

VIRGINIA DEPARTMENT OF TRANSPORTATION
CONSTRUCTION DIVISION (CD)

**INSTRUCTIONAL AND INFORMATIONAL MEMORANDUM
(IIM)**

GENERAL SUBJECT: CONTRACTOR PERFORMANCE EVALUATIONS (CPE)	NUMBER: IIM-CD-2018-04.01
SPECIFIC SUBJECT: CPE COMPLETION, SUBMITTAL, AND APPEALS PROCESS	DATE: October 12, 2018
	SUPERCEDES: IIM-CD-2013-03.01
DIVISION ADMINISTRATOR APPROVAL:  Kerry A. Bates, P.E. State Construction Engineer	

Purpose: To provide direction for the completion of Contractor Performance Evaluations (CPE) on all Prequalified Contractors and first tier direct Subcontractors.

DIRECTED TO - DISTRICT ADMINISTRATORS

I. Prequalification and the CPE Process

In accordance with Section 102.01 of the Road and Bridge 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:

<http://www.virginiadot.org/business/resources/const/PrequalRulesAndRegulations.pdf>

A firm's eligibility for prequalification is determined by their Prequalification Score. The formula for this score is: $(\text{Quality Score} \times 0.70) + (\text{Safety Score} \times 0.30) = \text{Prequalification Score}$. The 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.

"First tier" subcontractors should have an approved C-31 in accordance with Section 105.06 of the Specifications and must be prequalified.

A. Design-Bid-Build (DBB)

DBB contracts administered using the Department's Site Manager system must have CPE's completed for the Prime Contractor as well as for all "first tier" subcontractors. "First tier" subcontractors should have an approved C-31 in accordance with Section 105.06 of the Specifications and must be prequalified. All "first tier" subcontractors must be entered into the Site Manager system on DBB contracts in order for CPE evaluations to be completed.

B. Design-Build (DB)

Traditional CPEs described in this IIM are not required on DB contracts. In lieu of the CPE, a Design-Build Performance Evaluations (DBPE) is performed on the DB team at the end of each quarter (Jan 1st, Apr 1st, Jul 1st, Oct 1st) starting with the first full quarter after notice to proceed. The VDOT Project Manager should submit the DBPE electronically to the Construction Division's Design-Build Program Manager within 30 days after the end of each quarter. A final DBPE should also be submitted within 30 days after final acceptance of the project. A copy of the DBPE can be found at:

http://www.virginiadot.org/business/resources/const/Design_Build_Performance_Evaluation.pdf

II. CPE Software and Methodology

For detailed instructions on using the Site Manager plug in CPE module, please see the WebCPE Contractor's Performance Evaluation Web Application User Guide. This can be found at:

http://www.virginiadot.org/business/const/contrperfeval_s.asp

The CPE process is based on two major components, the CPE Interim evaluation (CPEi), and the CPE Annual (CPEa) and/or Final evaluation (CPEf).

III. The CPE Interim Evaluation (CPEi)

This evaluation is to be completed by the Project Inspector. The CPEi is based on 48 standard categories of work that coincide with various Sections of the Road and Bridge Specifications. Within each of those categories, there are a varying number of questions, with an overall number of 234 questions. With the implementation of the Site Manager CPE plug in, each of the 48 categories can have one additional question written specifically for a contract. There is also a new feature called the Special Provision category that will allow for 10 additional questions for categories of work not covered in the other 48 categories. For example, if a project had drilled shaft foundations, questions specifically based on the Special Provision could be developed and then scored. All questions written specifically for a contract must be objective and based on specification requirements.

Questions on the CPEi evaluation are scored based on a scale of 1 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.

