



Certification Page Regular and Emergency Rules

Revised August 2023

Emergency Rules (Complete Sections 1-3 and 5-6)

Regular Rules

1. General Information

a. Agency/Board Name*		
b. Agency/Board Address	c. City	d. Zip Code
e. Name of Agency Liaison	f. Agency Liaison Telephone Number	
g. Agency Liaison Email Address	h. Adoption Date	
i. Program		
Amended Program Name (if applicable):		

* By checking this box, the agency is indicating it is exempt from certain sections of the Administrative Procedure Act including public comment period requirements. Please contact the agency for details regarding these rules.

2. Legislative Enactment

For purposes of this Section 2, "new" only applies to regular (non-emergency) rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these non-emergency or regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No. Yes. If the rules are new, please provide the Legislative Chapter Number and Year Enacted: Chapter: _____ Year: _____

3. Rule Type and Information

For purposes of this Section 3, "New" means an emergency or regular rule that has never been previously created.

a. Provide the Chapter Number, Title* and Proposed Action for Each Chapter. Please use the "Additional Rule Information" form to identify additional rule chapters.

Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		

4. Public Notice of Intended Rulemaking

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice. No. Yes. N/A

b. A public hearing was held on the proposed rules. No. Yes. Please complete the boxes below.

Date:	Time:	City:	Location:


5. Checklist

a. For regular rules, the Statement of Principal Reasons is attached to this Certification and, in compliance with Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule

b. For emergency rules, the Memorandum to the Governor documenting the emergency, which requires promulgation of these rules without providing notice or an opportunity for a public hearing, is attached to this Certification.

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct. By electronically submitting the emergency or regular rules into the Wyoming Administrative Rules System, the undersigned acknowledges that the Registrar of Rules will review the rules as to form and, if approved, the electronic filing system will electronically notify the Governor's Office, Attorney General's Office, and Legislative Service Office of the approval and electronically provide them with a copy of the complete rule packet on the date approved by the Registrar of Rules. The complete rules packet includes this signed certification page; the Statement of Principal Reasons or, if emergency rules, the Memorandum to the Governor documenting the emergency; and a strike and underscore copy and clean copy of each chapter of rules.

Signature of Authorized Individual	
Printed Name of Signatory	
Signatory Title	
Date of Signature	

7. Governor's Certification

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

Governor's Signature	
Date of Signature	

To: Honorable Mark Gordon, Governor

From: Anthony J. Apollo, Executive Director
Wyoming Stable Token Commission

Subject: Proposed Emergency Rules for Chapters 1-5
Wyoming Stable Token Commission

Date: July 3, 2024

Priority: **HIGH** – Deadline for response is July 17, 2024

Summary: Following the 2024 Budget Session in which the Stable Token Act was amended at W.S. 40-31-110 to grant the Commission the ability to "enter into contracts for procurements by competitive bidding," an initial set of Procurement Rules must be promulgated to create a fair and transparent process for vendor engagement and dispute resolution.

Agency Contact Name: Anthony J. Apollo

Agency Contact Phone: 1-307-275-5556

Agency Contact Email: anthony.apollo@wyo.gov



STATE OF WYOMING

Stable Token Commission

Anthony J. Apollo
Executive Director
2323 Carey Avenue
Cheyenne, WY 82002

July 3, 2024

Honorable Mark Gordon, Governor
Office of the Governor
200 West 24th Street, Capitol Building
Cheyenne, WY 82002

Re: Proposed Emergency Procurement Rules for Stable Token Commission

Dear Governor Gordon,

Thank you for your continued support of the Stable Token Commission. As you know, the Stable Token Act was amended during the 2024 Budget Session. Specifically, W.S. 40-31-110 was created to read:

- (a) The commission shall enter into contracts for procurements by competitive bidding. The requirement for competitive bidding shall not apply in the case of a single vendor having exclusive rights to offer a particular service or product.*
- (b) Procedures adopted by the board shall be designed to allow the selection of proposals that provide the greatest long term benefit to the state, the greatest integrity for the commission and the best service and products for the public.*
- (c) In any bidding process, the commission may administer its own bidding and procurement or may utilize the services of the department of administration and information or other state agency or subdivision thereof.*

Therefore, the Commission must promulgate an initial set of Procurement Rules to create a fair and transparent process for vendor engagement and dispute resolution.

Given the speed at which the blockchain industry is evolving and uncertainty at the federal level around stablecoins, Wyoming must preserve its first-mover advantage around a state-issued stable token. The Commission has asked to seek Emergency Rulemaking for the attached Procurement Rules to expedite its vendor engagement process, which was approved by the Commission on June 27, 2024.

Since November, I have been in contact with over 550 individuals at more than 250 organizations who have expressed interest in helping develop the Wyoming Stable Token. This enthusiasm reflects the first-of-its-kind work that Wyoming is doing. It is in the state's best interest to capitalize on this momentum.

The Commission respectfully asks for your approval of these Procurement Rules through Emergency Rulemaking and acknowledges its responsibility to pursue the Regular Rulemaking process in parallel.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony J. Apollo".

Anthony J. Apollo, Executive Director, Wyoming Stable Token Commission

Chapter 1

General Provisions

Emergency rules are in effect no longer than 120 days after filing with the Registrar of Rules.

Section 1. Authority.

(a) These rules are promulgated by the Wyoming Stable Token Commission, herein referred to as the Commission, in accordance with W.S. 40-31-105(b) and 40-31-110.

Section 2. Definitions.

(a) In addition to the definitions provided in W.S. 34-29-101 and 40-31-102, the following definitions are used in these rules:

(i) “Agency website” means the online presence of the Commission currently available at <https://stabletoken.wyo.gov>.

(ii) “Bid” means the submission made in response to an advertisement for bids, or an invitation to bid in a competitive or noncompetitive negotiation. “Bid” does not include a proposal, as defined in these rules. Notwithstanding this definition, nothing in these rules shall be construed to imply that bids must be accepted by the Commission or that bidders are qualified by being included on a bidders list or receiving an invitation to bid.

(iii) “Bidder” means a singular entity or consortium of entities that submits a bid in a competitive sealed bidding, competitive negotiation, or noncompetitive negotiation process. “Bidder” does not include a firm or proposer, as defined in these rules.

(iv) “Bid irregularity” means a defect in a bid or variation of a bid from the exact requirements of a bid advertisement or its addenda or bid documents. Irregularities include:

- (A) Ambiguity as to any part of a bid;
- (B) A missing unit or hourly bid price;
- (C) An erasure or change in a unit or hourly bid price not initialed in ink or verifiable electronic signature by the bidder; and
- (D) In addition, the failure of a bidder to:
 - (I) Return the number of copies of signed bids required by the invitation;
 - (II) Furnish required information such as licenses, bonds, or insurance certificates;
 - (III) Correct typographical or mathematical errors;

- (IV) Sign its bid;
- (V) Acknowledge receipt of an addendum to an advertisement for bids,
- (VI) Submit a bid free of stipulations or conditions that are inconsistent with the exact requirements of the project as described in the bid advertisement, its addenda, or bid documents; or
- (VII) Obtain written approval from the Commission before submitting pricing for service or material substitutions.

(v) “Debarment” means the exclusion of a proposer or bidder from submitting proposals or bids, or participating in a prequalification process, as a result of egregious conduct or violation of the public trust, including but not limited to suspected or confirmed collusion, suspected or confirmed fraudulent billing, suspected or confirmed violation of conflict of interest laws, or conviction of a contract or antitrust crime. Debarments are issued along with required corrective action and are in place until corrective action is taken to the satisfaction of the Commission.

(vi) “Emergency situation” means a situation that creates a threat to public health, welfare, or safety which may arise by reason of floods, epidemics or pandemics, riots, terrorism, hacks, equipment failures, power outages, Force Majeure, or such other reason as may be identified and approved by the Commission, Director, or their respective designee(s). The existence of such situation creates an immediate and serious need for services or materials that cannot be met through normal procurement methods and the lack of which would seriously threaten the:

- (A) Functioning of state government or its programs;
- (B) Solvency, security, or integrity of the Wyoming Stable Token, its technical infrastructure, its underlying reserves held in trust, or any other critical underpinning;
- (C) Preservation or protection of property, whether tangible or intangible; or
- (D) Health or safety of any person or persons.

(vii) “Evaluation committee” means a group comprised of the Director or their designee, members of the Board, and independent subject matter advisors that will be responsible for reviewing and evaluating proposals or bids, and providing those findings to the Commission.

(viii) “Firm” or “proposer” means a singular entity or consortium of entities that submits a proposal. Neither “firm” nor “proposer” shall include a bidder, as defined in these rules.

(ix) “Material” or “materials” means tangible or intangible goods, including but not limited to digital assets, software, hardware, physical infrastructure, or the constituent components thereof, solicited as part of or for incorporation into a project.

(x) “Prebid meeting” means a meeting held prior to the closing of an advertisement for bids. Attendance at a prebid meeting may be mandatory or optional, and may include or exclude subcontractors, at the discretion of the Director or Commission.

(xi) “Prequalification” means the verification that a potential proposer or bidder has met the minimum qualifications necessary to be successful in the performance of services or delivery of materials.

(xii) “Proposal” means the submission made in response to a request for proposals. “Proposal” does not mean a bid, as defined in these rules. Notwithstanding this definition, nothing in these rules shall be construed to imply that proposals must be accepted by the Commission or that proposers are qualified by being included on a prequalification list or receiving an invitation to submit a proposal.

(xiii) “Prototype agreement” means an agreement between the Commission and a proposer or bidder under which a prototype product will be or has been developed, and which may be reused on future projects.

(xiv) “Qualified bidder” means a bidder that meets all the requirements of the bid advertisement and whom the Commission has deemed qualified in its ability to perform the work requested.

(xv) “Qualified firm” means a firm or proposer that meets all the prequalification requirements for submission of a request for proposal.

(xvi) “Retainage” means the percentage of what the Commission pays a contractor that is withheld until the project has been substantially completed.

(xvii) “Revocation” means the retraction of a prequalification status previously granted to a proposer or bidder.

(xviii) “Service” means labor performed in the interest or under the direction of the Commission as part of project work.

(xix) “Suspension” means the temporary exclusion of a proposer or bidder from proposing or bidding on projects or participating in the prequalification process for a specified period of time due to unsatisfactory performance.

Chapter 2

Procurement by Request for Proposal

Emergency rules are in effect no longer than 120 days after filing with the Registrar of Rules.

Section 1. Authority.

(a) These rules are promulgated by the Wyoming Stable Token Commission, herein referred to as the Commission, in accordance with W.S. 40-31-105(b) and 40-31-110.

Section 2. Applicability.

(a) This chapter applies to the Commission's procurement of services or materials by request for proposal ("RFP").

(b) This chapter shall not apply to the procurement of services or materials using competitive sealed bidding, competitive negotiation, or noncompetitive negotiation, which are covered in Chapter 3 of these rules.

Section 3. Prequalification requirements by project value.

(a) For a project with a services or materials fee estimated by the Commission to be fifteen thousand dollars (\$15,000) or less, the Commission may perform a prequalification process in preparation for the specific project, as defined in Sections 4 through 6 of this chapter.

(b) For a project with a services or materials fee estimated by the Commission to exceed fifteen thousand dollars (\$15,000), the Commission shall perform a prequalification process in preparation for the specific project, as defined in Sections 4 through 6 of this chapter.

Section 4. Firm prequalification for requests for proposal.

(a) Notwithstanding the value thresholds in subsections (a) and (b) of Section 3 of this chapter, in a request for proposal process, the Commission may, at its discretion, require all potential proposers to submit applications for prequalification prior to submitting proposals on a project.

(b) Prequalification does not replace the use of evaluation criteria as allowed in Section 9 of this chapter. The Commission may use prequalification in conjunction with the evaluation criteria even after prequalification has been completed.

(c) A call for prequalification applications shall be advertised, at a minimum, on the state procurement website or agency website for not less than two (2) consecutive weeks and shall:

(i) Generally describe the proposed project and scope of work; and

(ii) Describe the procedures and requirements to submit a prequalification application related to the proposed project.

(d) To the extent applicable, based on the scope of work requested in the call for prequalification applications, an application for prequalification shall include, at a minimum:

(i) Contact information;

(ii) A statement of corporate history;

(iii) A listing of the services or materials that the applicant believes it is qualified to provide;

(iv) A concise description of relevant past work completed by the applicant within the last eighteen (18) months at minimum;

(v) Proof of equipment, certifications, professional qualifications, or experience specific to the scope of work;

(vi) A signed affidavit stating the applicant's willingness to comply with applicable laws and policies, which may or may not be unique to the project or Commission; and

(vii) Any other information required by the Commission in a notice requesting statements of qualifications.

Section 5. Prequalification term, status notification, and revocation.

(a) Prequalification for a request for proposal process shall be designated on a per project basis. Designation of prequalification on one project shall not be construed as prequalification for any other project, nor shall prequalification on one project be accepted in lieu of required documentation for prequalification on another project.

(b) Upon completion of its review of all prequalification applications for a project, the Director or their designee shall notify a prequalification applicant of the Commission's decision with regards to the applicant's prequalification status, including the reason for the decision.

(c) Prequalification applicants that are determined by the Commission to have met the qualification requirements will be deemed a qualified firm.

(d) The decision to revoke a prequalification granted to a qualified firm is at the discretion of the Commission. The Commission shall follow the processes in Chapter 5, Section 4(c) of these rules if it revokes a qualified firm's prequalification.

Section 6. Request for review of denial of prequalification application.

(a) A potential proposer denied prequalification status after filing an application for prequalification status may request the Commission to review the application decision. The potential proposer shall file a written request for review to the Commission including:

(i) The name and address of the requesting potential proposer;

(ii) A brief explanation of why the potential proposer's prequalification application should be granted;

(iii) The statute, rule, or policy which the potential proposer believes was applied incorrectly or in error;

(iv) Any additional facts the potential proposer would like to be considered, including any relevant exhibits, evidence, or documents of substantiation to support a requested change in the prequalification outcome.

