

## **DELIVERY METHODS**

Following are brief definitions, with further requirements in articles that follow.

### **A. Design/Bid/Build as standard method**

Design/Bid/Build is the State's traditional method of procurement and shall in all cases be the standard method used unless specifically approved otherwise. It is characterized by a structured process of design producing a set of bidding documents, an open competitive bidding phase, and award of a contract to the responsive and responsible bidder offering the lowest price for the work.

### **B. Alternative Delivery Methods using a Request for Proposals**

1. The following methods may be considered by the Commission:
  - a) Best-Value, typically requiring approval early in the design of the project and no later than Schematic Design Phase, and characterized by a design process similar to Design/Bid/Build, but evaluating potential builders' proposals on factors of qualifications and experience, technical approach, and price.
  - b) Construction Management, typically requiring approval early in the design of the project, and characterized by a design process similar to Design/Bid/Build, but evaluating potential builders' proposals on factors of qualifications and experience, technical approach including consideration of costs for preconstruction services and general conditions and Cm/GC fixed fee cost.
  - c) Design-Build, typically requiring approval at the inception of the project, and characterized by an evaluation of potential design and construction teams, joint ventures, or firms on factors of qualifications and experience, technical approach, price and design.
2. These methods will be considered by the Commission based upon a request that:
  - a) Provides salient factors to justify the method and identifying advantages;
  - b) Is accompanied by a recommendation from the Procurement Agency assuring the Commission of its ability to manage the processes; and,
  - c) Has been reviewed and is recommended by the State Architect.

### **C. Alternative Delivery Method using a Gift-in-Place**

Gift-In-Place procurement typically requires approval at the inception of the project, and is characterized by a donor providing design and construction on State property and turning the completed work over to the State as a gift.

## **REQUIREMENTS FOR RFQ/RFP PROCUREMENT**

### **A. Establishment of Proposal Evaluation Team:**

The ability to provide an objective, fair, knowledgeable and competent evaluation team is critical to the success of an alternative construction project delivery selection process. The

following criteria should be considered by the procurement agency in the selection of evaluation team members:

1. As a standard, the evaluation team should be composed of a minimum of five (5) State employees, but in no case, less than three (3) employees.
2. Member selection is the responsibility of the procurement agency.
3. Team members should be knowledgeable concerning the scope and goals of the project and familiar with the construction process.
4. An understanding of the particular procurement process by all members of the team is essential.
5. Objectivity and avoidance of the appearance of impropriety should be of uppermost importance to the team. All members should execute a signed disclosure statement no later than completion of the members proposal review.
6. Where appropriate, additional technical advisors in such areas as financial, scheduling, references, submittal compliance, design, etc., should be given consideration.

## **B. Standards of Practice**

1. Requests for proposals shall be issued and administered consistent with the standards and models of the Department of Finance and Administration, except as provided herein.
2. Submission of a proposal shall not create rights, interest, or claims of entitlement in any proposer, including the best evaluated proposer.
3. The State reserves the right, at its sole discretion, to reject any and all proposals in accordance with applicable laws and regulations.
4. Whenever the procurement agency proposes to reject all proposals for a certain RFQ/RFP, such action shall be taken only for the following reasons:
  - a) Unreasonably high prices or failure of all proposals to meet technical specifications
  - b) Error in the request for proposals
  - c) Cessation of need
  - d) Unavailability of funds; or
  - e) A determination by the procurement agency that proceeding the procurement would be detrimental to the best interests of the State the reason for which must be documented and approved by the State Building Commission.

## **C. Selection Procedures**

1. Weighting of Evaluation and Cost Criteria
  - a) Step 1 is to decide the total weighting of cost and non-cost criteria. Representative factors that can influence this decision are the contractor and/or subcontractor's past performance and experience with regard to:
    - 1) Scheduling

