



The Commonwealth of Massachusetts *Division of Capital Asset Management*

CERTIFICATION GUIDELINES AND PROCEDURES FOR PRIME CONTRACTORS AND AWARDING AUTHORITIES

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I. PREFACE

The Division of Capital Asset Management and Maintenance ("DCAM"), pursuant to MGL Chapter 149, Section 44D hereby issues these Contractor Certification Guidelines and Procedures which set forth the procedures and criteria governing the eligibility of contractors for public building construction projects in the Commonwealth of Massachusetts. DCAM reserves the right to revise and amend these guidelines and procedures at any time, without prior notice.

Categories of Work

A. A contractor who meets eligibility requirements may be certified in one or more of the standard categories of work listed below.

1. **General Building Construction.** The undertaking of general contracts for the construction of buildings (i.e. new construction, renovation, rehabilitation, alteration, addition, etc.). The project must include a variety of construction practices and supervision of a minimum of three sub-trades. Each sub-trade must be building-related and each sub-trade must represent at least 5% of the total project cost, up to the first three sub-trades.

For bidding purposes, certification in this category authorizes the undertaking of general contracts for the fabrication and/or assembly and installation of modular or prefabricated buildings under M.G.L. c. 149, §44E(4), unless certification in "Modular Construction/Prefab" is exclusively specified as a requirement by the awarding authority. However, for certification purposes, the completion of modular or prefab type construction projects does not provide entitlement to or credit towards certification in the category of "General Building Construction."

2. **Alarm Systems.** Installation, renovation, repair and maintenance of low voltage fire protection, security, card access entry systems, closed circuit television systems, motion detectors, and other types of alarms systems within a building.
3. **Asbestos Removal.** The removal and disposal of asbestos previously incorporated into a building, which may include encapsulation. To be certified in this category, the contractor must possess a current, valid Asbestos Contractor License issued by Massachusetts Occupational Safety for Lead & Asbestos.
4. **Deleading.** The undertaking of lead abatement projects involving one or more of the following: scraping and/or chemical stripping of lead paint, encapsulation and covering of lead contaminated surfaces, or removal and replacement of windows, woodwork or other contaminated surfaces within a building. To be certified in this category, the contractor must possess a current, valid Deleading Contractor License issued by Massachusetts Occupational Safety for Lead & Asbestos.

5. **Demolition.** Work customarily performed by a building wrecking contractor including the razing of buildings or parts of buildings, major gutting of buildings or removal of structural elements of a building. The removal of partitions, flooring, windows, etc. incidental to a renovation or remodeling project are not within this category.
6. **Doors and Windows.** Work customarily performed by this industry, including installation of doors and windows made of wood, metal or other materials, both interior and exterior. This category does not include glass and glazing by itself.
7. **Electrical.** Installation, renovation, repair and maintenance of electrical wiring, circuits, panel boards, fixtures and equipment within a building, including such incidental or related work as is customarily performed by those in the electricians' trade. Certification in this category requires possession of a Massachusetts Master Electrician's License.
8. **Electronic Security Systems.** The design, installation, and servicing of integrated security electronics and communication and access control systems within a building, including but not limited to, touch- screen locking control systems, programmable logic controllers, electronic relay systems, intercom systems, and closed circuit television systems. This category of work shall include the design, fabrication, project management, installation, and warranty of all systems within this division of work. The Electronic Security Contractor (ESC) shall be responsible for furnishing and installing all equipment and wiring and testing of all systems with their own forces. The subcontracting of security work shall not be acceptable.
9. **Elevators.** The installation, maintenance and repair of elevators, handicapped accessible chair lifts, moving stairs, or dumbwaiters within a building.
10. **Energy Management Systems.** The design and installation of systems or maintenance programs to conserve energy use within a building. This category includes performance-contracting energy saving projects. These projects may include the installation or modification of new and existing equipment which will reduce energy and water consumption associated with heating, ventilation, and air conditioning system, lighting system, building envelope, domestic hot water system, and other energy and water using devices. This category also includes the work associated with monitoring and verifying project savings and the study and/or design of the subject work. Contractors in this category may manage the entire scope of the project and may subcontract portions of the work to others.
11. **Exterior Siding.** Installation and/or repair of aluminum, vinyl, or other types of siding materials except masonry used on building exteriors.
12. **Fire Protection Sprinkler Systems.** Installation, renovation, repair and maintenance of fire protection sprinklers in buildings including such incidental or related work as is customarily performed by those in the Fire Protection Sprinkler Systems' trade.

