

**VIRGINIA DEPARTMENT OF TRANSPORTATION**

**CONSTRUCTION DIVISION**

**INSTRUCTIONAL AND INFORMATIONAL MEMORANDUM**

<b>GENERAL SUBJECT:</b>  <b>CONTRACTOR PERFORMANCE EVALUATIONS (CPE)</b>	<b>NUMBER:</b>  IIM-CD-2023-02.01
<b>SPECIFIC SUBJECT:</b>  <b>GUIDANCE FOR CPE COMPLETION, SUBMITTAL, AND APPEALS PROCESS</b>	<b>DATE:</b> May 9, 2023
	<b>SUPERSEDES:</b> IIM-CD-2018- 04.01
<b>APPROVED:</b>  Kerry A. Bates, P.E. State Construction Engineer	<b>Kerry Bates</b>  2023.05.09 09:54:44-04'00'

**Effective Date**

This Instructional and Informational Memorandum (IIM) is effective upon approval.

**Purpose**

To provide direction for the completion of Contractor Performance Evaluations (CPEs) on all prequalified prime contractors (Contractors) and first tier direct subcontractors (Subcontractors).

**CONTRACTOR PERFORMANCE EVALUATIONS (CPE)**

**I. Prequalification**

In accordance with Section 102.01 of the Road and Bridge Specifications (Specifications), all prospective bidders, including each member of a joint venture, shall be prequalified by the Department. In addition, with certain exceptions, all Subcontractors shall be prequalified prior to performing any work on a Contract. The Rules Governing Prequalification Privileges, as adopted by the Commonwealth Transportation Board, set forth the rules and regulations on prequalification. These Rules can be found at:

<https://www.virginia.gov/business/const/prequal.asp>

A firm's eligibility for prequalification is determined by their Prequalification Score. The formula for this score is:

$$(Quality\ Score \times 0.70) + (Safety\ Score \times 0.30) = Prequal\ Score$$

Quality Score for a firm is determined by the running average of all the annual and final CPE evaluation scores for the preceding five years. This makes completing CPE evaluations an important and vital component of the Department's contract administration process. The compilation of the five-year average of CPE scores to determine a firm's Quality Score is performed by the Prequalification Office in the Construction Division.

Subcontractors shall be prequalified in accordance with Section 105.06 of the Specifications. Written consent of the Engineer shall be documented on form C-31.

## **II. Contractor Performance Evaluations**

Design-Bid-Build (DBB) construction contracts shall have CPEs completed for the Contractor and all Subcontractors listed on its C-31 form.

### **a. CPE Software and Methodology**

The CPE process is based on two major components, the CPE interim evaluation (CPEi), and the CPE annual (CPEa) and/or Final evaluation (CPEf). Detailed instructions on completing CPEs can be found at:

<https://www.virginiadot.org/business/const/contrperfevals.asp>

### **b. CPE Interim Evaluation (CPEi)**

The CPEi is based on standard categories of work that coincide with the contract work and the respective sections in the Specifications. Work completed under contract special provisions shall use project generated questions. All project generated questions must be objective and based on specification requirements.

Questions on the CPEi evaluation are scored based on a scale of 0 to 4 as follows:

- 0 = Not Applicable: Rating not required in this area at this time
- 1 = Unacceptable: Requires an immediate corrective action
- 2 = Does Not Meet Specification Requirements: Corrective action is necessary
- 3 = Meets Specification Requirements: Complies with project requirements
- 4 = Exceeds Specification Requirements: Exceeds project requirements

The Area Construction Engineer (ACE) should provide a written list of the evaluation categories and questions to the Contractor at the preconstruction conference but must provide it no later than the first estimate period. If the ACE adds any categories or questions, they must be provided prior to the work being evaluated based on these added categories or questions. In addition, the ACE should hold a discussion of the CPE process

with the Contractor along with any Subcontractors that the Contractor invites to the meeting.

CPEi evaluations are to be completed quarterly and based solely on the work performed during the preceding three-month time period. If work has been performed in a category during this time period and a given question is related to that work, then the question should be scored. Any work evaluated in a prior period should not be re-evaluated in the current period. For work that bridges two evaluation periods, the review should solely focus on the elements of work that occurred during the evaluation period. If no work is performed related to a question, then the question is scored as a "0", which is the same as no score and does not affect the category score. If no work is performed during the period, the evaluation should be a "no work performed" evaluation. For periods in which the Contractor is maintaining work zone items, erosion and settlement controls, or other non-productive elements the evaluation should document those maintenance actions.

