



RHODE ISLAND TURNPIKE AND BRIDGE AUTHORITY
1 East Shore Road
P.O. Box 437
Jamestown, RI 02835

Public Notice of Proposed Rulemaking

AGENCY: Rhode Island Turnpike and Bridge Authority (RITBA)

RULE IDENTIFIER: ERLID 2418

REGULATION TITLE: Regulations Governing Prequalification of Contractors

RULEMAKING ACTION: Direct Final Rule. RITBA does not expect this repeal to be controversial. If no formal objection is received on or before August 18, 2018, RITBA will file and effectuate the repeal without opportunity for public comment.

TYPE OF FILING: Repeal.

DATES: Public Notice Date: July 19, 2018; Comment Period Ends: August 18, 2018.

SUMMARY OF PROPOSED RULE: The purpose of this action is to repeal RITBA's Regulations Governing Prequalification of Contractors because RITBA is simultaneously amending its Procurement Rules, and RITBA wishes to avoid duplication or overlap. Under the recently-amended Administrative Procedures Act ("APA"), RITBA believes that it is more appropriate to set forth all of its procurement-related regulations in a single document (i.e., its Procurement Rules).

COMMENTS INVITED: All interested parties are invited to submit written or oral comments concerning the proposed repeal by August 18, 2018 to the addresses listed below.

ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:

Mailing Address: Rhode Island Turnpike and Bridge Authority
c/o Marianne Durgin, Rulemaking Coordinator
1 East Shore Road, P.O. Box 437
Jamestown, Rhode Island 02835

Email Address: mdurgin@ritba.org

FOR FURTHER INFORMATION CONTACT:

Mailing Address: Rhode Island Turnpike and Bridge Authority
c/o Marianne Durgin, Rulemaking Coordinator
1 East Shore Road, P.O. Box 437
Jamestown, Rhode Island 02835

Email Address: mdurgin@ritba.org

Phone: (401) 423-1903

SUPPLEMENTARY INFORMATION:

Regulatory Analysis Summary and Supporting Documentation:

RITBA believes that repealing its Regulations Governing Prequalification of Contractors will not have any impact on societal costs or benefits. A copy of the regulatory analysis follows this Public Notice of Proposed Rulemaking. For full regulatory analysis or supporting documentation, please contact RITBA's Rulemaking Coordinator identified above.

Authority for This Rulemaking: R.I. Gen. Laws § 24-12-9(22) and (23)

Regulatory Findings:

In the development of the proposed repeal, consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

The Proposed Amendment:

RITBA proposes to repeal ERLID 2418 (Regulations Governing Prequalification of Contractors) in its entirety. The effect of the proposed repeal is shown on the attachment to this Notice.



MEMORANDUM

Regulatory Analysis for Proposed Repeal of Regulations Governing Prequalification of Contractors

This memorandum sets forth the Regulatory Analysis of the Rhode Island Turnpike & Bridge Authority (RITBA) required by R.I. Gen. Laws §42-35-2.9 with respect to RITBA's proposed repeal of its Regulations Governing Prequalification of Contractors.

RITBA believes that repealing its Regulations Governing Prequalification of Contractors is appropriate because RITBA is simultaneously amending its Procurement Rules. Accordingly, RITBA wishes to avoid duplication or overlap, and under the recently-amended Administrative Procedures Act ("APA"), RITBA believes that it is more appropriate to set forth all of its procurement-related regulations in a single document (i.e., its Procurement Rules). Therefore, by repealing its Regulations Governing Prequalification of Contractors, RITBA will ensure that all of its procurement-related regulations are set forth solely in the Procurement Rules.

Redlined Regulations Governing Prequalification of Contractors

[See Next Page]

~~RHODE ISLAND TURNPIKE AND BRIDGE AUTHORITY REGULATIONS GOVERNING THE PREQUALIFICATION OF CONTRACTORS~~

~~Section 1. Definitions~~

~~1.1 Application - an Application for Prequalification.~~

~~1.2 Authority - The Rhode Island Turnpike and Bridge~~

Authority

~~1.3 Contractor - any individual or entity that~~

~~proposes to perform one or more category of Work for the Authority.~~

~~1.4 List - a list of Contractors prequalified to perform one or more~~

~~category of Work for the Authority,~~

~~1.5 Work - includes the following categories of work to be performed by a~~

~~Contractor for the Authority:~~

- ~~a. Asbestos removal~~
- ~~b. Bridge construction~~
- ~~c. Bridge maintenance~~
- ~~d. Crack sealing~~
- ~~e. Demolition~~
- ~~f. Drilling & boring~~
- ~~g. Guardrail & fencing~~
- ~~h. Hazardous waste remediation~~
- ~~i. Highway construction~~
- ~~j. Highway maintenance~~
- ~~k. Highway sweeping~~
- ~~l. Landscaping~~