- 2) Complex structures or systems
  - 3) Historically significant structures
  - 4) Indeterminate scope project at the start of construction
  - 5) Cost should be weighted a minimum of 30% unless specifically approved otherwise
- b) Step 2 is the determination of the weighting of individual factors included in the technical response portion of the RFP/RFQ. Factors to be considered are ones warranted by the specific project needs, and, as a minimum, should include:
- 1) General qualifications
  - 2) Recent and relevant experience of contractor/subcontractor
  - 3) Past performance of contractor/subcontractor
  - 4) Contractor's technical approach to this particular project including diversity and resources
  - 5) Contractor/subcontractor's staffing for this particular project indicative of their ability to provide qualified professional management and craft personnel
  - 6) Scheduling expertise and record
  - 7) Safety plan and record
- c) The criteria and their relative weights shall be included in any RFQ or RFP so that potential contractors are aware of the requirements and the process is as transparent and fair as possible.
2. Evaluation and selection
- a) The State's evaluation team will be responsible for assigning a score for each proposer for the technical response portion of any RFP/RFQ, following the procedures set forth in the RFP/RFQ.
  - b) In any prequalification scenario of an RFP/RFQ, a minimum score will be pre-established and only those proposers receiving the minimum score or higher will be allowed to proceed to the next step in the process.
  - c) Scores for the cost proposal in any RFP will be obtained mathematically from a pre-established formula in the RFP that proportionally assigns scores based upon costs submitted by individual proposers.
  - d) Unless a trade-off analysis approach is approved by the SBC, the highest total score of cost and technical will identify the recommended contractor, CM or design builder for contract award."

## **PROCUREMENT THROUGH DESIGN/BID/BUILD**

### **A. Method of Bidding**

The Commission shall follow the competitive sealed bid procedure as herein described, in order to achieve maximum competition among qualified bidders and to obtain the highest level of quality at the least price for State projects. It is not the intent of the Commission to replace the General Services Department Purchasing Division for the procurements of individual items

except as may be required for projects which the State Architect and the Department of Finance and Administration will handle directly or coordinate for institutions, departments and agencies of the State.

## **B. Alternates**

1. There shall be no more than four (4) alternates unless the particular situation is deemed to warrant otherwise, as determined by the State Architect.
2. Alternates shall be additive (in accordance with the Designer's estimate).
3. Alternates shall be listed in descending order of priority (i.e., Alternate No. 1 has highest priority).
4. When using alternates as a part of bidding, the procurement agency and the State Architect, in consultation with the designer, shall establish a "Target", normally equivalent to the Maximum Allowable Construction Cost less contingency, to serve as a benchmark in the consideration of bids. If alternates are used, the Base Bid and one (1) of the alternates must be estimated by the Designer to cost less than the Bid Target, unless otherwise approved by the State Architect. If there has been a reduction in the scope of the project as a result of the Designer's estimate, then at least two (2) alternates must be included in the Bid Documents and at least one (1) alternate must be estimated by the Designer to exceed the Bid Target.

## **C. Instructions to Bidders**

1. Pre-Bid Conference – When it is determined to be necessary or desirable, the State Procurement Agency may require that a pre-bid conference be held with known bidders to receive questions relating to the Bidding Documents and obtain information as to unclear portions of the Work.
2. Changes, corrections and clarifications – Unclear or incorrect information will be corrected. Changes shall be provided in appropriate, timely, written fashion to known bidders, not less than two (2) days in advance of the bid opening date, provided the request for interpretation of Bidding Documents shall have been made in writing to the Designer not less than four (4) days prior to the bid opening date.
3. Bidder's responsibility to be informed – Before submitting a bid, each bidder shall be knowledgeable of current laws, rules, and regulations governing the bid, particularly the State Contractor Licensing and Prevailing Wage laws. Before submitting a bid, each bidder shall have thoroughly familiarized itself with the Bidding and Contract Documents, visited the site of the work, and familiarized itself with conditions existing there. Submittal of a bid shall warrant that the bidder has satisfied these requirements, and failure to fulfill these requirements shall in not relieve the bidder of responsibilities with respect to the bid. Upon discovery of conflicts, discrepancies, or ambiguities concerning Contract Documents or the site, the same shall promptly be brought to the attention of the Designer, who shall issue written clarification to known bidders.
4. Substitution and Product Options – Systems and products specified or shown in drawings by name and number of manufacturer shall be so for the purpose of establishing a desired level of appearance and performance. Bidders desiring to use another product or system in lieu thereof, shall be allowed to submit a request for substitution in writing to the Designer for consideration no later than ten (10) days prior to the bid opening date, accompanied by specifications, test data, illustrations, and pictures necessary to establish

proof of equality of the system or product. If in the opinion of the Designer, such substitution is substantially equal in every respect to the system or product specified and is entirely satisfactory for use in the project, the Designer will approve such substitution in appropriate, timely, written fashion.

