

PROCEDURES FOR DESIGN-BUILD PROCUREMENT

Section 1. Purpose

In order to comply with the requirements of SDCL Chapter 5-18B, the City of Box Elder shall select design-build firms to provide combined design and construction services for authorized projects in accordance with the following procedures.

Section 2. Definitions

For purposes of this procedure the definitions contained in SDCL Chapter 5-18B and the following definitions apply:

- 1) "City" means the City of Box Elder, its departments, bureaus, commission, boards, and agencies.
- 2) "Firm" means any individual, firm, partnership, corporation, association, joint venture, or other legal entity permitted by law to practice engineering, architecture or construction contracting in the City of Box Elder.
- 3) "Project" means the project described in the public announcement.

Section 3. Minimum Qualification Requirements for Firms Providing Design-Build Services

Design-builders shall be registered with the City of Box Elder and with the 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.

Section 4. Public Announcement Procedures

Except in emergencies, the City of Box Elder 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. The announcement shall define the procedures for interested firms to apply for consideration and set forth the deadline for submitting applications. The public announcement shall further state whether design-builders will be pre-qualified for the project.

Section 5. Technical Review Committee

There shall be a Technical Review Committee (Committee) comprised of individuals capable of evaluating designs and design documents. The make-up of the Committee shall be as follows:

The total voting members of the Committee shall typically consist of a minimum of three persons and shall include at a minimum the City Engineer and the City Department Director or their Designee. The third member shall be another member of 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 considered by the voting members of the Committee. The Committee shall be appointed by the City Engineer or designee.

The Committee shall have responsibility for determining the most qualified offerors as provided in Section 7 and rating and scoring Qualitative Proposals as provided in Section 8.

Section 6. Design Criteria Package and Request for Proposals

1) The City of Box Elder shall prepare a design criteria package using a criteria developer. The criteria developer may be either on the staff of the City or a private practitioner selected in accordance with normal procedures for selecting design firms. By way of example, the design criteria package may include the following:

- background information and project description
- site survey
- material quality standards
- programmatic space needs
- conceptual design criteria
- procurement, design and construction schedules
- site development requirements
- stipulation of responsibilities for permits and utility, stormwater, and road connections
- stipulation of responsibility for meeting environmental regulations

- growth management requirements
- soil borings and geotechnical information
- performance specifications
- statement of required compliance with codes and general technical specifications
- site aerial photos
- location maps
- any City of Box Elder or institution facility standards or design guidelines
- environmental impact statement
- required design submission requirements

2) A project exempted from the provisions of SDCL Chapter §36-18A does not require a registered criteria developer. All other projects require a registered architect or engineer as the criteria developer.

3) The purpose of the design criteria package is to furnish sufficient information for firms to prepare proposals. The firm submitting the successful proposal shall develop a detailed project design based on the criteria in the design criteria package. Moreover, the firm shall construct the facility in accordance with the design criteria package.

4) The Request for Proposals ("RFP") shall consist of the design criteria package, critical procurement dates, instructions to proposers , proposal forms, provisions for contracts, general and special conditions, and basis for evaluation of proposals. The RFP shall include very detailed instructions regarding format of proposals and submission requirements.

Section 7. Prequalification of Design-Builders

1) The City of Box Elder shall only prequalify design-builders on a project by project basis. Prequalification is not mandatory.

2) The City of Box Elder may issue a Request for Qualifications ("RFQ") by advertisement in accordance with SDCL §5-18B-31. The RFQ shall contain the following:

- The identity of the purchasing agency;

- A description of the proposed public improvement;
- Budget limits for the proposed public improvement;
- The requirements the design-builder will be required to have; and
- The criteria and their relative weight for prequalification.

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

3) The Committee shall determine the relative ability of each firm to perform the services required for each project. The Committee shall base its determination upon the following:

- experience with comparable projects;
- financial and bonding capacity;
- managerial resources;
- the abilities of the professional personnel;
- past performance; capacity to meet time and budget requirements;
- knowledge of local or regional conditions;
- recent and current project workload; and
- the ability of the design and construction teams to complete the work in a timely and satisfactory manner.

4) After considering the factors in 3) above, the Committee shall select at least three firms deemed to be most highly qualified to perform the required services. The Committee will report its selection of most highly qualified firms to the City Engineer or designated project manager. If three or fewer responsible firms submit a statement of qualifications, the Committee shall submit the names of all responsible firms to the City Engineer or designated project manager. The Committee shall submit questions of responsibility to the City Engineer or designated project manager for determination.