- m. — ~~Lighting & electrical~~
- n. — ~~Marine construction~~
- o. — ~~Mowing and spraying~~
- p. — ~~Painting (structural)~~
- q. — ~~Pavement marking~~
- r. — ~~Sewer & water~~
- s. — ~~Structural signing~~
- t. — ~~Surfacing~~
- u. — ~~Toll collection systems~~
- v. — ~~Traffic signals~~
- w. — ~~Underground tank removal~~
- x. — ~~Utilities~~

Section 2. — Authority for Promulgation of Regulations

~~These regulations are promulgated by the Authority pursuant to and in accordance with Rhode Island General Laws Section 37-2-25.~~

Section 3. — Prequalification List

~~3.1 — The Authority may, from time to time, maintain a List of Contractors prequalified to perform one or more category of Work for the Authority, such List to be available for public inspection at the offices of the Authority during normal business hours.~~

~~3.2 — Inclusion on the List shall be at the discretion of the Executive Director of the Authority at the recommendation of the Director of Engineering of the Authority.~~

Section 4. — Prequalification Application

~~4.1 — A Contractor may apply for prequalification with the Authority by submitting an Application, such form of Application to be provided by the Authority and may be changed from time to time by the Authority.~~

~~4.2 — The Application may request (but shall not be limited to requesting) the following types of information from the Contractor:~~

~~4.2.1 — proposed class(es) of work to be performed by the Contractor;~~

~~4.2.2 — corporate/partnership status;~~

~~4.2.3 — surety/bonding information;~~

~~4.2.4 — financial statements;~~

~~4.2.5 — project references / past performance;~~

~~4.2.6 — litigation history;~~

~~4.2.7 — safety history;~~

~~4.2.8 — technical qualifications / capabilities;~~

~~4.2.9 — project staffing sources;~~

~~4.2.10 — training programs;~~

~~4.2.11 — history of legal compliance; and~~

~~4.2.12 — equipment list.~~

~~4.3 — Any Application submitted by a Contractor shall be signed by a responsible officer of the Contractor under the pains and penalties of perjury.~~

~~4.4 — Any Contractor that submits false information as part of an Application may, as the discretion of the Authority, be debarred from performing work for the Authority for a period of time determined by the Authority. In any such case, the Authority may impose other sanctions against such a Contractor, including, without limitation, a declaration by the Authority that any current contracts with such Contractor are deemed null and void.~~

~~For purposes of this section, “false information” shall mean information that a contractor knew to be false, or information that a Contractor submitted with reckless disregard to its truth or falsity.~~

~~4.5 — Any information provided by a Contractor to the Authority as part of an Application shall be held confidential by the Authority to the extent such confidentiality is not contrary to any applicable law or regulation.~~

~~4.6 — The Authority may reject an Application for prequalification due to incompleteness.~~

~~4.7—Any Contractor refused prequalification status by the Authority may not re-apply for such prequalification for a period of at least one (1) year unless such Contractor demonstrates a substantial change in circumstances that would affect its application for prequalification.~~

~~4.8—Any Contractor refused prequalification status may appeal such decision of the Executive Director to the Board of Directors of the Authority and such decision of the Board of Directors shall be final.~~

~~4.9—Any Contractor granted prequalification status shall have the obligation to immediately notify the Authority regarding any material change related to information set forth on the Application or otherwise related to the Contractor's responsibility, capacity, financial status and/or qualifications to perform Work for the Authority. —Any Contractor granted prequalification status shall have the obligation, on an annual basis, to update the information provided to the Authority in its Application.~~

Section 5.——Effect of Prequalification

~~5.1——Solicitation mailing lists of potential Contractors of certain Work shall include, but need not be limited to, prequalified Contractors for such Work.~~

~~5.2——Prequalification of a Contractor for certain Work shall not preclude a finding by the Authority that such Contractor is not qualified to perform certain Work in a particular instance.~~

~~5.3——Failure to be included on the List for certain Work shall not preclude a Contractor from proposing to perform such Work in a particular instance nor shall it preclude a finding by the Authority that such Contractor is qualified to perform such Work in a particular instance.——However, in the event the Authority elects to consider awarding Work to a Contractor that is not on a List, the Authority shall require such Contractor, prior to contract award for the Work, to complete an Application, and shall, prior to any such award, make a determination that the Contractor is a qualified and responsible Contractor pursuant to these regulations.~~