

UNIVERSITY OF NEBRASKA

CAPITAL PLANNING and DEVELOPMENT

CONSTRUCTION MANAGEMENT at RISK (CMR) SELECTION PROCEDURES

UNFP 6.3.7.1

I. Reference and Application

- A. On November 7, 2008, the Nebraska Board of Regents (BOR) approved the policy for Qualification Based Selection of construction services.
- B. Application: These procedures apply to all BOR approved projects with the exception of Renewal Work performed pursuant to the Nebraska Deferred Building Renewal Act, *Neb. Rev. Stat.* Sections 81-173 through 81-191.01.¹

II. Objectives and Limitations

The objective of these procedures is to provide university standard selection procedures necessary to comply with BOR policy (RP-6.3.7) *Qualification Based Selection* and ensure once the Construction Management at Risk (CMR) delivery method has been approved for a project by the BOR that the process is consistent, standardized, objective, and impartial in selecting the most qualified CMR firm for the best value to the University.

III. Definitions

- A. Construction Firm: Any person, partnership, corporation, association, or other legal entity providing construction services.
- B. Construction-Manager-at-Risk (CMR): Project delivery method in which the selection is based on qualifications. The CMR is selected at the same time as the architect of engineer (A/E) is selected or at some point during the design phase of a project.

¹ Subsection (1) of *Neb. Rev. Stat.* Section 81-173 defines Renewal Work as follows: "Renewal work means any (a) deferred or preventive maintenance projects that will restore facilities and utility systems as closely as practicable to their original constructed condition as defined by the Task Force for Building Renewal, (b) projects that will bring facilities into compliance with current fire safety, life safety, and hazardous materials abatement requirements, and (c) projects that will bring facilities into compliance with the federal Americans with Disabilities Act of 1990. The standard of quality maintenance shall be set after consideration of the facility users, geographical location, condition, and physical analysis of each building; . . ."

- C. Guaranteed Maximum Price (GMP): A cost-type contract (also known as an open-book contract) where the contractor is compensated for actual costs incurred plus a fixed fee subject to a maximum price. The contractor is responsible for cost overruns, unless the GMP has been increased via formal change order (only as a result of additional scope from the Owner, NOT price overruns, errors, or omissions). Savings resulting from cost under runs are returned to the Owner.

- D. Project Evaluation Board (PEB): Project Evaluation Board 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 CMR Project
 1. Request for Proposal (RFP) is prepared.
 2. Notice of RFP is published.
 3. Statements of Qualifications (SOQ) and sealed Price Proposal are received.
 4. PEB reviews and ranks the SOQs, and prepares a "short list".
 5. Interviews or discussions held, construction firms ranked, price proposals opened, and final ranking by the PEB.
 6. University negotiates a construction services contract with the highest ranked firm.
 7. When a GMP is finalized, an amendment to the construction services contract is executed.

- B. The University prepares the RFP using the standard CMR RFP format (See UNFP 6.3.7.1.1). The RFP includes:
 1. The number of persons or firms to be included on the short list.
 2. Evaluation criteria to be utilized by PEB and the relative weight of each evaluation criterion.

3. Draft Standard Form Agreement Between Owner and Construction Manager, Fee and General Conditions Worksheet, Architectural Program, and other documents as may be required.

C. Public Notice

1. A public notice is issued soliciting interested parties for a contract to provide the services related to the 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 information.
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 construction firms that have indicated an interest in a University project.

D. Evaluation Criteria

1. The Chief Facilities Officer, or designee, is responsible for creating the detailed evaluation criteria that shall be used in the evaluation and selection decision.
2. The CMR selection criteria contained in *CMR RFP Template* should be used as a starting point in creating the criteria.
3. The total points of the technical evaluation criteria will add up to 100 points. It is important to ensure that the most important criteria carry the most points relative to the point total.
4. If Fee and General Conditions are to be considered in the evaluation, the non-price selection criteria will be evaluated and scored first, prior to evaluating the price proposal.

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

1. Project Evaluation Board (PEB) Responsibilities
 - a. Evaluation based on published criteria only
 - b. Avoidance of 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

2. PEB members will complete a Confidentiality and Conflict of Interest Certification form (See UNFP 6.3.8.1).

F. Review Statement of Qualifications (SOQs)

1. After receipt of the SOQs, the office of the Chief Facilities Officer distributes the SOQs (the technical qualifications only) are distributed to each PEB member with a score/ranking form.
2. The sealed price proposals remain unopened, in a secured location.
3. Published criteria from the RFP should be included so each Board member is aware of the evaluation criteria.
4. PEB members independently review and evaluate each technical qualification response.
5. Individual scores are compiled and PEB members then meet to make a recommended Short List.
6. Discussion is held and significant deviations are noted and discussed by the PEB members to ensure all appropriate information is considered.
7. Final calculations are individually made and each member ranks the respondents, based on their technical qualification final score.

G. Develop Short List

1. In order of preference, based on criteria published in the RFP, the PEB recommends a Short List of Construction Firms deemed to be the most qualified to provide the required pre-construction and construction services.
2. The number of persons or firms on the Short List shall be the number of persons or firms specified in the RFP, which will typically be a minimum of three firms.

3. If a smaller number of responsive and responsible Construction Firms responds to the solicitation than required for the Short List, the PEB may proceed with the selection process with the remaining firms if at least two firms remain. The University may also re-advertise, as the Chief Facilities Officer 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 Chief Facilities Officer.

H. Conduct Interviews or Discussions with Short Listed Firms

1. Short Listed firms are invited to participate in an interview with the PEB.
2. All Short Listed firms, no matter their ranking in the original Short List, begin the interview/discussion selection process with equal status.
3. Participants from the selected Short Listed firms will be limited by the number and key positions the PEB wants involved.
4. Specific direction will be provided to the Short List firms regarding time limits..
5. No presentation and no presentation material will be allowed in this phase of the evaluation.
6. Upon completion of the interview 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 SOQ and the interview/discussion.

I. Converting Technical Score to Weighted Percentage

1. The technical score of each Short Listed firm is multiplied by the published weighted technical percentage (See Para 3.1 in RFP Template).

J. Evaluating Price Proposal

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

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

3. 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.

K. Contract Award

1. There will be no binding contract for the project until the contract documents with the selected Construction Firm have been approved by the Chief Facilities Officer, and signed by the President, or designee.
2. The University's file for the contract awarded shall contain the basis on which the contract award is made.

L. 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 Qualification or contained in the SOQs or Price Proposal shall be confidential in order to avoid disclosure of the contents that may be prejudicial to competing offerors during the selection process. The SOQs and scoring shall be open to 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 a proposal shall remain confidential.
2. The University may cancel a Request for Qualifications or reject in whole or in part any or all SOQs if it is in the best interest of the University. The Chief Facilities Officer shall make the reasons for cancellation or rejection part of the contract file.