

UNIVERSITY OF NEBRASKA
CAPITAL PLANNING and DEVELOPMENT
DESIGN/BUILD (D/B) SELECTION PROCEDURES

UNFP 6.3.7.2

I. Reference and Application

- A. On November 7, 2008, the Nebraska Board of Regents approved the policy for Qualification Based Selection.
- B. Application: These procedures apply to all Board of Regents approved capital projects.

II. Objectives and Limitations

The objective of these procedures is to provide guidelines necessary to comply with Board Policy (RP-6.3.7) *Qualification Based Selection* and ensure once the Design/Build (D/B) delivery method has been approved for a project by the Board of Regents that the process is consistent, standardized, objective, and impartial in selecting the most qualified D/B firm for the best value to the University.

III. Definitions

- A. Construction Firm: Any sole proprietorship, partnership, corporation, association, or other legal entity providing construction services.
- B. Construction Services: Services within the practice of construction including the process of building, altering, repairing, improving or demolishing any University structure or building or other improvements of any kind to any University real property.
- C. Design-Build (DB): Project delivery method in which the selection is based on a combination of qualifications and price. The Contractor and architect or engineer (A/E) are both part of the Design-Build team and the project is designed and built under a single contract directly with the University.
- D. Design Services: Architect services, engineer services or landscape architect services. Also referred to as A/E services.
- E. Program Management (PM) also known as Construction Management. PM services are procured pursuant to qualification-based selection procedures to provide the professional services of a University advocate working as an extension of the University's staff and in the University's interests to complete a project using one of the three project delivery methods: Construction Manager at Risk (CMR), Design, Bid, Build (DBB), or DB.
- F. Project Evaluation Board (PEB): Project Evaluation Board or PEB shall mean the committee selected by the University to review and evaluate all Statements of Qualifications received in response to a project Request for Qualifications. PEB members

are responsible to provide fair, unbiased evaluations and assessments of submitting firms based on the University's published evaluation criteria. (See RP 6.3.8)

IV. Procedure

A. Stages of a 2-step DB Procurement

1. Request for Qualifications (RFQ) is prepared.
2. Notice of RFQ is published.
3. Statements of Qualifications (SOQ) are received.
4. A Project Evaluation Board (PEB) reviews the SOQs and develops a "short list."
5. Request for Technical and Price Proposals (RFP) is issued to short list.
6. Interim design is presented for discussion by short listed firms.
7. Technical and price proposals are received from the short listed firms.
8. Interviews or discussions may or may not be held prior to a final ranking by the PEB.
9. University executes a Design Build Contract with the highest ranked firm. Contract value is based on the submitted price proposal.

B. The University prepares the RFQ using a standard RFQ format (*See DB RFQ Template*). The RFQ includes:

1. The number of persons or firms to be included on the short list.
2. Statement of whether interviews will be conducted with persons or firms.
3. Evaluation criteria to be utilized by the Project Evaluation Board (PEB) and the relative weight of each evaluation criteria.
4. Explanation of 2-step selection process.

C. Public Notice

1. A public notice is issued soliciting interested parties for a contract to provide the services related to the design and construction, remodeling and/or reconstruction of University facilities and structures. The public notice identifies:
 - a. Nature or description of contract work
 - b. Contract and/or project number
 - c. Due date and time for Statement of Qualifications (SOQ) submittal
 - d. Physical location for receipt of responses
 - e. Number of firms to be on the short list

- f. University contact name, address, and phone number – an e-mail address may be provided if desired
- 2. Two separate advertisements of the public notice in appropriate Nebraska newspapers are required: one each week for two consecutive weeks.
- 3. Letter of notification with the public notice may also be sent to all design and construction firms that have indicated an interest in a University project.

D. Evaluation Criteria

- 1. The Director of Facilities Planning and Management or designee, hereinafter referred to as Director, is responsible for creating the detailed evaluation criteria that shall be used in the evaluation and selection decision.
- 2. The DB selection criteria contained in DB RFQ Template should be used as a starting point in creating the criteria.
- 3. It is important to ensure that the most important criteria carry the most points relative to the point total.
- 4. The criteria may change from the 1st step, Statement of Qualifications, and the 2nd step, Technical and Price Proposals.