5) The City Engineer or designated project manager shall issue RFPs to the most highly qualified firms selected by the Committee. The RFPs will contain the following elements as stated in SDCL 5-18B-29:

- (1) The identity of the purchasing agency which will award the design-build contract and the identity of the performance criteria developer;
- (2) The procedures to be followed for submitting proposals, the criteria for evaluation of a proposal and its relative weight, and the procedures for making awards;
- (3) The proposed terms and conditions for the design-build contract;
- (4) The performance criteria, which shall include the following:
 - (a) The owners preliminary program of space needs and special requirements;
 - (b) Performance standards for materials and equipment; and
 - (c) Minimum system requirements and efficiencies;
- (5) A description of the drawings, specifications, or other submittals to be submitted with the proposal, with guidance as to the form and level of completeness of the drawings, specifications, or submittals that is acceptable;
- (6) A schedule for planned commencement and completion of the design-build contract;
- (7) Budget limits for the design-build contract;
- (8) Affirmative action, disadvantaged business, or set-aside goals or requirements for the design-build contract, if any;
- (9) Requirements for performance and payment bonds, and insurance. These requirements shall meet the requirements of § 5-21-1;
- (10) The compensation, if any, to be given to design-builders submitting proposals who are not awarded the project;
- (11) Whether project financing is in place;
- (12) A schedule for payments to the design-builder;
- (13) Site identification and geotechnical information if the site is owner-provided;
- (14) Location of existing utilities and their capacity if the site is owner-provided; and
- (15) Warranty and guarantee requirements.

Section 8. Competitive Selection of Design-Build Services

1) Each firm submitting a proposal shall submit a Qualitative Proposal, Management Plan, and Price Proposal. In the case of prequalification,

only prequalified firms may submit proposals. Each firm shall segment its proposal into three separate packages;

- **Qualitative Proposal.** Each firm shall submit a Qualitative Proposal that includes preliminary design drawings, proposed technical solutions, and other data requested in response to the RFP. Nothing contained in the Qualitative Proposal shall identify the design-builder. Each firm shall submit its Qualitative Proposal in a sealed package identifying the project and firm on the outside of the package and labeled "Qualitative Proposal."
- **Management Plan.** Each firm shall submit a Management Plan that includes the firm's approach to design-build, project management philosophy, plan for executing the project, project schedule development and monitoring approach, project controls and how the firm plans to achieve the project requirements. Each firm shall submit its Management Plan in a sealed package or separate email identifying the project and firm on the outside of the package and labeled "Management Plan" or in the subject line of the separate email.
- **Price Proposal.** Each firm shall submit its Price Proposal in a sealed package or separate email identifying the project and firm on the outside of the package and labeled "Price Proposal." The price proposal shall identify the cost of the design-build contract that may not be exceeded if the design-builders combined proposal documents are accepted without change. The City shall secure price proposals until the time provided in Section 9.

2) The City Engineer or designated project manager shall assign an identifying number to each Qualitative Proposal. The City Engineer or designated project manager shall submit the Qualitative Proposals to the committee with only the assigned number to identify whose proposals they are. The City Engineer or designated project manager shall submit the Management Plan to the Committee members for review and scoring only after they have turned in their scores for the qualitative proposal.

3) During or after its review of the Management Plans, the committee may conduct oral interviews. The Committee may score oral interviews separate from the Management Plans if so provided in the criteria

package. Firms may not supplement or amend their proposals during oral interviews.

4) The Committee members shall rate each firm's proposal based upon criteria established for the project. The criteria may include the following format (included herein as an example only), but shall be adjusted for the particular characteristics of the project:

- Preliminary Design and Proposed Technical Solutions. Maximum Score: 500
 - Geotechnical
 - Architectural features
 - Aesthetics
 - Structural System
 - Exterior Finish Materials
 - Roofing Systems
 - Site Layout and Features
 - Landscape Provisions
 - Mechanical System
 - Plumbing System Materials
 - Interior Finish Materials
 - Interior Hardware and Fixtures
 - Interior Door Units and Wall Systems
 - Floor and Ceiling Systems
 - Lighting/Electrical Systems
 - Power Systems
 - Data Systems
- Project-Specific Management Plan Maximum Score: 500
 - Past Performance - 190 points
 - Relevance of past performance
 - Quality of past performance
 - Demonstrated commitment of team members and key personnel
 - Performance problems (including claims and litigation)
 - Key Personnel, Consultants and Subcontractors - 160 points
 - Proposed organization
 - Key personnel
 - Subs/consultants
 - Management Approach - 150 points