5. Bid submittal – Bidders shall normally be required to submit sealed bids in an envelope furnished by the Commission through the Designer or the State Procurement Agency. Information required by the Contractor Licensing law shall have been provided on the front of the bid envelope or the bid will not be opened. Identification of the Project, the bidder, and the bidder's Plumbing, Electrical, HVAC, Masonry and Geothermal subcontractors shall also be provided on the bid envelope, and such named subcontractors shall be used in the capacity listed. If a bid is mailed, the outer envelope shall state that the envelope contains a sealed bid, so that the sealed bid is not opened when the mail is opened. It shall be the specific responsibility of the bidder to ensure that its bid is received at the appointed place prior to the announced closing time for the receipt of bids. Late delivery of a bid for any reason, including late delivery by United States mail, shall disqualify the bid. Electronic bids will not be considered.
6. Bid Security – When bid security is required, no bid shall be considered or accepted unless the bid is accompanied by bid security in an amount of not less than five percent (5%) of the bid. The bid security shall be in the form of a certified check drawn on a bank insured by the Federal Deposit Insurance Corporation, or a bid bond, written by a Surety Company licensed to do business in the State and accompanied by appropriate Power of Attorney, in favor of the State.
7. Modification of Bids prior to deadline – If a bidder desires to modify its bid prior to opening of bids, a written modification order, indicating only the amount of the change and indicating neither the original nor modified total bid, must be received by the person receiving bids on the project prior to the time set for opening of the bids. It shall be the specific responsibility of the bidder to ensure that modifications are received at the appointed place prior to the announced closing time for the receipt of bids.
8. Withdrawal of Bids prior to deadline – If a bidder desires to withdraw its bid prior to opening of bids, a written request to withdraw must be received by the person receiving bids on the project prior to the time set for opening of the bids. It shall be the specific responsibility of the bidder to ensure that a request to withdraw is received at the appointed place prior to the announced closing time for the receipt of bids.

#### **D. Opening Bids**

1. Time, place, and presiding official – Bids shall be received and publicly opened and read, by the State Architect or another representative of the State acting as presiding official, at a previously announced place and time as established by the State Architect.
2. Receipt of bids – Before opening the bid envelope, the presiding official shall indicate thereon the time and date of receipt, and shall determine if the bid envelope has the proper information required to legally open the envelope. Bids opened because of improper information on the envelope or erroneous information contained within shall be rejected. At the appointed time, the presiding official will declare bidding closed and will verify that all bids meet requirements to be opened. The presiding official shall then immediately proceed to the bid opening.

3. Alternates – If alternates are solicited as a part of the bid, the presiding official will, at the bid opening, after the time set for receipt of bids, but prior to the opening of bids, read aloud the "Target" amount previously established.
4. Opening of bids – Unless otherwise indicated, the presiding official will immediately proceed to open the bids and read aloud to the assembled public, stating the following and utilizing an appropriate form to tabulate same:
  - a) Name of bidder
  - b) License number of bidder (when required)
  - c) Subcontractors listed on envelope
  - d) Addenda acknowledgment
  - e) Bid Security type and correctness
  - f) Base bid
  - g) Alternate bids
  - h) Unit prices (only if they might influence determination of low bidder, or if requested by Owner)
  - i) Any other pertinent information

#### **E. Consideration of Bids**

1. The State reserves the right, at its sole discretion, to reject any and all bids in accordance with applicable laws and regulations.
2. Evaluation of the bids shall be the responsibility of the State Architect in consultation with the project designer and the head of the department or agency for which the project is being carried out. Criteria for evaluation shall include consideration of the bidder's capability, financial condition, past performance, and other factors relevant to the project.
3. For projects without alternates, determination of the Low Bidder shall be based on the lowest evaluated Base Bid submitted by a responsible and responsive bidder. For projects that include alternates in the bidding process, determination of the Low Bidder shall be based on the bid submitted by a qualified bidder for the Base Bid plus alternates in order of priority to the extent that the sum of these is within the "Target" as stated just prior to the opening of bids. If the base bid of all bidders exceeds the established bid target at the time of bid, then the low bidder is determined by the lowest base bid submitted by a responsible and responsive bidder irrespective of any alternates, if any, bid. If a determined Low Bidder acts to withdraw the bid due to mistake as permitted above, or refuses or is unable to enter into a contract, that bidder shall be disqualified from consideration, and the remaining bids, if any, re-considered on the same basis.
4. Tie Bids
  - a) Definition – A "tie bid" exists when two or more responsive bids submitted by responsible bidders are evaluated as equal and lower than all other bids (if any) for base bid plus alternates (if any) considered in order up to, but not to exceed, the bid target.