(b) Requests shall be submitted to the Director or their designee.

(c) The Director or their designee shall acknowledge receipt of written review requests within three (3) business days of receipt, with a blind closed copy provided to the Commission.

(d) The Director or their designee may request additional information as part of the review. If requested information is not provided within three (3) business days, the review may be completed without such information.

(e) The Director or their designee shall provide written notice of any action taken in response to the review request, including a decision to take no action, within ten (10) business days and shall provide such notification to the Commission in blind closed copy.

(f) Notwithstanding the time limitations in subparts (c) and (e) above in this section, the Director or their designee shall make every attempt to resolve review requests in a timely manner but is not under obligation to resolve requests prior to request for proposal filing deadlines when such timeline would put an undue burden on the Director or their designee and detract from the execution of Commission operations.

Section 7. Issuance of requests for proposals.

(a) Before issuing requests for proposals for a specific project, the Commission shall complete the prequalification process as described in Sections 3 through 6 of this chapter.

(b) Notwithstanding the value threshold in subsection (a) of Section 3, the Commission shall request proposals only from qualified firms. The Commission does not need to solicit requests for proposal from firms that were not deemed to be qualified firms.

(c) The Commission shall select the firms from whom it shall request proposals in accordance with the following:

(i) If there are more than three (3) qualified firms, the Commission shall request proposals from at least three (3) of the qualified firms, to be selected at the discretion of the Commission.

(ii) If there are three (3) or less qualified firms, the Commission shall, at its discretion:

(A) Request proposals from all of the qualified firms; or

(B) Adjust its prequalification criteria and re-advertise the prequalification application for a specific project.

(iii) Notwithstanding the estimated contract value, if the Commission determines that only one (1) firm is qualified, the Commission may seek a bid waiver from the Governor or their designee as described in Chapter 3, Section 5(c) of these rules.

(A) Upon approval of a bid waiver by the Governor or their designee, the Commission may proceed to let the contract through noncompetitive negotiation (sometimes known as “sole sourcing”) as described in Chapter 3, Section 7 of these rules.

(d) A request for proposal shall contain:

(i) A description of the project scope, the required project timeline, and the desired deliverables;

(ii) Submission procedures and content requirements for technical proposals; and

(iii) Submission procedures and content requirements for the firm’s estimated fee.

(e) Notwithstanding subsections (a) through (d) of this section, the Commission may forgo requesting qualified firms to provide written proposals and, instead, proceed directly to interviewing qualified firms. The Commission proceeding under this subsection shall comply with the following:

(i) The Commission shall apply the requirements of subsections (a) through (c) of this section and Section 8 of this chapter to evaluate prequalification status, select firms for interviews, and conduct interviews;

(ii) An invitation to interview shall contain at least the following:

(A) A description of the project scope, the required project timeline, and the desired deliverables;

(B) Submission procedures, if any, and content requirements for technical presentations; and

(C) Submission procedures, if any, and content requirements for the firm's estimated fees.

(iii) The Commission may allow a qualified firm to present its technical proposals and estimated fees at the interview. The Commission is not required to have a qualified firm submit a written proposal or the firm's estimated fees prior to the interview.

Section 8. Firm interviews.

(a) For a project with a services or materials fee estimated by the Commission to be fifteen thousand dollars (\$15,000) or less, the Commission may interview firms that provide proposals.

(b) For a project with a services or materials fee estimated by the Commission to exceed fifteen thousand dollars (\$15,000), the Commission or Evaluation Committee shall interview not less than three (3) firms that provided proposals. However, if the Commission or Evaluation Committee determines after reviewing a firm's proposal that the firm is not qualified for the project and should not have received a request for proposal, the Commission or Evaluation Committee may reject the proposal and not interview the firm.

(i) Interviews may include discussion of each firm's projections of project costs, qualifications, approaches to the project, ability to furnish required services or materials, and an estimated fee based on the Commission's description of the scope of work.

(ii) The Commission shall keep a record of the interview.

(iii) If fewer than three (3) firms submit proposals, the Commission may:

(A) Interview all proposing firms;

(B) Solicit for additional proposals before proceeding; or

(C) Reject all proposals and either re-advertise for prequalification applications or cancel the procurement.

(iv) If the Commission is unsatisfied with the results of the interviews, it may interview not less than two (2) additional firms that provided proposals.

Section 9. Award of contract.

(a) The Commission shall consider factors including but not limited to the following when selecting the firm with which it will begin contract negotiations:

(i) Legal entity domicile;

(ii) The ability of professional personnel;

(iii) Past performance;

- (iv) Ability to meet time requirements;
- (v) Location;
- (vi) Current and projected workloads;
- (vii) The volume of work previously awarded to the firm by the Commission;
- (viii) Estimated fees;
- (ix) Ability to meet stringent compliance requirements;
- (x) Feedback from the Evaluation Committee, if applicable; and
- (xi) Any other factors as deemed appropriate by the Commission.

(b) The Commission shall assess and rank each firm's proposals for a project in accordance with the above factors in subsection (a).

(c) The Commission may:

(i) Select the highest-ranked firm, in consideration of all the information provided by the firm, for contract negotiations; or

(ii) Reject all proposals. If the Commission opts to reject all proposals, it may exercise its discretion to repeat the process from the most appropriate step under the circumstances.

Section 10. Emergency selection.

(a) The Director or their designee may waive any provision pertaining to firm selection if following the provision is reasonably believed to:

(i) Endanger the health, welfare, or safety of the public under the circumstances; or

(ii) Place the solvency, security, or integrity of the Wyoming Stable Token, its technical infrastructure, its underlying reserves held in trust, or any other critical underpinning at risk.

(b) In the event that emergency work is initiated in response to an emergency condition, the Director shall:

(i) Document the emergency situation necessitating the procurement, the circumstances justifying the waiver, and an explanation of how and why following the waived provision would endanger the health, welfare, or safety of the public; or place the solvency, security, or integrity of the Wyoming Stable Token, its technical infrastructure, its underlying reserves held in trust, or any other critical underpinning at risk. The decision of the Director or

their designee to waive any provision pertaining to firm selection under this provision is immediately subject to review by the Commission.

(ii) Notify the Commission by the next business day of any and all efforts undertaken by the Director or their designee(s) to obtain competition, and the emergency condition that justified reliance on this section. The Director, not the Commission, is responsible for any notification to Risk Management or other such agencies or entities as may be statutorily required per rules and statutes that apply to the Commission.

(iii) Notwithstanding any confidentiality concerns, the Director or their designee shall publicly disclose the rationale and result of the emergency selection to the agency website within five (5) business days of the emergency selection.

Section 11. Contract.

(a) Upon completion of the selection process, the Director or their designee shall negotiate a written contract in the form required by the Commission with the selected firm as determined by this chapter and Chapter 4 of these rules.

(b) The Director or their designee shall consider the estimated value, scope, complexity, and professional nature of the services or materials to be rendered when determining a reasonable compensation.

(c) If the Director or their designee is unable to negotiate a satisfactory contract with the selected firm at a price determined to be fair and reasonable, negotiations with that firm shall be terminated. The Director or their designee shall then begin negotiations with the second-ranked firm in order of preference pursuant to Section 9. If the Director or their designee fails to negotiate a contract with the second-ranked firm, they shall terminate negotiations. The Director or their designee shall then begin negotiations with the third-ranked firm in order of preference.

(d) If the Director or their designee is unable to negotiate a satisfactory contract with any of the selected firms, they shall:

(i) Select additional firms in order of their rank and continue negotiations in accordance with this Section 11 and Section 9 of this chapter, until a contract is reached; or

(ii) Review the contract under negotiation to determine the possible cause for failure to achieve a negotiated contract.

(e) Each contract for services or materials entered into by the Commission shall contain a prohibition against gratuities, kickbacks and contingent fees for the Director and the Board. The selected firm shall certify that it has not in any way been involved in any gratuities, kickbacks, or contingent fees in connection with its selection or ultimate performance of the contract.

(f) This act shall not prohibit continuing contracts between any person or firm providing services or materials and any agency.

Chapter 3

Procurement by Competitive Sealed Bidding, Competitive Negotiation, or Noncompetitive Negotiation

Emergency rules are in effect no longer than 120 days after filing with the Registrar of Rules.

Section 1. Authority.

(a) These rules are promulgated by the Wyoming Stable Token Commission, herein referred to as the Commission, in accordance with W.S. 40-31-105(b) and 40-31-110.

Section 2. Applicability.

(a) This chapter applies to the Commission's procurement of services or materials using competitive sealed bidding, competitive negotiation, or noncompetitive negotiation.

(b) This chapter shall not apply to the procurement of services or materials by request for proposal, which is covered in Chapter 2 of these rules.

Section 3. General provisions.

(a) The Commission reserves the right to use procurement software and related technology to meet any of the requirements of this chapter, including but not limited to opening, noting, and time stamping receipt of bids.

Section 4. Determination of procurement process.

(a) A contract for services or materials with an anticipated value of fifteen thousand dollars (\$15,000) or less shall be procured through competitive negotiation per Section 8 of this chapter.

(b) A contract for services or materials with an anticipated value in excess of fifteen thousand dollars (\$15,000) shall be procured through competitive sealed bidding per Sections 9 through 20 of this chapter.

(c) Paragraphs (a) and (b) shall not apply to a contract if:

(i) The Commission obtains an approved bid waiver under Section 5 of this chapter; or

(ii) The Commission is procuring the contract to respond to an emergency situation under Sections 5 and 6 of this chapter.

Section 5. Bid waivers.

(a) If the Director determines that competitive negotiation is not feasible for a contract with an estimated value equal to fifteen thousand dollars (\$15,000.00) or less, the

contract may be let by noncompetitive negotiation under Section 7 of this chapter without a bid waiver from the Commission or the Governor.

(b) If the Director determines that competitive sealed bidding is not feasible or practical for a contract with an estimated value in excess of fifteen thousand dollars (\$15,000), the Director may submit their written determination to the Commission and seek approval for the contract to be let by competitive negotiation under Section 8 of this chapter. The Commission may approve such a bid waiver in accordance with the following:

(i) The Director's written determination and request for approval of competitive negotiation shall be based on factors including, but not limited to:

(A) Whether the Commission attempted to advertise for competitive sealed bids but was unsuccessful despite its good faith attempts under Section 12 of this chapter. If the Commission received one or more bids, the Commission shall explain why the bids received were inadequate;

(B) Whether competitive sealed bidding is impractical or infeasible due to a lack of competition in the industry;

(C) Whether competitive sealed bidding is impractical or infeasible because only a small number of potential bidders are uniquely qualified for the work due to circumstances, geographic disparities, experience with the project, or proprietary techniques or technologies; or

(D) Whether competitive sealed bidding is impractical or infeasible due to time or other constraints that prevent completion of advertisement for competitive sealed bids or any other requirements under this chapter.

(ii) Except as otherwise outlined in this chapter, the Commission shall only approve bid waiver applications for competitive negotiation in limited circumstances, including but not limited to:

(A) Advertising or re-advertising the project for competitive sealed bid is not feasible or practical as determined by the Director;

(B) A situation in which only one source is available for the services or materials, whether due to bidder domicile or proprietary technology; or

(C) An emergency situation necessitates the immediate start of work or an expedited return to normal state service operations and the immediate commencement of the work is necessary for those operations to resume, and the Commission has complied with Section 6 of this chapter.

(iii) The Commission shall have ten (10) business days to review the Director's request and make a determination. The Commission may request additional information to reach a determination, which shall pause the review time until the requested

information has been submitted. If the requested information is not provided within five (5) business days, the Commission may make a determination based on available information.

(c) If the Director determines that competitive negotiation is not feasible or practical for a contract with an estimated value in excess of fifteen thousand dollars (\$15,000.00), the Director may submit their written determination to the Governor or the Governor's designee and seek approval for the contract to be let by noncompetitive negotiation under Section 7 of this chapter. The Governor or the Governor's designee may approve such a bid waiver request in accordance with subsection (b). The Director's written determination and its request for noncompetitive negotiation shall be based on factors including, but not limited to:

(i) Whether the Commission initiated a competitive negotiation process but received an inadequate number of responses to its solicitations despite the Commission's good faith attempts to secure bids as required in Section 8 of this chapter. If the Commission received one or more responses, the Commission shall explain why the bids received were inadequate;

(ii) Whether competitive negotiation is not practical or feasible because of a lack of competition in the industry;

(iii) Whether competitive negotiation is not practical or feasible because a single entity is uniquely qualified for the work due to circumstances, geographic disparities, experience with the project, or proprietary techniques or technologies;

(iv) Whether an emergency necessitates the immediate start of work to continue, or expedite the return to, normal state service operations and the Commission has complied with Section 6 of this chapter regarding emergency contracting; or

(v) Whether a prototype agreement exists where the Commission may reuse a previously developed design or product.

(d) The Director shall submit bid waiver applications on standard bid waiver forms adopted by the Commission.

(e) Upon approval of a bid waiver by the Commission, the Governor, or their designees, as applicable, the Commission may proceed to let the contract as stipulated in the bid waiver.

Section 6. Emergency contracting.

(a) In an emergency situation, the Commission may, in accordance with this section, procure services or materials without adhering to the notice, bid, and negotiation requirements in this chapter. The Director or their designee shall document to the Commission the emergency situation necessitating the procurement and an explanation of how and why it is necessary not to adhere to the notice, bid, and negotiation requirements in this chapter. When the Director or their designee decides not to follow the notice, bid, or negotiation requirements due to an emergency situation, that agency is immediately subject to review by the Commission.