CPEi evaluations are to be done quarterly (3 month quarter) based on the work performed during the preceding 3 month time period. Prior to the first interim evaluation, all categories of work and questions to be evaluated should be identified and a written list of the evaluation categories and questions are to be provided to the Prime Contractor. A discussion of the CPE process should be held with the Prime Contractor, along with any first tier subcontractors that the Prime Contractor invites to the meeting, when this list is provided. If possible, this should be done at the pre-construction conference. A compiled list of the standard categories and questions can be found at the below link. Once a contract specific list of standard questions is developed, if additional work not covered in the standard list already developed is added to the contract, additional questions specific to the contract can be added to the list, and that list provided to the Prime Contractor:

<http://www.virginia-dot.org/business/const/contrperfevals.asp>

If work has been performed in a category during the preceding 3 months and a given question has work performed related to that question, then the question should be scored. Once a question has been scored on an interim evaluation, it should be scored on subsequent interim evaluations only if work is performed in the preceding 3 month time period prior to the evaluation date. 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.

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. For the interim evaluation questions, it is basically a Pass (Score of 3 or 4) or Fail (Score of 1 or 2), scoring system.

Unless no work that can be scored is performed during an Interim period, the Prime Contractor should have an Interim evaluation done each quarter. All "first tier" subcontractors that perform work during an Interim evaluation period should also have an Interim evaluation done for the period. If the work performed by a subcontractor is insufficient to warrant scoring, the Area Construction Engineer (ACE) responsible for the contract may waive the Interim evaluation for the subcontractor for the period. At least one CPEi must be completed for each "first tier" subcontractor.

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 rationale should refer to other more detailed sources such as DWR's, test reports, etc. that document conditions that caused a score other than three to be used.

Once a CPEi is completed, it should be e-mailed to the Contractor's (or subcontractor's) Onsite and Home Office personnel that have been previously identified in the meeting with the Department and the Contractor concerning the CPE process. The Contractor's Onsite Superintendent must be given the opportunity to provide written comments regarding the evaluation. These written comments can be referenced as an attachment to the printed CPEi report. The ACE is responsible for ensuring that the Project Inspector completes the appropriate CPEi evaluations each quarter. CPEi evaluations on subcontractors should be processed the same as for the Prime Contractor; except the Prime Contractor is to be sent a copy of each subcontractor's CPEi. If the subcontractor is not available on site to discuss a CPEi on their firm, it should be discussed with the Prime Contractor who will then be responsible for discussing it with the subcontractor.

IV. The CPE Annual (CPEa) and/or Final (CPEf) Evaluation

CPEa and/or CPEf evaluations are to be completed on both the Prime Contractor and each "first tier" subcontractor.

Section I of the CPEa and CPEf evaluation is a compilation of up to 4 quarters of the preceding CPEi evaluations. Annual and/or final evaluations summarize the interim evaluations since the beginning of the project or since the last annual evaluation. These Interim scores are then averaged on the annual or final evaluation and the Interim Average Score is automatically calculated.

Section II of the CPEa and CPEf evaluation contains four categories to be scored by the ACE or Construction Manager (CM). 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 Prime Contractor should always be aware of who the person is.

The four categories in Section II are:

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

Within each of the above categories, the CPE system has 3 or 4 questions shown and printed out on the annual or final report. These questions are not scored individually but are scored collectively for each of the four categories.

As outlined previously in this IIM, CPEi evaluations are based on compliance with specifications and other contract requirements. Evaluation of these requirements is very *objective* and is intended to be a Pass (score of 3 or 4) or Fail (score of 1 or 2) type of evaluation.

