 2/28/91.]