

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
CONSTRUCTION DIVISION MEMORANDUM

GENERAL SUBJECT:	<u>CONTRACTOR'S PERFORMANCE EVALUATIONS (Form C-36)</u>	NUMBER:	<u>CD-2001-3</u>
		SUPERSEDES:	<u>CD-99-13</u>
SPECIFIC SUBJECT:	<u>COMPLETION & SUBMITTAL INSTRUCTIONS</u>	DATE:	<u>JUNE 7, 2001</u>

C. F. GEE
CONSTRUCTION ENGINEER

DIRECTED TO - DISTRICT ADMINISTRATORS

The Department is responsible for ensuring that only qualified contractors are allowed to participate in the construction program. This charge is explained in Section 102 of the Road and Bridge Specifications, specifically 102.08 and in the Department's Pre-qualification Policy. The Contractor's Performance Report (Form C-36) is one indicator in assessing qualification. To further strengthen the value of this indicator, the Department has set thresholds for minimum performance. Starting with the issuance of this memorandum, a contractor will be removed from the bidder's list if he receives one score below 60 or three scores below 70 on an annual C-36 Contractor's Performance Report or C-36S in a 24-month period. When this happens the contractor may be disqualified for 90-days. At the end of that period, the contractor may apply for reinstatement providing he demonstrates his ability to provide acceptable performance.

Prompt and accurate completion of the Contractor's Performance Report Form C-36

C-36 Interim and the Sub-contractor's Form C-36S, is very important because it is an integral part of a Contractor's Pre-qualification. The Contractor's scores from the Contractor's Performance Report are used to determine his ability factor. A Contractor's financial factor is multiplied by the ability factor to determine a maximum capacity rating. A Contractor's maximum capacity rating determines the amount of work that he can have underway at any given time.

Project Performance Interim Report, Form C-36 Interim

The Project Inspector, Resident Engineer or Department designee, and Contractor must agree upon the frequency of the Project Performance Interim Report (Form C-36 Interim) and establish the values of the "possible" scores at the pre-construction conference. The frequency of these reports may vary depending on the type of work being performed. Interim Reports must be done on all projects and reflect all work performed since the last report. Prime contractors should be evaluated with regular frequency, but not less than once a year. The frequency of the C-36 Interim reports may be increased as determined by the Engineer. The Project Inspector is to complete the C-36 Interim report at the predetermined intervals.

There are five categories A, B, C, D, and E to be evaluated on the C-36 Interim. Each category has an associated point value. Each element of each category should be evaluated; however, if a particular element of a category does not apply to a particular project, or does not apply to a particular evaluation period, a score is not entered for that category. (The point value "0" is entered on the line designated "Score" and a point value "0" is entered on the line designated "Possible".) An element that is not scored does not help or hurt a Contractor's final score. The total point value for each category should be distributed among the elements based on an element's significance to the project.

Possible point values for elements must be in whole numbers and the section score should be rounded to the nearest tenth. The Project Inspector's remarks portion should contain comments that support the scores.

Once completed, the Project Inspector is to review the C-36 Interim with the Contractor's representative to discuss the factors that determined each score. The Contractor's representative must be given the opportunity to provide written comments for each category. The Resident Engineer or his designee must forward a copy to the Contractor's home office. All C-36 Interim reports are to be maintained at the project site. The interim scores shall be transferred to the C-36 Contractor's Performance Report when it is due. It is the Resident Engineer's responsibility to ensure the Interim reports are completed according to this policy.

Contractor's Performance Report, Form C-36

Section I of the C-36 Contractor's Performance Report summarizes all of the C-36 Interim Report scores. There must be at least one interim score for each C-36. All the interim scores are averaged to produce the interim average score that should be recorded to the nearest tenth.

Section II is to be completed by the Resident Engineer, Asst. Resident Engineer or Project Engineer who was directly involved in the administration of the project. In some instances, such as district-wide contracts, Section II may be completed by a District Representative who was directly involved in the administration of the project. Section II of the C-36 Contractor's Performance Report contains five categories for evaluation. As with the C-36 Interim, only the applicable categories and elements should be scored. Category scores for Section II are to be recorded in whole numbers. The Section Score for Section II is to be calculated to the nearest tenth.

Section III is to be completed by the individual that was directly involved in the administration of the project with input from the Project Inspector. Section III is to be used to acknowledge quality that exceeds the minimum standards. This is a bonus area designed to benefit a Contractor that consistently exceeds expectations and performs exceptionally in any or several of the listed elements. Bonus points should be awarded if a Contractor routinely performs above and beyond normal requirements, is exceptional in attention to and performance of the listed elements, or expends extra time, effort and resources on the listed elements. Bonus scores for Section III are to be given in whole numbers. Bonus points will only be allowed if each category score in Section II equals or exceeds 80% of each maximum point value. A brief explanation of why bonus points are given must be placed in the "bonus" area. If further explanation is necessary it can be placed in the remarks area.

In Section IV, Score Summary, the computed scores for Sections (I), (II), and (III) are computed with a value multiplier, rounded to the nearest tenth and then totaled. The remarks in Section V should contain comments that support the point values given in the various categories and the bonus section.

