

1 19A NCAC 02E .0219 is amended as published in 28:21 NCR 2581 as follows:

2  
3 **19A NCAC 02E .0219 ELIGIBILITY FOR PROGRAM**

4 ~~Businesses may participate in the program provided said businesses comply with the following criteria:~~ Businesses  
5 participating in the program shall comply with the following:

- 6 (1) The individual business installation whose name, ~~symbol~~ symbol, or trademark appears on a business  
7 panel shall give written in writing assurance of the business's conformity with all applicable laws  
8 concerning the provision of public accommodations without regard to race, religion, color, sex, age,  
9 disability, or national origin.
- 10 (2) An individual ~~business,~~ business under ~~construction~~ construction, may apply to participate in the  
11 program by giving written assurance of the business's conformity with all applicable laws and  
12 requirements for that type of service, by a specified date of opening to be within 60 days of the date of  
13 application. No business panel shall be displayed for a business ~~which that~~ is not open for business  
14 and in full compliance with the standards required by the program. A business under construction  
15 shall not be allowed to apply for participation in the program if its participation would prevent an  
16 existing open business from participating, unless the existing business qualifies for or has a provisional  
17 contract.
- 18 (3) Businesses may apply for participation in the program on a first-come, first-served basis until the  
19 maximum number of panels on the logo sign for that service is reached. If a business's panel is  
20 removed and space is available on the sign, or one or more of the existing businesses have provisional  
21 contracts, the first fully qualifying business to contact the Department shall be allowed priority for the  
22 vacant space or the space occupied by a business with a provisional contract.
- 23 (4) The maximum distance that a ~~"GAS", "FOOD",~~ "GAS," "FOOD," or "LODGING" service may be  
24 located from the fully controlled access highway shall not exceed three miles at rural interchange  
25 approaches and one mile at urban interchange approaches in either direction via an all-weather road.  
26 Where no qualifying services exist within three miles (rural) or one mile (urban), provisional contracts  
27 are permitted where the maximum distance may be increased to six miles at rural interchange  
28 approaches and three miles at urban interchange approaches, provided the total travel distance to the  
29 business and return to the interchange does not exceed twelve miles. A ~~rural interchange~~ "rural  
30 interchange" is defined as an interchange along a freeway (interstate or other fully-controlled access  
31 arterial highway) that is located either in a rural unincorporated area or within the corporate limits of a  
32 city or town with a population of ~~less~~ fewer than 40,000. An ~~urban interchange~~ "urban interchange" is  
33 defined as an interchange along a freeway (interstate or other fully-controlled access arterial highway)  
34 that is located either in or within one mile of the corporate limits of a city or town with a population  
35 equal to or greater than 40,000. Provisional contracts shall ~~be written with the understanding~~ contain a  
36 clause that if a closer business applies, qualifies, and is within the three miles (rural) or one mile  
37 (urban) distance as applicable, and there is not otherwise room on the sign for the new business, then

the provisional contract of the furthest business from the intersection shall be cancelled and the business panels shall be removed at the annual contract renewal date. The maximum distance for a "CAMPING" or "ATTRACTION" service shall not exceed 15 miles in either direction via an all-weather road.

(5) "GAS" and associated services. Criteria for erection of a business panel on a sign shall include:

- (a) licensing as required by law;
- (b) vehicle services for fuel (gas, diesel, or alternative fuels), motor oil, and water;
- (c) ~~on-premise on-premise~~ public restroom facilities;
- (d) an ~~on-premise on-premise~~ attendant to collect monies, make change, and make or arrange for tire repairs;
- (e) year-round operation at least 16 continuous hours per day, seven days a week; and
- (f) ~~on-premise on-premise~~ telephone available for emergency use by the public.

(6) "FOOD" service. Criteria for erection of a business panel on a sign shall include:

- (a) licensing as required by law, and a permit to operate by the health department;
- (b) businesses shall operate year-round at least eight continuous hours per day six days per week;
- (c) indoor seating for at least 20 persons;
- (d) ~~on-premise on-premise~~ public restroom facilities; and
- (e) ~~on-premise on-premise~~ telephone available for emergency use by the public.