The CPEi score for each category that is scored is derived by dividing the number of questions having a score greater than 2 by the total number of questions answered for that category. The overall Interim score for a Contractor on a CPEi is derived by dividing the number of questions having a score greater than 2 by the total number of questions answered for all categories of work performed by the Contractor during the interim evaluation period. CPEi evaluations are based on compliance with specifications and other contract requirements. The interim evaluation is essentially a Pass (Score of 3 or 4) or Fail (Score of 1 or 2), scoring system.

All Subcontractors that perform at least eight hours of work during a CPEi period should have an evaluation completed for the period. The ACE, at their discretion, may complete a CPEi for work completed in less than eight hours or may authorize a "no work performed" where work is insufficient to warrant scoring. If the Subcontractor's portion of work is less than the three month evaluation period a single CPEi must be completed to document the work and generate the CPEf.

The comments box for each category should be used to briefly explain the rationale for any score on a question other than a three. If practical, the comment should refer to more detailed sources of supporting information such as test results, non-conformance reports, or other documentation that substantiates the score.

The ACE will approve the CPEi in the respective application. Following approval, the CPE should be e-mailed to the Contractor's (or Subcontractor's) onsite and home office personnel that have been previously identified to the Department. The Contractor's onsite representative must be given the opportunity to provide written comments regarding the evaluation. These written comments should be referenced as an attachment to the final CPEi.

CPEi evaluations for Subcontractors should be processed in the same manner as the Contractor. The Contractor should be sent a copy of each Subcontractor's CPEi. In the

absence of the Subcontractor the CPEi should be discussed with the Prime Contractor who will then be responsible for discussing it with the Subcontractor.

**c. The CPE Annual (CPEa) and/or Final (CPEf) Evaluations**

CPEa and/or CPEf evaluations are to be completed on both the Contractor and each Subcontractor.

Section I of the CPEa and CPEf evaluation is a compilation of up to four quarters of the preceding CPEi evaluations. Annual and/or final evaluations summarize the interim evaluations from the beginning of the project or since the last annual evaluation.

Section II of the CPEa and CPEf evaluation contains four categories to be scored by the ACE. The ACE (or designee) should consult with the construction staff or other district representative closely involved with the project. For maintenance, operations, or regional type contracts not overseen by an ACE, the Responsible Engineer for the project should complete Section II. The person who will be responsible for completing Section II should be identified at the preconstruction conference and the Contractor should always be aware of who the person is.

The categories in Section II are:

- A. Safety
- B. Company Project Management
- C. Environmental
- D. Final Product

The questions in these categories are not scored individually but are scored collectively for each of the categories.

The CPEa and CPEf evaluation is designed to be more subjective in nature. Instead of a Pass or Fail type of score, the Responsible Engineer's management evaluation is based on a 1 to 5 scale with correlation to the traditional school grades of A to F.

Questions on the CPEa and CPEf administrative evaluation are scored based on a scale of 1 to 5 as follows:

- 5 = "A" Always meets and usually exceeds expectations
- 4 = "B" Always meets and occasionally exceeds expectations
- 3 = "C" Normally meets expectations
- 2 = "D" Occasionally fails to meet expectations
- 1 = "F" Frequently fails to meet expectations
- 0 = Does not apply (System allows this BUT "0" SHOULD NEVER BE USED)

A score of 5 ("A") should be given only if the Contractor always meets and regularly exceeds expectations in the Category. This is generally not expected of the Contractor

since it means the Contractor must expend resources beyond the level of the requirements of the contract. A score of 4 (“B”) should be given if the Contractor always meets and occasionally exceeds the requirements for a category. A score of 3 (“C”) would be considered a normal score for a contractor that strives to merely meet the minimum requirements. Scores of 2 (“D”) or 1 (“F”) should be fairly rare since they indicate the Contractor fails to meet expectations without VDOT's frequent intervention. As Section II is intended to be more subjective, comments should be used for each category. If a score of 1, 2, or 5 is given in any Category, the comments box for each category shall be used to document the rationale for the score.

Section III of the CPEa and CPEf is the scoring summary for the evaluation. The CPE automatically calculates the project average interim score for all of the CPEi quarters shown for the report and then multiplies that average score by 0.8, which then becomes the numerical score between zero and eighty for the eighty possible points that can be earned. The CPE then adds together the four individual administrative evaluation scores, which then becomes the numerical score between four and twenty for the twenty possible points that can be earned. Those two scores are then automatically added together for the Contractor's performance evaluation score for the period.

