

Contractor Qualification

The owner must avoid selecting contractors based on illegal criteria such as whether or not the contractor employees are union or non-union, local vs. non-local, or other subjective criteria where political favoritism might come into the selection process.¹⁴ It is permissible for the owner to make post-bid opening objective judgments necessary to determine the contractor's financial and performance qualifications to do the work outlined by the project plans and specifications.¹⁵ Any special qualifications needed to perform the work should be contained in the project specifications and bidders should be notified in advance that their inability to meet these special criteria *may* constitute a cause for their bid to be considered non-responsive in the final selection and award process. However, contractors should not be disqualified from bidding on the basis of those criteria. In order to provide the owner with the largest potential pool of bidders, owners should not "pre-qualify" bidders on the basis of immutable, arbitrary criteria. As stated in one case, "such discrimination [amounts to] the denial of equality of right and opportunity to which every bidder is entitled." ¹⁶

¹⁶ *Miller v. City of Des Moines*, 122 N.W. 226 (Iowa 1909).