

CHAPTER 14-22
CONTRACTORS – HIGHWAY – QUALIFICATION TO BID

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14-22.0011 General Procedural Requirements.

(1) Purpose. This rule chapter sets forth the requirements to be certified by the Department as qualified to bid for the performance of road, bridge, or public transportation construction contracts, in excess of \$250,000.

(2) Exceptions. Except for the provisions of Rules 14-22.012 and 14-22.0141, F.A.C., this rule chapter does not apply to bidders who wish to bid on construction contracts of \$250,000 or less, or other contracts not having to do with the construction of roads, bridges, or other public transportation projects, or where the Department has waived the qualification requirements for construction projects having a contract price of less than \$500,000 based upon the determination that the projects are of a non-critical nature and that waiver of qualification requirements will not endanger public health, safety, or property.

(3) Time. The provisions of Rule 28-106.103, F.A.C., shall apply in computing any period of time prescribed by this chapter.

(4) Definitions.

(a) The following terms shall have the meanings set forth in Section 337.165, F.S.: “contractor,” “contract crime,” “convicted,” or “conviction,” and “affiliate.”

(b) For matters not involving contract crimes, “Affiliate” shall mean business concerns, organizations, or individuals where, directly or indirectly, one controls or has the power to control the other, or a third party controls or has the power to control both. Indicia of control include interlocking management or ownership, identity of interests among family members, shared facilities and equipment, common use of employees, or business entity organized following the revocation, denial, or suspension or proposed revocation, denial, or suspension of a contractor which has the same or similar management, ownership, or principal employees as the contractor that was revoked, denied, or suspended or proposed for revocation, denial, or suspension.

(c) “Applicant” means the person, firm, or combination of either for which qualification is requested.

(d) “Bidder” means an entity qualified under this chapter which possesses sufficient current capacity to obtain bid proposal documents from the Department.

(e) “Construction assets” means resources used for the construction of roads, bridges or public transportation projects.

(f) “Qualified equipment appraiser” means an individual employed by an equipment company that sells, rents, or leases the general type of equipment being appraised, or a company or individual(s) engaged in the business of appraising equipment regularly used in the construction of roads, bridges, or other transportation projects.

(g) “Qualified real estate appraiser” means an individual who meets all of the requirements prescribed by the laws of the state in which the appraisal occurs. Florida real estate appraisals must be performed by a “Certified General Appraiser,” as described in Section 475.611, F.S.

(h) “Construction revenues” means all earnings received through contracting for the performance of road, bridge, and other construction projects (including all earnings derived from providing administration, labor, material, equipment, supplies, and

services necessary to fulfill contractual obligations incurred in the performance of road, bridge, and other construction projects).

Rulemaking Authority 334.044(2), 337.14(1) FS. Law Implemented 337.11, 337.14, 337.16, 337.165, 337.167 FS. History—New 11-10-82, Amended 8-25-83, Formerly 14-22.011, Amended 12-20-89, 1-4-94, 7-1-95, 8-6-96, 1-17-99, 7-8-01, 6-27-04, 1-23-08, 10-10-10.

14-22.002 Regulations Covering Qualification of Contractors.

(1) Application for Qualification.

(a) Persons or firms who request to qualify to bid for the performance of road, bridge, or public transportation construction projects in excess of \$250,000, shall file an annual Application for Qualification, (Online Web Application), Form 375-020-38, Rev. 11/07, hereby incorporated by reference. An Application for Qualification shall be filed electronically at http://www.dot.state.fl.us/cc-admin/PreQual_Info/prequalified.shtm. Information or assistance regarding the Application can be obtained from the Department at the address listed below. Persons or firms may obtain information on how to obtain a user name and password to use the Application filing process by contacting the Contracts Administration Office at the address below. The Application will consist of requested information on the Applicant, Applicant's stakeholder, Applicant's affiliates, and shall include the Applicant firm's background, current and historical contract detail, construction experience and expertise, financial information, and requested work classes. Persons or firms shall also file two hard copies of audited financial statements, one copy to accompany the electronic application, and one hard copy as required by this rule via hand delivery or mail to Department of Transportation, Contracts Administration Office, 605 Suwannee Street, MS 55, Room 61, Haydon Burns Building, Tallahassee, Florida 32399-0455, (850)414-4000 or contracts.admin@dot.state.fl.us.

(b) A separate application must be submitted for each person, firm, or combination thereof for which qualification is requested.

(c) The applicant must indicate the classes of work for which qualification is requested.

(d) All statements made by the applicant shall be furnished under oath.

(e) The data in the applicant's financial statement shall be reflected in the financial sections of the application.

(f) All applications must include the appropriate federal tax reference number.

1. For corporations (including Subchapter S corporations), partnerships, sole proprietorships, joint ventures, limited liability companies, and other entities, the appropriate tax reference number is the federal Employer Identification Number (EIN).

2. For individuals, the appropriate tax reference number is the Social Security Number (SSN) of the individual.

3. For foreign corporations organized outside the United States, the Department will assign a special identification number.

(g) In the event the Department finds an application is incomplete or contains inadequate or inaccurate information for processing the application, or the Department needs more information to make a decision regarding the applicant's competency, responsibility, or financial resources, the Department shall verbally or in writing request that the applicant provide the necessary information or the source for verification of the information. If the requested information is not provided within 20 days of the initial request, the Department shall request the information a second time via email or in writing express delivery, delivery receipt. If the information is not provided within 10 days of receipt of the second request, the application shall be denied.

(h) The Department shall act upon the application for qualification within 30 days from when the Department determines that the application is complete.

(2) Audited financial statements required to be submitted with the application shall be prepared in accordance with Generally Accepted Accounting Principles (GAAP). If the audited annual financial statements show the financial condition of the applicant more than four months prior to the date on which the application is filed with the Contracts Administration Office, then an updated application and audited interim financial statements shall also be submitted. The audited interim financial statements shall cover the period from the ending date of the audited annual statements and shall show the financial condition of the applicant no more than four months prior to the date on which the application is filed. The annual and interim financial statements must be audited and accompanied by the opinion of a Certified Public Accountant.