13. **Floor Covering.** The installation of carpeting, epoxy or resinous flooring, resilient floor coverings, hardwood flooring and all types of tile installed as finished flooring within a building.
14. **HVAC.** Installation, renovation repair and maintenance of the systems and apparatus required, collectively or individually, to provide comfort heating, ventilation and/or cooling within or associated with a building, including such incidental or related work as is customarily performed by those in the HVAC trade. This category does not include sheet metal work by itself.
15. **Masonry.** Installation, renovation, repair and maintenance of masonry units composed of concrete, stone, or brick which are part of a building, including such incidental or related work as is customarily performed by those in the masons' trade.
16. **Mechanical Systems.** The installation, renovation, repair and maintenance of power systems, process piping, instrumentation, controls, compressors, generators, turbines and other associated mechanical systems equipment. This category applies, in particular, to work on mechanical systems found in major buildings such as power plants, sewage and water treatment plants, pumping stations and similar buildings which requires major mechanical contracting experience. Contractors certified in Plumbing and HVAC, as provided in Section I (A) (**Categories of Work**), are automatically entitled to certification in Mechanical Systems.
17. **Modular Construction/ Prefab.** The undertaking of general contracts for the fabrication and/or assembly and installation of modular or prefabricated buildings. For bidding purposes, an awarding authority may require certification in this category or in the category of "General Building Construction." Certification in this category does not provide entitlement to or credit towards certification in the "General Building Construction" category.
18. **Painting.** Application of paint to interior and exterior surfaces of buildings and preparation of such surfaces for the purpose of receiving a finish coat of paint, including such incidental or related work as is customarily performed by those in the painting trade.
19. **Plumbing.** Installation, renovation repair and maintenance of pipes, fixtures and other apparatus in buildings for bringing in and distributing the water supply and removing liquid and water-borne wastes, including such incidental or related work as is customarily performed by those in the plumbers' trade. Certification in this category requires possession of a Massachusetts Master Plumber's License.
20. **Pumping Stations.** The construction of pumping station buildings. Contractors certified in General Building Construction and Sewage and Water Treatments Plants, as provided in Section I (A) (**Categories of Work**), are automatically entitled to certification in Pumping Stations. Certification of

contractors in this category does not indicate any conclusion that a particular pumping station project should be bid pursuant to MGL chapter 149.

21. **Roofing.** The installation of various types of roofing materials to a building, including shingles, slate, rubber, PVC and related flashing and drainage systems.

22. **Sewage and Water Treatment Plants.** The undertaking of general contracts for construction of buildings used in the purification, reduction and disposal of sewage and/or the purification and distribution of water supplies.

Certification of contractors in this category does not indicate any conclusion that a particular water or sewer project should be bid under the provisions of MGL Chapter 149.

23. **Telecommunications Systems.** Installation, repair and maintenance of telephone, intercom, television, computer network or related equipment for a major communication system within a building.

24. **Waterproofing.** Installation, renovation, repair or maintenance of materials required to make foundations, walls and other surfaces of a building damp-proof or impervious to water, including such incidental or related work as is customarily performed by those in the waterproofing and damp-proofing trade. This category does not include roofing by itself.

25. **Historical Building Restoration;**

26. **Historical Masonry;**

27. **Historical Roofing;**

Construction/renovation, masonry and roofing work respectively, which meets the Secretary of the Interior's Standards for Rehabilitation issued by U.S. Department of the Interior. In instances where of Historical Masonry and/or Historical Roofing are secondary categories, the contractor must be certified in the respective categories of Masonry and Roofing, as provided in Section I (A) (**Categories of Work**).

If applicable, the work must meet additional standards and codes administered by the local historical commission or association that oversees the property.

28. **Historical Painting.** Painting in circumstances where the original form, integrity, materials, and appearance of the building must be maintained to the greatest possible extent consistent with current standards and codes.

B. As allowed under 810 CMR 4.03 (3), awarding authorities may request DCAM to establish special categories of work when there is good reason to limit bidding to contractors possessing skills or abilities not covered by the above listed standard categories. Special categories are awarded on a project specific basis. It is the obligation of the awarding authority to notify potential bidders of the need to apply for certification in the special category. A contractor currently certified in a standard

category of work need only submit an update statement and information outlining their experience and qualifications in the special category. DCAM reserves the right to waive or modify provisions of these procedures in connection with the certification of contractors in special categories.

II. INFORMATION ON CONTRACTOR CERTIFICATION APPLICATION

A. Submission of Application

1. Applications will be considered in the order which they are received by the certification office.
2. Renewal applicants may be eligible for up to one (1) extension to their Certificate of Eligibility, provided the applicant's Application is received by the Contractor Certification Office prior to the expiration date shown on the applicant's Certificate. If the current financial statement or bonding information causes reasonable doubt as to whether the applicant is financially sound, an extension may be denied.
3. Renewal applicants may request an extension to their Certificate of Eligibility prior to submitting their Application, however, the request must be signed and sworn under the pains and penalties of perjury that there have been no adverse changes in financial condition and bonding status since the date of the applicant's last certification. The request must be received by the Contractor Certification Office prior to the expiration date shown on the applicant's Certificate and signed by an officer or partner of the firm. Applicants will be requested by DCAM to provide their complete application and all required materials within thirty days of the applicant's original expiration date even though the extension may be for a longer period of time. Only one (1) extension may be granted.

B. Application Requirements

In order to be deemed certified as being eligible for work on public building construction projects, the applicant must first complete the Application for Certificate of Eligibility (hereinafter referred to as the "Application"), pay the appropriate application fee in the form of a certified check, bank check, or money order, in an amount determined by the fee schedule outlined in 801 CMR 4.02 (810), and provide all the following documents:

1. If the applicant is a corporation, a copy of Articles of Organization (or Massachusetts Foreign Corporation Certificate if out of state firm) and a signed copy of Massachusetts Corporation Annual Report (or signed Massachusetts Foreign Corporation Annual Report) for the most recent completed fiscal year.
2. If the applicant is a limited liability company (LLC), a copy of the Certificate of Organization and a copy of the LLC Annual Report (or Foreign LLC Annual Report) for the most recently completed fiscal year.