(b) In the event that emergency work is initiated in response to an emergency situation, the Director or their designee shall notify the Commission by the next business day of any and all efforts undertaken by the Director or their designee(s) to obtain competition, and the emergency situation that justified reliance on this section. The Director, not the Commission, is responsible for any notification to Risk Management or other such agencies or entities as may be required by laws applicable to the Commission or emergency situation.

(i) For emergency work with an estimated value of fifteen thousand dollars (\$15,000) or more, a bid waiver shall be submitted as soon as possible, as required by Section 5 of this chapter, and shall be approved by the Governor or Governor's designee in accordance with Section 5(c).

(c) An emergency contract shall be limited to services or materials in such quantities as are necessary to address the emergency situation.

(d) The Director or their designee(s) shall seek to obtain as much competition as possible while letting an emergency contract. Approaches to increase competition may include:

(i) Telephonically-sourced quotes;

(ii) Online-sourced quotes;

(iii) Invitations to bid; and

(iv) Other methods that can be pursued while avoiding harm or risk of harm to the public health, safety, welfare, property, or impairing the ability of a public entity to function or perform required services; or the solvency, security, or integrity of the Wyoming Stable Token, its technical infrastructure, its underlying reserves held in trust, or any other critical underpinning at risk.

(e) Notwithstanding any confidentiality concerns, the Director or their designee shall publicly disclose the rationale and result of the emergency contracting to the agency website within five (5) business days of the emergency contracting.

Section 7. Noncompetitive negotiation.

(a) Noncompetitive negotiations (sometimes also known as "sole sourcing") may proceed when the Commission has:

(i) Obtained an approved waiver under Section 5 of this chapter; and

(ii) Secured a bid from a qualified bidder that meets the solicitation response requirements of Section 8.

Section 8. Competitive negotiation.

(a) "Competitive negotiation" means to negotiate for a contract through a request for proposals process or any other similar competitive selection process.

(i) A competitive negotiation conducted using a request for proposal process shall comply with Chapter 2 of these rules.

(b) A competitive negotiation conducted using a lowest bid process shall comply with the following:

(i) To initiate competitive negotiation, the Commission shall solicit not less than three (3) independent cost estimates.

(ii) A solicitation for bids shall be made to bidders in a standard format consistent with Commission policy that shall include the scope of desired work and the desired schedule or completion date. Solicitations shall clearly identify the services of materials that will be procured by competitive negotiation. The Commission shall determine the qualifications of bidders.

(iii) A solicitation for bids shall include a notification that the Commission's acknowledgement of receipt of a bid does not constitute acceptance of the bid, and an invitation to negotiate does not guarantee that the bidder's bid will be accepted or that the negotiations will result in a signed contract.

(iv) A solicitation shall require bidders to submit bids that include, at a minimum:

(A) A proposed work plan that demonstrates the bidder's understanding of the requested work with a detail level commensurate with the scope outlined in the solicitation for bids;

(B) A comprehensive proposed cost estimate inclusive of all materials, labor, overhead, and profit anticipated to be necessary for the completion of the work outlined in the solicitation; and

(C) A proposed timeline for the completion of work including major milestones.

(v) The Director or their designee shall negotiate with and let the contract to the lowest qualified bidder in accordance with any applicable requirements. However, if the contract's estimated value was equal to fifteen thousand dollars (\$15,000) or less, but all bids received are above fifteen thousand dollars (\$15,000), the Commission may:

(A) Engage in negotiations with all bidders for the purpose of scope clarification, resulting in a cost below fifteen thousand dollars (\$15,000);

(B) Reject all bids and advertise for competitive sealed bids per Section 12 of this chapter; or

(C) Request a bid waiver from the Governor or their designee per Section 5 of this chapter.

Section 9. Bidder prequalification for competitive sealed bidding.

(a) In a competitive sealed bidding process, Commission may, at its discretion, require all potential bidders to submit applications for prequalification prior to submitting bids on a project.

(b) Prequalification does not replace the use of evaluation criteria as allowed in Section 19(a) of this rule. The Commission may use prequalification in conjunction with the evaluation criteria even after prequalification has been completed.

(c) A call for prequalification applications shall be advertised, at a minimum, on the state procurement website or agency website for not less than two (2) consecutive weeks.

(d) To the extent applicable, based on the scope of work requested in the call for prequalification applications, an application for prequalification shall include, at a minimum:

- (i) Contact information;
- (ii) A statement of corporate history;
- (iii) A listing of the services or materials that the applicant believes it is qualified to provide;
- (iv) A concise description of relevant past work completed by the applicant within the last eighteen (18) months at minimum;
- (v) Proof of equipment, certifications, professional qualifications, or experience specific to the scope of project work;
- (vi) A signed affidavit stating the applicant's willingness to comply with applicable laws and policies, which may or may not be unique to the project or Commission; and
- (vii) Any other information required by the Commission in a notice requesting statements of qualifications.

Section 10. Prequalification term, status notification, and revocation.

(a) Prequalification for a competitive sealed bid process shall be designated on a per project basis. Designation of prequalification on one project shall not be construed as prequalification for any other project, nor shall prequalification on one project be accepted in lieu of required documentation for prequalification on another project.

(b) Upon completion of its review of all prequalification applications for a project, the Commission shall notify a prequalification applicant of the agency's decision with regards to the applicant's prequalification status, including the reason for the decision.

(c) Prequalification applicants that are determined by the Commission to have met the qualification requirements will be deemed a qualified bidder.

(d) The decision to revoke a prequalification granted to a qualified bidder is at the discretion of the Commission. The Commission shall follow the processes in Chapter 5, Section 4(c) of these rules if it revokes a qualified bidder's prequalification.

Section 11. Request for review of denial of prequalification application.

(a) A potential bidder denied prequalification status after filing an application for prequalification status may request the Commission to review the application decision. The potential bidder shall file a written request for review to the Commission including:

- (i) The name and address of the requesting potential bidder;
- (ii) A brief explanation of why the potential bidder's prequalification application should be granted;
- (iii) The statute, rule, or policy which the potential bidder believes was applied incorrectly or in error;
- (iv) Any additional facts the potential bidder would like to be considered, including any relevant exhibits, evidence, or documents of substantiation to support a requested change in the prequalification outcome.

(b) Requests shall be submitted to the Director or their designee.

(c) The Director or their designee shall acknowledge receipt of written review requests within three (3) business days of receipt, with a blind closed copy provided to the Commission.

(d) The Director or their designee may request additional information as part of the review. If requested information is not provided within three (3) business days, the review may be completed without such information.

(e) The Director shall provide written notice of any action taken in response to the review request, including a decision to take no action, within ten (10) business days and shall provide such notification to the Commission in blind closed copy.

(f) Notwithstanding the time limitations in subparts (c) and (e) above in this section, the Director shall make every attempt to resolve review requests in a timely manner, but is not under obligation to resolve requests prior to bid filing deadlines when such timeline would put an undue burden on the Director and detract from the execution of Commission operations.

Section 12. Advertising for competitive sealed bids.

(a) To initiate competitive sealed bidding for a project that has not required bidder prequalification (as allowed under Sections 9 and 10 of this chapter), the Commission shall advertise a notice to submit bids for the project. The advertisement for bids shall be published on the state procurement website or agency website for not less than two (2) consecutive weeks. If the Commission opts to utilize an online bidding site to publish project estimates and plans, it

shall provide a link to the bidding site on the state procurement website or agency website. An advertisement for bids shall contain, at a minimum, the following information:

- (i) The name of the Commission;
- (ii) A designated procurement point of contact with contact information;
- (iii) A description of the scope of the desired work;
- (iv) The location of the desired work;
- (v) An estimated project completion date;
- (vi) Procedures to submit bids;
- (vii) Methods to access plans and bid documents;
- (viii) Information regarding prebid meetings, if any, held at the discretion of the Commission;
- (ix) Deadline to submit bids and bid opening information; and
- (x) Sample contract and bidder affidavits.

(b) Because the Commission does not maintain a bid advertising notification list, potential bidders are responsible for checking the advertising methods listed in this section.

(c) If the Commission already advertised a call for prequalification applications for the project under Section 9 of this chapter, the Commission is not required to publicly advertise the advertisement for bids under this section. Instead, the Commission shall provide the advertisement for bids to the qualified bidders.

Section 13. Commission's addenda to bid advertisements.

(a) After a notice to submit bids is published, the Commission may issue addenda to the bid advertisement to respond to a potential bidder's request for clarification under Section 14 of this chapter, or for the purpose of making changes or increasing the level of detail to the:

- (i) Requested scope of work;
- (ii) Project completion date;
- (iii) Bid opening date;
- (iv) Qualification requirements;
- (v) Evaluation criteria; or

(vi) Other requirements in the advertisement that may affect the ability of a bidder to make a full and complete bid.

(b) Addenda shall be posted to the original online bidding site or agency website, and all known bidders shall be notified of the addenda.

(c) Addenda shall be identified as such and must be acknowledged by bidders as part of the bid submission.

(d) Addenda posted within five (5) calendar days of the bid opening shall require an extension to the bid opening date.

(i) At the discretion of the Director or their designee, the Commission may opt not to extend the bid opening deadline if the addenda do not change the character of the advertisement for bids.

(ii) An addendum may be considered to change the character of an advertisement for bids if the addendum alters:

(A) The scope of work;

(B) The timeline to complete the identified scope of work; or

(C) Other portions of the original advertisement such that the advertisement, as amended with the addendum, substantively differs from the original advertisement issued by the Commission.

Section 14. Requests for clarifications of bid advertisements.

(a) A potential bidder may submit a written request for clarification from the Commission on the advertisement for bids. A potential bidder that directly contacts the Commission or its representatives shall be directed to the appropriate forum for posing questions.

(b) The Director or their designee may, at their discretion, opt to provide such clarification so long as doing so would not restrict competition or provide an undue advantage to one or more potential bidders.

(i) If the Director or their designee grants the request, the Director or their designee shall answer the potential bidder's questions in a written addendum issued in accordance with Section 13 of this chapter. If necessary, the Director or their designee shall adjust the bid opening deadline in accordance with Section 13(d).

(ii) Only clarifications issued in accordance with this section shall be binding upon the Commission. Clarifying information provided at a prebid meeting shall not be considered binding on the Commission until the agency issues an addendum to the bid advertisement in accordance with Section 13 of this chapter.

(iii) In the event that one potential bidder may have been granted access to additional information about the bid advertisement, the Commission shall immediately release the information to other potential bidders in an addendum.

(c) If the Commission is unable or unwilling to provide the requested clarification, it shall respond to the requesting potential bidder in writing and explain its reasoning for refusing to provide the requested clarification.

Section 15. Access to bid documents.

(a) Any cost incurred to access and download bid documents shall be the responsibility of the potential bidder.

(b) Potential bidders are responsible for accessing plans directly from the location specified by the Commission to ensure accuracy and receipt of future addenda.

Section 16. Prebid conferences and site visits.

(a) The Commission may schedule prebid conferences and site visits for a project, and may designate a prebid conference or site visit as mandatory. Any bidder that fails to attend a mandatory prebid conference or mandatory site visit shall be ineligible to bid on that project.

(b) The Commission shall announce the time, date, and location of any prebid conference or site visit to all potential bidders in the bid advertisement or through an addendum to the bid advertisement. The Commission's announcement of a prebid conference or site visit shall state whether the prebid conference or site visit is mandatory.

(c) A prebid conference shall be held not less than two (2) business days after the bid advertising period has been completed per Section 12 of this chapter, but not less than ten (10) business days before bids are due. At the discretion of the Commission, the above time frame may be increased based on the technicality or dollar amount of the project.

(d) The Commission may hold a prebid conference in the following formats at the Commission's discretion:

(i) In person;

(ii) Teleconference;

(iii) Webinar; or

(iv) Other electronic medium approved by the Director and made available to potential bidders by the Commission, at the Commission's expense.

(e) For each prebid conference, the Commission shall maintain a record including, at a minimum:

(i) An attendance log including:

- (A) Attendee name;
 - (B) Attendee contact information; and
 - (C) The entity each attendee represents.
- (ii) Copies of documents distributed by the Commission to attendees; and
 - (iii) Any verbal modifications made to any of the bid advertisement documents, all of which shall be reduced to writing and released as an addendum to the bid advertisement in accordance with Section 13 of this chapter.
- (f) The Commission may conduct prebid, in-person site visits at the site of the project being procured.

Section 17. Content of competitive sealed bids.

- (a) Competitive sealed bids submitted under this chapter shall include:
 - (i) A bid, developed on forms provided by the Commission, with all fields fully completed as specified on the forms, in dark ink or typed, and prepared electronically for upload; and
 - (ii) A signed affidavit from the bidder certifying:
 - (A) That bids have been developed independently;
 - (B) No effort has been made to restrict competition;
 - (C) The bidder is in receipt of all addenda;
 - (D) The person signing the bid is authorized to represent the organization for whom he or she is signing;
 - (E) The ownership and legal structure of the organization; and
 - (F) The bidder agrees to comply with all applicable regulations, policies, guidelines, and requirements;
 - (iii) Documentation required by subsection (b) of this section, if applicable; and
 - (iv) Any other information required by the Commission in the bid advertisement or its addenda.
- (b) If the Commission did not require prequalification applications for the project under Section 9 of this chapter, a competitive sealed bid shall also include:
 - (i) Contact information;

- (ii) A statement of corporate history;
- (iii) A listing of the services or materials that the applicant believes it is qualified to provide;
- (iv) A concise description of relevant past work completed by the applicant within the last eighteen (18) months at minimum;
- (v) Proof of equipment, certifications, professional qualifications, or experience specific to the scope of project work;
- (vi) A signed affidavit stating the applicant's willingness to comply with applicable laws and policies, which may or may not be unique to the project or Commission; and
- (vii) Any other information required by the Commission.