(a) An adverse opinion or disclaimer of an opinion shall result in disapproval of the application. A qualified opinion will result in adjustments to the financial portions of the application if such qualification arises because of the use of an accounting principle at variance with GAAP, or the qualification is of such magnitude as to materially affect the current ratio, liabilities, or adjusted net worth.

(b) When consolidated financial statements are required by GAAP, and qualification is requested for one or more of the subsidiary companies, a consolidating balance sheet is required and shall be included by the Certified Public Accountant. When combined financial statements are allowed by GAAP, and qualification is desired for one of the combining affiliated entities, a

combining balance sheet is required and must be included by the Certified Public Accountant.

1. For those applications described in paragraph (2)(b), financial information entered in the Details Relative to Assets and Details Relative to Liabilities sections of the application shall be obtained from the consolidating or combining balance sheets, as appropriate, and reflect only those portions of the financial statements relative to the applicant.

2. Only the financial data of the applicant, as shown on the consolidating or combining balance sheets and reflected in the application, will be used in determining the applicant's Current Ratio Factor (CRF), Adjusted Net Worth (ANW), and Maximum Capacity Rating (MCR), as defined in Rule 14-22.003, F.A.C.

(c) The financial statements shall include the following basic financial statements:

1. The statements shown below and the opinion of the certified public accountant on these statements.

a. A balance sheet.

b. An income statement.

c. A statement of retained earnings or changes in stockholders equity.

d. A statement of cash flows.

2. The income statement above shall provide separate totals for construction revenues, and all revenues earned during the audit period.

3. Notes to financial statements.

4. Upon written request, any additional financial information necessary for the Department to verify the financial adequacy of the applicant as presented in their financial statements and the opinion of the Certified Public Accountant.

(d) Applicants not qualified with the Department the previous year shall furnish audited financial statements for a minimum twelve (12) month period showing the financial condition of the applicant no more than four (4) months prior to the date on which the application is filed. Applicants established for less than one year shall furnish audited financial statements from establishment through a period no more than four months prior to the date on which the Application is filed.

(3) List of Equipment. Each major item of equipment owned by the applicant that is utilized in performing the requested classes of work shall be listed in the application with its book or salvage value, make, model, and description shown. Items held under capital lease agreements shall be identified so that the book value of these items can be readily determined. Items required for each class of work may be grouped together, but shall be listed separately. An applicant who requests that the value of the equipment owned be calculated on 50 percent of appraised value shall provide an additional list which includes an appraisal by a qualified equipment appraiser. For an appraisal to be valid, the appraiser shall state that they have personally inspected and/or examined the equipment. Certified statements of availability of equipment from affiliated companies may be used for obtaining classes of work. The same equipment may be used to qualify no more than two affiliated applicants. Letters of commitment from at least two equipment rental companies may be used to obtain certification in classes of work in which the applicant has expertise. The letters of commitment must list the equipment that the applicant intends to lease for the classes of work sought, and commit the lessor for the maximum period of qualification requested.

(4) Experience Record.

(a) Each application shall include a current list of projects completed within the past three years by the applicant as prime or subcontractor stating the actual dollar amount of work executed and listing each class of work performed on those projects by the applicant's own employees. The list shall not include work sublet to others or performed with rented equipment and operators. Résumés must be submitted to show the construction experience of personnel at a superintendent level or above for each class of work for which the applicant is requesting qualification. The same list of personnel shall not be used to qualify more than two affiliated applicants.

(b) Newly established firms, applicants qualifying for the first time, and applicants whose Certificate of Qualification has been expired for more than two years, shall provide letters of recommendation from at least two agencies or firms with direct knowledge of the applicant's key personnel and work performance in sufficient detail to assist in rating the applicant's ability to perform road and bridge construction and services incidental thereto. The letters must contain specific information regarding the following:

1. Specific projects, including project numbers and location.

2. Size of projects by dollar value.

3. Description of projects and classes of work performed with applicant's own employees and equipment.

4. Whether projects were timely completed.

5. Whether the applicant was cooperative and facilitated changes to projects when required.

Rulemaking Authority 334.044(2), 337.14(1) FS. Law Implemented 337.11, 337.14, 337.164, 337.167 FS. History—Formerly Chapter 14-8, Amended 7-1-67, 8-20-68, 5-9-70, 1-6-72, 9-24-75, Formerly 14-22.01(1), (2), (3), Amended 3-23-79, 11-10-82, 8-25-83, 10-1-85, Formerly 14-22.02, Amended 12-20-89, 6-27-90, 1-4-94, 7-1-95, 6-27-04, 5-15-06, 1-23-08, 10-10-10.

14-22.003 Rating the Applicant.

(1) Verification of Information. The Department will make such inquiries and investigations as deemed necessary to verify and evaluate whether the applicant is competent, responsible, and possesses the necessary financial resources to perform the requested work based upon the following:

(a) Organization and management, including construction experience and past work performance record of the applicant, or applicant’s employees, whether with, or prior to their employment by the applicant, including deficiency in quality of completed work, any history of payment of liquidated damages, any untimely completion of projects where liquidated damages were not paid, uncooperative attitude, contracts litigation, claims, unpaid bill(s), notices of non-payment filed by subcontractors or suppliers, or defaults in the State of Florida or other states.

(b) Equipment as shown on the equipment list for the requested classes of work. Adequate equipment shall be basic equipment used by the industry in normal construction for each class of work, or called for in the Standard Specifications for Road and Bridge Construction in force at the time of application.

(c) Integrity, including evaluation of truthfulness of statements in the application or other contractual documents.

(d) Financial resources sufficient to establish a Maximum Capacity Rating (MCR) as set forth in subsection (2) below. The Department will consider any other relevant financial information.

(2) MCR.