(7) "LODGING" service. Criteria for erection of a business panel on a sign shall include:

- (a) licensing as required by law, and a permit to operate by the health department;
- (b) overnight sleeping accommodations consisting of a minimum of 10 units each, including bathroom and sleeping room, except a Lodging business operating as a "Bed and Breakfast" establishment with ~~less fewer~~ than 10 units may participate. "Bed and Breakfast" businesses shall be identified on the Logo signs by ~~a~~ the standard message "Bed and Breakfast." ~~specified by the Department.~~ "Bed and Breakfast" businesses shall only be allowed to participate in the program if the maximum number of qualified Lodging businesses do not request participation in the program and occupy spaces on the Logo signs. All "Bed and Breakfast" businesses shall have provisional contracts;
- (c) adequate parking accommodations;
- (d) year-round operation; and
- (e) ~~on-premise on-premise~~ telephone available for emergency use by the public.

(8) "CAMPING" service. Criteria for erection of a business panel on a sign shall include:

- (a) licensing as required by law, including meeting all state and county health and sanitation codes and having water and sewer systems ~~which that~~ have been duly inspected and approved by the local health authority (the operator shall present evidence of such inspection and approval);

- (b) at least 10 campsites with accommodations (including ~~on-premise on-premise~~ public restroom facilities in a permanent structure) for all types of travel-trailers, ~~tents tents~~, and camping vehicles;
- (c) adequate parking accommodations;
- (d) continuous operation, seven days a week during ~~business season;~~ the "business season", ~~defined as the times of year the campground is open to the public;~~
- (e) removal or masking of said business panel by the ~~department~~ Department ~~during off seasons,~~ "non-business seasons", ~~defined as the times of year the campground is not open to the public,~~ if operated on a seasonal basis; and
- (f) ~~on-premise on-premise~~ telephone available for emergency use by the public.
- (9) "ATTRACTION" service. Criteria for erection of a business panel on a sign for any business or establishment shall include:
- (a) licensing as required by law;
- (b) ~~on-premise on-premise~~ public restroom facilities in a permanent structure;
- (c) continuously open to the motoring public without appointment at least eight hours per day, five days per week during its normal operating season or the normal operating season for the type of business; where room is available on the sign and a business exists that does not meet the qualifying hours and days of operations or distance, a provisional contract is permitted. Provisional contracts shall ~~[be written with the understanding]~~ contain a clause that if a fully qualifying business applies and there is not otherwise room on the sign for the new business, then the provisional contract of the business last on the sign shall be cancelled and the business panel shall be removed at the annual contract renewal date. It is the responsibility of the businesses with provisional contracts to update their contracts to non-provisional contracts (if they meet all qualifications) prior to receiving notice of cancellation. The contract in place on the date ~~[NCDOT] the Department~~ receives a completed application from a fully qualified business ~~[will] shall~~ be the contract used for the decision making purpose; ~~[purpose.]~~
- (d) adequate parking accommodations;
- (e) ~~on-premise on-premise~~ telephone available for emergency use by the public; and
- (f) only facilities whose primary purpose is providing amusement, historical, cultural, or leisure activities to the public and are categorized as follows shall be allowed signing:
- (i) Amusement Parks: Permanent areas open to the general public including at least three of the following activities: roller coasters, entertainment rides, games, swimming, concerts, and exhibitions;
- (ii) Cultural Centers or Facilities: Locations for cultural events including museums, outdoor theaters, or a facility that exhibits or sells antiques or items painted or crafted by local artists;

- (iii) Historic Sites: Buildings, structures, or areas listed on the national or state historic register and recognized by the Department as historic attractions or locations;
- (iv) Leisure or Recreation Activity Areas: Attractions that provide tourists with opportunities such as golfing (excluding miniature golf, driving ranges, chip and putt areas, and indoor golf), horseback riding, wind surfing, skiing, bicycling, boating, fishing, picnicking, hiking, and rafting;
- (v) Manufacturing Facilities: Locations that manufacture or produce products of interest to tourists and offer tours at least four times daily on a regularly scheduled year-round basis such as candy, ice cream, cookie, or pickle manufacturing facilities. Facilities shall produce or manufacture manufacture, and exhibit or sell their products at the facilities.
- (vi) Agricultural Facilities: Locations that provide tours and exhibit or sell their agricultural products or provide on site samples of their products, such as vineyards and regional farmers markets;
- (vii) Zoological or Botanical Parks and Farms: Facilities that keep living animals or plants and exhibit them to the public;
- (viii) Natural Phenomena: Naturally occurring areas that are of outstanding interest to the public, such as waterfalls or caverns; and
- (ix) Motor Sports Facilities: Locations including museums, race tracks, and race team headquarters that exhibit or sell items related to automobile or truck racing.
- (10) Any other "ATTRACTION" not listed in Item (f) of this Rule shall be approved by the State Traffic Engineer.
- (11) Ineligible Attractions ~~include, but are not limited to,~~ include the following: shopping malls, furniture stores, drug stores, movie theaters; community business, historic, antique, or other districts; appliance stores, automobile or truck dealerships or garages, houses of worship, colleges, schools, real estate offices, sand and gravel facilities, produce stands, nurseries, grocery stores, restaurants, bars, lounges, adult establishments, and adult video, book, and novelty stores. An attraction is not eligible for both Travel Services (Logo) Signing and supplemental guide signing, such as Agriculture Tourism signing, at the same interchange.

