

Chapter 27. Design-Build Procedures

Summary

This chapter outlines the procedures to be followed by all departments, agencies, and institutions of the County (each of which is hereinafter referred to as an "Agency") for the procurement, as well as the administration, of design-build contracts.

Essential Information in this Chapter
<ul style="list-style-type: none">• An Agency may enter design-build contracts only after it has determined in writing, that competitive sealed bidding is either not practicable or not fiscally advantageous to the public.• Prior to using a design-build contract, an Agency must receive approval from the Board of Supervisors.• Procurement of a design-build contract is a two-step competitive negotiation process. The Agency first selects qualified offerors and then negotiates with each of them to select one contractor.
Key References to the Code of Virginia Applicable to this Chapter
Section 2.2-4378: Purpose; applicability Section 2.2-4379: Definitions Section 2.2-4382: Design-build or construction management contracts for local public bodies Section 2.2-4383: Reporting requirements

27-1 General

A design-build contract is a contract between an Agency and another party in which the party contracting with the public body agrees to both design and build the structure, roadway or other item specified in the contract. Agencies may contract to secure design-build projects on a fixed price, or a not-to-exceed price, basis in accordance with these procedures. An Agency is authorized to use competitive negotiation to procure design-build contracts if it determines, in advance and in writing, that competitive sealed bidding is either not practicable or not fiscally advantageous to the public. That written determination must document the basis for the determination.

Design-build contracts are intended to minimize a project's risks, and to reduce delivery schedule, by overlapping the design phase and construction phase of the project.

27-2 Definitions

"Request for Qualifications": As used in this chapter, Request for Qualifications ("RFQ") means the first step in the two-step competitive negotiation process used for design-build procurements.

“Request for Proposals”: As used in this chapter, Request for Proposals (“RFP”) means the second step in the two-step competitive negotiation process used for design-build procurements.

27-3 Criteria for Choosing Design-Build Procurement

The following criteria must be met for an Agency to engage in a design-build procurement:

1. The Agency shall determine, in writing, that neither competitive sealed bidding, nor separately-procured design and construction vendors, are practicable or fiscally advantageous for the project in question.
2. The written determination must include the bases for that determination, which must include one or more of the following bases:
 - a. Estimated construction cost
 - b. The project’s complexity
 - c. The anticipated use of the building/structure/property
 - d. Project timeline
 - e. Need for a single point of contact
3. A licensed architect or engineer must be employed or under contract to advise the Agency in its use of design-build contracting.

27-4 Procedure for Approval

Prior to taking any action, the Agency shall submit its written determination to the Board of Supervisors. The Agency shall not proceed with procurement until it receives authorization from the Board of Supervisors.

The determination and bases for determination shall be stated in the Request for Qualifications.

27-5 Selection Procedures

Procurement of the contract shall proceed as a two-step competitive negotiation process. The following procedures shall be used in selecting a vendor and awarding a contract:

1. The Agency shall appoint an Evaluation Committee (“Committee”) which shall consist of at least three members from the Agency, including a licensed design professional, if possible.
2. Step 1: Selection of Qualified Offerors. The Agency shall conduct an RFQ process to determine which offerors are qualified to receive an RFP.

- a. The Agency shall prepare an RFQ containing the project's requirements, building and other site criteria, and any site or survey data available. The criteria to be used to evaluate responses must be set out in the RFQ, including any capabilities or qualifications, beyond licensure, that will be required of the selected contractor.
 - b. The RFQ shall be posted on the County's Purchasing website for a minimum of 30 days.
 - c. All offerors must include, as part of their response, a completed Prequalification Form, available from the Agency. All offerors shall include, as part of their response, the identity of a Virginia-licensed Class "A" contractor and a Virginia-licensed architect or engineer employed or contracted by the offeror to work on the project.
 - d. The Committee shall evaluate each offeror's RFQ responses and any other relevant information and shall determine which offerors are qualified for the project, based on the criteria established in the RFQ. The Committee may deny an offeror prequalification only as specified under Virginia Code §2.2-4317 or those capabilities or qualifications beyond licensure set out in the RFQ, but the short list shall consist of those deemed best qualified.
 - e. The RFQ evaluation shall result in a short list of two to five offerors to receive an RFP. An offeror who was not selected to the short list, or who did not submit a response to the RFQ, may not submit an RFP. An offeror may be denied prequalification only as specified under Virginia Code § 2.2-4317(C). It is possible for an offeror to be found qualified, but not be selected to the short list.
 - f. The Agency shall advise in writing each offeror which sought prequalification whether that offeror has been prequalified. The Agency shall provide in writing to each prequalified offeror that is not selected for the short list the reasons that it was not selected. The Agency shall provide in writing to each offeror denied prequalification the reasons that it was denied prequalification and the factual basis for those reasons.
3. Step 2: Selection of a Contractor. The Agency shall conduct an RFP process to determine which offeror will be awarded a contractor.
 - a. The Agency shall post an RFP in accordance with current standards for the posting of RFPs, and shall provide the RFP to each offeror on the short list.

- b. The Committee shall consider cost a critical component of the selection process.
- c. The deadline for submission of RFP responses must be at least 30 days after the Agency notified selected offerors or posted the RFP, whichever is later.
- d. Those offerors selected to the short list may submit a sealed Technical Proposal to the Committee. Any offeror who submits a Sealed Technical Proposal shall submit a separate, sealed Cost Proposal to the County's Virginia Construction Contracting Officer ("VCCO"). The VCCO shall keep all Cost Proposals sealed until the Committee completes its evaluation of the Technical Proposals and adopts any design adjustments.
- e. The Committee shall evaluate each Technical Proposal in accordance with the criteria contained in the RFP. It shall inform each offeror of any adjustments it must make to its Technical Proposal to make it fully comply with the RFP's requirements. In addition, the Agency may ask offerors to adjust their Technical Proposals to incorporate project improvements or additional information identified by the Committee during the procurement process.
- f. An offeror may provide a new Technical Proposal in response to the Agency's request for adjustment. An offeror may amend its Cost Proposal as needed to reflect changes to its Technical Proposal.
- g. The Committee shall evaluate (and rank if technical rankings are to be considered as a criteria for award) the Technical Proposals, and open the Cost Proposals.
- h. After evaluation and ranking, the Committee shall conduct negotiations with two or more offerors submitting the highest ranked proposals.
- i. The Committee shall make its recommendation for the selection of an offeror to the Agency based on its evaluation of the Technical Proposal, Cost Proposal, and the outcome of negotiations. The Purchasing Agent may award a contract to the offeror so selected.
- j. Upon request, to Agency shall provide to any offeror documentation of the process used to award the contract.

27-6 Reporting Requirements

Every Agency shall report to the Purchasing Agent no later than October 1 of each year on every design-build project completed during the previous 12 months, whose total cost exceeded \$2 million. That report must include, at a minimum,

1. The project's budget at the point of contract award;
2. The final project cost;
3. The expected timeline and end date at the point of contract award;
4. The actual completion date.
5. Any post-project issues.

The Purchasing Agent shall report to the Director of the Department of General Services no later than November 1 of each year all of the above information gathered throughout the county, and shall transmit, along with it, a statement as to the procurement method utilized.