E. Project Evaluation Board (PEB) (See RP 6.3.8)

- 1. An Evaluation Board is composed of a minimum of five persons
 - a. Director of Facilities Planning and Management or designee
 - b. Two campus designated persons
 - c. Two external (Project Evaluation Board Pool) members.
- 2. The Director of Facilities Planning and Management is the designated Chairperson
 - a. Acts as an impartial referee
 - b. Conducts the proceedings for the benefit of all concerned
 - c. Votes only as a tiebreaker
 - d. Provides the Board an analysis of any issues such as fee, contract general conditions, GMP or Price Proposals, etc., so that evaluations will be as consistent as possible
- 3. PEB Responsibilities
 - a. Evaluation based on published criteria only
 - b. Avoidance of even the appearance of bias or conflict of interest
 - c. Preservation of integrity of evaluation process
 - d. No leading questions asked of firms during interviews
 - e. No correspondence or communication with firms without providing the same information to all of the firms

- f. No preferential treatment
 - g. Same basic questions asked of all firms
- 4. Project Evaluation Board members should each complete the Confidentiality and Conflict of Interest Certification form (See UNFP 6.3.8.1).
- F. Review Statements of Qualifications (SOQs)
 - 1. After receipt of the SOQs, they are distributed to each Project Evaluation Board (PEB) member with a score/ranking form.
 - 2. Published criteria from the RFQ are included so each Board member is aware of the evaluation criteria.
 - 3. PEB members independently review and evaluate each SOQ.
 - 4. PEB members then meet to make a recommended Short List.
 - 5. Discussion is held and significant deviations are noted and discussed by the PEB members to ensure all appropriate information is considered.
 - 6. Final calculations are individually made and each member ranks the respondents.
- G. Develop Short List
 - 1. In order of preference, based on criteria published in the RFQ, the PEB recommends a Short List of construction firms deemed to be the most qualified to proceed to the 2nd step of the selection process.
 - 2. The number of persons or firms on the Short List shall be the number of persons or firms specified in the RFQ, which will typically be a minimum of three firms.
 - 3. If a smaller number of responsive and responsible construction firms respond to the solicitation than required for the Short List, the PEB may proceed with the selection process with the remaining persons or firms if at least two persons or firms remain. The University may also re-advertise, as the Director deems necessary or appropriate.
 - 4. Short List selection and order of preference is determined based on demonstrated competence and qualifications.
 - 5. The Short List is approved by the Vice-President of Business and Finance in consultation with the Vice-Chancellor of Business and Finance at the campus where the project will be constructed.
- H. Issue Request for Technical and Price Proposals (RFP) to Short List
 - 1. The RFP shall include the following:

- a. Project schedule and project final design and construction budget or life cycle budget for a procurement that includes maintenance services or operations services.
 - b. Statement that the contract will be awarded to the Construction Firm whose proposal receives the highest number of points under a scoring method.
 - c. Description of the scoring method, including a list of the factors in the scoring method and the number of points allocated to each factor.
 - d. The total points of the technical evaluation criteria will add up to 100 points.
 - e. Design requirements, to include program or bridging documents that are available.
 - f. Requirement that each Construction Firm submit separately a Technical Proposal and a Price Proposal and that the offeror's entire proposal be responsive to the requirements in the Request for Proposals. The price in the Price Proposal shall be a fixed price or a guaranteed maximum price.
 - g. Statement that in applying the scoring method the Project Evaluation Board will separately evaluate the Technical Proposal and the Price Proposal and will evaluate and score the Technical Proposal before opening the Price Proposal.
 - h. If interviews are conducted, a statement that interviews will be held and a requirement that each offeror submit a Preliminary Technical Proposal before the interviews are held.
2. The RFP will identify any stipend or stipulated fee which will be awarded to the unsuccessful firms who provide a responsive technical proposal but are not awarded the contract. The stipulated fee is based on a percentage of the project design and construction budget.
- I. RFP Technical Evaluation Criteria should address the following:
- 1. Compliance with the design requirements.
 - 2. Financial capacity.
 - 3. Compliance with the project schedule.
 - 4. Quality management plan.
- J. Conduct Interim Design Presentation and Discussion
- 1. Part way through the time period between the issue of the RFP and receipt of the technical and price proposals, the PEB may meet individually with each short listed firm for a review of the design to that point.
 - 2. The purpose of the interim design presentation and discussion is to allow the design team to ask the end users questions regarding design intent and functionality. It is an opportunity for clarification of questions which may have arisen during the design process to that point and to assure full understanding of, and responsiveness to, the solicitation requirements.