Section 18. Bid submission, modification, and withdrawal.

- (a) Deadlines. Bidders are solely responsible for meeting the bid submission deadline.
 - (i) For bids submitted electronically, bidders shall allow sufficient time to complete online forms and upload documents. The bid submission period shall end at the posted closing time and bidders shall not be permitted to complete in-progress submissions after that time.
 - (ii) For bids submitted by physical delivery, delays caused by the bidder's delivery service shall not be an acceptable reason for a bid or modification being late. All bids or modifications sent by physical delivery shall be date and time stamped by the Director or their designee upon receipt.
- (b) Modifications. A bidder may submit a modification to their previously submitted bid prior to the bid submission deadline. The Commission shall deny bid modifications submitted after the submission deadline. The waiver or correction of errors in a bid after the bid submission deadline shall be subject to Section 19(c) of this chapter.
- (c) Withdrawals. A bidder may withdraw a previously submitted bid prior to the bid submission deadline. For a bid withdrawn after the bid submission deadline, the Commission may pursue remedies against the bidder.

Section 19. Principles for evaluating bids, price or quantity discrepancies, and bid irregularities.

- (a) Evaluation criteria. The Commission shall develop and use qualifications and evaluation criteria for submitted bids to establish a reasonable certainty that the responsible low bidder can be expected to complete the work as proposed. Evaluation criteria may include but are not necessarily limited to a bidder's:

- (i) Ability to meet deadlines;
 - (ii) Qualifications;
 - (iii) Certifications;
 - (iv) Licensing;
 - (v) Experience;
 - (vi) Compliance with applicable laws and regulations;
 - (vii) Type of services provided;
 - (viii) Availability of product, equipment, supplies, or services;
 - (ix) References or other information on past project performance, including the experience of the Commission with that bidder or proposer; and
 - (x) Any other criteria deemed important by the Commission.
- (b) Price or quantity discrepancies in bids.
- (i) In the case of a discrepancy between the unit or hourly price and the total price, the unit or hourly price will prevail.
 - (ii) In the case of a discrepancy between the price written in words and the price written in figures, the price written in words will prevail.
 - (iii) Quantities listed in the bid documents are to be considered as approximate and only to be used for the comparison of bids. Payment to the successful bidder will be made only for the actual quantities of work performed in accordance with the plans and specifications of the project. If upon the completion of the work, the actual quantities of work performed show either an increase or decrease from the quantities given in the estimate, the prices or costs set forth on a unit or hourly basis in the bid shall prevail.
- (c) Bid irregularities.
- (i) The Director or their designee may work in conjunction with the Commission to reject a bid that contains bid irregularities, or to resolve or waive bid irregularities, except that the Commission shall reject bids containing the following irregularities:
 - (A) Improper or missing signatures; or
 - (B) Lack legible numerical values.
 - (ii) A request to waive or correct an error in a bid, other than a bid irregularity, shall be subject to the following:

(A) Provided there is no change in bid pricing or cost, errors may be corrected if it is in the best interest of the State and correcting the mistake maintains the fair treatment of other bidders.

(iii) If the Commission opts to waive a required condition or accept bids missing information required by the bid advertisement or its addenda, the waiver shall apply to all bidders.

Section 20. Evaluation of bids and award of contract.

(a) Procedures after bid submission. Upon closure of the bid submission period, the Director or their designee shall:

- (i) Note the date and time of receipt of all bids;
- (ii) Open all bids in the presence of one or more witnesses, at the time and place designated in the bid advertisement;
- (iii) Record each bid opened, including bidder name and bid total;
- (iv) Examine each bid for validity and completeness;
- (v) Prepare a summary of bids received;
- (vi) Provide the summary to the Commission or Evaluation Committee that includes the bidders and bid totals and provide notification that the Commission or Evaluation Committee may review and evaluate bids.

(b) Evaluation process. The Commission or Evaluation Committee shall:

- (i) Evaluate bids to determine which bidders are responsible in accordance with the evaluation criteria set forth in the advertisement for bids per Section 19(a) of this chapter;
- (ii) Determine which bid, submitted by a responsible, qualified bidder, offers the lowest cost to the state; and
- (iii) Draft a written recommendation specifying the apparent responsible, qualified low bidder including justification for that recommendation.

(c) Award of contract. The Commission shall be the final authority on the award of a contract per W.S. 40-31-105(c)(iii). The Commission reserves the right to reject any and all bids. The contract shall be awarded to the lowest qualified bidder whose bid meets the requirements and criteria set forth in the advertisement for bids, subject to the considerations below:

(i) Award to multiple bidders. The Commission may, at its discretion, award portions of a single advertised project to multiple bidders when it is in the best interest of the State to do so.

(ii) Higher quality item. A contract may not be awarded to a bidder submitting a higher quality item than that designated in the invitation for bids or request for proposals, unless such bidder is also the lowest bidder as determined by value analysis or life-cycle cost formulas. The Commission shall not apply a value analysis or life cycle cost formula unless the call for bids clearly stated that such analysis or formula would be applied.

(iii) Tie bids. In the event of tie bids, the contract shall be awarded to the bidder most reasonably able to complete the work based on the evaluation criteria set forth in the advertisement for bids per Section 9 of these rules.

(iv) Single bid received. If, at the time of bid opening, only one bid has been received, the Commission may:

(A) Determine that the bid submitted is a fair price and that other entities had sufficient opportunity to bid, and award the contract to the single bidder; or

(B) Determine that the bid submitted is not at a fair price or that sufficient opportunity was not given to encourage multiple bids, and reject the bid. The Commission's decision to cancel the procurement or re-advertise the project for bids under this paragraph is subject to review by the Governor or their designee at their discretion.

(v) Award to next lowest bidders. In the event the low bidder originally awarded the contract is unable to complete the work as bid, the Commission may award the contract to the second lowest bidder. If the second lowest bidder declines to accept the award, the Commission may:

(A) Offer the award to the next lowest bidder;

(B) Re-advertise for bids; or

(C) Cancel the advertisement for bids, pursuant to Section 21 of this chapter.

(d) Errors after award. Errors discovered in a successful bid after the award of a contract may only be corrected if, after consultation with the Director and the Attorney General's office, it is determined that the correction of the mistake does not violate the requirements of applicable laws. Any correction made under this subsection must be supported by a written determination signed by the Director.

Section 21. Cancellation of a bid advertisement.

(a) The Commission may cancel an advertisement for bids, subject to review by the Governor or their designee.

(b) Grounds for cancelling a bid advertisement may include, but are not limited to:

(i) A change in circumstances such that the project is no longer required or funding is no longer available;

- (ii) All bids received exceed available funding;
 - (iii) All responsible, qualified bids are at clearly unreasonable prices;
 - (iv) Reason to suspect collusion between bidders or submission of bids in bad faith;
 - (v) The advertisement did not provide for consideration of all factors of significance to the State; or
 - (vi) Proposed amendments to the advertisement are of sufficient impact that a new advertisement is desirable.
- (c) Upon cancellation of an advertisement, notice of cancellation shall be distributed through the same means as the initial advertisement.

Section 22. Cancellation of an award of a contract.

- (a) The Commission may cancel the award of a contract, subject to review by the Governor or their designee. A decision to cancel an award under this section shall be supported in a written document.
- (b) Reasons for cancelling an award of a contract may include, but are not limited to:
- (i) Project is no longer required;
 - (ii) Funding is no longer available;
 - (iii) Reason to suspect collusion between bidders or submission of bids in bad faith; or
 - (iv) The apparent low bidder is no longer able to complete the work as bid.
- (c) Cancellation of an award of a contract does not require cancellation of the underlying bid advertisement for the project awarded.
- (d) Cancellation of an award due to the fault of the bidder may result in the pursuit of remedies against the bidder.

Chapter 4

Post-Award Project Performance

Emergency rules are in effect no longer than 120 days after filing with the Registrar of Rules.

Section 1. Authority.

(a) These rules are promulgated by the Wyoming Stable Token Commission, herein referred to as the Commission, in accordance with W.S. 40-31-105(b) and 40-31-110.

Section 2. Contract negotiation and execution.

(a) All contracts for projects procured under these rules shall be:

(i) Negotiated and executed in consideration of the estimated value, scope, complexity and professional nature of the services to be rendered;

(ii) Submitted to and approved by the Attorney General's Office in compliance with procedures established by the Attorney General's Office;

(iii) Executed by the Director;

(iv) Executed on the Commission's contract templates, unless otherwise approved by the Commission and the Attorney General's Office. The Director shall select the correct template that corresponds to the scope of work of the intended project, subject to review and guidance by the Commission; and

(v) Filed with the Commission.

(b) Modifications to Commission contract templates, including adjustments to further stipulate services and reflect the scope of the particular project, on a project-by-project basis may be submitted to the Director for review and approval in consultation with the Attorney General's Office. Major modifications, as determined by the Commission, require approval by the Commission and the Attorney General's Office. All modifications shall be submitted to the Attorney General's Office and the Commission in compliance with the process outlined in Section 2(a) of this chapter. All amendments to project contracts shall be treated as modifications per this subsection. The Commission shall be responsible to pay any costs incurred on a contract modified and executed without the necessary approvals until such time as a contract acceptable to the Commission and the Attorney General's Office is signed.

(c) Retainage may be required at the discretion of the Commission.

Section 3. Contract Management.

(a) The Director or their designee shall be responsible for managing the executed contract to ensure compliance with any requirements during the contract performance period.

Section 4. Payments.

(a) Payments for services and materials shall be delivered only when:

(i) The contract for services is compliant with the requirements of W.S. 9-1-403(b);

(ii) The contractor requests payment for services rendered using the approved forms provided by the Commission; and

(iii) The Director or their designee provides verification of the completion of work included in the contractor's request for payment. The Commission may require additional forms or affidavits before releasing payments.

(b) Final payment shall be issued upon completion of the requirements in W.S. 16-6-116, if applicable.

(c) All disputed payments and claims shall be handled in accordance with W.S. 16-6-117, if applicable.

Chapter 5

Dispute Resolution and Bidder or Firm Discipline

Emergency rules are in effect no longer than 120 days after filing with the Registrar of Rules.

Section 1. Authority.

(a) These rules are promulgated by the Wyoming Stable Token Commission, herein referred to as the Commission, in accordance with W.S. 40-31-105(b) and 40-31-110.

Section 2. Judicial review.

(a) With regard to actions for procurement subject to these rules, an aggrieved or adversely affected person may initiate a judicial review per W.S. 16-3-114.

(b) Nothing in this subsection shall be construed as an administrative appeal and a person need not request or participate in informal dispute resolution prior to seeking judicial review.

(c) If a judicial review action has been commenced in district court regarding a matter at issue in a request for informal dispute resolution under these rules, the Commission shall not act on the request, but shall refer it to the Attorney General's Office and provide notice of such action to the requester.

Section 3. Informal dispute resolution.

(a) A bidder or firm may file a written request for informal dispute resolution with the Commission concerning a Commission action within the following timelines:

(i) Accepting or rejecting bids: within ten (10) business days of bid opening;

(ii) Requests for proposal: within ten (10) business days of notice of exclusion from consideration;

(iii) Project award: Within ten (10) business days of project notice to award. Contract negotiation may proceed but contract execution shall not proceed until the period for requesting dispute resolution has expired.

(b) A written request for dispute resolution shall include:

(i) The name and address of aggrieved party;

(ii) Identification of the procurement in question by solicitation or award number;

(iii) A statement of issue(s); and

(iv) Any available exhibits, evidence, or documents related to the request that the requester wants to be considered during the dispute resolution.

(c) Upon receipt of a valid request for dispute resolution, the Director or their designee and members of the Board, if applicable, shall meet with the requester to discuss the issues in the request. The informal meeting may be held in person, over the phone, or by any other means.

Section 4. Contractor or firm discipline.

(a) Any contractor or firm whose performance has been unsatisfactory as reported by the Director or Commission may be subject to disciplinary actions, which may include revocation of the contractor or firm's prequalified status, suspension, or debarment.

(b) At the discretion of the Director or Commission, as applicable, conditions which may warrant disciplinary action include, but are not limited to:

- (i) Late delivery of services or materials;
- (ii) Failure to deliver services or materials as bid or proposed;
- (iii) Unauthorized substitutions of services or materials other than those specified;
- (iv) Defective performance of services or delivery of defective materials;
- (v) Billing errors;
- (vi) Submitting or participating in multiple bids when not specifically requested in the solicitation;
- (vii) The improper or illegal conduct of an individual employed in a position of authority with a contractor or firm, when on or off his or her job with the contractor or firm. Positions of authority include, but are not limited to officer, director, partner, manager, key employee, or other principal;
- (viii) Undisclosed relationships or affiliations that create or could create a conflict of interest preventing true competitive procurements; or
- (ix) Changed conditions, including any development that arises which, in the opinion of the Director or Commission in the case of suspension or debarment, adversely reflects the bidder's responsibility or trustworthiness.

(c) Revocation. The Commission may revoke a potential bidder's or firm's prequalified status if the Director or Commission becomes aware of circumstances that negate the information used to award the prequalification. The Director or their designee shall provide notice to the potential bidder or firm and an adequate opportunity to cure the identified deficiency.

(d) Notices for suspension or debarment. Prior to any suspension or debarment under Section 4(a) of this chapter, the Director or their designee shall:

(i) Notify the Commission of its intent to conduct an investigation that may result in a revocation or recommendation for suspension or debarment;

(ii) Conduct an investigation; and

(iii) Make a recommendation to the Commission for suspension or debarment if the investigation leads the Commission to believe such action is warranted. The recommendation shall contain an explanation of the conduct or circumstances giving rise to the action and the time length of the suspension or the required corrective action necessary to cure the debarment.