(a) Definition and Formula. The MCR shall be the total aggregate dollar amount of uncompleted work an applicant may have under contract at any one time as prime contractor and/or subcontractor, regardless of its location and with whom contracted. The MCR shall be established by the Department using the following formula and consideration of the general qualification factors listed in subsection 14-22.004(1), F.A.C.:

- MCR = $AF \times CRF \times ANW$, in which
- MCR = Maximum Capacity Rating
- AF = Ability Factor (determined from the Ability Score as provided below)
- CRF = Current Ratio Factor (determined as provided below)
- ANW = Adjusted Net Worth (determined as provided below).

1. Ability Score.

a. New applicants and applicants who have not been qualified under this rule for more than two years shall have their Ability Factor determined from the total Ability Score resulting from evaluations of the applicant’s organization, management, work experience, and letters of recommendation. The maximum values used in determining the ability score for the above applicants are as follows:

ABILITY SCORE	
Organization and Management	Maximum Value
Experience of Principals	15
Experience of Construction Supervisors	15
Work Experience	
Completed Contracts	
Highway and bridge related	25*
Non-highway and bridge related	10
Ongoing Contracts	
Highway and bridge related	25*
Non-highway and bridge related	10
TOTAL	100
*Maximum value shall be increased to 35 if applicant’s experience is exclusively in highway and bridge construction.	

b. If the applicant has been qualified under this rule within the last two years, and three or more Contractor Past Performance

Reports are on file for projects completed for the Department within five years of the application filing date, and have not been previously used to determine an Ability Score, the applicant's Ability Score shall be calculated by adding the scores of these reports plus the average score from the previous application and dividing the sum by the number of scores used. Contractor Past Performance Reports shall reflect the applicant's organization, management, and demonstrated work performance, including work similar to others, as set forth in Form 700-010-25, Rev. 09/05, hereby incorporated by reference.

c. If the applicant has been qualified under this rule within the last two years, and the Department does not have three or more Contractor Past Performance Reports on file for projects completed for the Department within five years of the application filing date, then the Ability Factor (AF) from the applicant's last successful application shall be brought forward and used.

d. The average Ability Score determined in a. or b. above is converted to an AF pursuant to subparagraph 14-22.003(2)(a)2., F.A.C., or is brought forward as indicated in sub-subparagraph c. The AF is then used in the formula as described in paragraph 14-22.003(2)(a), F.A.C., to compute the applicant's MCR.

2. Ability Factor. The Ability Score for new and active applicants shall determine the AF as follows:

Ability Score	AF
64 or less	1
65-69	2
70-73	3
74-76	4
77-79	5
80-84	8
85-89	10
90-93	12
94-97	14
98-100	15

a. Notwithstanding the requirements in paragraph 14-22.003(2)(a), sub-subparagraphs 14-22.003(2)(a)1.a., b., c., d., and subparagraph 14-22.003(2)(a)2., F.A.C., the AF will be limited to a maximum of 4 if the applicant receives an ability score of 76 or less on the initial application, receives an ability score of 76 or less on two or more Contractor Past Performance Reports for projects on file and completed during the 12 month period preceding the applicant's fiscal year ending date for which the Certificate of Qualification is being issued, unless the applicant's average ability score (inclusive of all scores received during the period) is 87 or greater. The use of a surety commitment letter to raise the MCR is prohibited.

b. The AF limitation will remain in effect during the current qualification period.

3. Current Ratio Factor (CRF). The current ratio is the number resulting from dividing the adjusted current assets by the adjusted current liabilities. The calculated current ratio from 0.60 up to a maximum of 2.00 will be used as the CRF. The maximum current ratio of 2.00 will be used for the CRF, even if the actual value is greater. The applicant will be denied qualification if its calculated current ratio is less than 0.60.

4. Adjusted Net Worth (ANW). The ANW must be a positive value for the applicant to be considered for qualification. The ANW used in the MCR formula will be the amount of capital and surplus (net worth) as adjusted.

5. The following adjustments shall be applied in the establishment of the CRF and ANW:

a. The value allowed for equipment shall be the book value or 50 percent of actual value given by a qualified equipment appraiser, whichever is greater. Equipment appraisals must be dated no earlier than six months prior to receipt of the application.

b. The value allowed for real estate used for business purposes (road, bridge, or public transportation construction) shall be:

(I) The book value or the value given by a qualified real estate appraiser, real estate appraisals shall be dated no earlier than two years prior to receipt of the application is filed, less

(II) Encumbrances against same, such encumbrances will not also be deducted elsewhere.

c. No value will be allowed for investments, real estate, or any other property not used in road, bridge, or public transportation construction, and no allowance shall be given for homesteads or personal property. Encumbrances against these assets shall be eliminated entirely.

d. Assets of doubtful value are recorded transactions that, based upon the known facts and circumstances, do not lead to the realization of value for use in the contractor's operations in the current operating period. These assets shall be eliminated in part or

entirely.

e. Contingent liabilities are debts or obligations that would require the use of the contractor's resources within the current operation period, given that certain events take place in the future. These shall be treated as actual liabilities, wholly or in part, depending on the probability of such liabilities becoming actual liabilities.

f. Patents, organizational expense, non-compete agreements, goodwill, and intangible assets shall be eliminated entirely.

g. Past due receivables or unexplained receivables, unsecured notes receivable, and the interest for these notes shall be eliminated entirely.

h. Officer and employee receivables, or other related party receivables, where it is determined that one party can exercise control or significant influence over the management and/or operating policies of the other party, shall be eliminated entirely. Furthermore, subsidiary or affiliate receivables, based upon the known facts and circumstances, that do not lead to the realization of value for use in the contractor's operations shall be eliminated in part or entirely.

i. Prepaid expenses, deposits, prepaid taxes, deferred interest, and the excess of deferred tax assets over deferred tax liabilities shall be eliminated entirely.

j. The book value of leasehold improvements and the excess of book value over liabilities for capital lease assets shall be eliminated entirely. Cash surrender value life insurance shall be eliminated entirely.

k. Construction claims included as current assets associated with contracts shall be eliminated entirely.