In contrast, 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 4 (a "B") is considered to be the normal score that will be given for most Contractors since this score means they always meet and even occasionally exceed the requirements for a Category. A score of 5 (an "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 has to expend resources beyond the level of the requirements of the Contract. A score of 3 (a "C") would be considered a normal score for a contractor that strives to merely meet the minimum requirements. Scores

of 2 (a "D") or 1 (an "F") should be fairly rare since they indicate the Contractor fails to meet expectations without VDOT's frequent intervention. If a score of 1, 2, or 5 is given on any Category, the comments box for each Category should 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 plug in 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 0 and 80 for the 80 possible points that can be earned. The CPE plug in then adds together the four individual administrative evaluation scores, which then becomes the numerical score between 4 and 20 for the 20 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 Prime Contractor should *only be scored on their own work* for the Safety, Environmental, and Final Product categories; unless the Prime is supplying that service to the Subcontractor. The Prime should be scored for *all work* (including by subcontractors) for Company Management of Project category. Subcontractors should be scored on all of the categories but *only for their own work*.

Once a CPEa or CPEf is completed, it should be e-mailed to the Contractor's (or subcontractor's) Onsite and Home Office personnel that have been previously identified in the meeting with the Department and the Contractor concerning the CPE process. The Contractor's Onsite Superintendent must be given the opportunity to provide written comments regarding the evaluation. These written comments can be referenced as an attachment to the printed CPEa or CPEf report. CPEa or CPEf evaluations on subcontractors should be processed the same as for the Prime Contractor; except the Prime Contractor is to be sent a copy of each subcontractor's CPEa or CPEf. If the subcontractor is not available on-site to discuss their CPEa or CPEf, it should be discussed with the Prime Contractor who will then be responsible for discussing it with the subcontractor.

V. Signatures on CPEi or CPEa or CPEf Evaluations

Signatures must be recorded by the appropriate VDOT representatives including the VDOT Project Inspector for the CPEi and the VDOT ACE and District Construction Engineer (DCE) for the CPEa or CPEf. Acceptable form of signature by a VDOT representative can be by traditional "signed in ink" or can be electronically signed using digital signature processes.

Likewise, acceptable form of signature by an appropriate contractor (or subcontractor) representative signatures can be by traditional "signed in ink" or electronically signed using digital signature processes.

VI. 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 85, a copy of the signed CPEa or CPEf is to be sent to the Central Office Construction Division, Prequalification Office. The copy of the signed documents can be sent by mail or can be scanned and e-mailed (if e-mailed, send to: CPE@vdot.virginia.gov)

VII. Appeal's Process for CPE Scores

The Contractor's superintendent may appeal a CPEi evaluation. The first appeal must be made to the Project Inspector within five business days of the Contractor receiving the CPEi. The Project Inspector shall respond to the Contractor within five business days. If the Contractor is not satisfied with the Project Inspector's response, the Contractor may file a written second appeal within five business days with the CM. The CM shall respond to the Contractor within five business days. If the Contractor is still not satisfied, the Contractor may file a written third appeal within five business days to the ACE. The ACE shall respond to the Contractor within five business days. The decision of the ACE 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 Prime Contractor.

The Contractor may appeal a CPEa or CPEf 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 written second appeal within ten business days with the DCE. The DCE shall respond to the Contractor within ten business days. If the Contractor is still not satisfied, the Contractor may file a written third appeal within ten business days to the District Administrator (DA). The DA shall respond to the Contractor within ten business days. The decision of the 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 Prime Contractor.

VIII. Application of Scoring

To be considered for full prequalification, a Contractor must maintain a CPEa or CPEf composite score of 85 or higher (This composite score is the five year running average Quality Score). A Contractor with full prequalification can be awarded/have under Contract an unlimited numbers of projects of any amount up to the firm's bonding ability.

Contractors with a CPEa or CPEf composite score between 75 and 85 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.

A Contractor (including subcontractors) will be removed from the list of prequalified bidders if the Contractor receives one CPEa or CPEf score below 60, or three scores in a 24 month period below 70 on either a CPEa or CPEf.

The State Construction Engineer (or designee) will monitor Contractor's Quality Scores and inform a Contractor when a scoring situation exists that may cause the Contractor to be removed from the list of prequalified Contractors or to have their prequalification status changed from full prequalification. A Contractor has the right to appeal their removal from the prequalified list or 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 removal decision.

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