

35.00 Design-Build Projects

St. Louis County Ordinance No. 22792, which was approved by the County Executive on June 7, 2006, added a new chapter to the St. Louis County Revised Ordinances (SLCRO). "Design-Build Projects" was added as Chapter 113. The following specifications are based on this Ordinance.

1) **Definitions** - The definitions of terms used in this section are as follows:

County - St. Louis County, Missouri.

Design-Build - A project for which the design and construction services are provided to the County under one contract.

Design-Builder - Any individual, partnership, joint venture, corporation or other legal entity that furnishes to the County architectural, engineering, landscape architectural or construction services for a design build project, whether for itself or through subcontracts.

Design-Build Contract - A contract between the County and a design-builder, to furnish the architecture, engineering, landscape architecture, and related design services required for a given County construction project, and to furnish the labor, materials and other construction services for the same construction project.

Design Criteria Consultant - A person, corporation, partnership or other legal entity duly registered and authorized to practice architecture, landscape architecture or professional engineering in the State of Missouri under chapter 327 R.S.Mo., and who has entered into a contract with the County to provide professional design and administrative services in connection with the preparation of a design criteria package.

Design Criteria Package - Performance-oriented specifications for a County construction project sufficient to permit a design-builder to prepare a package to the County's request for proposals for a design-build project.

Director - The County director who is directly responsible for the County construction project.

Evaluation Team - A group of not more than five nor less than three County employees, depending upon the complexity of the particular project as determined by the Director, which has the duty to evaluate the proposals of design-builders. The team, which shall be established anew for each contemplated design-build construction project, shall consist of one or two members appointed by the Director, one or two appointed by the particular director of the department for which the project is primarily intended (if different from the Director's department), and one member who shall be the Chair, appointed by the Director of Procurement.

Proposal - An offer to enter into a design-build contract.

Request for Proposals - The document by which the County solicits proposals for a design-build contract.

Stipend - An amount that may be established to reimburse unsuccessful design-build proposers in certain complex projects to defray the cost of submission of Phase II of the design-build proposal.

2) Determination of Need

- a) The Director shall make a determination of the need to use the design-build procurement process to complete a particular project. In making that determination, the Director shall consider:
 - i) The time available to complete the project and meet the needs of the County to expedite the delivery process.
 - ii) The type of project and its suitability for the design-build process.
 - iii) The size and estimated cost of the project.
 - iv) The level of departmental knowledge and confidence about the project scope and definition.
 - v) The availability of using departmental staff to manage the project.
- b) If the Director makes a determination of the need to use the design-build procurement process to complete a particular project, the Director shall notify the County Council of the determination and the reasons therefor. The design-build procurement process set out in this chapter shall not thereafter proceed except upon the approval of the Director's determination by order of the County Council.-

3) Preparation of Request for Proposal; Use of Consultant; Notice

- a) The Director of Procurement, with the consultation of the Director, shall determine the scope and level of detail required to permit qualified persons to submit proposals in accordance with the request for proposals, given the nature of the project. The Director of Procurement, with the consultation of the Director, shall establish in the request for proposal a time, place and other specific instructions for the receipt of proposals. Proposals not submitted in strict accordance with those instructions shall be subject to rejection.
- b) The County Executive may enter into a contract with a consultant to prepare or to assist in preparation of the request for proposal, perform periodic site visits, prepare progress reports, review and approve progress and final pay applications of the design-builder, review shop drawings and submittals, interpret the construction documents, perform inspections upon substantial and final completion, assist in warranty inspections and to provide any other professional service where the Director deems it to be in the public interest to have an independent design professional assisting with the project administration. The consultant shall be selected and its contract negotiated in compliance with applicable law.
- c) Notice of requests for proposals shall be advertised in accordance with Section 107.130 SLCRO. The notice shall include a description of the project, the procedures for submittal and the selection criteria to be used.

4) Elements of Request for Proposals, Soliciting and Review of Proposals

- a)** A request for proposals shall be prepared for each design-build contract containing at minimum the following elements:
 - i)** The procedures to be followed for submitting proposals, the criteria for evaluation of proposals and their relative weight and the procedures for making the award.
 - ii)** The proposed terms and conditions for the design-build contract.
 - iii)** The design criteria package.
 - iv)** A description of the drawings, specifications or other information to be submitted with the proposal, with guidance as to the form and level of completeness of the drawings, specifications or other information that will be acceptable.
 - v)** A schedule for planned commencement and completion of the design-build contract.
 - vi)** Budget limits for the design-build contract.
 - vii)** Affirmative action and minority or women business enterprise goals or requirements for the design-build contract, if any.
 - viii)** Requirements including any available ratings for performance bonds and insurance.
 - ix)** Any other information that the Director of Procurement in the exercise of discretion chooses to supply, including without limitation, surveys, soils reports, drawings of existing structures, environmental studies, photographs or references to public records.
- b)** The Director of Procurement shall solicit proposals in a three-phase process. Phase I shall be the solicitation of qualifications of the design-builder. Phase II shall be the solicitation of a technical proposal including conceptual design for the project. Phase III shall be the proposal of the construction cost.
- c)** The evaluation team shall review the submittals of the proposers and assign points in accordance with the instructions of the request for proposals.