3. If the applicant is neither a corporation nor an LLC, the applicant must provide a copy of the firm's business certificate, partnership agreement, or any other related documentation.
4. If the applicant is a Massachusetts entity which seeks to use a business name other than its legal name, a copy of the DBA or Business Certificate as filed with the clerk of the city or town where the business is located.
5. If the applicant is certified by the Massachusetts State Office of Minority and Women Business Assistance (SOMWBA), the applicant must provide evidence of such certification.
6. Resumes of all principal, management and supervisory personnel including copies of all licenses held.
7. Workers Compensation Insurance Binder or policy.
8. Most recent year-ending financial statement completed by an independent CPA and, if available, the most recent CPA-prepared mid-year financial statement. The statements must include a CPA cover letter, balance sheet, and statement of income. The statements must be either CPA-reviewed or CPA-audited, however, mid-year statements may be CPA-compiled. Applicants that have parent companies, affiliates, or subsidiaries must provide a stand-alone financial statement that pertains solely to the applicant. In such cases if no reviewed or audited financial statement is available, the applicant may provide an in-house generated report, provided it includes a balance sheet, statement of income, and reviewed or audited statement of the parent company.
9. A recent, original letter from the applicant's bonding agent or surety company addressed to the Commonwealth of Massachusetts DCAM listing minimum single and aggregate project limits in excess of \$100,000 and the name of the surety. The surety must be on the most recent list of approved sureties issued by the United States Department of the Treasury.

C. Threshold Certification Requirements

The applicant must meet the following requirements in order to be considered for certification:

1. One Year in Business

The applicant must have been in business for at least one year in the category of work for which certification is sought, and provide satisfactory evidence as such.

2. Licensure Requirement

- (a) The applicant must be licensed in the Categorie(s) of Work for which certification is sought, where licensure is required by state law.

- (b) If a corporation is seeking certification in Plumbing and/or Electrical, the company must possess a valid Massachusetts Corporation Master license in the respective categorie(s). If a license is required by law to perform any other category of work, the applicant must possess such license.
- 3. Experience and Qualifications of Principal and Supervisory Personnel
Resumes of the applicant's principals, management, and supervisory personnel must demonstrate their experience on past work is comparable in type and complexity of construction of the categories of work shown on the Application.
- 4. Experience and Qualifications of Applicant- Projects Performed
 - (a) Projects listed in the Application are reviewed to determine whether the applicant has the experience and competence in the business of building construction and has completed the minimum number of projects required for certification and that those projects are comparable in type to the categories of work for which certification is sought.
 - (b) New applicants must have completed a minimum of five (5) projects, each with a minimum value of \$80,000, within the past five years in each category of work for which certification is sought. For new applicants seeking certification in the trades of Historical Building Restoration, Historical Painting, Historical Masonry, Historical Roofing, and Pumping Stations, the minimum number of completed projects shall be two (2), each having a contract value of at least \$80,000, completed within the past five years, provided that the applicant has completed a minimum of five (5) projects, each with a minimum value of \$80,000 within the past five years in another DCAM category of work. Certification in any of the historical categories and Pumping Stations by providing a minimum of two (2) projects is also contingent upon the applicant currently having among its personnel at least one supervisor who has more than five years construction experience in the requested trade.
 - (c) In the category of Sewage and Water Treatment Plants, the requirements are as follows:

The contractor may satisfy the requirements outlined in Section II (C)(4)(b) above for the category of Sewage and Water Treatment Plants or must meet the following requirements:
 - (i) The applicant must be eligible for certification in the category of General Building Construction.
 - (ii) The applicant must currently have among its supervisory personnel at least one person who has more than five years

construction experience in the construction of sewage or water treatment plants.

(iii) The applicant must have completed at least two projects within the past five years, each having a value of at least \$80,000, in which the applicant had the general contract or subcontract for the construction, installation, or repair of major mechanical equipment which, in the opinion of DCAM, is comparable to that found in a sewage or water treatment plant.

(iv) If an Applicant certified in "General Building Construction" obtains certification in "Sewage and Water Treatment Plants" under the provisions of this Section II (C)(4), the Single Project Limit for "Sewage and Water Treatment Plants" shall not exceed the applicant's Single Project Limit for "General Building Construction."

(d) Projects that entail a significant amount of horizontal work, such as Pumping Stations, Sewage and Water Treatment Plants, etc. constructed as an integral part of a major sewer system, must include a dollar breakdown between the vertical and horizontal portions of the work.

5. Bonding

The applicant must provide specific details regarding the circumstances surrounding the invocation of bonds on any of their projects or projects of a successor company performed within the past five years.

