

City of Rapid City, South Dakota
Procedures for Design-Build Procurement of Public Improvement Projects
(Best Value Process)

A. Purpose

In order to comply with the requirements of SDCL Chapter 1-15B, the City of Rapid City shall select design-build firms to provide combined design and construction services for authorized public improvement projects in accordance with the following procedures.

B. Definitions

For purposes of this procedure the definitions contained in SDCL Chapter 1-15A and 15BB and the following definitions apply:

1. "City" is defined as the City of Rapid City, South Dakota
2. "Firm" is defined as any individual, firm, partnership, corporation, association, joint venture, or other legal entity permitted by law to practice engineering, architecture or construction contracting in the State of South Dakota.
3. "Project" is defined as that project described in the public announcement.

C. Minimum Qualification Requirements for Firm Providing Design-Build Services

Design-builders shall be registered with the Secretary of State of the State of South Dakota as a domestic or foreign corporation, partnership or joint venture prior to contract award. Design-builders shall register with the South Dakota Department of Revenue upon selection. Where required by state or federal law, the design-builder shall be able to provide design or construction services by licensed or registered individuals. The City may adjust the minimum qualification requirements for the particular characteristics of the project prior to the advertisement of Request for Qualifications (RFQ), subject to state law.

D. Public Announcement Procedures

Except in emergency situations, the City shall publish an announcement in accordance with SDCL § 5-18A-14. The announcement shall set forth a general description of the project requiring design-build services and shall define a time frame and procedures for interested qualified firms to apply for consideration. The public announcement shall further state whether design-builders will be pre-qualified for the project.

E. Technical Review Committee

There shall be a Selection Committee (Committee) which will be responsible for determination of the most qualified offerors as provided in "Qualification of Design-Builders" and for rating and scoring Qualitative Proposals as provided in "Competitive Selection of Design-Build Services".

The total voting members of the Committee shall typically consist of a minimum of five (5) persons and shall include at a minimum the Project Manager and three (3) persons who will be working with the project and have the necessary expertise to properly and equitably evaluate the ability of the design-builder to perform the work. In general the voting members shall be comprised of the following:

- City Department Director or their Designee
- The Project Manager or their Designee
- Other City Staff involved or knowledgeable of the project components and issues

The Committee shall also have the option of appointing non-voting members to the Committee. These individuals would be involved in the discussions and interviews that would lead up to the award of the design-build contract but would not have a direct vote on the final selection. Their recommendations shall be full considered by the voting members of the Committee.

F. Criteria Package and Request for Proposals

(1) The Department shall prepare a performance criteria package. The criteria package may include the following:

- Scope of Work;
- Site Survey;
- Material Quality Standards;
- Conceptual Design Criteria;
- Design and Construction Schedules;
- Site Development Requirements;
- Stipulation of Responsibilities for Permits and Utility, Storm-Water and Road Connections;
- Stipulation of Responsibility for Meeting Environmental Regulations;
- Soil Borings and Geo-technical Information;
- Traffic Control Stipulations;
- Performance Specifications; and
- Statement of Required Compliance with Codes and General Technical Specifications.

(2) The purpose of the performance criteria package is to furnish sufficient information for firms to prepare qualitative proposals and price proposals. The firm submitting the successful proposal shall develop a detailed project design based on the criteria in the performance criteria package and construct the facility in accordance with the performance criteria package.

(3) The procedure for preparing the performance criteria is as follows: If the performance criteria developer is City staff, he/she will determine the performance criteria, which will be in alignment with the City's standard specifications for the particular type of project, or, if the City does not have standard specifications that apply, the performance criteria will contain best management practices and/or national guidelines. If the performance criteria developer is not City staff, he/she will work with Project Manager to draft the performance criteria.

G. Selection of Performance Criteria Developer

The performance criteria developer may be either a qualified private practitioner (selected in accordance with normal procedures for selecting design firms and state law) or a qualified City Staff. If the performance criteria developer is not City Staff, then selection will be made using the Technical Consultant Selection Procedure for Public Infrastructure Projects. The performance criteria developer is prohibited from being part of any Proposing entity.

H. Qualification of Design-Builders

(1) The City shall qualify design-builders on a project by project basis.

(2) The Department shall seek and receive authorization from the Mayor and City Council to seek proposals for a design-build contract and advertise both a Request for Qualifications (RFQ) and a Request for Proposals (RFP).

(3) The Department shall advertise in accordance with SDCL §5-18B-31 for a Request for Qualifications (RFQ). The RFQ shall contain the following:

- a) The identity of the purchasing agency;
- b) A description of the proposed public improvement;
- c) Budget limits for the proposed public improvement;
- d) The requirements the design-builder will be required to have; and
- e) The criteria and their relative weight for prequalification.
- f) Any other requirements the City deems necessary.

Firms desiring to submit proposals on the design-build project shall submit a statement of qualifications setting forth the qualifications of the individuals and entities involved in the firm and providing any other information required by the RFQ.