**IMPORTANT NOTE:** The Contractor should only be scored on their own work for the Safety, Environmental, and Final Product categories, unless the Contractor is supplying that service to the Subcontractor. The Contractor should be scored for all work, including work by Subcontractors, for Company Management of Project category. Subcontractors should be scored on all of the categories but only for their own work.

Once the ACE has completed the CPEa or CPEf they will recommend approval to the District Construction Engineer (DCE). The DCE will approve the CPE in the respective application. Following approval, the CPE should be e-mailed to the Contractor's or Subcontractor's onsite and home office personnel that have been previously identified to the Department. The Contractor's onsite representative must be given the opportunity to provide written comments regarding the evaluation. These written comments should be referenced as an attachment to the final CPEa or CPEf.

The project ACE shall complete a CPEa or CPEf evaluation for Subcontractors in the same manner as for the Contractor. The Contractor is to be sent a copy of each Subcontractor's CPEa or CPEf. If the Subcontractor is not available to discuss their CPEa or CPEf, it should be discussed with the Contractor who will then be responsible for discussing it with the Subcontractor.

### **III. Approval and Signatures on CPEi, CPEa or CPEf**

The project ACE shall approve the CPEi, and the DCE shall approve the CPEa or CPEf. These approvals shall not be delegated except to an individual identified in an acting role for the respective position.

The Contractor or Subcontractor shall be afforded ten business days to review and respond to the CPE. Once a response to the evaluation has been received, or after the ten business days have passed without a response, the evaluation is considered finalized.

The ACE is responsible for ensuring all evaluations are completed in a timely manner.

#### **IV. Final Processing of CPEa or CPEf**

The original signed CPEa or CPEf is to be retained with the project records in the District. If a CPEa or CPEf is below a score of eighty-five, the ACE must email a copy of the signed CPEa or CPEf to the Central Office Construction Division, Prequalification Office; [CPE@vdot.virginia.gov](mailto:CPE@vdot.virginia.gov).

#### **V. Appeals Process for CPE Scores**

The Contractor may appeal a CPEi to the ACE in writing within ten business days of the Contractor receiving the evaluation. The ACE shall respond to the Contractor within ten business days. If the Contractor is not satisfied with the ACE's response, the Contractor may file a second written appeal within ten business days with the DCE. The DCE shall respond to the Contractor within ten business days. The decision of the DCE is final and the CPEi will not be subject to any further appeals or modifications. The CPEi appeals process must be completed prior to the next quarterly CPEi evaluation.

CPEi evaluations for Subcontractors may be appealed in the same manner and times as outlined above; however, all appeals must also go through the Contractor.

The Contractor may appeal a CPEa or CPEf to the DCE in writing within ten business days of the Contractor receiving the evaluation. The DCE shall respond to the Contractor within ten business days. If the Contractor is not satisfied with the DCE's response, the Contractor may file a second written appeal within ten business days with the District Engineer (DE)/Administrator (DA). The decision of the DE/DA is final and the CPEa or CPEf will not be subject to any further appeals or modifications.

CPEa or CPEf evaluations for Subcontractors may be appealed in the same manner and times as outlined above; however, all appeals must also go through the Contractor.

#### **VI. Application of Scoring**

To be considered eligible for full prequalification, a Contractor must maintain a CPEa or CPEf five-year running average score of eighty-five or higher. A Contractor with full prequalification can be awarded/have under contract an unlimited number of projects of any amount up to the firm's bonding ability.

Contractors with a CPEa or CPEf average score below eighty-five are given conditional prequalification status. This limits the Contractor to be awarded/have under contract no

more than one project at any given time. This one project will be limited to a maximum contract value of \$1,000,000.

Contractors or Subcontractor will be removed from the list of prequalified vendors if they receive one CPEa or CPEf score below sixty, or three scores in a twenty-four-month period below seventy on either a CPEa or CPEf.

The State Construction Engineer (or designee) will monitor the Quality Scores and inform a Contractor or Subcontractor when a scoring situation exists that may cause them to be removed from the list of prequalified vendors, or inform a Contractor when their scoring may cause them to have their prequalification status changed from full prequalification to conditional. A Contractor or Subcontractor has the right to appeal their removal from the prequalified list, or a Contractor their change in prequalification status (due to low CPE scores) in accordance with the Rules Governing Prequalification Privileges.

A Contractor may continue to submit bid proposals during the appeals process; however, any such bids will not be awarded if the Department does not reverse the decision.

For additional details on prequalification status, refer to the Rules Governing Prequalification Privileges.