6. Financial Responsibility

The applicant must be deemed financially responsible (i.e. able to perform its projects and meet its obligations). If the current financial statement causes reasonable doubt as to whether the applicant is financially sound (e.g. deficits in working capital and/or net worth, and/or a net loss that exceeds ten percent of the applicant's gross revenues shown on the statement), additional financial information such as a letter of explanation from the applicant's CPA or a more recent CPA-prepared quarterly financial statement may be requested.

7. Minimum Number of Project Evaluations

For new applicants, each applicant's record must show a minimum of five successfully completed projects in any one Category of Work listed in Section I (A) of these Guidelines. For renewal applicants, each applicant must show the minimum number of completed projects outlined in Section III (A)(1)(c)(ii) and (iii) of these Guidelines.

III. PROCESSING OF APPLICATION FOR CERTIFICATION

The applicant will be promptly notified in writing of any missing information or if clarification of submitted information is necessary. Failure of the applicant to satisfactorily respond to such notifications by supplying the necessary additional information will result in a denial of certification.

A. Evaluation of Completed Projects

1. Selection of Projects for Evaluation for Both New and Renewal Applicants

(a) General Criteria

- (i) Projects must have entailed construction, reconstruction, installation, demolition, maintenance, or repair of a building. Projects must also have been completed within the past five years. A project will be considered complete if a certificate of use and/or occupancy has been issued. Except for purposes of establishing the minimum number of completed projects required for certification as set forth in Section II (C) (**Threshold Certification Requirements**), a project will also be considered complete if the applicant has been terminated on the project.
- (ii) Projects must include significant work in the category or categories for which certification are sought.
- (iii) The work in each category for which certification is sought must have been performed by the applicant's own employees, except for labor and materials customarily supplied by sub-contractors to those performing work in such category under current trade practices.
- (iv) Projects must not reflect dollar values less than the minimum values set forth below. The two largest single projects must be evaluated provided both projects are in a certifiable category, unless it is determined that the information for such projects is unreliable or unavailable.
- (v) Projects identified in Section II (C)(5) (Bonding) shall be evaluated.
- (vi) Projects shall include both public and private jobs if the applicant has performed public and private work in a category for which certification is requested.
- (vii) If DCAM is aware of projects where the applicant is alleged to have caused significant problems or to have performed in an unsatisfactory manner, these projects shall be evaluated.

(viii) Apart from the above criteria, the selection of projects for consideration should be random.

(ix) Projects that indicate business and/or family ties with the applicant shall not be evaluated.

(x) Projects must have been performed in the continental United States.

(b) New Applicants

(i) For any one certification category (except for the categories outlined in Section II (C)(4)(b) and (c) (Experience and Qualifications of Applicant- Projects Performed), a minimum of five (5) projects with contract values of at least \$80,000 shall be evaluated.

(ii) A single project may be used for multiple categories of work as long as the value of the work in each category meets the required minimum dollar amounts.

(c) Renewal Applicants

(i) For each certification category in which a renewal applicant has completed additional projects since the date of the most recently issued annual Certificate of Eligibility, a minimum of one such additional project shall be evaluated, if possible.

(ii) To obtain certification in any one category of work, a renewal applicant must have successfully completed (i.e. achieved an average project rating of 80 or greater) at least five (5) projects (except the categories outlined in section II(C)(4)(b) and (c)), within the past five years, with a minimum value of \$80,000 each.

(iii) To remain certified in any category of work, except General Building Construction and the categories of work outlined in section II(C)(4)(b) and (c), a renewal applicant must have successfully completed (i.e. achieved an average project rating of 80 or greater) at least three (3) projects in such category, within the past five years, each with a minimum value of \$80,000. Evaluations compiled from previous certifications may be reviewed, if necessary, to ensure that the applicant has completed the required three projects. DCAM may also obtain evaluations of other projects not previously evaluated to ensure that the applicant has completed the required three projects. To remain certified in the categories of work outlined in section II(C)(4)(b) and (c), the requisite minimum number of projects

completed in those categories shall be two (2) within the past five years, each with a minimum contract value of \$80,000.

(iv) To remain certified in General Building Construction, a renewal applicant must have successfully completed (i.e. achieved an average project rating of 80 or greater) at least five (5) projects in General Building Construction, within the past five years, each with a minimum contract value of \$80,000. Evaluations compiled from previous certifications may be reviewed, if necessary, to ensure that the applicant has completed the required five General Building Construction projects. DCAM may also obtain evaluations of other General Building Construction projects not previously evaluated to ensure that the applicant has completed the required five projects.

2. Evaluations –General Information

DCAM shall consider all written evaluations of the applicant's performance on public and private construction projects completed within the past five years submitted by public awarding authorities and private owners subject to the following:

- (a) Each certified contractor shall be sent a copy of the Standard Contractor Evaluation Form with its annual Certificate of Eligibility, together with a notice directing the contractor to submit the form to every public agency for whom it performs a building project.
- (b) Only such evaluations received by DCAM as of the date of the completion of processing of the application will be considered. Evaluations received after the date of the completion of processing will be placed in the applicant's file folder and will not be considered until the next application unless the evaluation(s) cause reasonable doubt as to the contractor's competence and responsibility.
- (c) Any such evaluation provided on an outdated Standard Contractor Evaluation Form may be rejected, provided the public awarding authority or private owner shall first be given a reasonable opportunity to complete a new evaluation on the current form.
- (d) A written evaluation that is incomplete shall be rejected only after DCAM has made a reasonable effort to obtain the missing information.
- (e) DCAM may interview the evaluator or other persons with direct knowledge of the project in order to verify that the project meets the general criteria for evaluation set forth in Section III (A)(1) (Selection of Projects for Evaluation) and that the information presented is accurate. Evaluations that do not satisfy the general criteria for

evaluation or which DCAM determines to be unreliable shall not be considered.