(e) Prior to the issuance of a suspension or debarment, the Director or their designee shall provide a contractor or firm the opportunity to respond and present evidence in support of his or her position, in writing, to the Commission's recommendation. Such a response shall contain:

(i) A brief explanation of why the recommendation should not be granted;

(ii) Any additional facts the contractor or firm would like to be considered;

and

(iii) The legal authority upon which it is believed a decision was made in error.

(f) The Director or their designee shall issue a written decision, in consultation with the Commission's advising attorneys from the Attorney General's Office, laying forth the factual and legal bases for their decision. The contractor or firm shall be given written notification of any disciplinary action, the consequences of that action, and the duration of that discipline if the Commission decides to suspend or debar the contractor or firm.

(g) The Commission shall keep a statewide list of suspended and debarred persons and contractors.

(h) Suspension. The Commission may suspend a contractor or firm, for cause and in accordance with this chapter, from bidding on contracts for projects procured under these rules, applying for prequalification, or submitting proposals for services or materials. The suspension shall only be in effect for a specified period of time.

(i) The Commission has the discretion to define the suspension term, and may consider the circumstances underlying the suspension, the behavior, conduct, or events that precipitated the suspension, and any relevant extenuating circumstances.

(ii) Upon completion of the suspension term, the contractor or firm shall be permitted to bid and apply for prequalification.

(i) Debarment. The Commission may debar a contractor or firm, for cause and in accordance with this chapter, from bidding on contracts for projects procured under these rules, applying for prequalification, or submitting proposals for services or materials. The debarment shall only be in effect until such time as the contractor or firm takes specified corrective action and shows evidence that it has done so.

(i) After the Commission opts to debar a contractor or firm, it shall inform the Director or their designee that conducted the investigation leading to the debarment and the contractor or firm of its decision.

(ii) A contractor or firm may request the Commission review its status at any time. Such request shall include a showing that the contractor or firm has cured the identified deficiency by completing the required corrective action. If the Commission concludes that the contractor or firm has cured the identified deficiency, the Commission shall permit the contractor or firm to bid on contracts for projects procured under these rules, apply for prequalification, or submit proposals for services or materials.

(j) Exception. If a suspended or debarred contractor or firm is the only contractor or firm legally able to provide a particular service necessary to the Commission's project, the Director or their designee may request the Commission grant a temporary exception to that suspension or debarment on behalf of the contractor or firm. The request from the Director or their designee shall include a showing to justify why the exception is necessary under the circumstances. The Commission has discretion to grant or deny such requests. An exception granted under this section does not constitute the end of the contractor or firm's suspension or debarment and an exception granted for one project shall not allow the contractor or firm to bid on work for other projects, including those in which the contractor or firm would be the only contractor or firm legally able to provide the requested services or materials.

Chapter 1

General Provisions

Emergency rules are in effect no longer than 120 days after filing with the Registrar of Rules.

Section 1. Authority.

(a) These rules are promulgated by the Wyoming Stable Token Commission, herein referred to as the Commission, in accordance with W.S. 40-31-105(b) and 40-31-110.

Section 2. Definitions.

(a) In addition to the definitions provided in W.S. 34-29-101 and 40-31-102, the following definitions are used in these rules:

(i) “Agency website” means the online presence of the Commission currently available at <https://stabletoken.wyo.gov>.

(ii) “Bid” means the submission made in response to an advertisement for bids, or an invitation to bid in a competitive or noncompetitive negotiation. “Bid” does not include a proposal, as defined in these rules. Notwithstanding this definition, nothing in these rules shall be construed to imply that bids must be accepted by the Commission or that bidders are qualified by being included on a bidders list or receiving an invitation to bid.

(iii) “Bidder” means a singular entity or consortium of entities that submits a bid in a competitive sealed bidding, competitive negotiation, or noncompetitive negotiation process. “Bidder” does not include a firm or proposer, as defined in these rules.

(iv) “Bid irregularity” means a defect in a bid or variation of a bid from the exact requirements of a bid advertisement or its addenda or bid documents. Irregularities include:

(A) Ambiguity as to any part of a bid;

(B) A missing unit or hourly bid price;

(C) An erasure or change in a unit or hourly bid price not initialed in ink or verifiable electronic signature by the bidder; and

(D) In addition, the failure of a bidder to:

(I) Return the number of copies of signed bids required by the invitation;

(II) Furnish required information such as licenses, bonds, or insurance certificates;

(III) Correct typographical or mathematical errors;

(IV) Sign its bid;

(V) Acknowledge receipt of an addendum to an advertisement for bids,

(VI) Submit a bid free of stipulations or conditions that are inconsistent with the exact requirements of the project as described in the bid advertisement, its addenda, or bid documents; or

(VII) Obtain written approval from the Commission before submitting pricing for service or material substitutions.

(v) “Debarment” means the exclusion of a proposer or bidder from submitting proposals or bids, or participating in a prequalification process, as a result of egregious conduct or violation of the public trust, including but not limited to suspected or confirmed collusion, suspected or confirmed fraudulent billing, suspected or confirmed violation of conflict of interest laws, or conviction of a contract or antitrust crime. Debarments are issued along with required corrective action and are in place until corrective action is taken to the satisfaction of the Commission.

(vi) “Emergency situation” means a situation that creates a threat to public health, welfare, or safety which may arise by reason of floods, epidemics or pandemics, riots, terrorism, hacks, equipment failures, power outages, Force Majeure, or such other reason as may be identified and approved by the Commission, Director, or their respective designee(s). The existence of such situation creates an immediate and serious need for services or materials that cannot be met through normal procurement methods and the lack of which would seriously threaten the:

(A) Functioning of state government or its programs;

(B) Solvency, security, or integrity of the Wyoming Stable Token, its technical infrastructure, its underlying reserves held in trust, or any other critical underpinning;

(C) Preservation or protection of property, whether tangible or intangible; or

(D) Health or safety of any person or persons.

(vii) “Evaluation committee” means a group comprised of the Director or their designee, members of the Board, and independent subject matter advisors that will be responsible for reviewing and evaluating proposals or bids, and providing those findings to the Commission.

(viii) “Firm” or “proposer” means a singular entity or consortium of entities that submits a proposal. Neither “firm” nor “proposer” shall include a bidder, as defined in these rules.

(ix) “Material” or “materials” means tangible or intangible goods, including but not limited to digital assets, software, hardware, physical infrastructure, or the constituent components thereof, solicited as part of or for incorporation into a project.

(x) “Prebid meeting” means a meeting held prior to the closing of an advertisement for bids. Attendance at a prebid meeting may be mandatory or optional, and may include or exclude subcontractors, at the discretion of the Director or Commission.

(xi) “Prequalification” means the verification that a potential proposer or bidder has met the minimum qualifications necessary to be successful in the performance of services or delivery of materials.

(xii) “Proposal” means the submission made in response to a request for proposals. “Proposal” does not mean a bid, as defined in these rules. Notwithstanding this definition, nothing in these rules shall be construed to imply that proposals must be accepted by the Commission or that proposers are qualified by being included on a prequalification list or receiving an invitation to submit a proposal.

(xiii) “Prototype agreement” means an agreement between the Commission and a proposer or bidder under which a prototype product will be or has been developed, and which may be reused on future projects.

(xiv) “Qualified bidder” means a bidder that meets all the requirements of the bid advertisement and whom the Commission has deemed qualified in its ability to perform the work requested.

(xv) “Qualified firm” means a firm or proposer that meets all the prequalification requirements for submission of a request for proposal.

(xvi) “Retainage” means the percentage of what the Commission pays a contractor that is withheld until the project has been substantially completed.

(xvii) “Revocation” means the retraction of a prequalification status previously granted to a proposer or bidder.

(xviii) “Service” means labor performed in the interest or under the direction of the Commission as part of project work.

(xix) “Suspension” means the temporary exclusion of a proposer or bidder from proposing or bidding on projects or participating in the prequalification process for a specified period of time due to unsatisfactory performance.

Chapter 2

Procurement by Request for Proposal

Emergency rules are in effect no longer than 120 days after filing with the Registrar of Rules.

Section 1. Authority.

(a) These rules are promulgated by the Wyoming Stable Token Commission, herein referred to as the Commission, in accordance with W.S. 40-31-105(b) and 40-31-110.

Section 2. Applicability.

(a) This chapter applies to the Commission's procurement of services or materials by request for proposal ("RFP").

(b) This chapter shall not apply to the procurement of services or materials using competitive sealed bidding, competitive negotiation, or noncompetitive negotiation, which are covered in Chapter 3 of these rules.

Section 3. Prequalification requirements by project value.

(a) For a project with a services or materials fee estimated by the Commission to be fifteen thousand dollars (\$15,000) or less, the Commission may perform a prequalification process in preparation for the specific project, as defined in Sections 4 through 6 of this chapter.

(b) For a project with a services or materials fee estimated by the Commission to exceed fifteen thousand dollars (\$15,000), the Commission shall perform a prequalification process in preparation for the specific project, as defined in Sections 4 through 6 of this chapter.

Section 4. Firm prequalification for requests for proposal.

(a) Notwithstanding the value thresholds in subsections (a) and (b) of Section 3 of this chapter, in a request for proposal process, the Commission may, at its discretion, require all potential proposers to submit applications for prequalification prior to submitting proposals on a project.

(b) Prequalification does not replace the use of evaluation criteria as allowed in Section 9 of this chapter. The Commission may use prequalification in conjunction with the evaluation criteria even after prequalification has been completed.

(c) A call for prequalification applications shall be advertised, at a minimum, on the state procurement website or agency website for not less than two (2) consecutive weeks and shall:

(i) Generally describe the proposed project and scope of work; and

(ii) Describe the procedures and requirements to submit a prequalification application related to the proposed project.

(d) To the extent applicable, based on the scope of work requested in the call for prequalification applications, an application for prequalification shall include, at a minimum:

(i) Contact information;

(ii) A statement of corporate history;

(iii) A listing of the services or materials that the applicant believes it is qualified to provide;

(iv) A concise description of relevant past work completed by the applicant within the last eighteen (18) months at minimum;

(v) Proof of equipment, certifications, professional qualifications, or experience specific to the scope of work;

(vi) A signed affidavit stating the applicant's willingness to comply with applicable laws and policies, which may or may not be unique to the project or Commission; and

(vii) Any other information required by the Commission in a notice requesting statements of qualifications.

Section 5. Prequalification term, status notification, and revocation.

(a) Prequalification for a request for proposal process shall be designated on a per project basis. Designation of prequalification on one project shall not be construed as prequalification for any other project, nor shall prequalification on one project be accepted in lieu of required documentation for prequalification on another project.

(b) Upon completion of its review of all prequalification applications for a project, the Director or their designee shall notify a prequalification applicant of the Commission's decision with regards to the applicant's prequalification status, including the reason for the decision.

(c) Prequalification applicants that are determined by the Commission to have met the qualification requirements will be deemed a qualified firm.

(d) The decision to revoke a prequalification granted to a qualified firm is at the discretion of the Commission. The Commission shall follow the processes in Chapter 5, Section 4(c) of these rules if it revokes a qualified firm's prequalification.

Section 6. Request for review of denial of prequalification application.

(a) A potential proposer denied prequalification status after filing an application for prequalification status may request the Commission to review the application decision. The potential proposer shall file a written request for review to the Commission including:

(i) The name and address of the requesting potential proposer;

(ii) A brief explanation of why the potential proposer's prequalification application should be granted;

(iii) The statute, rule, or policy which the potential proposer believes was applied incorrectly or in error;

(iv) Any additional facts the potential proposer would like to be considered, including any relevant exhibits, evidence, or documents of substantiation to support a requested change in the prequalification outcome.

(b) Requests shall be submitted to the Director or their designee.

(c) The Director or their designee shall acknowledge receipt of written review requests within three (3) business days of receipt, with a blind closed copy provided to the Commission.

(d) The Director or their designee may request additional information as part of the review. If requested information is not provided within three (3) business days, the review may be completed without such information.

(e) The Director or their designee shall provide written notice of any action taken in response to the review request, including a decision to take no action, within ten (10) business days and shall provide such notification to the Commission in blind closed copy.

(f) Notwithstanding the time limitations in subparts (c) and (e) above in this section, the Director or their designee shall make every attempt to resolve review requests in a timely manner but is not under obligation to resolve requests prior to request for proposal filing deadlines when such timeline would put an undue burden on the Director or their designee and detract from the execution of Commission operations.

Section 7. Issuance of requests for proposals.

(a) Before issuing requests for proposals for a specific project, the Commission shall complete the prequalification process as described in Sections 3 through 6 of this chapter.

(b) Notwithstanding the value threshold in subsection (a) of Section 3, the Commission shall request proposals only from qualified firms. The Commission does not need to solicit requests for proposal from firms that were not deemed to be qualified firms.

(c) The Commission shall select the firms from whom it shall request proposals in accordance with the following:

(i) If there are more than three (3) qualified firms, the Commission shall request proposals from at least three (3) of the qualified firms, to be selected at the discretion of the Commission.

(ii) If there are three (3) or less qualified firms, the Commission shall, at its discretion:

(A) Request proposals from all of the qualified firms; or

(B) Adjust its prequalification criteria and re-advertise the prequalification application for a specific project.

(iii) Notwithstanding the estimated contract value, if the Commission determines that only one (1) firm is qualified, the Commission may seek a bid waiver from the Governor or their designee as described in Chapter 3, Section 5(c) of these rules.

(A) Upon approval of a bid waiver by the Governor or their designee, the Commission may proceed to let the contract through noncompetitive negotiation (sometimes known as “sole sourcing”) as described in Chapter 3, Section 7 of these rules.

(d) A request for proposal shall contain:

(i) A description of the project scope, the required project timeline, and the desired deliverables;

(ii) Submission procedures and content requirements for technical proposals;
and

(iii) Submission procedures and content requirements for the firm’s estimated fee.