*History Note: Authority G.S. 136-89.56; 136-137; 136-139; 143B-346; 143B-348; 143B-350(f); 23 C.F.R. 750, Subpart A; 23 U.S.C. 131(f);*  
*Eff. April 1, 1982;*  
*Amended Eff. August 1, 1998; April 1, 1994; October 1, 1993; December 1, 1992; October 1, 1991;*  
*Temporary Amendment Eff. October 13, 2003;*  
*Amended Eff. October 1, 2014; January 1, 2004.*

1 19A NCAC 02E .0702 is amended with changes as published in 28:21 NCR 2584 as follows:

2  
3 **19A NCAC 02E .0702 SOLICITATION AND AWARD OF CONTRACT**

4 (a) The ~~department~~ Department shall ~~establish and~~ maintain a "Register of Firms" "Directory of Transportation  
5 Firms" ~~that which~~ have the necessary expertise and ~~experience~~ experience, and have expressed a desire to  
6 perform ~~for the department~~ in professional engineering or other kinds of professional or specialized services for the  
7 Department ~~[department]~~ in connection with highway transportation construction or repair. Prequalification pursuant  
8 to ~~19A NCAC 02D .0801~~ 19A NCAC 02E .0703 shall be ~~is not~~ required for inclusion on the "~~Register~~" Directory or  
9 award of a contract under this Section.

10 (b) Upon authorization by the ~~Board~~ Secretary of Transportation for the DOT staff to use  
11 a ~~professional/specialized~~ professional or specialized firm, a Selection Committee shall be established by the branch  
12 manager consisting of at least three members from the DOT staff who are experienced in the type of services to be  
13 contracted. For contracts anticipated to exceed ~~ten~~ fifty thousand dollars ~~(\$10,000)~~ [\$50,000] \$50,000, solicitation  
14 for proposals shall be by published advertisement. In addition, solicitation for interest may ~~also~~ be by direct mail  
15 to ~~several~~ all firms prequalified for the type of services to be contracted and selected from  
16 the register. Directory. ~~North Carolina firms qualified to do the required work shall be given priority consideration.~~  
17 ~~[Priority consideration is defined as when one or more proposals are equal in all other aspects, additional~~  
18 ~~consideration for award shall be given to a North Carolina firm.] A North Carolina firm is a firm which maintains~~  
19 ~~an office in North Carolina which is permanently staffed and capable of performing a majority of the work required.~~

20 (c) The firm(s) to be employed shall be selected for each project by the Selection Committee.

21 (d) For contracts having a total cost over ~~ten~~ fifty thousand dollars ~~(\$10,000)~~ (\$50,000) and  
22 for ~~amendments~~ supplemental agreements ~~thereto~~, award shall be made by the Secretary of Transportation. ~~Board of~~  
23 ~~Transportation after consultation with the Advisory Budget Commission.~~

24 (e) ~~Contract amendments that increase a contract cost to ten thousand dollars (\$10,000) or more require approvals~~  
25 ~~as specified in Paragraph (d).~~ Supplemental agreements ~~[which]~~ that increase a cost of a project to more than fifty  
26 thousand dollars (\$50,000) ~~[require approval]~~ shall be approved by the Secretary.

27 (f) In an emergency situation, these Rules may be waived by the Secretary of Transportation or the Secretary's  
28 designee pursuant to G.S. 136-28.1(e). A qualified firm may be selected, negotiations ~~conducted~~ conducted, and a  
29 contract executed by the Secretary of Transportation or the Secretary's designee as required to resolve the  
30 emergency conditions.