- (f) If a written evaluation is submitted to DCAM by a public awarding authority or private owner for a project previously evaluated pursuant to Section III (A)(3) (Evaluations Obtained by DCAM Personnel via Telephone Interviews) below (or otherwise utilizing telephone interviews conducted pursuant to previous versions of the DCAM contractor certification procedures), the new evaluation will be considered as follows:
 - (i) If the evaluation is from the same person contacted by DCAM and a different numerical rating is given for the project, that rating will be substituted for the numerical rating obtained by DCAM.
 - (ii) If the evaluation is from a different person, the two ratings will be averaged, and the resulting average numerical rating will be assigned to the project.
- (g) Awarding Authorities or private individuals who wish to revise a Standard Contractor Evaluation Form they previously submitted may do so, and the previous evaluation shall be considered null and void, provided they include a written explanation for the revision acceptable to DCAM.
- (h) Contractors who wish to dispute the content or rating scores documented on a Standard Contractor Evaluation Form may file written rebuttals to DCAM which shall become part of the Contractors' certification files. Evaluation rebuttals filed with DCAM shall serve as a reference for awarding authorities authorized to review contractors' files. However, rebuttals shall have no effect on either the content or the rating scores documented on the evaluation form, unless it can be clearly demonstrated by the applicant that the evaluation submitted should be deemed unreliable, and DCAM makes the determination that the evaluation is unreliable.

3. Evaluations Obtained by DCAM Personnel via Telephone Interviews

- (a) If no written evaluations of the applicant's completed projects have been submitted to DCAM by public awarding authorities or private owners, DCAM shall attempt to obtain evaluations of completed projects listed by the applicant in its Application as outlined in Section III (A) (**Evaluation of Completed Projects**) by conducting telephone interviews.
- (b) DCAM shall also attempt to- obtain additional evaluations of completed projects listed on the applicant's Application using telephone interviews when:

- (i) The written evaluations submitted by public awarding authorities and private owners and accepted for consideration by DCAM will not satisfy all of the general criteria for selection under Section III (A)(1) (Selection of Projects of Evaluation); or
 - (ii) An insufficient number of written evaluations have been submitted by public awarding authorities and private owners and accepted for consideration by DCAM to provide the minimum number of project evaluations required under Section III (A)(1) (Selection of Projects for Evaluation).
- (c) If DCAM is not satisfied that the written evaluations submitted by public awarding authorities and private owners and considered by DCAM represent an accurate and balanced assessment of the applicant's qualifications, DCAM shall obtain evaluations of up to two (2) additional recently completed projects using telephone interviews.
- (d) DCAM personnel shall use the Standard Contractor Evaluation Form as a questionnaire when obtaining evaluations of completed projects by means of telephone interviews.
- (e) When obtaining evaluations of projects by means of telephone interviews, a reference for each project will be contacted. The evaluation shall be obtained only from persons having personal knowledge of the applicant's performance on the project.
- (i) If DCAM determines that the reference is not well informed or is affected by personal animosity or favoritism toward the applicant, a different reference on the project shall be contacted, if feasible.
 - (ii) If the information elicited is not consistent with the applicant's history, an additional reference for the project shall be contacted, if feasible.
- (f) When more than one evaluation form is completed on a single project, the numerical ratings are to be averaged. The applicant then receives the resulting average numerical rating as the numerical rating on the project.

B. Calculation of Average Project Rating of Contractors' Performance

The numerical ratings derived from building construction projects are compiled in accordance with the provisions of Section III (A) (**Evaluation of Completed Projects**) and are recorded on a Numerical Rating Summary Sheet. In order to be considered passing, an evaluation must achieve a minimum score of 80.

1. New Applicants

- (a) The numerical ratings are then added and divided by the number of projects listed to determine the Average Project Rating. This average represents the applicant's Average Project Rating for the year.
- (b) An Average Project Rating of 80 is required for certification. If the Average Project Rating falls below 80, certification will be denied even if the applicant's Overall Numerical Rating, pursuant to Section III (C) (**Calculation of Overall Numerical Rating**) of these Guidelines, is above 80. If an applicant is denied certification due to their Average Project Rating being below 80, the applicant must wait a period of one (1) year from the date of DCAM's Final Determination to Deny before reapplying for certification.
- (c) In the event an applicant seeks certification in multiple categories, if the average numerical rating for any particular category falls below 80, DCAM shall deny certification in that category. Notwithstanding, all evaluations shall be included in the applicant's Average Project Rating.