(e) Notwithstanding subsections (a) through (d) of this section, the Commission may forgo requesting qualified firms to provide written proposals and, instead, proceed directly to interviewing qualified firms. The Commission proceeding under this subsection shall comply with the following:

(i) The Commission shall apply the requirements of subsections (a) through (c) of this section and Section 8 of this chapter to evaluate prequalification status, select firms for interviews, and conduct interviews;

(ii) An invitation to interview shall contain at least the following:

(A) A description of the project scope, the required project timeline, and the desired deliverables;

(B) Submission procedures, if any, and content requirements for technical presentations; and

(C) Submission procedures, if any, and content requirements for the firm's estimated fees.

(iii) The Commission may allow a qualified firm to present its technical proposals and estimated fees at the interview. The Commission is not required to have a qualified firm submit a written proposal or the firm's estimated fees prior to the interview.

Section 8. Firm interviews.

(a) For a project with a services or materials fee estimated by the Commission to be fifteen thousand dollars (\$15,000) or less, the Commission may interview firms that provide proposals.

(b) For a project with a services or materials fee estimated by the Commission to exceed fifteen thousand dollars (\$15,000), the Commission or Evaluation Committee shall interview not less than three (3) firms that provided proposals. However, if the Commission or Evaluation Committee determines after reviewing a firm's proposal that the firm is not qualified for the project and should not have received a request for proposal, the Commission or Evaluation Committee may reject the proposal and not interview the firm.

(i) Interviews may include discussion of each firm's projections of project costs, qualifications, approaches to the project, ability to furnish required services or materials, and an estimated fee based on the Commission's description of the scope of work.

(ii) The Commission shall keep a record of the interview.

(iii) If fewer than three (3) firms submit proposals, the Commission may:

(A) Interview all proposing firms;

(B) Solicit for additional proposals before proceeding; or

(C) Reject all proposals and either re-advertise for prequalification applications or cancel the procurement.

(iv) If the Commission is unsatisfied with the results of the interviews, it may interview not less than two (2) additional firms that provided proposals.

Section 9. Award of contract.

(a) The Commission shall consider factors including but not limited to the following when selecting the firm with which it will begin contract negotiations:

(i) Legal entity domicile;

(ii) The ability of professional personnel;

(iii) Past performance;

- (iv) Ability to meet time requirements;
- (v) Location;
- (vi) Current and projected workloads;
- (vii) The volume of work previously awarded to the firm by the Commission;
- (viii) Estimated fees;
- (ix) Ability to meet stringent compliance requirements;
- (x) Feedback from the Evaluation Committee, if applicable; and
- (xi) Any other factors as deemed appropriate by the Commission.

(b) The Commission shall assess and rank each firm's proposals for a project in accordance with the above factors in subsection (a).

(c) The Commission may:

(i) Select the highest-ranked firm, in consideration of all the information provided by the firm, for contract negotiations; or

(ii) Reject all proposals. If the Commission opts to reject all proposals, it may exercise its discretion to repeat the process from the most appropriate step under the circumstances.

Section 10. Emergency selection.

(a) The Director or their designee may waive any provision pertaining to firm selection if following the provision is reasonably believed to:

(i) Endanger the health, welfare, or safety of the public under the circumstances; or

(ii) Place the solvency, security, or integrity of the Wyoming Stable Token, its technical infrastructure, its underlying reserves held in trust, or any other critical underpinning at risk.

(b) In the event that emergency work is initiated in response to an emergency condition, the Director shall:

(i) Document the emergency situation necessitating the procurement, the circumstances justifying the waiver, and an explanation of how and why following the waived provision would endanger the health, welfare, or safety of the public; or place the solvency, security, or integrity of the Wyoming Stable Token, its technical infrastructure, its underlying reserves held in trust, or any other critical underpinning at risk. The decision of the Director or

their designee to waive any provision pertaining to firm selection under this provision is immediately subject to review by the Commission.

(ii) Notify the Commission by the next business day of any and all efforts undertaken by the Director or their designee(s) to obtain competition, and the emergency condition that justified reliance on this section. The Director, not the Commission, is responsible for any notification to Risk Management or other such agencies or entities as may be statutorily required per rules and statutes that apply to the Commission.

(iii) Notwithstanding any confidentiality concerns, the Director or their designee shall publicly disclose the rationale and result of the emergency selection to the agency website within five (5) business days of the emergency selection.

Section 11. Contract.

(a) Upon completion of the selection process, the Director or their designee shall negotiate a written contract in the form required by the Commission with the selected firm as determined by this chapter and Chapter 4 of these rules.

(b) The Director or their designee shall consider the estimated value, scope, complexity, and professional nature of the services or materials to be rendered when determining a reasonable compensation.

(c) If the Director or their designee is unable to negotiate a satisfactory contract with the selected firm at a price determined to be fair and reasonable, negotiations with that firm shall be terminated. The Director or their designee shall then begin negotiations with the second-ranked firm in order of preference pursuant to Section 9. If the Director or their designee fails to negotiate a contract with the second-ranked firm, they shall terminate negotiations. The Director or their designee shall then begin negotiations with the third-ranked firm in order of preference.

(d) If the Director or their designee is unable to negotiate a satisfactory contract with any of the selected firms, they shall:

(i) Select additional firms in order of their rank and continue negotiations in accordance with this Section 11 and Section 9 of this chapter, until a contract is reached; or

(ii) Review the contract under negotiation to determine the possible cause for failure to achieve a negotiated contract.

(e) Each contract for services or materials entered into by the Commission shall contain a prohibition against gratuities, kickbacks and contingent fees for the Director and the Board. The selected firm shall certify that it has not in any way been involved in any gratuities, kickbacks, or contingent fees in connection with its selection or ultimate performance of the contract.

(f) This act shall not prohibit continuing contracts between any person or firm providing services or materials and any agency.

Chapter 3

Procurement by Competitive Sealed Bidding, Competitive Negotiation, or Noncompetitive Negotiation

Emergency rules are in effect no longer than 120 days after filing with the Registrar of Rules.

Section 1. Authority.

(a) These rules are promulgated by the Wyoming Stable Token Commission, herein referred to as the Commission, in accordance with W.S. 40-31-105(b) and 40-31-110.

Section 2. Applicability.

(a) This chapter applies to the Commission's procurement of services or materials using competitive sealed bidding, competitive negotiation, or noncompetitive negotiation.

(b) This chapter shall not apply to the procurement of services or materials by request for proposal, which is covered in Chapter 2 of these rules.

Section 3. General provisions.

(a) The Commission reserves the right to use procurement software and related technology to meet any of the requirements of this chapter, including but not limited to opening, noting, and time stamping receipt of bids.

Section 4. Determination of procurement process.

(a) A contract for services or materials with an anticipated value of fifteen thousand dollars (\$15,000) or less shall be procured through competitive negotiation per Section 8 of this chapter.

(b) A contract for services or materials with an anticipated value in excess of fifteen thousand dollars (\$15,000) shall be procured through competitive sealed bidding per Sections 9 through 20 of this chapter.

(c) Paragraphs (a) and (b) shall not apply to a contract if:

(i) The Commission obtains an approved bid waiver under Section 5 of this chapter; or

(ii) The Commission is procuring the contract to respond to an emergency situation under Sections 5 and 6 of this chapter.

Section 5. Bid waivers.

(a) If the Director determines that competitive negotiation is not feasible for a contract with an estimated value equal to fifteen thousand dollars (\$15,000.00) or less, the

contract may be let by noncompetitive negotiation under Section 7 of this chapter without a bid waiver from the Commission or the Governor.

(b) If the Director determines that competitive sealed bidding is not feasible or practical for a contract with an estimated value in excess of fifteen thousand dollars (\$15,000), the Director may submit their written determination to the Commission and seek approval for the contract to be let by competitive negotiation under Section 8 of this chapter. The Commission may approve such a bid waiver in accordance with the following:

(i) The Director's written determination and request for approval of competitive negotiation shall be based on factors including, but not limited to:

(A) Whether the Commission attempted to advertise for competitive sealed bids but was unsuccessful despite its good faith attempts under Section 12 of this chapter. If the Commission received one or more bids, the Commission shall explain why the bids received were inadequate;

(B) Whether competitive sealed bidding is impractical or infeasible due to a lack of competition in the industry;

(C) Whether competitive sealed bidding is impractical or infeasible because only a small number of potential bidders are uniquely qualified for the work due to circumstances, geographic disparities, experience with the project, or proprietary techniques or technologies; or

(D) Whether competitive sealed bidding is impractical or infeasible due to time or other constraints that prevent completion of advertisement for competitive sealed bids or any other requirements under this chapter.

(ii) Except as otherwise outlined in this chapter, the Commission shall only approve bid waiver applications for competitive negotiation in limited circumstances, including but not limited to:

(A) Advertising or re-advertising the project for competitive sealed bid is not feasible or practical as determined by the Director;

(B) A situation in which only one source is available for the services or materials, whether due to bidder domicile or proprietary technology; or

(C) An emergency situation necessitates the immediate start of work or an expedited return to normal state service operations and the immediate commencement of the work is necessary for those operations to resume, and the Commission has complied with Section 6 of this chapter.

(iii) The Commission shall have ten (10) business days to review the Director's request and make a determination. The Commission may request additional information to reach a determination, which shall pause the review time until the requested

information has been submitted. If the requested information is not provided within five (5) business days, the Commission may make a determination based on available information.

(c) If the Director determines that competitive negotiation is not feasible or practical for a contract with an estimated value in excess of fifteen thousand dollars (\$15,000.00), the Director may submit their written determination to the Governor or the Governor's designee and seek approval for the contract to be let by noncompetitive negotiation under Section 7 of this chapter. The Governor or the Governor's designee may approve such a bid waiver request in accordance with subsection (b). The Director's written determination and its request for noncompetitive negotiation shall be based on factors including, but not limited to:

(i) Whether the Commission initiated a competitive negotiation process but received an inadequate number of responses to its solicitations despite the Commission's good faith attempts to secure bids as required in Section 8 of this chapter. If the Commission received one or more responses, the Commission shall explain why the bids received were inadequate;

(ii) Whether competitive negotiation is not practical or feasible because of a lack of competition in the industry;

(iii) Whether competitive negotiation is not practical or feasible because a single entity is uniquely qualified for the work due to circumstances, geographic disparities, experience with the project, or proprietary techniques or technologies;

(iv) Whether an emergency necessitates the immediate start of work to continue, or expedite the return to, normal state service operations and the Commission has complied with Section 6 of this chapter regarding emergency contracting; or

(v) Whether a prototype agreement exists where the Commission may reuse a previously developed design or product.

(d) The Director shall submit bid waiver applications on standard bid waiver forms adopted by the Commission.

(e) Upon approval of a bid waiver by the Commission, the Governor, or their designees, as applicable, the Commission may proceed to let the contract as stipulated in the bid waiver.

Section 6. Emergency contracting.

(a) In an emergency situation, the Commission may, in accordance with this section, procure services or materials without adhering to the notice, bid, and negotiation requirements in this chapter. The Director or their designee shall document to the Commission the emergency situation necessitating the procurement and an explanation of how and why it is necessary not to adhere to the notice, bid, and negotiation requirements in this chapter. When the Director or their designee decides not to follow the notice, bid, or negotiation requirements due to an emergency situation, that agency is immediately subject to review by the Commission.

(b) In the event that emergency work is initiated in response to an emergency situation, the Director or their designee shall notify the Commission by the next business day of any and all efforts undertaken by the Director or their designee(s) to obtain competition, and the emergency situation that justified reliance on this section. The Director, not the Commission, is responsible for any notification to Risk Management or other such agencies or entities as may be required by laws applicable to the Commission or emergency situation.

(i) For emergency work with an estimated value of fifteen thousand dollars (\$15,000) or more, a bid waiver shall be submitted as soon as possible, as required by Section 5 of this chapter, and shall be approved by the Governor or Governor's designee in accordance with Section 5(c).

(c) An emergency contract shall be limited to services or materials in such quantities as are necessary to address the emergency situation.

(d) The Director or their designee(s) shall seek to obtain as much competition as possible while letting an emergency contract. Approaches to increase competition may include:

(i) Telephonically-sourced quotes;

(ii) Online-sourced quotes;

(iii) Invitations to bid; and

(iv) Other methods that can be pursued while avoiding harm or risk of harm to the public health, safety, welfare, property, or impairing the ability of a public entity to function or perform required services; or the solvency, security, or integrity of the Wyoming Stable Token, its technical infrastructure, its underlying reserves held in trust, or any other critical underpinning at risk.

(e) Notwithstanding any confidentiality concerns, the Director or their designee shall publicly disclose the rationale and result of the emergency contracting to the agency website within five (5) business days of the emergency contracting.

Section 7. Noncompetitive negotiation.

(a) Noncompetitive negotiations (sometimes also known as "sole sourcing") may proceed when the Commission has:

(i) Obtained an approved waiver under Section 5 of this chapter; and

(ii) Secured a bid from a qualified bidder that meets the solicitation response requirements of Section 8.

Section 8. Competitive negotiation.

(a) "Competitive negotiation" means to negotiate for a contract through a request for proposals process or any other similar competitive selection process.

(i) A competitive negotiation conducted using a request for proposal process shall comply with Chapter 2 of these rules.

(b) A competitive negotiation conducted using a lowest bid process shall comply with the following:

(i) To initiate competitive negotiation, the Commission shall solicit not less than three (3) independent cost estimates.

(ii) A solicitation for bids shall be made to bidders in a standard format consistent with Commission policy that shall include the scope of desired work and the desired schedule or completion date. Solicitations shall clearly identify the services of materials that will be procured by competitive negotiation. The Commission shall determine the qualifications of bidders.

(iii) A solicitation for bids shall include a notification that the Commission's acknowledgement of receipt of a bid does not constitute acceptance of the bid, and an invitation to negotiate does not guarantee that the bidder's bid will be accepted or that the negotiations will result in a signed contract.