- b) Resolution – When a tie bid exists, a lot or coin toss will be conducted until a successful bidder is determined.

**F. Award of Contract**

1. Award of contract shall be to the Low Bidder as determined above, but shall not exceed the Maximum Allowable Construction Cost ("MACC"), unless an appropriate revision in funding is approved by the Commission. If there are alternates in consideration, the procurement agency, with the approval of the State Architect, may selectively accept or reject alternates as deemed in the best interest of the State, as long as the combination resulting from such selection is not one for which a lower acceptable bid was submitted.
2. If the lowest evaluated responsive bid submitted by a responsible bidder exceeds the MACC approved by the Commission, then one or a combination of the following actions is required:
  - a) The project may be re-bid.
  - b) The State Architect will submit projects to the Commission when the "lowest evaluated bid" exceeds the MACC by more than ten percent (10%) with recommendations of action.
  - c) A change in scope may be approved by the Commission.
  - d) A change in funding may be approved by the Commission.
  - e) It may be negotiated to within the approved MACC without a change in scope. Negotiation of a bid is at the prerogative of the Commission. The conditions for negotiation will be determined by the Commission. If the apparent "lowest evaluated bid by a responsive and responsible bidder" does not exceed the MACC by more than ten percent (10%), the State Architect is authorized to negotiate the "lowest evaluated responsive and responsible bidder" to bring the project within the MACC and approved scope.
3. When the bid is judged to meet Commission requirements and the State Architect and head of the procurement agency involved concur in the selection of the bidder, then award may be pursued.
4. Required signatures to execute a construction contract
  - a) All construction contracts must be signed by the contractor, the head of the contracting agency, the State Architect and the availability of funds certified by the Commissioner of Finance and Administration, as required by TCA 9-4-5113.
  - b) In addition, all contracts in excess of \$100,000 must also be approved as to compliance with the statutes, policies and contracting procedures by signature of the Comptroller of the Treasury.
  - c) All contracts in excess of \$500,000 shall, in addition to the two preceding requirements, be reviewed and approved as to form and legality by signature of the Attorney General.
  - d) It is the expressed intent of the State Building Commission that review and approval of contracts as hereinabove provided by the Attorney General shall be for form and legality, and review and approval by the Comptroller shall be to ensure compliance with statutes, policies and procedures.

- e) The Tennessee Board of Regents and the University of Tennessee System are exempt from the four preceding requirements.
- f) It is the policy of the State Building Commission that contracts for construction for projects under the jurisdiction of the State Building Commission and contracted by either the Tennessee Board of Regents or The University of Tennessee System contain the following signatures:
  - 1) Contractor
  - 2) Head of the Agency. For the purposes of this policy, Agency is defined as either the Tennessee Board of Regents or The University of Tennessee System.
  - 3) Head of the Facilities Development Office or head of the Financial Office of the Agency for compliance with statutes, policies and contracting procedures.
  - 4) Head of the Financial office of the Agency for certification of funding.
  - 5) Head of the Legal Office of the Agency as to form and legality.

In addition, the State Architect shall sign the contract or otherwise evidence his or her approval of the contract in writing, for conformance to SBC Policy and Procedure.

- 5. **Bond Required** – On all contracts for construction in excess of \$100,000, the successful bidder shall be required to furnish a contract bond for one hundred percent (100%) of the contract amount to secure the faithful performance of the contract. No substitutions for the required bond will be allowed. The bond shall be written by a surety company licensed to transact business in Tennessee. The bond shall be in the form prescribed by the State and must be executed on behalf of the surety by an attorney-in-fact who shall attach power-of-attorney to the bond. The bond shall be signed by a licensed resident agent pursuant to T.C.A. 56-15-108.