- Understanding of Project
- General approach
- Coordination of team members/subcontractors
- Estimating and cost control approach
- Scheduling and schedule control 7
- Quality design control
- Construction site utilization plan
- Legal Structure information
- **Total Maximum Score: 1000**

5) The committee may develop, adjust, and refine the criteria and the points assigned to each based on the project type and City experience. If prequalification is used, the committee may assign minimal weight to the management criteria or omit it entirely if it is sufficiently determinative in selection of the most qualified offerors under section 7. The committee may omit schedule as a criterion when it is a fixed requirement in the RFP. Thus, the Technical criteria score may comprise the entire score.

6) The committee members shall submit their criteria scores for each firm to the City Engineer or designated project manager without conferring with one another. The City Engineer or designated project manager will average the scores of the committee members for each firm to arrive at a single score for each firm.

Section 9. Best Value Selection and Award for Design-Build Services

1) Best and Final Offer: After the Committee turns in all criteria scores, the City may seek best and final offers (BAFO) using the following procedures:

- The City Engineer or designated project manager may discuss with each firm, significant weaknesses, deficiencies, and other aspects of its proposal that could be altered or explained to enhance materially the proposals potential for award. Discussions may include technical approach, management plan, and terms and conditions. The primary objective of discussions is to maximize the City's ability to obtain best value, based on the requirement and

the evaluation factors set forth in the RFP. The scope and extent of discussions are a matter of the City Engineer or designated project manager's judgment; however, the City Engineer or designated project manager shall maintain the confidentiality of each proposal during this process.

- At the conclusion of discussions, each firm may submit a revised final proposal.

2) The City Engineer or designated project manager shall set a date for publicly opening the sealed BAFO Price Proposals or, if the BAFO process is not used, sealed Price Proposals. The City Engineer or designated project manager shall give all firms submitting price proposals at least seven days written notice of 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.

3) The City Engineer or designated project manager shall publicly open the sealed BAFO Price Proposals or Price Proposals and divide each firms 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:

Firm	Qualitative Score	Proposed Price	Adjusted Price
A	90	\$6.9 million	\$7.67 million
B	79	\$6.3 million	\$7.97 million
C	84	\$6.8 million	\$8.09 million

(Award to Firm A at \$6.9 million)

5) Unless the City rejects all bids the City Engineer or designated project manager will approve an award to the firm with the lowest adjusted price.

The City Engineer or designated project manager will notify all proposers in writing of the state's intent to enter a contract with that firm. The City reserves the right to reject all proposals.

6) The City shall enter a contract with the firm selected as provided above. At the time of the award, the City may negotiate changes clarifying the design criteria and scope of work.

Section 10. Qualification Based Selection and Award for Design-Build Services

1) Instead of utilizing the process outlined in Section 9 the City may select a design-builder based upon an evaluation of Qualitative Proposals and Management Plans alone, provided the Request For Proposals states that the award will be made on this basis.

2) The City may utilize the BAF0 process outlined in Section 9 (1) in making a qualification based selection and award.

3) 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 Management Plans. The state would award the project to the firm receiving the highest score.

4) In lieu of establishing a fixed dollar budget for the project, the City may negotiate with the firm receiving the highest score. Such negotiations shall use that firm's price proposal as a basis for starting negotiations. Should the City fail to negotiate an acceptable agreement in good faith it may negotiate with the firm receiving the second highest score.

Section 11. Protests

1) Any person adversely affected by the decision of the City to award a contract may file a notice of protest with the City Engineer or designated project manager. Any protester should file its protest within 72 hours after the City Engineer or designated project manager mails out notice of the City's intent. The protesting party should also file a formal written protest within five working days after filing the notice of protest. The

formal protest should state with particularity the facts and law upon which the protest is based.

2) The City Engineer or designated project manager shall review all formal protests and supporting facts and law within five working days after receipt of the protest and render a written decision within an additional ten working days.

3) Nothing in this procedure precludes an aggrieved party from exercising its rights to pursue a protest in circuit court.