3. PEB members must keep design information received during the interim design presentation and discussion confidential and take particular care that information and concepts derived from proposals submitted by competing Construction Firms shall not be disclosed to other competing firms.

K. Review of Technical and Price Proposal

1. Short Listed firms submit their technical and price proposal prior to their interview and presentation, allowing adequate time for PEB members to review the written submissions.
2. Only the technical proposals are reviewed at this time.\
3. Price proposals must be in a separate sealed envelope clearly marked as the price proposal.
4. All Short Listed firms, no matter their ranking in the original Short List, begin the final interview/discussion selection process with equal status.
5. Participants from the selected Short Listed firms will be limited by the number and key positions the PEB wants involved.
6. Specific direction will be provided to the Short List firms regarding time limits and aspects of the design to be presented and discussed.
7. Upon completion of the presentations and discussions, and based on the technical evaluation criteria, the PEB members will score the firms most qualified for the proposed project. Scoring is based on a combination of both the written technical proposals and the presentation and discussions.

L. Converting Technical Score to Weighted Percentage

1. The technical score of each Short Listed firm is multiplied by the published weighted technical percentage.

M. Evaluating Price Proposal

1. Only after all firms have been scored on their technical evaluations will the director open the sealed price proposals of the Short Listed firms.
2. The proposed price will be calculated and assigned the percentage weight using the following formula:

$$\text{Stipulated \% X } \left[1 - \frac{\text{(offeror's price proposal - lowest price proposal)}}{\text{lowest price proposal}} \right]$$

N. Contract Award

1. The technical evaluation percentage will be added to the price proposal percentage. The University shall award the contract to the Construction Firm whose proposal receives the highest score under the method of scoring in the Request for Qualifications. No other factors or criteria may be used in the evaluation.
2. There will be no binding contract for the project until the contract documents with the selected Construction Firm have been approved by the Vice President for Business and Finance and signed by the President.
3. The University's file for the contract awarded shall contain the basis on which the award is made.

O. Stipulated Fee

1. The University shall award to each of the short list firms who provides a responsive, but unsuccessful technical proposal, a stipulated fee equal to a percentage of the project final design and construction budget.
2. If the University does not award a contract, all responsive short list Construction Firms shall receive the stipulated fee based on the estimate of the project final design and construction budget as identified in the Request for Proposals.
3. The University shall pay the stipulated fee to each Construction Firm within ninety days after the award of the initial contract or the decision not to award a contract.
4. In consideration for paying the stipulated fee, the University may use any ideas or information contained in the proposals in connection with any contract awarded for the project, or in connection with a subsequent procurement, without any obligation to pay any additional compensation to the unsuccessful Construction Firm.
5. An unsuccessful shortlist Construction Firm may elect to waive the stipulated fee. If an unsuccessful firm elects to waive the stipulated fee, the University may not use ideas and information contained in their technical proposal, unless that information is also provided by another Construction Firm who did accept the stipulated fee.

P. General Considerations

1. Until award and execution of a contract by the University, only the name of each firm on the Short List shall be available to the public. All other information received by the University in response to the Request for Qualifications, Request for Proposals, or contained in either the SOQs or technical proposals shall be confidential in order to avoid disclosure of the contents that may be prejudicial to competing offerors during the selection process. The SOQ and technical proposals shall be open to public inspection after the contract is awarded and the University has executed the contract. To the extent that a Construction Firm

designates and the University concurs, trade secrets and other proprietary data contained in an SOQ or technical proposal shall remain confidential.

2. The University may cancel the procurement or reject in whole or in part any or all SOQs or technical proposals if it is in the best interest of the University. The Director shall make the reasons for cancellation or rejection part of the contract file.