31 ~~(g) A noncollusion certification shall be executed by prime contractors and lower tier participants in each~~  
32 ~~transaction involving public funds. Transactions which require certifications from lower tier participants are:~~

- 33 (1) ~~Transactions between a prime contractor and a person other than for a procurement contract, for~~  
34 ~~goods or services, regardless of type.~~
- 35 (2) ~~Procurement contracts for goods and services, between a prime contractor and a person, regardless~~  
36 ~~of type, expected to equal or exceed the Federal small purchase threshold fixed at 10 U.S.C.~~

1                   2304(g) and U.S.C. 253(g) [~~currently twenty five thousand dollars (\$25,000)~~] under a prime  
2                   contract; and

3           (3) ~~Procurement contracts for goods or services between a prime contractor and a person, regardless~~  
4                   ~~of the amount under which that person will have a substantive control over the transaction. Such~~  
5                   ~~include, but are not limited to, bid estimators and contract managers.~~

6   ~~The certifications for both the prime contractor and the lower tier participants shall be on a form furnished by the~~  
7   ~~Department of Transportation to comply with Federal Highway Administration requirements, as published in 49~~  
8   ~~C.F.R. Part 29. The prime contractor is responsible for obtaining the certifications from the lower tier participants~~  
9   ~~and is responsible for keeping them as part of the contract records.~~

10  
11   *History Note:*     *Authority G.S. 136-28.1(e) and (f); 143B-350(f) and (g);*  
12                   *Temporary Rule Eff. June 11, 1982 for a Period of 51 Days to Expire on August 1, 1982;*  
13                   *Eff. August 1, 1982;*  
14                   *Amended Eff. October 1, 2014; December 1, 2012; December 29, 1993; October 1, 1991; April 1,*  
15                   *1986; February 1, 1983.*

1 19A NCAC 02E .0703 is adopted with changes as published in 28:21 NCR 2584 as follows:

2  
3 **19A NCAC 02E .0703 PREQUALIFYING TO AWARD – PROFESSIONAL SERVICES FIRMS**

4 (a) In order to ensure that contracts awarded pursuant to G.S. 136-28.1(f) and ~~G.S. 143-64.31~~ are awarded  
5 to responsible firms, prospective professional services firms shall comply with the rules set forth in this  
6 Section except as otherwise provided by law. ~~For professional services contracts other than those specified~~  
7 ~~in G.S. 136-28.1(f) and G.S. 143-64.31, specific project prequalification requirements to satisfy Paragraph~~  
8 ~~(c) of this Rule shall be specified in the documents for specific project contracts.~~

9 (b) In order to be eligible to contract with the Department pursuant to G.S. 136-28.1(f) and ~~G.S. 143-64.31~~,  
10 all prospective professional services firms shall be prequalified with the Department to ensure that ~~they are~~  
11 ~~responsible and reputable firms capable of effectively and efficiently performing the work awarded to~~  
12 ~~them.~~ the firm is capable of performing the proposed contract.

13 (c) The requirements of prequalification are as follows:

14 (1) Applicants shall demonstrate the necessary experience, knowledge, and expertise to  
15 perform ~~and timely~~ complete professional services contracts in which they submit or  
16 subcontract;

17 (2) Applicants shall demonstrate that they have sufficient financial resources, including  
18 available equipment and qualified personnel, and a financial statement (first time  
19 applicants and reinstatements only), to ~~adequately~~ perform and ~~timely~~ complete  
20 professional services contracts in which they submit or subcontract;

21 (3) Applicants shall demonstrate that they have the necessary knowledge and expertise to  
22 comply with all state and federal laws relating to professional services contracts.

23 (d) Prospective professional services firms shall update their prequalification status annually to show  
24 changes in the staff and updated information regarding necessary company business licenses, ~~and shall re-~~  
25 ~~qualify every three years.~~

26 (e) Firms shall re-qualify every three years to show changes in the staff, updated information regarding  
27 necessary company business licenses, and updated project experience to ensure that prequalification  
28 remains based on recent experience of the staff that is not out of date.

29 ~~(e)~~ (f) A prequalified professional services firm ~~must~~ shall maintain compliance with the rules in this  
30 section at all times in order to be eligible to contract with the Department pursuant to G.S. 136-28.1(f)  
31 and ~~G.S. 143-64.31~~. If at any time a professional services firm fails to comply with these rules, the  
32 Department shall disqualify the professional services firm from any further contracts until ~~he~~ the firm is  
33 able to demonstrate compliance with these requirements by re-qualifying.

34  
35 *History Note:* Authority G.S. 136-28.1(e) and (f); 143-64.31; 143-B-350(f) and (g);

36 *Eff. October 1, 2014*