(iv) A solicitation shall require bidders to submit bids that include, at a minimum:

(A) A proposed work plan that demonstrates the bidder's understanding of the requested work with a detail level commensurate with the scope outlined in the solicitation for bids;

(B) A comprehensive proposed cost estimate inclusive of all materials, labor, overhead, and profit anticipated to be necessary for the completion of the work outlined in the solicitation; and

(C) A proposed timeline for the completion of work including major milestones.

(v) The Director or their designee shall negotiate with and let the contract to the lowest qualified bidder in accordance with any applicable requirements. However, if the contract's estimated value was equal to fifteen thousand dollars (\$15,000) or less, but all bids received are above fifteen thousand dollars (\$15,000), the Commission may:

(A) Engage in negotiations with all bidders for the purpose of scope clarification, resulting in a cost below fifteen thousand dollars (\$15,000);

(B) Reject all bids and advertise for competitive sealed bids per Section 12 of this chapter; or

(C) Request a bid waiver from the Governor or their designee per Section 5 of this chapter.

Section 9. Bidder prequalification for competitive sealed bidding.

(a) In a competitive sealed bidding process, Commission may, at its discretion, require all potential bidders to submit applications for prequalification prior to submitting bids on a project.

(b) Prequalification does not replace the use of evaluation criteria as allowed in Section 19(a) of this rule. The Commission may use prequalification in conjunction with the evaluation criteria even after prequalification has been completed.

(c) A call for prequalification applications shall be advertised, at a minimum, on the state procurement website or agency website for not less than two (2) consecutive weeks.

(d) To the extent applicable, based on the scope of work requested in the call for prequalification applications, an application for prequalification shall include, at a minimum:

(i) Contact information;

(ii) A statement of corporate history;

(iii) A listing of the services or materials that the applicant believes it is qualified to provide;

(iv) A concise description of relevant past work completed by the applicant within the last eighteen (18) months at minimum;

(v) Proof of equipment, certifications, professional qualifications, or experience specific to the scope of project work;

(vi) A signed affidavit stating the applicant's willingness to comply with applicable laws and policies, which may or may not be unique to the project or Commission; and

(vii) Any other information required by the Commission in a notice requesting statements of qualifications.

Section 10. Prequalification term, status notification, and revocation.

(a) Prequalification for a competitive sealed bid process shall be designated on a per project basis. Designation of prequalification on one project shall not be construed as prequalification for any other project, nor shall prequalification on one project be accepted in lieu of required documentation for prequalification on another project.

(b) Upon completion of its review of all prequalification applications for a project, the Commission shall notify a prequalification applicant of the agency's decision with regards to the applicant's prequalification status, including the reason for the decision.

(c) Prequalification applicants that are determined by the Commission to have met the qualification requirements will be deemed a qualified bidder.

(d) The decision to revoke a prequalification granted to a qualified bidder is at the discretion of the Commission. The Commission shall follow the processes in Chapter 5, Section 4(c) of these rules if it revokes a qualified bidder's prequalification.

Section 11. Request for review of denial of prequalification application.

(a) A potential bidder denied prequalification status after filing an application for prequalification status may request the Commission to review the application decision. The potential bidder shall file a written request for review to the Commission including:

(i) The name and address of the requesting potential bidder;

(ii) A brief explanation of why the potential bidder's prequalification application should be granted;

(iii) The statute, rule, or policy which the potential bidder believes was applied incorrectly or in error;

(iv) Any additional facts the potential bidder would like to be considered, including any relevant exhibits, evidence, or documents of substantiation to support a requested change in the prequalification outcome.

(b) Requests shall be submitted to the Director or their designee.

(c) The Director or their designee shall acknowledge receipt of written review requests within three (3) business days of receipt, with a blind closed copy provided to the Commission.

(d) The Director or their designee may request additional information as part of the review. If requested information is not provided within three (3) business days, the review may be completed without such information.

(e) The Director shall provide written notice of any action taken in response to the review request, including a decision to take no action, within ten (10) business days and shall provide such notification to the Commission in blind closed copy.

(f) Notwithstanding the time limitations in subparts (c) and (e) above in this section, the Director shall make every attempt to resolve review requests in a timely manner, but is not under obligation to resolve requests prior to bid filing deadlines when such timeline would put an undue burden on the Director and detract from the execution of Commission operations.

Section 12. Advertising for competitive sealed bids.

(a) To initiate competitive sealed bidding for a project that has not required bidder prequalification (as allowed under Sections 9 and 10 of this chapter), the Commission shall advertise a notice to submit bids for the project. The advertisement for bids shall be published on the state procurement website or agency website for not less than two (2) consecutive weeks. If the Commission opts to utilize an online bidding site to publish project estimates and plans, it

shall provide a link to the bidding site on the state procurement website or agency website. An advertisement for bids shall contain, at a minimum, the following information:

- (i) The name of the Commission;
- (ii) A designated procurement point of contact with contact information;
- (iii) A description of the scope of the desired work;
- (iv) The location of the desired work;
- (v) An estimated project completion date;
- (vi) Procedures to submit bids;
- (vii) Methods to access plans and bid documents;
- (viii) Information regarding prebid meetings, if any, held at the discretion of the Commission;
- (ix) Deadline to submit bids and bid opening information; and
- (x) Sample contract and bidder affidavits.

(b) Because the Commission does not maintain a bid advertising notification list, potential bidders are responsible for checking the advertising methods listed in this section.

(c) If the Commission already advertised a call for prequalification applications for the project under Section 9 of this chapter, the Commission is not required to publicly advertise the advertisement for bids under this section. Instead, the Commission shall provide the advertisement for bids to the qualified bidders.

Section 13. Commission's addenda to bid advertisements.

(a) After a notice to submit bids is published, the Commission may issue addenda to the bid advertisement to respond to a potential bidder's request for clarification under Section 14 of this chapter, or for the purpose of making changes or increasing the level of detail to the:

- (i) Requested scope of work;
- (ii) Project completion date;
- (iii) Bid opening date;
- (iv) Qualification requirements;
- (v) Evaluation criteria; or

(vi) Other requirements in the advertisement that may affect the ability of a bidder to make a full and complete bid.

(b) Addenda shall be posted to the original online bidding site or agency website, and all known bidders shall be notified of the addenda.

(c) Addenda shall be identified as such and must be acknowledged by bidders as part of the bid submission.

(d) Addenda posted within five (5) calendar days of the bid opening shall require an extension to the bid opening date.

(i) At the discretion of the Director or their designee, the Commission may opt not to extend the bid opening deadline if the addenda do not change the character of the advertisement for bids.

(ii) An addendum may be considered to change the character of an advertisement for bids if the addendum alters:

(A) The scope of work;

(B) The timeline to complete the identified scope of work; or

(C) Other portions of the original advertisement such that the advertisement, as amended with the addendum, substantively differs from the original advertisement issued by the Commission.

Section 14. Requests for clarifications of bid advertisements.

(a) A potential bidder may submit a written request for clarification from the Commission on the advertisement for bids. A potential bidder that directly contacts the Commission or its representatives shall be directed to the appropriate forum for posing questions.

(b) The Director or their designee may, at their discretion, opt to provide such clarification so long as doing so would not restrict competition or provide an undue advantage to one or more potential bidders.

(i) If the Director or their designee grants the request, the Director or their designee shall answer the potential bidder's questions in a written addendum issued in accordance with Section 13 of this chapter. If necessary, the Director or their designee shall adjust the bid opening deadline in accordance with Section 13(d).

(ii) Only clarifications issued in accordance with this section shall be binding upon the Commission. Clarifying information provided at a prebid meeting shall not be considered binding on the Commission until the agency issues an addendum to the bid advertisement in accordance with Section 13 of this chapter.

(iii) In the event that one potential bidder may have been granted access to additional information about the bid advertisement, the Commission shall immediately release the information to other potential bidders in an addendum.

(c) If the Commission is unable or unwilling to provide the requested clarification, it shall respond to the requesting potential bidder in writing and explain its reasoning for refusing to provide the requested clarification.

Section 15. Access to bid documents.

(a) Any cost incurred to access and download bid documents shall be the responsibility of the potential bidder.

(b) Potential bidders are responsible for accessing plans directly from the location specified by the Commission to ensure accuracy and receipt of future addenda.

Section 16. Prebid conferences and site visits.

(a) The Commission may schedule prebid conferences and site visits for a project, and may designate a prebid conference or site visit as mandatory. Any bidder that fails to attend a mandatory prebid conference or mandatory site visit shall be ineligible to bid on that project.

(b) The Commission shall announce the time, date, and location of any prebid conference or site visit to all potential bidders in the bid advertisement or through an addendum to the bid advertisement. The Commission's announcement of a prebid conference or site visit shall state whether the prebid conference or site visit is mandatory.

(c) A prebid conference shall be held not less than two (2) business days after the bid advertising period has been completed per Section 12 of this chapter, but not less than ten (10) business days before bids are due. At the discretion of the Commission, the above time frame may be increased based on the technicality or dollar amount of the project.

(d) The Commission may hold a prebid conference in the following formats at the Commission's discretion:

(i) In person;

(ii) Teleconference;

(iii) Webinar; or

(iv) Other electronic medium approved by the Director and made available to potential bidders by the Commission, at the Commission's expense.

(e) For each prebid conference, the Commission shall maintain a record including, at a minimum:

(i) An attendance log including:

- (A) Attendee name;
- (B) Attendee contact information; and
- (C) The entity each attendee represents.
- (ii) Copies of documents distributed by the Commission to attendees; and
- (iii) Any verbal modifications made to any of the bid advertisement documents, all of which shall be reduced to writing and released as an addendum to the bid advertisement in accordance with Section 13 of this chapter.
- (f) The Commission may conduct prebid, in-person site visits at the site of the project being procured.

Section 17. Content of competitive sealed bids.

- (a) Competitive sealed bids submitted under this chapter shall include:
 - (i) A bid, developed on forms provided by the Commission, with all fields fully completed as specified on the forms, in dark ink or typed, and prepared electronically for upload; and
 - (ii) A signed affidavit from the bidder certifying:
 - (A) That bids have been developed independently;
 - (B) No effort has been made to restrict competition;
 - (C) The bidder is in receipt of all addenda;
 - (D) The person signing the bid is authorized to represent the organization for whom he or she is signing;
 - (E) The ownership and legal structure of the organization; and
 - (F) The bidder agrees to comply with all applicable regulations, policies, guidelines, and requirements;
 - (iii) Documentation required by subsection (b) of this section, if applicable; and
 - (iv) Any other information required by the Commission in the bid advertisement or its addenda.
- (b) If the Commission did not require prequalification applications for the project under Section 9 of this chapter, a competitive sealed bid shall also include:
 - (i) Contact information;

- (ii) A statement of corporate history;
- (iii) A listing of the services or materials that the applicant believes it is qualified to provide;
- (iv) A concise description of relevant past work completed by the applicant within the last eighteen (18) months at minimum;
- (v) Proof of equipment, certifications, professional qualifications, or experience specific to the scope of project work;
- (vi) A signed affidavit stating the applicant's willingness to comply with applicable laws and policies, which may or may not be unique to the project or Commission; and
- (vii) Any other information required by the Commission.

Section 18. Bid submission, modification, and withdrawal.

- (a) Deadlines. Bidders are solely responsible for meeting the bid submission deadline.
 - (i) For bids submitted electronically, bidders shall allow sufficient time to complete online forms and upload documents. The bid submission period shall end at the posted closing time and bidders shall not be permitted to complete in-progress submissions after that time.
 - (ii) For bids submitted by physical delivery, delays caused by the bidder's delivery service shall not be an acceptable reason for a bid or modification being late. All bids or modifications sent by physical delivery shall be date and time stamped by the Director or their designee upon receipt.
- (b) Modifications. A bidder may submit a modification to their previously submitted bid prior to the bid submission deadline. The Commission shall deny bid modifications submitted after the submission deadline. The waiver or correction of errors in a bid after the bid submission deadline shall be subject to Section 19(c) of this chapter.
- (c) Withdrawals. A bidder may withdraw a previously submitted bid prior to the bid submission deadline. For a bid withdrawn after the bid submission deadline, the Commission may pursue remedies against the bidder.

Section 19. Principles for evaluating bids, price or quantity discrepancies, and bid irregularities.

- (a) Evaluation criteria. The Commission shall develop and use qualifications and evaluation criteria for submitted bids to establish a reasonable certainty that the responsible low bidder can be expected to complete the work as proposed. Evaluation criteria may include but are not necessarily limited to a bidder's:

- (i) Ability to meet deadlines;
 - (ii) Qualifications;
 - (iii) Certifications;
 - (iv) Licensing;
 - (v) Experience;
 - (vi) Compliance with applicable laws and regulations;
 - (vii) Type of services provided;
 - (viii) Availability of product, equipment, supplies, or services;
 - (ix) References or other information on past project performance, including the experience of the Commission with that bidder or proposer; and
 - (x) Any other criteria deemed important by the Commission.
- (b) Price or quantity discrepancies in bids.
- (i) In the case of a discrepancy between the unit or hourly price and the total price, the unit or hourly price will prevail.
 - (ii) In the case of a discrepancy between the price written in words and the price written in figures, the price written in words will prevail.
 - (iii) Quantities listed in the bid documents are to be considered as approximate and only to be used for the comparison of bids. Payment to the successful bidder will be made only for the actual quantities of work performed in accordance with the plans and specifications of the project. If upon the completion of the work, the actual quantities of work performed show either an increase or decrease from the quantities given in the estimate, the prices or costs set forth on a unit or hourly basis in the bid shall prevail.
- (c) Bid irregularities.
- (i) The Director or their designee may work in conjunction with the Commission to reject a bid that contains bid irregularities, or to resolve or waive bid irregularities, except that the Commission shall reject bids containing the following irregularities:
 - (A) Improper or missing signatures; or
 - (B) Lack legible numerical values.
 - (ii) A request to waive or correct an error in a bid, other than a bid irregularity, shall be subject to the following:

(A) Provided there is no change in bid pricing or cost, errors may be corrected if it is in the best interest of the State and correcting the mistake maintains the fair treatment of other bidders.