## **PROCUREMENT THROUGH BEST-VALUE**

### **A. Best Value Options Defined**

- 1. **Prequalification Option (Option One)**

Qualification of contractors that identifies a short list of contractors is followed by a low bid cost submittal. All contractors who meet the pass/fail requirements and score at least the established required qualification points are considered to be equal. The point value of the bid is rated at 100%. This option is the most simplistic and will most likely be the option most frequently employed on smaller projects (construction cost of \$5 million or less).
- 2. **Cost and Non-Cost Evaluation Model (Option Two)**
  - a) A qualification submittal and technical response in conjunction with a bid. An evaluation and scoring of qualifications and the technical response is made independent of the review of the bid. The bid is opened after evaluation of qualifications and the technical response. Contractors are scored based on the points assigned to the various requirements shown in the Request for Qualifications and Bid (RFP/B). The point value of the bid is less than 100%. A proposer's contract is recommended to be awarded to the contractor with the highest combination of qualification points and bid points.

- b) Upon specific approval of the State Building Commission, at the time of original approval of BV option, a trade-off analysis approach may be utilized wherein the evaluation team is asked to continue after the initial evaluation scoring and cost scoring have been tallied. Qualification Cost-Technical Trade-off is essentially a consensus among the evaluation panel, after initial scoring is complete, as to the best value among the proposals as a final step wherein the panel considers a re-evaluation of actual costs and qualifications scores to determine the best value for the State.
  - c) Option Two is more complex than Option One and will most likely be the option most frequently employed on medium sized projects (construction cost of more than \$5 million, but less than \$20 million and of average complexity, such as college dormitories).
3. Combination Prequalification and Cost/Non-Cost Evaluation Model (Option Three)
- a) The above process (2) preceded by a qualification process thereby providing a short list of contractors to respond to the process identified above. In essence, this is a Request for Qualifications followed by a Request for Technical Response and Request for Bid. The Technical Response and Cost Bid may be received simultaneously, but the Cost Bid will not be evaluated until after evaluation of the Technical Response unless a trade-off analysis is authorized as described in paragraph 2 above.
  - b) Option 3 is the most involved and will most likely be employed on larger projects (construction cost of more than \$20 million and/or of more than average complexity, such as a prison, library or museum).

## **B. When to Use Best Value Procurement Option**

### **1. General**

The State must take into consideration a variety of factors to weigh relative to the advantages and disadvantages of utilizing a best value procurement option.

### **2. Timing of Decision**

Generally speaking, the decision to utilize a best value procurement model should be made no later than the end of the schematic design phase. Determining the complexity of projects in such depth as to weigh its impact on the decision sometimes may require the development of at least schematic level plans and specs for adequate evaluation. However, it is recognized that the earlier the decision is made, the easier it is for the State to adequately implement the process.

### **3. Influencing Factors**

Although the following factors are by no means all-inclusive; they are, at a minimum, the factors to be considered by the State in its decision model to utilize a best value project delivery system.

- a) Project size – It is self-evident that the larger the project, the greater is the potential impact for improved value in the delivery of the product. The cost of implementing the process generally precludes the consideration of best value project delivery for minor projects.
- b) Project complexity – Complex projects can warrant the need for a level of qualifications and experience over and above the current minimum requirements

required for licensed contractors to address the level of complexity. Examples of issues to consider are listed below:

- 1) Sequencing
  - 2) Systems, such as controls, security, etc.
  - 3) Architectural design
- c) Project schedule – The need for successful experience by a contractor on projects with a critical time element is self-evident. This evaluation should take into consideration both the project completion date and the adequacy of the schedule length established by the program.
- d) Quality concerns – Projects that involve heavier impact on the State’s role as steward of the public trust bear heavier consideration for higher quality of contractor abilities. Examples of such factors are listed below:
- 1) Important historical features
  - 2) Special materials
  - 3) Reconstruction conditions
  - 4) Unique features
- e) Project occupancy – Occupancy considerations can involve factors such as the following:
- 1) Level of importance to State government, i.e., Governor, Legislature, etc.
  - 2) Security
  - 3) Classification of occupants with regard to age, disability, etc.
- f) Project scope – Complexity of the project scope that warrants consideration of a best value system can include such items as follows:
- 1) Uncertainty of scope
  - 2) Potential for change
- g) State’s ability to implement a best value project delivery system – after the evaluation of a specific project that results in a preliminary positive recommendation to use a best value project delivery model, the State must give serious consideration as to its ability to conduct a competent, unbiased, fair and equitable selection process. The following factors should be given consideration:
- 1) Cost of a best value project delivery process to the State in relation to cost of project
  - 2) Qualified manpower available to conduct a best value delivery process
    - a. In house
    - b. Out source
  - 3) Effect of time required for a best value project delivery process in relation to schedule demands