6. MCR. The calculated MCR shall be rounded off according to the following scale:

Up to \$500,000 – round off to nearest \$10,000

Above \$500,000 to \$2,000,000 – round off to nearest \$25,000

Above \$2,000,000 – round off to nearest \$50,000

(b) Bonding Capacity.

1. Except for the provisions of sub-subparagraph 14-22.003(2)(a)2.a., F.A.C., an applicant qualifying for a positive rating, or a contractor having a current certificate of qualification, has an Ability Score of 80 or higher, and has a Current Ratio Factor of at least 1.00, is eligible to request an increase in its MCR upon receipt of evidence of a current bonding capacity exceeding the calculated MCR from a surety company authorized to do business in the State of Florida. Such evidence shall be in the form of a Surety Commitment Letter and executed by an officer of the surety, authorized to bind the surety, with a power of attorney attached. The Surety Commitment Letter must be dated within four months of the request, and cover the certification period. The limit for an MCR issued on the basis of such bond commitment for applicants with an Ability Score of 80 through 90 will be determined by the following "Surety Capacity" formula:

$$SC = SM \times MCR \times (CRV \div TRV)$$

In which:

SC = Surety Capacity

SM = Surety Multiplier (Determined from Ability Score – Surety Multiplier Table as provided below)

MCR = Maximum Capacity (Determined as provided in paragraph 14-22.003(2)(a), F.A.C.)

CRV = Construction Revenues (As set forth in applicant's financial statements per subparagraph 14-22.002(2)(c)2., F.A.C.)

TRV = Total Revenues (As set forth in applicant's financial statements)

Ability Score		Surety Multiplier Table	
Ability Score		Surety Multiplier	
80		3.0	
81		3.4	
82		3.8	
83		4.2	
84		4.6	
85		5.0	
86		5.6	
87		6.2	
88		6.8	

89	7.4
90	8.0

2. Except for the provisions of sub-subparagraph 14-22.003(2)(a)2.a., F.A.C., the MCR for firms that have an Ability Score of 91 or greater will be the “Aggregate of Contracts” amount stipulated in the surety commitment letter. An MCR established through the use of a surety commitment letter shall not exceed the “Aggregate of Contracts” amount stipulated in the surety commitment letter.

3. Except for the provisions of sub-subparagraph 14-22.003(2)(a)2.a., F.A.C., use of a surety commitment letter to increase an applicant’s MCR will only be considered if at the time of application the CRF is at least 1.00, as defined in subparagraph 14-22.003(2)(a)3., F.A.C., and the applicant has an Ability Score of 80 or higher. No event(s) during the qualification period, subsequent to the ending date of the audited financial statements used for qualification, will be considered in determining an applicant’s CRF. However, the Department will evaluate the general qualification factors listed in subsection 14-22.004(1), F.A.C., in consideration of an increase to the applicant’s MCR through the use of a surety commitment letter.

(3) Classification of Work.

(a) Applicant request for class(es) of work. Applicants shall indicate each class of work for which they request qualification. The Department will consider qualification only in the specific class or classes of work requested.

(b) The major classes of work are as follows:

1. Bascule Bridge Rehabilitation.
2. Bridge Deck Overlays.
3. Bridge Painting.
4. Cathodic Protection.
5. Computerized Traffic Control.
6. Debris Removal (Emergency) Contractor Additional Experience, *Form 375-020-70, Rev. 02/10, hereby incorporated by reference.
7. Drainage (includes all storm drains, pipe culverts, culverts, etc.).
8. Electrical Work (includes roadway, bridge, and runway lighting).
9. Fencing.
10. Flexible Paving (includes limerock, shell base and other optional base courses, soil-cement base, mixed-in-place bituminous paving, bituminous surface treatments and stabilizing).
11. Grading (includes clearing and grubbing, excavation, and embarkment).
12. Grassing, Seeding and Sodding.
13. Guardrail.
14. Hot in Place Resurfacing Contractor Additional Experience, *Form 375-020-71, Rev. 02/10, hereby incorporated by reference.
15. Hot Plant-Mixed Bitum. Course (includes structural and surface courses).
16. Intelligent Transportation Systems Contractor Additional Experience, * Form 375-020-73, Rev. 02/10, hereby incorporated by reference.
17. Intermediate Bridges that contain none of the types of construction listed under Major Bridges and span lengths exceeding 50 feet (center to center of cap).
18. Landscaping Contractor Additional Experience, * Form 375-020-72, Rev. 02/10, hereby incorporated by reference.
19. Major Bridge – Bascule Spans.
20. Major Bridge – Bridges of conventional construction which are over a water opening of 1,000 feet or more.
21. Major Bridge – Cable Stayed Construction.
22. Major Bridge – Cast in Place/Post-Tensioned/Super-Structure.
23. Major Bridge – Concrete Segmental Construction.
24. Major Bridge – Curved Steel Girders.
25. Major Bridge – Multi-Level Roadways.
26. Major Bridge – Steel Truss Construction.
27. Minor Bridges that contain span lengths not exceeding 50 feet (center to center of cap) and total length not exceeding 300 feet. A Minor Bridge shall not contain any type of construction listed under Major Bridges or Intermediate Bridges.

28. Pavement Marking (includes delineators, traffic stripe painting, and thermoplastics).
29. Portland Cement Concrete Roadway Paving.
30. R&R Intermediate Bridges as defined in Number 17.
31. R&R Major Bridge – Bridges of conventional construction which are over a water opening of 1,000 feet or more.
32. R&R Major Bridge – Cable Stayed Construction.
33. R&R Major Bridge – Concrete Segmental Construction.
34. R&R Major Bridge – Multi-Level Roadways.
35. R&R Major Bridge – Steel Truss Construction.
36. R&R Major Bridge – Curved Steel Girders.
37. R&R Minor Bridges as defined in Number 27.
38. Roadway Signing.
39. Traffic Signal.
40. Other Specialty Work Classes Requested.

(c) For work classes identified with an asterisk, provide the additional information as required in referenced forms.

