



PRE-QUALIFICATION APPEAL PROCEDURE



APPEAL OF PRE-QUALIFICATION DETERMINATION

Where a timely and completed pre-qualification application results in a Contractor receiving a pre-qualification rating below that which is necessary to pre-qualify, the Contractor may dispute the proposed pre-qualification rating through the appeal process, as set forth herein.

Appeal Procedure

Upon conclusion of the pre-qualification process, the County will provide, to any Contractor determined by the County not to be pre-qualified, a written notice of the County's **Qualification Determination**, which will set forth the basis for the prospective bidder's disqualification. Such notice will be sent to the Contractor by the County by Certified Mail, Return Receipt Requested. Upon the request of the Contractor, the County shall provide a copy of any supporting evidence for that determination resulting from the County's investigation and review.

An appeal may be initiated only by the Contractor's delivery of written notice to: Department of Public Works and Planning, Attn: Manager, Design Division, 2220 Tulare Street, Sixth Floor, Fresno, CA 93721. A Contractor's written request to appeal must be received by the County no later than five (5) business days after Contractor's receipt of notice from the County that the Contractor is not pre-qualified. Without a timely appeal, the Contractor waives any and all rights to challenge the decision of the County, whether by administrative process, judicial process or any other legal process or proceeding.

Providing Contractor has submitted its appeal in a timely manner, the County will schedule an informal hearing on the Contractor's appeal, to be conducted by the Reviewing Officer appointed by the Director of the Department of Public Works and Planning for that purpose. The Director, in his or her sole discretion, may select as the Reviewing Officer either: (1) a Hearing Officer appointed pursuant to Chapter 2.81 of the Fresno County Ordinance Code; or (2) any individual, other than one who served as a member of the Evaluation Committee, that the Director deems qualified to conduct the informal hearing.

The informal hearing will take place within (10) business days of the County's receipt of the Contractor's timely appeal. At the hearing, the County will present any evidence used as a basis for its determination that the Contractor should not be pre-qualified. The Contractor then will be given the opportunity to rebut any evidence used as a basis for the County's pre-qualification determination and to present evidence as to why the Contractor should be determined pre-qualified. This informal hearing is not subject to the rules of evidence. Within three (3) business days after the conclusion of the informal hearing, the Reviewing Officer will provide a written decision to the Contractor. The Reviewing Officer's decision is final and not subject to further appeal. It is the



intention of the County that the date for the submission and opening of bids will not be delayed or postponed to allow for completion of an appeal process.

If the Contractor chooses not to avail itself of this appeal process, the proposed pre-qualification determination will be adopted without further proceedings.

Note: A contractor may be found not pre-qualified for bidding on the project to be awarded by the County until the Contractor meets the County's requirements. In addition, a contractor may be found not pre-qualified for either: (1) Omission of requested information or (2) Falsification of information.