## C. RFP/RFQ Process

### a) for Option 1:

In addition to the pass/fail requirements, the weighting and possible scores for the technical response (general information, qualifications and technical approach) need to be determined and included in the RFQ as information to contractors. A minimum score for the technical response needs to be established in the RFQ. Contractors who meet the pass/fail requirements and who, after evaluation, receive a score equal to or above the minimum score established for the technical response, are eligible to submit a bid. The lowest responsible bid is considered the Best Value Proposer and will be recommended to the State Building Commission for award of a contract.

In event that only one contractor meets the technical response and the contractor's bid exceeds the MACC approved by the Commission, then one or a combination of the following actions is required:

- 1) The project may be re-bid.
- 2) The State Architect will submit project to the Commission with recommendations of action.
- 3) A change in scope may be approved by the Commission.
- 4) A change in funding may be approved by the Commission.
- 5) It may be negotiated to within the approved MACC without a change in scope. Negotiation of a bid is at the prerogative of the Commission. The conditions for negotiation will be determined by the Commission. If the apparent Best Value Proposer does not exceed the MACC by more than ten percent (10%), the State Architect is authorized to negotiate to bring the project within the MACC and approved scope.

### b) for Option 2:

- 1) Similar to Option 1, the weighting and possible scores for the technical response needed to be determined and included in the RFP. The evaluation scoring of each proposer's technical response submittals must follow an objective analysis procedure that takes into account fairness and equity. The scoring of costs will be a mechanical formulaic process wherein points are calculated for each proposer based upon the relative relationship of each proposer's cost bid.
- 2) Each proposer's cost and technical scores will be totaled and the proposer with the highest score is deemed to be the Best Value Proposer and will be recommended to the State Building Commission for award of a contract. If a trade-off analysis is utilized, the recommendation will be made upon completion of the trade-off analysis.

### c) for Option 3:

This Option combines the scoring methodology of Option 1 and Option 2 for the two-step process.

- a) The evaluation process is designed to award the contract(s) not necessarily to the bidder of least cost, but rather to the bidder with the best combination of attributes based upon the evaluation criteria.

#### **D. Contract Award:**

The State reserves the right to make an award without further discussion of any proposal submitted. Final approval of a contract award recommendation is made by the State Building Commission in accordance with applicable State laws and regulations.

### **PROCUREMENT THROUGH CONSTRUCTION MANAGEMENT**

#### **A. Definition**

The Construction Manager / General Contractor (CM/GC) model is a form of construction management in which the owner engages a designer and engages a qualified construction manager to provide pre-construction and construction services. The CM/GC provides consulting and estimating services during design phases, and acts as the general contractor during the construction phases, holding the trade contracts and providing the management and construction services. The CM/GC competitively procures the contracts with trade contractors and assumes the responsibility and risk of construction delivery usually within specified cost and schedule terms, and usually after providing a guaranteed maximum price (GMP) on a defined scope of Work.

#### **B. When to Use**

The CM/GC method should be considered when some or all of the following are important to the success of the project:

1. Involvement of the construction team is needed for advice regarding budget, schedule, operational functionality, lower maintenance demands, and/or systems with reduced life cycles during various pre-construction phases of a project including design and construction documents preparation.
2. Higher than normal owner confidence in the contractor's ability to provide quality leadership, supervision, coordination, workmanship, dependable performance, efficient management, and teamwork during the construction phase at a fair and reasonable price.
3. "Fast-Track" construction is needed to allow coordinated early-stage construction to proceed while late-stage construction is still in design.
4. Informed cost/benefit decisions will be needed based upon candid discussions of the cost and schedule implications of various design solutions involving the entire project team.
5. The contractor's input is needed regarding systems, labor, materials, availability, work and trade sequencing, and construction methodologies/constructability that can reduce design and construction time and cost.
6. Concurrent input during design from the designer and the CM/GC will be helpful to the owner in making better decisions on alternatives.

#### **C. RFP Process**

1. Responses shall be evaluated based on a Technical Proposal, which shall include Qualifications and Experience and Technical Approach; and then, the results totaled on the Cost Proposal Scores.
2. Proposed budgets for key personnel/staffing for management services pre-construction services and general conditions shall be evaluated as a part of the Technical Proposal.