(d) For the Work Class of Debris Removal (Emergency), the contractor(s) shall complete the Application for Qualification accompanied by a Reviewed Financial Statement. See Form 375-020-70.

Rulemaking Authority 334.044(2), 337.14(1) FS. Law Implemented 337.11, 337.14, 337.167 FS. History—Formerly Chapter 14-8, Amended 7-1-67, 8-20-68, 5-9-70, 1-6-72, 9-24-75, Formerly 14-22.01(4), Amended 3-23-79, 11-10-82, 8-25-83, 1-9-84, 10-1-85, Formerly 14-22.03, Amended 12-20-89, 4-22-92, 1-4-94, 7-1-95, 7-2-95, 7-8-01, 6-27-04, 5-15-06, 11-5-06, 10-10-10.

14-22.0041 Procedure for Qualification and Issuance of Certificate of Qualification.

(1) General Qualification Requirements. General factors the Department will consider in determining qualification include:

- (a) Adequacy of financial resources as set forth in subparagraphs 14-22.003(2)(a)3. and 4., F.A.C.
- (b) History of conviction for contract crime by an applicant or its affiliate(s).
- (c) History of suspension or revocation of Certificate of Qualification.
- (d) Record of past work performance or payment of obligations.
- (e) Employment of, or otherwise providing compensation to, any employee or officer of the Department.
- (f) Evidence of willfully offering an employee or officer of the Department any pecuniary or other benefit with the intent to influence the employee's or officer's official action or judgment.
- (g) Whether the applicant or its affiliate is currently delinquent or has been delinquent on any contract previously awarded by the Department.

(2) Certificate of Qualification. The Certificate of Qualification shall state the applicant's Maximum Capacity Rating, the class or classes of work approved for bidding, the applicant's name for submitting bids, and the expiration date of the qualification.

(3) Revision of Certificate of Qualification.

(a) The Department may issue a Revised Certificate of Qualification that expires no later than the expiration date of the previous valid Certificate of Qualification. A revised Certificate of Qualification shall be issued when at least one of the following occurs: changes in classes of work, Maximum Capacity Rating, company name, or correction of technical errors.

1. Written requests for additional classes of work shall be considered according to paragraph 14-22.0041(2)(a), F.A.C.
2. Written requests for raising the Maximum Capacity Rating must conform to paragraph 14-22.003(2)(b), F.A.C.
3. Revisions to the Ability Score of non-active contractors shall be made by the Department using the procedure described in sub-subparagraph 14-22.003(2)(a)1.a., F.A.C.
4. Name changes will be made if consistent with subsection 14-22.005(4), F.A.C.

(b) Denial or partial denial of written requests for Revised Certificates of Qualification shall be processed according to subsection 14-22.0041(2), F.A.C.

Rulemaking Authority 334.044(2), 337.14(1) FS. Law Implemented 337.14, 337.164, 337.165, 337.167 FS. History—New 11-10-82, Amended 8-25-83, 10-1-85, Formerly 14-22.041, Amended 12-20-89, 1-4-94, 7-1-95, 6-27-04, 10-10-10.

14-22.0042 Notification of Conviction of Contract Crime.

A contractor who is currently qualified, or seeking to be qualified, shall notify the Contracts Administration Office in writing within 30 days of the filing of a criminal Information or Indictment or the conviction of a contract crime applicable to the contractor, or any affiliates, officers, directors, executives, shareholders active in management, employees or agents of the contractor.

Rulemaking Authority 334.044(2), 337.14(1) FS. Law Implemented 337.11, 337.164, 337.165(5), (6) FS. History—New 8-25-83, Amended 10-1-85, Formerly 14-22.042, Amended 12-20-89, 1-4-94, 5-15-06, 10-10-10.

14-22.005 Period of Validity of Qualification.

(1) The applicant's period of qualification shall be 18 months from the ending date of the audited annual financial statements included in the application. For good cause, the Department shall approve a period of qualification less than 18 months. Good cause shall mean as set forth in Rule 14-22.012, F.A.C. The Certificate of Qualification shall expire on the expiration date of the certificate, regardless of whether an administrative hearing has been requested concerning the Department's action on the application. Submission of an application shall not affect the expiration of the Certificate of Qualification. Issuance of a new Certificate of Qualification will determine the new Ability Factor and Maximum Capacity Rating that is effective on the date of issuance and supersedes the current Certificate of Qualification.

(2) Qualified applicants in good standing will be notified of the impending deadline date for submittal of their application at least 45 days prior to that date. Failure of notification shall not affect the deadline date for submittal of applications.

(3) Qualified applicants shall submit a new application with financial statements as required by subsection 14-22.002(2), F.A.C., within four months from the date a change of ownership or incorporation of a non-incorporated firm occurs. A new application shall also be required whenever the Department has reason to believe that the position of a qualified applicant is less favorable than at the time of its last application, or that a subsequent, material event has occurred which adversely affects the financial position of the applicant.

(4) A qualified applicant need not submit a new application solely based on a change in the officers or name of a corporation, but such information shall be certified to the Department within 10 days of the event.

(5) A qualified applicant shall notify the Department, in writing, within 10 days of the decrease in its available surety performance bond credit amount.

(6) A Certificate of Qualification shall not be issued to an applicant or affiliate that is insolvent.

(7) A qualified applicant or affiliate shall notify the Contracts Administration Office in writing upon the filing of a bankruptcy petition. The notice must be received by the Contracts Administration Office within 10 days of the initial filing.

(8) A qualified applicant, upon written request from the Department (stating the reasons for this request), shall submit updated or other additional financial information necessary for the Department to verify financial adequacy during the period of validity of qualification.

Rulemaking Authority 334.044(2), 337.14(1) FS. Law Implemented 337.11, 337.14, 337.164 FS. History—Formerly Chapter 14-8, Amended 7-1-67, 8-20-68, 5-9-70, 1-6-72, 9-24-75, Formerly 14-22.01(7), Amended 3-23-79, 11-10-82, 8-25-83, 10-1-85, Formerly 14-22.05, Amended 12-20-89, 1-4-94, 6-27-04, 5-15-06, 10-10-10.

