

**WAC 468-310-050 Classification and capacity rating.** (1) Except as otherwise specified in this section, each contractor seeking prequalification under these rules will be classified for one or more of the classes of work listed in subsection (6)(a) of this section and will be given a maximum capacity rating in accordance with its financial ability, the adequacy of its equipment and plant facilities to perform the class or classes of work for which it has sought prequalification, the extent of the contractor's experience in performing contracts of the class or classes for which prequalification is sought, and the adequacy of the experience and capability of the contractor's officers and key employees in performing contracts of the class or classes for which prequalification is sought. The maximum capacity rating will limit the quantity of uncompleted work which the contractor shall have under contract at any one time either as a prime contractor or a subcontractor.

(2) Except as provided in subsections (7) through (9) of this section, the maximum capacity rating for a contractor applying for a rating in excess of fifty thousand dollars will be ten times the contractor's net worth as set forth in the standard prequalification questionnaire and financial statement. A properly executed letter of credit from an acceptable financial institution may be considered as an asset increasing the contractor's maximum capacity rating by the amount of the credit, but without the use of a multiplier. The maximum capacity rating for a contractor not submitting an audited financial statement as provided in WAC 468-310-020(6) will be ten million dollars: Provided, That in all cases the contractor's maximum capacity rating may be reduced to an amount considered by the department to be within the contractor's actual capacity based upon its organization, personnel, equipment and plant, and experience.

(3) Consideration will be given to raising, by an amount not to exceed fifty percent, the maximum capacity rating of a contractor who qualifies with respect to actual capacity based upon organization, personnel, equipment and plant facilities, and experience, upon receipt of evidence of a current bonding capacity of such additional amount with a corporate surety. Such evidence shall be in the form of a letter of commitment executed by an officer of the surety who is authorized to bind the surety. Notwithstanding the provisions of this subsection, the maximum capacity rating for a contractor not submitting an audited financial statement as provided in WAC 468-310-020(6) will be ten million dollars.

(4) The certificate of prequalification issued by the department will establish a contractor's maximum capacity rating which will be subject to reduction by the total value of its current uncompleted work regardless of its location and with whom it may be contracted to determine the contractor's bidding capacity at the particular time.

(5) Notwithstanding the provisions of this section, a contractor will be allowed to submit a bid for an amount up to \$50,000 on a class or classes of work for which it is prequalified without regard to any financial maximum capacity rating or financial current capacity rating: Provided, That the contractor's current capacity may be reduced to an amount considered by the department to be within the contractor's actual capacity based upon its organization, personnel, equipment and plant facilities, and experience.

(6)(a) Construction, repair and maintenance work on ferry vessels for which prequalification certification under these rules may be granted are classified as follows:

81 Class Vessel construction and renovation;  
82 Class Dry-docking and hull repairs;  
83 Class Vessel metal fabrication repairs;  
84 Class Vessel electrical repairs;  
85 Class Vessel miscellaneous repairs;

(b) A contractor currently prequalified under RCW 47.28.070 to perform those classes of work required in the construction, improvement and repair of ferry terminal facilities will initially be deemed prequalified under these rules to perform such classes of work with the same capacity rating as approved by the department for highway related work.

(7) Notwithstanding the provisions of this section, proposers who wish to prequalify for the department's construction of new 130-auto ferries, pursuant to the department's 2003 request for proposals, must submit evidence of their ability, if awarded the contract, to obtain contract security in the amount of thirteen million dollars. The department estimates such amount to be adequate to protect one hundred percent of the department's estimated exposure to loss on the vessel construction contract, as calculated by the department prior to issuance of the request for proposals. Such amount shall be specified in the project request for proposals and is subject to modification by addendum during the request for proposals process. The actual contract security amount for the project construction contract will be a percentage of the successful proposer's total bid price. Such percentage shall be specified in the construction contract within the request for proposals. For the new 130-auto ferries contract, this provision applies in lieu of the maximum capacity rating formula specified in subsection (2) of this section.

(8) Notwithstanding the provisions of this section or WAC 468-310-020, proposers who wish to prequalify for the department's construction of new 130-auto ferries, pursuant to the department's 2003 request for proposals, shall, in addition to the evidence of contract security required in subsection (7) of this section, submit an audited financial statement for at least one year in the previous three years, plus annual financial statements for two additional years in the previous three years. The audited financial statement shall be performed by an independent certified public accountant which shall include comparative balance sheets and income statements, a statement of retained earnings, supporting schedules and notes attached thereto, and the opinion of the independent auditor. The form and quantity of financial statements shall be specified in the project request for proposals and is subject to modification by addendum during the request for proposals process. For the new 130-auto ferries contract, this provision applies in lieu of the quantity of audited financial statements specified in WAC 468-310-020.

(9) This subsection shall apply to the Port Townsend/Keystone vessel procurement only and shall be used in lieu of the requirements of subsections (1) through (5) of this section. It does not replace or modify any other provisions in this chapter or governing prequalification statutes. The department may prequalify a contractor under a Class 81 classification to bid on the Port Townsend/Keystone vessel

procurement pursuant to this section based on the department's evaluation of the following criteria:

(a) Whether the contractor has adequate equipment and plant facilities available to accomplish the work;

(b) Whether the contractor has trained personnel available to perform the work;

(c) Whether the contractor has demonstrated experience in the type of work;

(d) Whether the contractor has an organization and technical staff with the size, training, experience and capability to accomplish the work;

(e) Whether the contractor has adequate financial resources to perform the type and size of work, or the ability to timely secure such resources. In evaluating such financial resources, the department may consider the contractor's overall financial condition including, but not limited to:

(i) Level of capitalization;

(ii) Cash flow;

(iii) Level of business activity;

(iv) Credit history;

(v) Debts;

(vi) Assets; and

(vii) Ability to obtain financing, including but not limited to, irrevocable lines of credit, and parent company guarantees.

A contractor does not have adequate financial resources when, based upon the totality of the circumstances, it lacks the financial resources reasonably expected of a contractor capable of performing the work on time and without interruption.

[Statutory Authority: RCW 47.56.780, 47.60.680, and 47.60.690. WSR 08-19-004, § 468-310-050, filed 9/4/08, effective 10/5/08. Statutory Authority: RCW 47.60.816. WSR 04-11-004, § 468-310-050, filed 5/5/04, effective 6/5/04. Statutory Authority: RCW 47.60.680 and 47.60.690. WSR 99-03-025 (Order 189), § 468-310-050, filed 1/11/99, effective 2/11/99. Statutory Authority: RCW 47.60.680. WSR 88-19-040 (Order 114), § 468-310-050, filed 9/14/88. Statutory Authority: 1983 c 133. WSR 83-19-014 (Order 84), § 468-310-050, filed 9/12/83.]