2. Renewal Applicants

- (a) The numerical ratings for all individual projects completed within the past five years are recorded on the Rating Summary Sheet. The numerical ratings of these evaluations are added and divided by the number of projects listed to determine the Average Project Rating.
- (b) An Average Project Rating of 80 is required for certification. If the Average Project Rating falls below 80, certification will be denied.
- (c) In the event an applicant seeks certification in multiple categories, if the average numerical rating for projects or work in any particular category falls below 80, DCAM shall deny certification in that category. Notwithstanding, all evaluations shall be included in the applicant's Average Project Rating.

C. Calculation of Overall Numerical Rating

The Overall Numerical Rating is derived from combining an applicant's Average Project Rating and the rating of Other Criteria (see "Other Criteria" as described in Section III (C)(2)). The Contractor must achieve a minimum Overall Numerical Rating of 80 or above. If either the Average Project Rating or the Overall Numerical Rating falls below 80, certification will be denied. Calculation of the Overall Numerical Rating shall be performed as described below:

1. Value of Average Project Rating in Calculating the Overall Numerical Rating:

The Average Project Rating, which is the average score on all projects as calculated above in Section III (B) (Calculation of Average Project Rating of

Contractors' Performance), shall be given a weight of 70 percent in determining the Overall Numerical Rating.

2. Value of Other Criteria in Calculating the Overall Numerical Rating:

The Other Criteria are set forth in 810 CMR 4.00 and covers the applicant's experience and work history over the previous five years. The Other Criteria shall be given a weight of 30 percent in determining the Overall Numerical Rating. The six criteria items below have a total value of 100 points. The actual value earned by the applicant will be determined by the number of points deducted, if any, based on the standards listed below.

- (a) Applicants that have legal and/or administrative proceedings settled or concluded adversely against them shall lose 3 points for each occurrence.
- (b) Applicants that are terminated from projects for cause or abandon projects shall lose 10 points for each occurrence, up to 2 such instances for a maximum of 20 points. 3 such occurrences will result in denial, as provided in Section IV (A)(2) (**Denial of Certification**).
- (c) Applicants that have performance bonds invoked wherein the surety is required to honor the terms of the bond of the applicant or its predecessors or its successors in interest shall lose 10 points for each occurrence, up to 2 such instances for a maximum of 20 points. 3 such occurrences will result in denial, as provided in Section IV (A)(2) (**Denial of Certification**).
- (d) Applicants that have legitimate, paid direct payment claims or legitimate, paid payment bond claims shall lose 2 points for each occurrence.
- (e) Applicants that have OSHA violations in which the current penalty is \$1,000 or more shall lose 2 points per occurrence.
- (f) Applicants that have an Experience Modification Rating (EMR) greater than or equal to 1.1 but less than 1.5 shall lose 5 points. Applicants with an EMR greater than or equal to 1.5, up to and including 1.99, shall lose 10 points. Applicants who have an EMR of 2.0 or greater shall be denied certification.

3. Calculation:

The weighted numbers from Sections A and B above shall be added together to achieve the Overall Numerical Rating.

D. Determination of Work Capacity Limits

1. Single Project Limit for New and Renewal Applicants

- (a) The Single Project Limit is based upon the mean average of the applicant's two largest single building construction contract completed for all work categories.
 - (i) The projects must be for work in a certifiable category for which the applicant is eligible and all projects must have been performed within the past five years for consideration.
 - (ii) To be considered, the projects must receive a minimum project rating of 80 when evaluated. If one or both project ratings are below 80, the next highest single project(s) shall be evaluated.
- (b) If the contractor is seeking certification in the work category "General Building Construction" and the highest value single project completed is in another DCAM work category, a separate single limit shall be assigned for the "General Building Construction" category. Said limit shall be based upon the contractor's two largest "General Building Construction" projects, which have been successfully completed during the past five years and meets the definition of "General Building Construction" under Section I (A) (**Categories of Work**).
- (c) If the applicant's Overall Numerical Rating calculated pursuant to Section III (C) (**Calculation of Overall Numerical Rating**) is between 80 and 84, the applicant shall be certified for a Single Project Limit equal to 130 percent of the mean average of the applicant's two largest single projects, as provided in Section III (D)(1) (Single Project Limit for New and Renewal Applicants). If the applicant's Overall Numerical Rating is 85 or above, the applicant shall be certified for a Single Project Limit equal to 180 percent of the mean average of the applicant's two largest single projects, as provided in Section III (D)(1) (Single Project Limit for New and Renewal Applicants).
- (d) If the Single Project Limit as calculated above exceeds the applicant's confirmed single project bonding capacity, the limit will be restricted to the bonding capacity.
- (e) In the event that the applicant's largest single completed project exceeds their highest twelve-month volume of completed work, the applicant's Single Project Limit shall be reduced to their Aggregate Work Limit, as calculated pursuant to Section III (D) (**Determination of Work Capacity Limits**).

2. Aggregate Work Limit for New and Renewal Applicants

- (a) The Aggregate Work Limit shall be based upon the dollar value of the applicant's highest consecutive twelve-month volume of work completed within the past five years shown on a CPA-reviewed, CPA-audited financial statement or written confirmation from a CPA verifying the highest twelve-month volume.