14-22.006 Current Capacity Rating.

(1) The Certificate of Qualification shall establish an applicant's Maximum Capacity Rating, which will be reduced by the total value of their current uncompleted work, regardless of its location and with whom it may be contracted, to determine the bidding capacity at any particular time. Current Capacity is the applicant's bidding capacity. Current Capacity shall be amended immediately upon issuance of a new Certificate of Qualification, regardless of whether the existing Certificate of Qualification has expired.

(2) In determining the Current Capacity of a prospective bidder, the deduction for uncompleted work shall include work subcontracted from others. The bidder will be given credit for work sublet to others; provided, for contracts with the Department, the request for authorization to sublet the work has been approved in writing. The Department, in determining the bidder's eligibility to be issued a bid proposal, will decrease a bidder's uncompleted work by deducting ten percent per month from the "Status of Contracts on Hand" report in the Certification of Current Capacity form submitted with the bidder's most recent bid, or the uncompleted work listed in the bidder's Application for Qualification, whichever is most current and will increase the Current Capacity accordingly.

(3) All bidders must certify their total dollar amount of work underway and submit Form 375-020-39, Rev. 11/07, Certification of Current Capacity, hereby incorporated by reference, or a spreadsheet in a similar and accepted format prior to submitting a bid. This formation must be submitted within thirty (30) days of submitting a bid or at least once during the month a bid is due via the “Work Underway” link in the Contractor Pre-Qualification System. Failure to submit the Certification of Work Underway shall result in the bidder being prohibited from receiving bidding documents, submitting bids, or receiving contract awards until the certification is submitted. If a Form 375-020-39 is submitted, and the contractor is awarded a contract during that month that exceeds 25% of the total dollar amount of work underway, a revised Form 375-020-39 must be submitted prior to submitting another bid during that month.

(4) In determining a bidder’s Current Capacity, any projects in a prior letting pending award by the Department to such bidder shall also be debited against the bidder’s Current Capacity, unless the award is to be delayed for an indefinite period of time. Further, no credit shall be given for proposed subcontracting of any work included in such proposal pending award.

Rulemaking Authority 334.044(2), 337.14(1) FS. Law Implemented 337.11, 337.14, 337.164 FS. History—Formerly Chapter 14-8, Amended 7-1-67, 8-20-68, 5-9-70, 1-6-72, 7-24-75, Formerly 14-22.01(8), Amended 3-23-79, 11-10-82, 8-25-83, 10-1-85, Formerly 14-22.06, Amended 12-20-89, 6-27-90, 1-4-94, 7-1-95, 7-2-95, 12-18-05, 5-15-06, 1-23-08, 10-10-10.

14-22.007 Joint Ventures.

(1) Two or more qualified bidders may bid jointly provided each party has requested the proposal document be issued to the joint venture; the combined joint venture meets the requirements of subsection 14-22.008(1), F.A.C., and the combined Current Capacity of the parties to the joint venture equals or exceeds the budget estimate of the project. The parties to a joint venture shall submit a statement in the name of the joint venture signed by each party, indicating the percentage of proposed contract work to be debited against each one’s Current Capacity. The total of these percentages must equal one hundred percent. No party in the joint venture may exceed its Current Capacity by virtue of the percentage of work to be debited against its available capacity, as expressed on the signed statement and using the budget estimate as the comparison figure. To comply with this section, the parties to a joint venture shall submit Form 375-020-18, Rev. 03/09, Declaration of Joint Venture and Power of Attorney for Bidding on Specified Project(s), hereby incorporated by reference, and receive approval prior to the due date of the letter of interest, the request for proposal, or issuance of the proposal, whichever is due or occurs first.

(2) If the joint venture parties are affiliated in any way as to ownership, officers, or key employees, they may indicate the desired apportionment of the capacity debit, however, the Department reserves the right to change such apportionment as justified by the circumstances.

(3) The provisions of this section regarding the apportionment of the debit among the parties shall in no way divide the responsibility for the joint venture bid or contract among the parties.

(4) Qualified parties who form a joint venture under the provisions of this rule must have a federal Employer Identification Number (EIN) for the joint venture or give proof that the EIN has been requested. The joint venture shall provide this number to the Department before the contract award can be made.

Rulemaking Authority 334.044(2), 337.14(1) FS. Law Implemented 337.11, 337.14, 337.164 FS. History—Formerly Chapter 14-8, Amended 7-1-67, 8-20-68, 5-9-70, 1-6-72, 9-24-75, Formerly 14-22.01(9), Amended 3-23-79, 11-10-82, 8-25-83, Formerly 14-22.07, Amended 12-20-89, 1-4-94, 7-1-95, 10-10-10.

14-22.008 Eligibility for Obtaining Proposal Documents.

(1) Proposal documents for a specific project shall be issued only to a prospective bidder who has a Current Capacity equal to or greater than the budgeted contract amount and a Certificate of Qualification which expires on or after the date proposals are to be received, covering one or more classes of work, as identified in paragraph 14-22.003(3)(b), F.A.C., which, in the aggregate, comprise 50 percent or more of the percentage of the Department’s budget estimate of the major classes of work in the specific contract.

(2) If the Department’s budget estimate for a specific project has a majority percentage of specialty classes of work, as identified in paragraph 14-22.003(3)(c), F.A.C., then a contractor must be qualified in 50 percent or more of the Department’s budget estimate for the total classes of all work in the specific project.

(3) In determining whether a contractor shall receive proposal documents, the Department shall automatically credit all

contractors as being qualified in 50 percent of the Maintenance of Traffic percentage of the Department's budget estimate for a specific project.

(4) Eligibility for obtaining proposal documents shall have no effect on determination of the Current Capacity.