(4) The Committee shall determine the relative ability of each design-builder to perform the services required for each project. The Committee shall base its determination upon the following:

- a) Experience with comparable projects;
- b) Financial and bonding capacity in accordance with SDCL 5-21-1;
- c) Managerial resources;
- d) The abilities of the professional personnel;
- e) Past performance;
- f) Capacity to meet time and budget requirements;
- g) Knowledge of local or regional conditions;
- h) Recent and current project workload;
- i) The ability of the design and construction teams to complete the work in a timely and satisfactory manner

The RFQ will state the relative weight of the criteria to be used in determining who is qualified on a project by project basis, see Evaluation Form example.

(5) The Committee shall select at least three and no more than five firms per SDCL 5-18B-29 deemed to be most highly qualified to perform the required services, after considering the factors in (3) above. The Committee may select less than three design-builders if the Committee finds that the requirements in SDCL 5-18B-29 are met. The Committee will report its selection of the most highly qualified firms to the Project Manager, as outlined in the RFQ, and the Project Manager will report its selection of most highly qualified firms to receive RFP to the Mayor and Rapid City Council.

I. Request for Proposals (RFP)

The Project Manager shall issue design-build RFP's to the most highly qualified firms selected by the Committee.

(1) The design-build RFPs shall contain the following:

- The identity of the performance criteria developer;
- The procedures the design-builders are to follow for submitting proposals;
- The criteria the Committee will use to evaluate proposals and the relative weight of the criteria;
- The procedures the City will follow in making awards;
- Proposed terms and conditions for design-build contracts;
- Performance criteria, including owners preliminary program of space needs and special requirements, performance standards for materials and equipment, and minimum system requirements and efficiencies, if applicable;
- A description of drawings, specifications, or other submittals to be submitted with the proposal, with guidance as to how complete the submittals need to be;

- A schedule for planned commencement and completion of project;
- Budget limits for the project;
- Affirmative action, disadvantaged business, or set-aside goals or requirements for the contract, if any;
- Requirements for performance and payment bonds;
- Requirements for insurance;
- Compensation, if any, to be given to design-builders who submit but are not awarded project;
- If project financing is in place;
- A schedule for payments to design-builder;
- Site identification and geotechnical information if City owns the site;
- Location of existing utilities and their capacity if City owns site; and
- Warranty and guarantee requirements.
- Any other requirements the City deems necessary.

(2) The RFP shall outline whether the selection process will require respondents to remain anonymous to the Committee throughout the selection process.

(3) RFPs may require the design-builder to identify subcontractors under the design-build contract. At a minimum, design-builders shall identify each person to whom the design-builder proposes to sublet design obligations or general construction obligations, and this individual may only be replaced with the approval of the City.

(4) Proposers must include a deposit or bid bond that meets the requirements of SDCL 5-18B-2. The deposit or security may be forfeited if the proposal is accepted but the design-builder fails to execute the design-build contract.

(5) The following procedure will be used for negotiations between City and those submitting proposals prior to acceptance of a proposal. Inquiries about the proposal should be addressed to the performance criteria developer prior to a time specified in the RFP. Inquiries should be made in writing or email. To the extent that the inquiry relates to the RFP and can be communicated in whole or part without revealing proprietary or confidential information, the inquiry and the performance criteria developer's response will be posted daily on a website designated in the RFP. Proposers are expected to raise any questions, exceptions, or additions they have concerning the RFP document at this point in the RFP process. If a proposer discovers any significant ambiguity, error, conflict, discrepancy, omission, or other deficiency in this RFP, the proposer should immediately notify the contact person of such error and request modification or clarification of the RFP document.

(6) Proposers are prohibited from communicating directly with any employee of the City, except as described herein. No City employee or representative other than those individuals listed as City contacts in this RFP are authorized to provide any information or respond to any question or inquiry concerning this RFP.

J. Competitive Selection of Design-Build Services

(1) Each firm submitting a proposal shall submit a Qualitative Proposal and a Price Proposal *unless a fixed budget is set. If pre-qualification is required, only firms that are prequalified and that receive an RFP may submit proposals. Proposals shall be segmented into two packages:

Qualitative Proposal. A qualitative proposal may include preliminary design drawings, outline specifications, technical reports, calculations permit requirements, management plan, schedule, and other data requested in the RFP. Qualitative proposals shall be submitted in a sealed package which identifies the project and the design-builder on the outside of the package. Each firm shall place the words "QUALITATIVE PROPOSAL" on the outside of the

package, nothing contained in the qualitative package, except the project management plan set forth below shall identify the design-builder. The project management plan shall be submitted in a separate envelope within the qualitative proposal package, if anonymity is a requirement of the RFP.

Price Proposal. Price proposals shall include one lump sum cost for all design and construction of the proposed project. Each firm shall submit its price proposal in a separate sealed package. Each firm shall place the words "PRICE PROPOSAL" on the outside of the package. Each firm shall also place its name, the project description, and any other information required by the RFP on the outside of the package. The Department shall secure price proposals until the time provided in "Best Value Selection", paragraph (1).

