

# **RIO SCHOOL DISTRICT PREQUALIFICATION APPEAL PROCESS**

## **Appeal Procedures**

Contractors will be allowed to appeal a negative pre-qualification determination in accordance with California Public Contract Code §20101(d). There is no appeal from a refusal for an incomplete or late application. Without a timely appeal, the Contractor waives any and all rights to challenge the decision of the District, whether by administrative process, judicial process or any other legal process or proceeding.

In conjunction with this Pre-Qualification Policy, the District hereby establishes a Bidder Pre-Qualification Appeals Panel (“Appeals Panel”), consisting of the following three members, or their designee(s):

The District’s Executive Director Facilities Management  
The District’s Director of Purchasing  
A member of an outside agency

The sole issue before the Appeals Panel shall be the reason for denial of a Contractor. The decision of the Appeals Panel shall be the District’s final administrative decision.

The date for submission and opening of bids for a specific project will not be delayed or postponed to allow for completion of an appeal process.

## **Process:**

- 1) Prior to disqualifying a contractor, the District shall serve written notice on the contractor:
  - a. Setting forth the reasons for the disqualification.
  - b. Indicating that the contractor will be afforded an opportunity to appeal the disqualification as outlined below. Effective notice shall be accomplished by certified mail, return receipt requested, to the last known address of the contractor, or the contractor's agent for service of process, or any of its principal officers, partners, owners or affiliated.
  
- 2) The contractor shall submit his appeal in writing with the Executive Director Facilities Management no later than 4:00 p.m. of the FIFTH business day following the day on which the notice of rejection was mailed to the contractor.
  
- 3) The District shall act upon properly filed requests within ten calendar days from the date of receipt of such request. If, after review, the District again rejects the contractor's application, the contractor may request an administrative hearing with the panel.
  
- 4) At the hearing, the contractor may present oral testimony concerning the contractor's capability and responsibility. The District shall notify the contractor of his decision within five business days following the hearing. The decision of the panel is final.

A contractor, who is denied prequalification, shall be disqualified in the same type of work or category of value for a period of one year thereafter.

## **Appeal of Prequalified Limit**

Contractors who received a lower approval limit than expected (please be sure to review the approval limit guidelines) may appeal if they meet the following criteria:

1. They are currently performing work at the Rio School District
2. The project(s) is more than 50% complete.
3. The work is being performed in a satisfactory manner (on schedule and on budget)
4. The Contractor has a good performance history within the district.

To file an appeal, please submit your request in writing along with documentation to support the above criteria to Wael Saleh (wsaleh@rioschools.org).

The appeal will be reviewed within five days of submission. The decision of the District is final.

**Evaluation by the District:** The District will evaluate the information provided and issue each submitting prospective bidder a rating of “Prequalified” or “Not Prequalified.” The District’s decision will be based on the information provided, references, and such additional outside information as the District in its discretion deems reasonable and necessary to obtain. The District may, but is not obligated to, investigate the truth of any statements or information provided by a prospective bidder in response hereto.

Pre-qualification approval will remain valid for one (1) calendar year from the date of notice of qualification, except that the District reserves the right during that calendar year to adjust, increase, limit, suspend or rescind the pre-qualification ratings based on subsequently learned information and after giving notice of the proposed action to the prospective bidder and an opportunity for a hearing consistent with the hearing procedures described below for appealing a pre-qualification determination.

While it is the intent of the pre-qualification questionnaire and documents required herein to assist the District in determining bidder responsibility prior to the submission of bids and to aid the District in selecting the lowest responsible bidder, neither the fact of pre-qualification, nor any pre-qualification rating, will preclude the District from a post-bid consideration and determination on a specific project of whether a bidder has the quality, fitness, capacity and experience to satisfactorily perform the proposed work, and has demonstrated the requisite trustworthiness.

**Appeal:** A prospective bidder who has timely submitted a completed application form, and who receives a rating of “Not Prequalified” from the District may appeal that determination. There is no appeal from a finding that a prospective bidder is not pre-qualified because of a late application or a failure to submit required information. A prospective bidder may appeal the District’s decision with respect to its request for pre-qualification, by giving written notice to the District no later than five (5) business days after receipt of notice of its qualification status.

Envelope containing appeal shall be marked “PRE-QUALIFICATION APPEAL” and sent to:

Rio School District  
Attention: Wael Saleh  
1800 Solar Drive  
Oxnard, CA 93030

Unless a prospective bidder files a timely appeal, the prospective bidder waives any and all rights to challenge the qualification decision of the District, whether by administrative process, judicial process or any other legal process or proceeding. The District reserves the right to resolve appeals before or after bid opening or award of any contract. The date for submission and opening of bids for a specific project

and any subsequent contract award will not be delayed or postponed to allow for completion of an appeal process.

After receipt of a request for appeal, the District will provide the prospective bidder any supporting evidence that has been received from others or adduced as a result of an investigation by the District. The appealing prospective bidder will be provided an opportunity to rebut any evidence. The District, in its sole discretion, may conduct a hearing regarding the prospective bidder's timely appeal. If such a hearing is conducted, the prospective bidder consents to the District's Superintendent, or his or her designee, to act as the hearing officer.