

## **01 NCAC 30F .0305 EVALUATION REVIEW**

(a) SCO shall maintain contractor evaluation data. This data shall be maintained on an individual job basis, and shall also be maintained cumulatively by contractor (based on contractor license number). The contractor evaluation data shall be that information prepared by the Capital Projects Coordinator during the evaluation process set forth in this Subchapter. All numerical ratings shall be given pursuant to Rule .0302 of this Section and shall evaluate those phases of the work set out in Rule .0301 of this Section; the form called for in Rule .0103(8) of this Subchapter shall be used exclusively for this purpose.

(b) The data maintained by the SCO shall reflect performance history for a period of five years. All evaluation data on completed projects over five years old shall be removed from SCO files and shall not be used as a factor in the cumulative evaluation.

(c) A contractor whose cumulative evaluation falls below a mark of 3.5 shall be determined to have provided an unsatisfactory level of performance and may not be allowed to bid on or serve as a sub-contractor on State capital improvement projects during a corrective period. All references to pre-bid disqualification status in this Section shall also be considered to apply to disqualification of a prime contractor to serve as a sub-contractor on State capital improvement projects during the disqualification period.

(d) To be utilized for pre-bid disqualification, a prime contractor's cumulative evaluation must be based on a minimum of three evaluations on at least three separate capital projects. Further, if a contractor is assigned a single final evaluation of 2.5 or lower, this action alone shall be sufficient to call the contractor's performance into question and may result in pre-bid disqualification during a corrective period.

(e) In both instances, i.e., a cumulative mark falling below 3.5 or a single evaluation of 2.5 or lower, the SCO shall convene a panel of five persons to review the evaluation and make a recommendation to the SBC. (A single final evaluation of 2.5 or lower, when applied to the cumulative total, shall not initiate further immediate review if it causes the cumulative rating to fall below 3.5.) The panel shall consist of three design/construction professional State employees of which a minimum of one employee shall be a licensed architect or engineer as appointed by the Director of State Construction and two members of the SBC as appointed by the Chairman of the Commission of which a minimum of one shall be a licensed contractor.

(f) The panel may recommend to the State Building Commission either of the following actions as a result of its review:

- (1) disqualification of the contractor from bidding and placement of the contractor in a pre-bid disqualification status for a corrective period of two years;
- (2) rejection of disqualification but issuance of a warning to the contractor that continued poor performance may result in disqualification.

The SCO shall retain file copies of the ratings, disqualifications and warnings.

(g) In all instances, notification of a contractor having been assigned to a pre-bid disqualification status or having been issued a warning shall be by the Chairman of the State Building Commission and only then after review and approval by the Commission of the disqualification or warning action.

(h) The disqualification as approved by the Commission shall be for a period of two years. The two-year period is intended to provide opportunity for a contractor to implement significant corrective action to improve performance. At the completion of the two-year period, the prime contractor may make application for reinstatement to the qualified bidders list; reinstatement shall be subject to action by the SBC. In the application for reinstatement, the contractor shall set out the improvements that have been made to correct the specific areas in which the contractor was scored below 3.5 in its cumulative evaluation. If the improvements listed and the investigation of the contractor made by the SBC are such that the Commission forecasts the contractor's performance would be 3.5 or above if reinstated, then the SBC shall reinstate the contractor to the qualified bidders list. If the SBC approves reinstatement, the contractor's pre-bid disqualification shall be removed, thus allowing the contractor to bid.

(i) Removal of a contractor from the pre-bid disqualification status, upon approval by the SBC, shall involve deletion of all evaluations from the State Construction Office's records.

(j) If a contractor has been removed from the qualified bidders list by virtue of accumulated evaluations falling below 3.5 and routine removal of five-year old evaluations causes the contractor to achieve an overall evaluation score of 3.5 or higher, the contractor shall not be automatically reinstated to the qualified bidders list but rather must remain in a disqualified status for a total of two years with reinstatement considered by the SBC as outlined in this Rule. If after the two-year corrective period the SBC does not approve removal of a contractor from the pre-bid disqualification status, the prime contractor may reapply after a period of 12 months and annually thereafter until the pre-bid disqualification status is removed.

(k) Lists of all contractors who are in a pre-bid disqualification status shall be maintained by the SCO. Prior to bid opening, the project designer shall obtain from the SCO a list of those contractors in a pre-bid disqualification status and shall ensure that no bids for State capital improvement projects shall be read from a contractor in such status.

*History Note: Authority G.S. 143-135.26(4);  
Eff. January 1, 1992;  
Amended Eff. April 1, 1999;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.*