(2) The Bid Letting Engineer or Project Manager shall assign qualitative proposal. The Proposals, less the project management plan, shall be submitted to each member of the Committee with only the assigned number to identify the design-builder (it is intended that the Committee members not know the identity of the design-builder during the review and scoring of the technical and schedule aspects of the packages). The project management plan shall be submitted to the committee members for review and scoring only after they have turned in their score for the other portions of the qualitative proposal. The committee members shall review the design concepts, preliminary designs and technical data submitted by each firm. Prior to issuing their rating, the Committee members may consult with each other and with any Consultant hired by the Department to assist with the design-build procurement process. The Committee members shall then independently rate each firm's proposal based upon criteria established by the Committee for the Project. Evaluation criteria may include the following format example, but shall be adjusted by the Committee for the particular characteristics of the project prior to the advertisement of RFP:

1. *Technical Criteria* *Maximum Score: 65*

2. *Project-specific Management Plan* *Maximum Score: 20*

- A. Management Plan and Organization*
- B. Resumes of Key Professional and Managerial Personnel*
- C. Quality Assurance Plan*
- D. Safety Plan*
- E. Minority and Disadvantaged Business Participation Plan*

3. *Project Schedule* *Maximum Score: 15*

- A. Construction Schedule and Ability to Meet Schedule*
- B. Architecture and Engineering Design Schedule and Ability to Meet Schedule*
- C. Length of Construction and Design Schedule*

Total Maximum Score: 100

(3) The Committee may adjust and refine all of the above criteria and the points assigned to each based on the project type and the Department experience. The Committee may reduce the weight of the management criteria or omit it entirely if is sufficiently determinative in selection of the most qualified offerors under "Qualifications of Design-Builders". The Committee may omit schedule as criteria when it is a fixed requirement in the RFP.

(4) The Committee members shall, without conferring with one another, submit their criteria scores for each design-builder to the Bid Letting Engineer or Project Manager, who will average the scores of the Committee members for each design-builder to arrive at a single score for each design-builder.

(5) The Committee may conduct oral interviews of Firms. The committee may score oral interviews separate from the Proposal if so provided in the criteria package. Firms may not supplement or amend their proposals during oral interviews.

(6) The City, the Selection Committee, and the Performance Criteria Developer shall, at all times, make every effort to maintain the confidentiality of information provided by design-builders in their proposals.

K. Best Value Selection and Award for Design-Build Services

1) **The City Finance Office** shall set a date for publicly opening the price proposals, and shall notify all firms submitting price proposals at least seven calendar days prior to the opening date. The notification shall include the date, time, and place of the opening of price proposals and date for award of the project.

2) **The City Finance Office** shall publicly open the sealed price proposals and divide each firm's proposed price by the qualitative score given by the Committee to obtain an "adjusted price". The firm selected will be that firm whose adjusted price is lowest. An example of the "best value" selection formula follows:

| <i>Firm</i> | <i>Qualitative Score</i> | <i>Proposed Price</i> | <i>Adjusted Price</i> |
|-------------|--------------------------|-----------------------|-----------------------|
| <i>A</i> | <i>90</i> | <i>\$6.9 million</i> | <i>\$7.67 million</i> |
| <i>B</i> | <i>79</i> | <i>\$6.3 million</i> | <i>\$7.97 million</i> |
| <i>C</i> | <i>84</i> | <i>\$6.8 million</i> | <i>\$8.09 million</i> |

(Award to Firm A at \$6.9 million)

(3) Instead of requiring Qualitative Proposals and Price Proposals, the City may establish a fixed dollar budget for the design-build project in the RFP. With a fixed price established for all proposers, each firm would submit only Qualitative Proposals, and the City shall award the project to the firm receiving the highest qualitative score.

(4) No contract may be accepted by the City unless the City determines there was adequate competition for the proposal and/or contract.

(5) The City reserves the right to reject all proposals. The City Council shall either reject all proposals or approve an award to the firm with the lowest adjusted price. The Project Manager will notify all proposers in writing of the City's intent to enter into a contract with a design-builder.

(6) The City shall enter into a contract with the firm selected as provided above. At the time of the award, the City may negotiate minor changes for the purpose of clarifying the design criteria and work to be done, provided that the negotiated changes do not affect the ranking of the proposals based on their adjusted score. Final approval of any contract must be granted by the City Council.

L. Procedure for Responding to Formal Protests to Solicitation or Award of Design-Build Contract

Any question, objection or grievance concerning the solicitation or award of a design-build contract, or a believed misuse or misinterpretation of the design-build procedure raised by any member of the Council, Mayor, staff or citizen shall be referred in writing to the Office of the Mayor and the governing board chairperson. The Office of the Mayor may request the Public Works Committee or governing board to review actions of the Selection Committee.

M. Procedure for Awarding Design-Build Contracts in Public Emergencies

In the event a public emergency necessitates the need for a design-build contract, the City shall make a written determination of the basis for the emergency and for the selection of a particular design-builder, and this determination shall be included in the contract file. The award of a design-build contract due to an emergency shall comply with SDCL 5-18A-9.

N. Implementation Date

This document shall remain in effect from the date of its adoption by the City Council until amended or repealed by the City Council.