The C-36 Contractor's Performance Report for the prime contractor is due on the anniversary date of the date that work began and at the completion of the contract. If a contract is completed within 60 days of the annual report, another report does not have to be submitted at the completion of the contract. Each Resident Engineer will be responsible for ensuring that the evaluations are done properly and submitted on time to the Construction Division. The Construction Division will track submittals of annual and final Form C-36 for delinquency.

Once completed, the C-36 Contractor's Performance Report will be forwarded to the Contractor. The Contractor will be asked to sign the form, make comments, and return it to the Residency Office. The Contractor will be offered the opportunity to meet and discuss the evaluation with first the Resident Engineer, or the appropriate Assistant District Engineer in the case of a dispute with the RE. Once signed by the Contractor, the original C-36 Contractor's Performance Report is to be immediately forwarded to the Assistant State Construction Engineer. The original evaluation shall be kept on file in

the Pre-qualification Office. If the Contractor refuses to sign the evaluation or does not return it within the specified 14 days, this action should be noted on a copy of the C-36 Contractor's Performance Report and submitted to the Assistant Construction Engineer.

Subcontractor's Performance Report

Evaluation of the subcontractor will be on Form C-36 S and must be performed at the completion of the subcontractor's work, except that the C-36 S will not be required for work of \$50,000 or less.

The Project Inspector should complete the project performance Section I on the C-36 S. The individual that was directly involved in the administration of the project in either the Residency or District should complete the remainder of this form with appropriate input from the inspector.

This report should be completed in a manner similar to the process for the C-36, except that the scores for the elements are predetermined. The subcontractor's evaluation should be reviewed if possible at the project. If a subcontractor is no longer at the work site, the completed Form C-36 S must be sent by certified mail to the subcontractor's home office. The subcontractor must return this form to the Department within 14 days of receipt. A copy of the subcontractor's performance report should be sent to the prime Contractor's home office. If the subcontractor does not sign and return the subcontractor's performance report, this action must be noted on a copy of the report, and forwarded to the Assistant State Construction Engineer.

General

Additional forms or paper may be attached if more space is needed on any of these forms. Annual Form C-36 and final Form C-36 are due in the Assistant State Construction Engineer's office within 30 days of the project anniversary date and final acceptance, respectively.

The following table is a guide to interpret the contractor's performance. However, this should not be used as a target during the evaluation process. The score must be based on the Contractor's performance of each element where values were established at the beginning of the project.

100 to 110 %	Exceptional	(Near perfect work plus bonus points awarded)
90 to 99 %	Excellent	(Consistently meets and often exceeds contract requirement. Stays on schedule. Adept at change management. Excellent cooperation with the Engineer)
80 to 89 %	Good	(Consistently meets and occasionally exceeds contract with requirements minimum rework necessary)
70 to 79 %	Fair	(Only meets minimum contract requirements. May need to perform some rework)
60 to 69 %	Poor	(Performance is inconsistent. Must often perform rework. Has been notified about being behind schedule. Three scores in this range will disqualify the contractor)
59 % and below	Unacceptable	(Performance is below what is expected of an experienced firm. Contractor must often perform rework. Disregards contract requirements, work site or work zone safety, environmental controls, or directions issued by the Engineer. One score in this range will disqualify the contractor)

At the pre-construction meeting the evaluation process must be reviewed with the Contractor. Values to be used on the Form C-36 should be also established at this meeting in order to convey the Department's expectations prior to the beginning of work. Form C-36 is intended to be a communication tool for the Contractor's and VDOT's project management teams as well as a realistic evaluation of the Contractor's performance. It is essential that everyone involved in the process is aware of their responsibilities and strives to make this an effective and valuable process.

Appeals Process

The Contractor will have a right to appeal disqualification due to low evaluation scores. As stated above, a contractor will be removed from the list of pre-qualified bidders if he receives one score below 60 or three scores below 70 on a Form C-36 or C36S Contractor's Performance Report in any 24-month period. The Construction Division will review the Form C-36 or C36S with the Contractor and inform the Contractor if either scoring situation exists. The Contractor will be given a 30-day appeal period from the date of notification before removal from the list of pre-qualified bidders. The Contractor shall provide written notice to the Contract Engineer for any appeal. The appeals committee will consist of the State Construction Engineer, Contract Engineer, District Construction Engineer, and an Assistant State Construction Engineer. If the Contractor elects not to appeal, or the Department's evaluation is upheld after the appeal, the Contractor will be removed from the list of pre-qualified bidders for a period of 90 days. The Contractor may continue to submit bids during the appeals process; however, these bids will not be awarded if there is not a reversal of the appeal. At the end of the 90-day removal period, the Contractor may apply for reinstatement and will be required to furnish a quality control plan that addresses previous issues that caused the suspension. Pre-qualification will not be reinstated until the quality control plan has been approved by the Department.

DS: rg

C: Mr. Charles D. Nottingham
Mr. Claude D. Garver, Jr.
Assistant Commissioners
Division Administrators
District Construction Engineers
District Maintenance Engineers
District Equal Opportunity Coordinators
District Contract Administrators
Resident Engineers
Project Engineers
Project Inspectors
Federal Highway Administration
Virginia Department of Minority Business Enterprise
Virginia Road and Transportation Builders Association
Old Dominion Contractors Association
Virginia Asphalt Association
Virginia Aggregates Association
American Concrete Pavement Association