(iii) If the Commission opts to waive a required condition or accept bids missing information required by the bid advertisement or its addenda, the waiver shall apply to all bidders.

Section 20. Evaluation of bids and award of contract.

(a) Procedures after bid submission. Upon closure of the bid submission period, the Director or their designee shall:

(i) Note the date and time of receipt of all bids;

(ii) Open all bids in the presence of one or more witnesses, at the time and place designated in the bid advertisement;

(iii) Record each bid opened, including bidder name and bid total;

(iv) Examine each bid for validity and completeness;

(v) Prepare a summary of bids received;

(vi) Provide the summary to the Commission or Evaluation Committee that includes the bidders and bid totals and provide notification that the Commission or Evaluation Committee may review and evaluate bids.

(b) Evaluation process. The Commission or Evaluation Committee shall:

(i) Evaluate bids to determine which bidders are responsible in accordance with the evaluation criteria set forth in the advertisement for bids per Section 19(a) of this chapter;

(ii) Determine which bid, submitted by a responsible, qualified bidder, offers the lowest cost to the state; and

(iii) Draft a written recommendation specifying the apparent responsible, qualified low bidder including justification for that recommendation.

(c) Award of contract. The Commission shall be the final authority on the award of a contract per W.S. 40-31-105(c)(iii). The Commission reserves the right to reject any and all bids. The contract shall be awarded to the lowest qualified bidder whose bid meets the requirements and criteria set forth in the advertisement for bids, subject to the considerations below:

(i) Award to multiple bidders. The Commission may, at its discretion, award portions of a single advertised project to multiple bidders when it is in the best interest of the State to do so.

(ii) Higher quality item. A contract may not be awarded to a bidder submitting a higher quality item than that designated in the invitation for bids or request for proposals, unless such bidder is also the lowest bidder as determined by value analysis or life-cycle cost formulas. The Commission shall not apply a value analysis or life cycle cost formula unless the call for bids clearly stated that such analysis or formula would be applied.

(iii) Tie bids. In the event of tie bids, the contract shall be awarded to the bidder most reasonably able to complete the work based on the evaluation criteria set forth in the advertisement for bids per Section 9 of these rules.

(iv) Single bid received. If, at the time of bid opening, only one bid has been received, the Commission may:

(A) Determine that the bid submitted is a fair price and that other entities had sufficient opportunity to bid, and award the contract to the single bidder; or

(B) Determine that the bid submitted is not at a fair price or that sufficient opportunity was not given to encourage multiple bids, and reject the bid. The Commission's decision to cancel the procurement or re-advertise the project for bids under this paragraph is subject to review by the Governor or their designee at their discretion.

(v) Award to next lowest bidders. In the event the low bidder originally awarded the contract is unable to complete the work as bid, the Commission may award the contract to the second lowest bidder. If the second lowest bidder declines to accept the award, the Commission may:

(A) Offer the award to the next lowest bidder;

(B) Re-advertise for bids; or

(C) Cancel the advertisement for bids, pursuant to Section 21 of this chapter.

(d) Errors after award. Errors discovered in a successful bid after the award of a contract may only be corrected if, after consultation with the Director and the Attorney General's office, it is determined that the correction of the mistake does not violate the requirements of applicable laws. Any correction made under this subsection must be supported by a written determination signed by the Director.

Section 21. Cancellation of a bid advertisement.

(a) The Commission may cancel an advertisement for bids, subject to review by the Governor or their designee.

(b) Grounds for cancelling a bid advertisement may include, but are not limited to:

(i) A change in circumstances such that the project is no longer required or funding is no longer available;

- (ii) All bids received exceed available funding;
 - (iii) All responsible, qualified bids are at clearly unreasonable prices;
 - (iv) Reason to suspect collusion between bidders or submission of bids in bad faith;
 - (v) The advertisement did not provide for consideration of all factors of significance to the State; or
 - (vi) Proposed amendments to the advertisement are of sufficient impact that a new advertisement is desirable.
- (c) Upon cancellation of an advertisement, notice of cancellation shall be distributed through the same means as the initial advertisement.

Section 22. Cancellation of an award of a contract.

- (a) The Commission may cancel the award of a contract, subject to review by the Governor or their designee. A decision to cancel an award under this section shall be supported in a written document.
- (b) Reasons for cancelling an award of a contract may include, but are not limited to:
- (i) Project is no longer required;
 - (ii) Funding is no longer available;
 - (iii) Reason to suspect collusion between bidders or submission of bids in bad faith; or
 - (iv) The apparent low bidder is no longer able to complete the work as bid.
- (c) Cancellation of an award of a contract does not require cancellation of the underlying bid advertisement for the project awarded.
- (d) Cancellation of an award due to the fault of the bidder may result in the pursuit of remedies against the bidder.

Chapter 4

Post-Award Project Performance

Emergency rules are in effect no longer than 120 days after filing with the Registrar of Rules.

Section 1. Authority.

(a) These rules are promulgated by the Wyoming Stable Token Commission, herein referred to as the Commission, in accordance with W.S. 40-31-105(b) and 40-31-110.

Section 2. Contract negotiation and execution.

(a) All contracts for projects procured under these rules shall be:

(i) Negotiated and executed in consideration of the estimated value, scope, complexity and professional nature of the services to be rendered;

(ii) Submitted to and approved by the Attorney General's Office in compliance with procedures established by the Attorney General's Office;

(iii) Executed by the Director;

(iv) Executed on the Commission's contract templates, unless otherwise approved by the Commission and the Attorney General's Office. The Director shall select the correct template that corresponds to the scope of work of the intended project, subject to review and guidance by the Commission; and

(v) Filed with the Commission.

(b) Modifications to Commission contract templates, including adjustments to further stipulate services and reflect the scope of the particular project, on a project-by-project basis may be submitted to the Director for review and approval in consultation with the Attorney General's Office. Major modifications, as determined by the Commission, require approval by the Commission and the Attorney General's Office. All modifications shall be submitted to the Attorney General's Office and the Commission in compliance with the process outlined in Section 2(a) of this chapter. All amendments to project contracts shall be treated as modifications per this subsection. The Commission shall be responsible to pay any costs incurred on a contract modified and executed without the necessary approvals until such time as a contract acceptable to the Commission and the Attorney General's Office is signed.

(c) Retainage may be required at the discretion of the Commission.

Section 3. Contract Management.

(a) The Director or their designee shall be responsible for managing the executed contract to ensure compliance with any requirements during the contract performance period.

Section 4. Payments.

- (a) Payments for services and materials shall be delivered only when:
- (i) The contract for services is compliant with the requirements of W.S. 9-1-403(b);
 - (ii) The contractor requests payment for services rendered using the approved forms provided by the Commission; and
 - (iii) The Director or their designee provides verification of the completion of work included in the contractor's request for payment. The Commission may require additional forms or affidavits before releasing payments.
- (b) Final payment shall be issued upon completion of the requirements in W.S. 16-6-116, if applicable.
- (c) All disputed payments and claims shall be handled in accordance with W.S. 16-6-117, if applicable.

Chapter 5

Dispute Resolution and Bidder or Firm Discipline

Emergency rules are in effect no longer than 120 days after filing with the Registrar of Rules.

Section 1. Authority.

(a) These rules are promulgated by the Wyoming Stable Token Commission, herein referred to as the Commission, in accordance with W.S. 40-31-105(b) and 40-31-110.

Section 2. Judicial review.

(a) With regard to actions for procurement subject to these rules, an aggrieved or adversely affected person may initiate a judicial review per W.S. 16-3-114.

(b) Nothing in this subsection shall be construed as an administrative appeal and a person need not request or participate in informal dispute resolution prior to seeking judicial review.

(c) If a judicial review action has been commenced in district court regarding a matter at issue in a request for informal dispute resolution under these rules, the Commission shall not act on the request, but shall refer it to the Attorney General's Office and provide notice of such action to the requester.

Section 3. Informal dispute resolution.

(a) A bidder or firm may file a written request for informal dispute resolution with the Commission concerning a Commission action within the following timelines:

(i) Accepting or rejecting bids: within ten (10) business days of bid opening;

(ii) Requests for proposal: within ten (10) business days of notice of exclusion from consideration;

(iii) Project award: Within ten (10) business days of project notice to award. Contract negotiation may proceed but contract execution shall not proceed until the period for requesting dispute resolution has expired.

(b) A written request for dispute resolution shall include:

(i) The name and address of aggrieved party;

(ii) Identification of the procurement in question by solicitation or award number;

(iii) A statement of issue(s); and

(iv) Any available exhibits, evidence, or documents related to the request that the requester wants to be considered during the dispute resolution.

(c) Upon receipt of a valid request for dispute resolution, the Director or their designee and members of the Board, if applicable, shall meet with the requester to discuss the issues in the request. The informal meeting may be held in person, over the phone, or by any other means.

Section 4. Contractor or firm discipline.

(a) Any contractor or firm whose performance has been unsatisfactory as reported by the Director or Commission may be subject to disciplinary actions, which may include revocation of the contractor or firm's prequalified status, suspension, or debarment.

(b) At the discretion of the Director or Commission, as applicable, conditions which may warrant disciplinary action include, but are not limited to:

- (i) Late delivery of services or materials;
- (ii) Failure to deliver services or materials as bid or proposed;
- (iii) Unauthorized substitutions of services or materials other than those specified;
- (iv) Defective performance of services or delivery of defective materials;
- (v) Billing errors;
- (vi) Submitting or participating in multiple bids when not specifically requested in the solicitation;
- (vii) The improper or illegal conduct of an individual employed in a position of authority with a contractor or firm, when on or off his or her job with the contractor or firm. Positions of authority include, but are not limited to officer, director, partner, manager, key employee, or other principal;
- (viii) Undisclosed relationships or affiliations that create or could create a conflict of interest preventing true competitive procurements; or
- (ix) Changed conditions, including any development that arises which, in the opinion of the Director or Commission in the case of suspension or debarment, adversely reflects the bidder's responsibility or trustworthiness.

(c) Revocation. The Commission may revoke a potential bidder's or firm's prequalified status if the Director or Commission becomes aware of circumstances that negate the information used to award the prequalification. The Director or their designee shall provide notice to the potential bidder or firm and an adequate opportunity to cure the identified deficiency.

(d) Notices for suspension or debarment. Prior to any suspension or debarment under Section 4(a) of this chapter, the Director or their designee shall:

(i) Notify the Commission of its intent to conduct an investigation that may result in a revocation or recommendation for suspension or debarment;

(ii) Conduct an investigation; and

(iii) Make a recommendation to the Commission for suspension or debarment if the investigation leads the Commission to believe such action is warranted. The recommendation shall contain an explanation of the conduct or circumstances giving rise to the action and the time length of the suspension or the required corrective action necessary to cure the debarment.

(e) Prior to the issuance of a suspension or debarment, the Director or their designee shall provide a contractor or firm the opportunity to respond and present evidence in support of his or her position, in writing, to the Commission's recommendation. Such a response shall contain:

(i) A brief explanation of why the recommendation should not be granted;

(ii) Any additional facts the contractor or firm would like to be considered;

and

(iii) The legal authority upon which it is believed a decision was made in error.

(f) The Director or their designee shall issue a written decision, in consultation with the Commission's advising attorneys from the Attorney General's Office, laying forth the factual and legal bases for their decision. The contractor or firm shall be given written notification of any disciplinary action, the consequences of that action, and the duration of that discipline if the Commission decides to suspend or debar the contractor or firm.

(g) The Commission shall keep a statewide list of suspended and debarred persons and contractors.

(h) Suspension. The Commission may suspend a contractor or firm, for cause and in accordance with this chapter, from bidding on contracts for projects procured under these rules, applying for prequalification, or submitting proposals for services or materials. The suspension shall only be in effect for a specified period of time.

(i) The Commission has the discretion to define the suspension term, and may consider the circumstances underlying the suspension, the behavior, conduct, or events that precipitated the suspension, and any relevant extenuating circumstances.

(ii) Upon completion of the suspension term, the contractor or firm shall be permitted to bid and apply for prequalification.

(i) Debarment. The Commission may debar a contractor or firm, for cause and in accordance with this chapter, from bidding on contracts for projects procured under these rules, applying for prequalification, or submitting proposals for services or materials. The debarment shall only be in effect until such time as the contractor or firm takes specified corrective action and shows evidence that it has done so.

(i) After the Commission opts to debar a contractor or firm, it shall inform the Director or their designee that conducted the investigation leading to the debarment and the contractor or firm of its decision.

(ii) A contractor or firm may request the Commission review its status at any time. Such request shall include a showing that the contractor or firm has cured the identified deficiency by completing the required corrective action. If the Commission concludes that the contractor or firm has cured the identified deficiency, the Commission shall permit the contractor or firm to bid on contracts for projects procured under these rules, apply for prequalification, or submit proposals for services or materials.

(j) Exception. If a suspended or debarred contractor or firm is the only contractor or firm legally able to provide a particular service necessary to the Commission's project, the Director or their designee may request the Commission grant a temporary exception to that suspension or debarment on behalf of the contractor or firm. The request from the Director or their designee shall include a showing to justify why the exception is necessary under the circumstances. The Commission has discretion to grant or deny such requests. An exception granted under this section does not constitute the end of the contractor or firm's suspension or debarment and an exception granted for one project shall not allow the contractor or firm to bid on work for other projects, including those in which the contractor or firm would be the only contractor or firm legally able to provide the requested services or materials.