(5) A qualified bidder will be issued proposal documents for any number of projects, provided the estimated contract amount of any individual project requested does not exceed their Current Capacity. Except for the provisions of sub-subparagraph 14-22.003(2)(a)2.a., F.A.C., qualified firms that desire to bid for a project which exceeds their Current Capacity, but whose CRF was at least 1.00, based on the financial statements used for current qualification, and that have an Ability Score of 80 or higher, shall be allowed to bid that specific project if the firm furnishes a commitment letter from a surety company authorized to do business in the State of Florida that the project amount does not exceed the firm's Surety Capacity. Issuance of proposal documents by the Department shall be subject to the payment of applicable costs by the qualified bidder.

(6) The bid shall be signed by the owner for sole proprietorships, the partner(s) authorized to bind the entity for partnerships, the president or vice president for corporations, and the authorized executing official for limited liability companies. Bids submitted by a joint venture shall be signed by the authorized executing officials of the business entities comprising the joint venture and the attorney-in-fact for the joint venture.

Rulemaking Authority 334.044(2), 337.14(1) FS. Law Implemented 337.11, 337.14 FS. History—Formerly Chapter 14-8, Amended 7-1-68, 8-20-68, 5-9-70, 1-6-72, 9-24-75, Formerly 14-22.01(11), Amended 3-23-79, 11-10-82, 8-25-83, Formerly 14-22.08, Amended 12-20-89, 1-4-94, 7-1-95, 7-2-95, 7-8-01, 5-15-06, 10-10-10.

14-22.009 Over-Bidding.

(1) Any bid that exceeds the Current Capacity of the bidder based upon the most recently issued Certificate of Qualification shall be rejected unless the bidder fulfills the requirements of subsection 14-22.009(3), F.A.C. Pursuant to subsection 14-22.006(1), F.A.C., Current Capacity is amended immediately upon issuance of a new Certificate of Qualification.

(2) In the event a bidder submits the low bid on two or more projects in the same letting, where the aggregate dollar amount of the bids is greater than the Current Capacity of the bidder, and the bidder is unable to increase its Current Capacity by fulfilling the requirements of subsection 14-22.009(3), F.A.C., the Department shall select the particular project or projects for award that will result in the least cost to the Department.

(3) Before the Department takes action under the provisions of either of the preceding two paragraphs, the bidder shall be notified in writing of the Department's action, and, except for the AF provisions of sub-subparagraph 14-22.003(2)(a)2.a., F.A.C., shall be allowed 10 days from the date the bid was opened to submit a certification of work underway pursuant to Rule 14-22.006, F.A.C.

(4) The determination of the successful bidder on any project or projects in which bids have been rejected, shall be made without consideration of the rejected bid(s).

Rulemaking Authority 334.044(2), 337.14(1) FS. Law Implemented 337.11, 337.14 FS. History—Formerly Chapter 14-8, Amended 7-1-67, 8-20-68, 5-9-70, 1-6-72, 9-24-75, Formerly 14-22.01(11), Amended 3-23-79, 11-10-82, 8-25-83, Formerly 14-22.09, Amended 12-20-89, 1-4-94, 7-1-95, 7-2-95, 7-8-01, 12-18-05, 1-23-08, 10-10-10.

14-22.0101 Special Classes of Work.

Rulemaking Authority 334.044(2), 337.105, 337.14(1) FS. Law Implemented 337.105, 337.11, 337.14, 337.164 FS. History—New 12-20-89, Amended 1-4-94, Repealed 10-10-10.

14-22.0111 Subletting.

Rulemaking Authority 334.044(2), 337.14(1) FS. Law Implemented 337.14, 337.164 FS. History—New 12-20-89, Amended 1-4-94, Repealed 10-10-10.

14-22.012 Suspension, Revocation, or Denial of Qualification.

(1) As provided in Section 337.16(2), F.S., the Department, for good cause, may deny, suspend, or revoke a contractor's Certificate of Qualification. A suspension, revocation, or denial for good cause pursuant to this rule shall prohibit the contractor from bidding on any Department construction contract for which qualification is required by Section 337.14, F.S., shall constitute a

determination of non-responsibility to bid on any other Department construction or maintenance contract, and shall prohibit the contractor from acting as a material supplier or subcontractor on any Department contract or project during the period of suspension, revocation, or denial. Good cause shall include the following:

- (a) One of the circumstances specified under Section 337.16(2), F.S., has occurred.
 - (b) Affiliated contractors submitted more than one proposal for the same work. In this event the Certificate of Qualification of all of the affiliated bidders will be revoked, suspended, or denied. All bids of affiliated bidders will be rejected.
 - (c) The contractor made or submitted false, deceptive, or fraudulent statements, certifications, or materials in any claim for payment or any information required by any Department contract, including the Certification of Work Underway.
 - (d) The contractor or its affiliate defaulted on any contract or a contract surety assumed control of financial responsibility for any contract of the contractor.
 - (e) The contractor's qualification to bid is suspended, revoked, or denied by any other public or semi-public agency.
 - (f) The contractor failed to comply with contract or warranty requirements, or failed to follow Department direction in the performance of a contract.
 - (g) The contractor failed to timely furnish all contract documents required by the contract specifications, special provisions, or by any state or federal statutes or regulations. If the contractor fails to furnish any of the subject contract documents by the expiration of the period of suspension, revocation, or denial set forth above, the contractor's Certificate of Qualification shall remain suspended, revoked, or denied until the documents are furnished.
 - (h) The contractor failed to notify the Department's Contracts Administration Office within 10 days of the contractor, or any of its affiliates, being declared in default or otherwise not completing work on a contract, or being suspended from qualification to bid or denied qualification to bid by any other public or semi-public agency.
 - (i) The contractor did not pay its subcontractors or suppliers in a timely manner or in compliance with contract documents.
 - (j) The contractor has demonstrated instances of poor or unsatisfactory performance, deficient management resulting in project delay, poor quality workmanship, a history of payment of liquidated damages, untimely completion of projects, uncooperative attitude, contract litigation, inflated claims or defaults.
 - (k) An affiliate of the contractor has previously been determined by the Department to be non-responsible, and the specified period of suspension, revocation, denial, or non-responsibility remains in effect.
 - (l) The contractor or affiliate(s) has been convicted of a contract crime, as provided in Section 337.165, F.S.
 - (m) Any other circumstance constituting "good cause" under Section 337.16(2), F.S., exists.
- (2) The Department shall deny or revoke the Certificate of Qualification of any contractor and its affiliates for a period of 36 months, pursuant to Section 337.165, F.S., when it is determined by the Department that the contractor has, subsequent to January 1, 1978, been convicted of a contract crime within the jurisdiction of any state or federal court. Any such contractor shall not act as a prime contractor, material supplier, subcontractor, or consultant on any Department contract or project during the period of denial or revocation.
- (3) The Certificate of Qualification of a contractor found delinquent under Section 337.16(1), F.S., shall be denied, suspended, or revoked. A suspension or revocation shall prohibit the contractor from being a subcontractor on Department work during the period of denial, suspension, or revocation, except when a prime contractor's bid has used prices of a subcontractor who becomes disqualified after the bid, but before the request for authorization to sublet is presented.
- (4) If a contractor's Certificate of Qualification is revoked, suspended, or denied and the contractor receives an additional period of revocation, suspension, or denial of its Certificate of Qualification, the time periods will run consecutively.
- (5) The revocation, denial, or suspension of a contractor's Certificate of Qualification under this Section shall be for a specific period of time based on the seriousness of the deficiency.
- (2) Examples of factors affecting the seriousness of a deficiency are:
1. Impacts on project schedule, cost, or quality of work,
 2. Unsafe conditions allowed to exist,
 3. Complaints from the public,
 4. Delay or interference with the bidding process,
 5. The potential for repetition,
 6. Integrity of the public contracting process,
 7. Effect on the health, safety, and welfare of the public.

