153:1-7-01 **Prequalification of prospective bidders on subcontracts.**

(A) Definitions:

(1) "Construction manager at risk" shall have the meaning as set forth in division (B)(1) of section 9.33 of the Revised Code.

(2) "Public authority" shall have the same meaning as set forth in division (A)(1) of section 153.65 of the Revised Code.

(3) "Design-build firm" shall have the same meaning as set forth in division (F) of section 153.65 of the Revised Code.

(4) "Trade contract" means an agreement to perform any part of the work on the project under a direct contract with a construction manager at risk or design-build firm.

(5) "Work" means the construction which is required by the contract documents, to be performed or provided by the construction manager at risk or design-build firm for the project. Construction includes labor, materials, equipment, and services.

(6) "Prequalification" means a project-specific review conducted by the construction manager at risk or the design-build firm to identify a pool of subcontractors with sufficient skill and experience to perform work on a particular project.

(B) A construction manager at risk or a design-build firm shall establish criteria for the prequalification of prospective bidders on subcontracts that shall:

(1) include the experience of the bidder, the bidder's financial condition, conduct and performance on previous contracts, facilities, management skills, and ability to execute the contract properly;

(2) further any goals set as part of a diversity and inclusion program required by the public authority or by applicable law;

(3) require prospective bidders to affirmatively state that they have not violated any affirmative action program during the last five years preceding the date of the prequalification application. For public improvement projects governed by section 9.47 of the Revised Code, a prospective bidder may meet this requirement by submitting a valid certificate of compliance; and

(4) require a prospective bidder to submit proof of current licenses to perform the work as required by a public authority or by applicable law.

(C) A public authority may require the construction manager at risk or a design-build firm to include additional criteria for specific trade contracts that are consistent

with the scope and needs of the project including, but not limited to, knowledge of the local area and working relationships with local suppliers.

(D) The prequalification criteria established pursuant to paragraphs (B) and (C) of this rule by the construction manager at risk or design-build firm are subject to the approval of the public authority, who may approve or reject the criteria, in whole or in part.

(E) The same criteria established for a trade contract pursuant to paragraphs (B) and (C) of this rule, as approved by the public authority, shall apply to any self-performed work by the construction manager at risk or design-build firm, if such work is allowed by the public authority.