- (b) If the applicant's Overall Numerical Rating calculated pursuant to Section III (C) (**Calculation of Overall Numerical Rating**) is between 80 and 84, the applicant shall be certified for 130 percent of the dollar value of its highest twelve-month volume of completed work. If the applicant's Overall Numerical Rating is 85 or above, the applicant shall be certified for 180 percent of the dollar value of its highest twelve month volume of work.
- (c) If the Aggregate Work Limit calculated as above exceeds the applicant's confirmed aggregate bonding capacity, the limit will be restricted to the bonding capacity.

E. Certification of Related Entities

- 1. To receive company wide certification, a company with separately located divisions must satisfy DCAM that all its assets and expertise will be made fully available to any division actually performing work for which DCAM certification is required.
- 2. To obtain certification specific to itself, a division of a company must demonstrate that it will be fully able to perform work within limits sought and meet all normal contractual and financial obligations.

F. Certification of New Companies Formed from Certified Companies

- 1. A new company formed from a certified company must submit an Application. This Section also pertains to certified companies that have been purchased, merged, or divided into separate corporations or LLCs. The applicant shall provide information about completed, in progress and pending projects for both the certified company and the new company, indicating which projects belong to the new company.
- 2. A new company will be considered to have been "formed from a certified company" if both of the following requirements are met:
 - (a) Evidence is presented that the certified company has ceased doing business and has been dissolved or is in the process of winding up its business, will take no new contracts and will be dissolved in the near future. Statements from the principals or officers of the certified company should be obtained, if necessary.
 - (b) Satisfactory evidence is presented that the new company grew out of the certified company, which may include a purchase and sale agreement or merger agreement and evidence of some or all of the following:
 - (i) Transfer of company stock
 - (ii) Transfer of management
 - (iii) Transfer of supervisory personnel

- (iv) Transfer of employees
 - (v) Transfer of inventory
 - (vi) Transfer of equipment
 - (vii) Transfer of leases, utility accounts, etc.
 - (viii) Assumption of contracts, warranties, etc.
3. A recommendation to the DCAM Commissioner to certify a new company formed from a certified company shall be made if:
- (a) Resumes are submitted for the new company's management showing that they have experience managing a company engaged in the same business as the new company. Such experience may have been with the certified company or with other companies; and
 - (b) Resumes are submitted for the new company's supervisory personnel showing that they have experience supervising projects of the same type and size as will be performed by the new company. Such experience may have been with the certified company or with other companies; and
 - (c) The new company's financial statement shows that it is solvent; and
 - (d) The new company has submitted the required bonding information.

G. Certification of Joint Ventures

1. The joint venture as an entity must be certified to bid. Joint Venture Certificates of Eligibility are valid only for the specific project identified on the Joint Venture Certificate of Eligibility.
2. The joint venture must submit a copy of the joint venture agreement, signed by each participant, with its application for certification. The joint venture agreement must include the following:
 - (a) Breakdowns of the proportionate share of each participant in the joint venture (i.e. the percentage interest in the profits and assets or respective share in the losses and liabilities that result from the venture.)
 - (b) A statement indicating that, notwithstanding any agreements between the participants, each participant shall be jointly and severally responsible to the owner for all of the contractual undertakings of the joint venture.
3. Each participant must file an Application, except that a currently certified participant may submit an Update Statement in lieu of the Application.
4. All participants must be currently certified by DCAM in order to be eligible for Joint Venture certification.

5. At least one joint venture participant must be certified by DCAM in the category of work for which the joint venture seeks certification. In addition, the combined joint venture share of the individual participant(s) certified in that category must be at least 30 percent.
6. Joint Venture Capacity Ratings
 - (a) The Single Project Limit of the joint venture shall be limited to the sum of the participants' individual Single Project Limits or 150 percent of the larger contractor's Single Project Limit, whichever is less. Additionally, the Single Project Limit may not exceed the per-project bonding capacity of the joint venture. However, the dollar value of each venture's participation, based on its proportionate share of the joint venture and the estimated construction cost of the project, may not exceed such venture's Single Project Limit by more than 30 percent.
 - (b) The Aggregate Work Limit of the joint venture shall be the total of the participant's individual Aggregate Work Limits, but may not exceed the aggregate bonding capacity of the joint venture. Additionally, the dollar value of each venture's participation, based on its proportionate share of the joint venture and the estimated construction cost of the project, may not exceed such venture's Aggregate Work Limit by more than 30 percent.

IV. DENIAL OF CERTIFICATION

In addition to the reasons listed in Section II (B) and (C) of these Guidelines, an applicant may be denied certification for the following reasons:

- A. An applicant that has had any of the following occurrences within the past five years shall be decertified or denied certification in any and all categories of work:
 1. A record of 3 or more Project Ratings, as defined in 810 CMR 4.00, that fall below the passing score of 80 on 3 or more separate building projects.
 2. A record of 3 or more contract terminations for cause and/or three or more invoked performance bonds, wherein the surety is required to honor the terms of the bonds, of an applicant or its predecessors or its successors in interest.
 3. Failure to obtain and/or maintain worker's compensation insurance for the proper classification of work.
 4. An Experience Modification Rating of 2.0 or greater.
 5. Any convictions of a criminal offense involving embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, violation of labor laws, or any other offense indicating a lack of business integrity or business honesty.