5) Phase I of the Proposal Soliciting Process

- a)** Phase I shall require all proposers to submit a statement of qualifications that shall include, but not be limited to:
 - i)** Demonstrated ability to perform projects comparable in design, scope and complexity.

- ii) References of owners for whom design-build projects have been performed.
 - iii) Qualifications of personnel who will manage the design and construction aspects of the project.
 - iv) The names and qualifications of the primary design consultants and contractors with whom the design-builder proposes to subcontract, including the participation and/or funding by the contractor or proposed subcontractor(s) in any Department of Labor, Bureau of Apprentice Training approved program. The design-builder may not replace an identified subcontractor or subconsultant without written approval of the Director.
- b) The evaluation team shall review the qualifications of all proposers based on the project requirements. Qualified proposers selected by the evaluation team may proceed to Phase II and Phase III of the selection process. Proposers lacking the minimum qualifications to perform the work will be eliminated and shall not proceed with Phase II and Phase III. A formal evaluation system will be utilized in Phase I; however, no points from Phase I will be included in Phase II or Phase III evaluations.
 - c) The Director, with the consultation of the Director of Procurement, shall have discretion to disqualify any proposer that lacks the minimum qualifications required to perform the work. Under no circumstances shall price or fee be a part of the pre-qualification criteria.

6) Phase II of the Proposal Solicitation Process

- a) The Director of Procurement shall invite the five most qualified proposers to participate in Phase II and Phase III of the process. If a minimum of three qualified proposers cannot be identified, the contracting process will cease.
- b) Proposers must submit their design for the project to the level of detail required in the request for proposals. The design proposal should demonstrate compliance with the requirements set out in the request for proposals.
- c) Under no circumstance should the design proposal contain any reference to the cost of the proposal.
- d) The design submittals will be evaluated and assigned points in accordance with the requirements of the request for proposals. Phase II shall count for no more than 50% of the total point score assigned by the evaluation team.

7) Phase III of the Proposal Solicitation Process

- a) The Phase III proposal must provide a firm, fixed cost of construction. The proposal must be accompanied by bid security and any other required submittals, as required by the request for proposal. Phase III shall count for a minimum of 50% of the total point score assigned by the evaluation team.
- b) Cost proposals must be submitted in accordance with the instructions of the request for proposal. Failure to submit a cost proposal on time shall be cause to reject the

proposal.

- c) Proposals for Phase II and Phase III will be submitted concurrently. The Phase III cost proposals will be opened only after the Phase II design proposals have been evaluated and assigned points.
 - d) Cost proposals will be opened and read aloud at the time and place specified in the request for proposals, in accordance with Section 107.130 SLCRO 1974, as amended. At the same time and place, the evaluation team will make public its scoring of Phase II. Cost proposals will be evaluated in accordance with the requirements of the request for proposals and the points assigned will be added to the total of Phase II for each proposer.
 - e) The schedule may be considered as an element of evaluation in Phase II Design or Phase III Construction or both.
 - f) The responsive proposer with the highest total number of points will be awarded the contract by the Director of Procurement. The Director of Procurement may reject any and all proposals.
 - g) If all proposals are rejected, the Director of Procurement may solicit new proposals using the same or different design criteria, budget constraints or qualifications.
- 8) **Stipend for Proposals** - As an inducement to qualified design professionals in certain complex projects, the County may pay a total project stipend in the amount up to 1% of the project cost. This amount shall be divided equally between each design-builder who was selected to participate in Phase II and Phase III of the process and whose proposal is responsive but not accepted. Provided, however, that a stipend may be included in a request for proposal only upon the order of the County Council after a request by the Director outlining the need for a stipend due to the particular complexity of the project. Upon payment of the stipend to any unsuccessful design-build proposer, the County shall acquire a non-exclusive right to use the design submitted by the proposer, and the proposer shall have no further liability for its use by the County in any manner. If the design-build proposer desires to retain rights and interest in the design proposed, the proposer shall forfeit the stipend.
- 9) **License or Certificate of Authority** - Any person or entity that enters into a design-build contract pursuant to this Chapter shall be exempt from the requirement that such person be licensed or such entity be authorized by the appropriate board as long as the architectural, landscape architectural, engineering or land surveying services are performed by persons who are duly licensed in this state or by entities that hold current certificates of authority from the board for the appropriate profession.