3. The CM/GC construction services fixed fee, general conditions budget and preconstruction phase services fee, home office overhead and profit shall be considered as the Cost Proposal.

**D. Contract Award:**

The proposer with the highest score after taking into account the Technical Proposal and Cost Proposal evaluations is considered the Best Evaluated Proposer and will be recommended to the State Building Commission for award of a contract. Final approval of a contract award recommendation is made by the State Building Commission in accordance with applicable State laws and regulations.

After completion of the pre-construction services, the contractor who has been awarded a contract will propose the guaranteed maximum price(s) (the "GMP") for which the contractor agrees to complete the work. So long as the GMP is equal to or below the Bid Target, the GMP portion of the contract may be executed and the contractor may be given notice to proceed with the work. If the GMP exceeds the Bid Target, then the approval to execute the GMP portion of the work must be obtained from the State Building Commission with an appropriate revision in funding, if necessary.

## **PROCUREMENT THROUGH DESIGN/BUILD**

**A. Definition**

Design/Build One ("DB-1") is a delivery method that may be used for projects where the resulting construction work does not result in a substantial or material change to the facility or to its use. While all projects influence the Health, Safety and Welfare ("HSW") of the public, a project utilizing this DB-1 method does not directly affect the HSW, and the required design work is secondary or incidental to successfully completing the project, such as maintenance type projects, equipment replacement projects, and/or limited improvements following the guidelines for the requirements of using registrants found in the latest edition of the Tennessee Board of Architects and Engineers Examiners Reference Manual, Appendix C, entitled "Seal Exemption Clarification," and relating to T.C.A., Section 62-2-102(b). Additionally, design services shall not be considered to be incidental or secondary where any statute, rule, or regulation requires the design to be submitted prior to construction for review to any agency, board, or commission possessing the ability to modify or alter the design intent.

The awarded DB-1 proposer will, based upon the owner provided program and project criteria, provide the design and construction documents, and any other necessary documentation to describe the scope of work; provide a Guaranteed Maximum Price or lump sum price; and act as the general contractor during the project construction phase.

**B. When to Use**

1. The DB-1 method should be considered when some or all of the following results are important to the success of the project:
  - a. There is a compelling reason to complete the total project (design and construction) in a minimum amount of time or to meet a fixed deadline for completion of the project.
  - b. There is a desire to have a single point of responsibility for the project and/or to have a single contract for the project that includes both design and construction.

- c. There are unique project requirements that may be best met by the joint efforts of a creative design and construction team.
  - d. There is a need to have a fixed total project cost very early in the project.
  - e. The Owner has the ability (with the assistance of a Bridging Agent, if required), to appropriately define the requirements for the project.
2. The DB-1 method should also be considered for:
- a. buildings or property improvements that would benefit from a single source delivery system and that would benefit from the use of professional design services that are often integrated as part of a manufactured delivery process often provided by in-house or direct contract engineers. Examples of these types of projects include, but are not limited to, manufacturing of control systems where the control system does not otherwise require design by a registrant for code approvals; pre-engineered systems; and system or component replacement, such as audio visual, security, and fire alarm, where the replacement is in kind.
  - b. projects that are not by statute, rule, regulation, or policy required to utilize professional design services, and are projects that are composed primarily of non HSW activities. Examples of these types of projects include, but are not limited to, elevator modernizations, not including full system replacement; replacement of existing casework; replacement of existing finishes, such as paint, flooring, or lighting; and office renovations where floor or building egress is not modified.

**C. Procurement Process**

1. The SPA shall issue a Request for Proposals (“RFP”), soliciting resumés and information on qualifications, experience, and a proposed technical approach to the project, as well as also soliciting a sealed total cost for the completion of the design and the construction of the project.
2. The SPA shall initially evaluate the responses to the RFP based on qualifications and experience, and based on the proposed technical approach to the Project, and shall then establish a short list of qualified DB-1 teams which exceed a previously stated minimum score threshold.
3. Upon completion of the scoring of the design and related requirements, the separate sealed cost component of the RFP responses of all qualified, short listed DB-1 teams will be opened, and the cost scores of each qualified DB-1 team will be combined with its evaluation score to determine the successful DB-1 team.
4. A single contract will be issued that will include both the completion of the design and the construction of the project.

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