6. Willfully supplying or omitting materially false or misleading information incident to obtaining or attempting to obtain or performing any public contract or subcontract.
- B. One or more of the following that occurred within the past five years may constitute cause for decertification or denial of certification:
1. Legal or administrative proceedings brought against the Contractor; or
 2. Termination for cause from one or more Building Projects; or
 3. Abandonment of one or more Building Projects; or
 4. A record of excessive direct payment claims or payment bond claims; or
 5. A record of excessive safety violations; or
 6. A record of excessive workers' compensation injuries; or
 7. Failure to comply with record-keeping and accounting requirements prescribed by law or regulation; or
 8. Failure to perform in accordance with the terms of one or more public contracts; or
 9. A record of two Project Ratings that fall below the passing score established in the Guidelines on more than one Building Project; or
 10. Failure to obtain and/or maintain any other mandatory insurance coverage; or
 9. A record of invoked performance bond(s), wherein the surety is required to honor the terms of the bond, of a Contractor or its predecessors or its successors in interest; or
 10. Any other factor bearing on a Contractor's competency or responsibility that, in the Commissioner's discretion, may warrant denial of certification or decertification.
- C. Any applicant that is either decertified or denied certification for any reason pursuant to Section IV (**Denial of Certification**) must wait a minimum of one (1) year from the date of DCAM's Final Determination to Deny certification before reapplying for certification.

V. APPEAL RIGHTS

If the applicant does not appear to meet the minimum requirements for certification, or if the applicant is non-responsive to DCAM's requests for clarification and/or additional information, DCAM shall notify the applicant in writing of its preliminary determination to deny certification. The applicant will then have the right to appeal this decision as outlined in MGL c. 149 s. 44D (4).

- A. Applicants have the right to appeal any denial by DCAM as outlined in Chapter 149 § 44D (4).
- B. If an applicant chooses to appeal any Preliminary Denials issued by DCAM, they may do so by filing a reconsideration request, and DCAM will review all information presented by the applicant in accordance with the standards set forth in Sections I through IV of these Guidelines and Procedures.
- C. If the applicant properly challenges a particular evaluation or evaluations or wishes additional evaluations to be considered, DCAM, in its sole discretion, may consider additional evaluations that meet the evaluation criteria outlined in Section III (A) (**Evaluation of Completed Projects**).

VI. INFORMATION FOR PUBLIC AWARDING AUTHORITIES

A. Submission of Standard Contractor Evaluation Forms

In accordance with 810 CMR 8.02, Public Awarding Authorities must submit to DCAM a properly completed Standard Contractor Evaluation Form within 70 calendar days of use and/or occupancy, or upon issuance of a certificate of use and/or occupancy, or termination of a project, whichever is earlier, on all projects put out to bid under M.G.L. c. 149A and 149 § 44 (A-J). Any Awarding Authority that fails to complete and submit the Standard Contractor Evaluation Form, together with any written response by any contractor, to DCAM within 70 days of the completion of a project shall be ineligible for the receipt of any public funds disbursed by the Commonwealth of Massachusetts for the purposes of any public buildings or public works projects.

B. Written Evaluations Submitted by Public Awarding Authorities

DCAM will take the following steps to assist public agencies in providing DCAM with written evaluations of contractor performance on building projects as required by MGL c. 149 s. 44D and 810 CMR 4.00 and 810 CMR 8.00:

1. DCAM shall make reasonable efforts to send a copy of the DCAM Standard Contractor Evaluation Form and a statement of the requirements of MGL c. 149 s. 44D and 810 CMR 4.00 and 810 CMR 8.00 to each public agency that advertises an award of a building project in the Central Register.
2. DCAM shall maintain an electronic diary system to keep track of public building projects advertised in the Central Register to ensure that awarding authorities are compliant with MGL c. 149 s. 44D.
3. Each certified contractor shall be sent a copy of the Standard Contractor Evaluation Form with its annual Certificate of Eligibility, together with a notice directing the contractor to submit the form to every public agency for whom it performs a building project.

4. DCAM shall, periodically, cause a notice to be published in the Central Register advising public awarding authorities of the requirements of MGL c. 149 s. 44D and 810 CMR 4.00 and 810 CMR 8.00.

C. Reviewing Contractors Certification Files

Public Awarding Authorities and/or owner's project managers are strongly encouraged to review the low bidder's certification file at DCAM's Contractor Certification Office.

1. Architects, Engineers, Construction Managers, or other officials representing Awarding Authorities seeking to review contractors' files must provide a letter of authorization from the respective Awarding Authority confirming approval to review files on behalf of the Awarding Authority.
2. Awarding Authorities that can provide satisfactory evidence to DCAM that reviewing contractors' files at DCAM offices may create undue hardship may request DCAM to provide copies of contractors' files by either mail service or facsimile and DCAM may provide such files at its discretion. Awarding Authorities must provide DCAM a minimum of three (3) business days notice requesting mail service/facsimile copies of contractors' files.
3. All reviewers must provide a signed letter acknowledging confidentiality of contractors' files.