Rulemaking Authority 334.044(2), 337.14(1) FS. Law Implemented 337.11, 337.14, 337.16, 337.165, 337.167 FS. History—Formerly Chapter 14-8, Amended 7-1-67, 8-20-68, 5-9-70, 1-6-72, 9-24-75, Formerly 14-22.01(11), Amended 3-23-79, 11-10-82, 8-25-83, 10-1-85, Formerly 14-22.12, Amended 12-20-89, 1-4-94, 7-1-95, 7-2-95, 2-16-99, 7-8-01, 6-27-04, 1-23-08, 10-10-10.

14-22.0121 Reapplication and Reinstatement.

(1) A contractor whose qualification to bid has been revoked or denied because of contract crime may, at any time after revocation or denial, file a petition for reapplication or reinstatement. However, a contractor may not petition for reapplication or reinstatement for a period of 24 months after revocation or denial for a subsequent conviction occurring within 10 years of a previous denial or revocation for contract crime.

(2) If the petition for reapplication or reinstatement is denied, the contractor can not petition for a subsequent hearing for a period of nine months following the date of the final order of revocation or denial.

(3) If the petition for reapplication or reinstatement is granted, the contractor must file a current Application for Qualification with the Contracts Administration Office. Reinstatement shall not be effective until issuance of a Certificate of Qualification. The financial statements submitted with the reinstatement application must comply with subsection 14-22.002(2), F.A.C.

Rulemaking Authority 334.044(2), 337.14(1) FS. Law Implemented 337.14, 337.16, 337.164, 337.165, 337.167 FS. History—New 8-25-83, Amended 10-1-85, Formerly 14-22.121, Amended 12-20-89, 1-4-94, 1-23-08, 10-10-10.

14-22.014 Emergency Suspension and Revocation.

(1) The Department may summarily issue an emergency suspension of a contractor's qualification to bid if it finds that imminent danger exists to the public health, safety, or welfare.

(2) The written notice of emergency suspension shall state the specific facts and reasons for finding an imminent danger to the public health, safety, or welfare exists.

(3) The Department, within 10 days of the emergency suspension, shall initiate formal suspension or revocation proceedings in compliance with Rule 14-22.012, F.A.C., except the 10 day notice requirement shall not be construed to prevent a hearing at the earliest time practicable upon request of the aggrieved party.

Rulemaking Authority 334.044(2), 337.14(1), 337.167(2) FS. Law Implemented 337.11, 337.14, 337.16, 337.164, 337.167 FS. History—New 11-10-82, Amended 8-25-83, Formerly 14-22.14, Amended 12-20-89, 1-4-94, 10-10-10.

14-22.0141 Contractor Non-Responsibility.

(1) Contractors who do not possess a Certificate of Qualification shall be determined non-responsible if the Department determines that good cause exists. Good cause shall exist when any one of the circumstances specified in subsection 14-22.012(1), F.A.C., occurs.

(2) Determination of Contractor Non-Responsibility. The Contractor will be determined to be non-responsible based upon good cause as set forth in subsection 14-22.012(1), F.A.C., for a specific period of time based on the factors specified in subsection 14-22.012(5), F.A.C.

(a) This rule does not limit the Department's ability to reject a bid or cancel an award for a particular contract based upon the contractor being non-responsible.

(b) A determination of non-responsibility shall prohibit a contractor from bidding, subcontracting, or acting as a material supplier on any Department contracts or projects during the period of non-responsibility.

(c) If a contractor is declared non-responsible and the contractor receives an additional determination of non-responsibility, the time periods shall run consecutively.

Rulemaking Authority 334.044(2) FS. Law Implemented 337.11, 337.16(2) FS. History—New 4-11-95, Amended 12-7-97, 7-8-01, 6-27-04, 1-23-08, 10-10-10.

14-22.015 Forms.

Rulemaking Authority 334.044(2), 337.14(1) FS. Law Implemented 337.11, 337.14, 337.167 FS. History—New 11-10-82, Amended 8-25-83, Formerly 14-22.15, Amended 12-20-89, 1-4-94, 7-1-95, 7-2-95, 7-8-01, 6-27-04, 12-18-05, 5-15-06, 11-5-06, 1-23-08, 10-10-10.