




M E M O R A N D U M

TO: Mayor and Council

FROM: Rosie Truelove, Director, Contract Management Department 

CC: Marc A. Ott, City Manager
Elaine Hart, Chief Financial Officer

DATE: February 23, 2015

SUBJECT: Alternative Delivery Methods in the City of Austin for Capital Improvement Projects

At the February 26, 2015 Council Meeting, the Contract Management Department will be requesting the Council's approval of an agenda item that authorizes the use of the Construction Manager-at-Risk method of contracting for construction of a new Parking Garage with Administration Offices Project at Austin-Bergstrom International Airport. The purpose of this memo is to provide information on Alternative Delivery Methods in general and Construction Manager at Risk in particular, and the context in which we use them for construction work in the City of Austin.

Local Government Code Chapter 252 outlines competitive sealed bidding procedures for municipal expenditures exceeding \$50,000. This method is used for most construction projects and award is based on the lowest responsive and responsible bidder. It is commonly known as the "Low Bid" method. Government Code 2269 provides alternate methodologies for procuring construction services which may provide a better value to the City than the low bid or competitive bidding method. For these alternate methodologies, award is based on an evaluated process that includes an array of criteria including price. Statute allows for 5 methodologies, 4 of which are actively used by the City of Austin. They are listed here and described in more detail in the attached document: Competitive Sealed Proposal, Construction Manager-at-Risk, Design-Build (for Building), Design-Build Civil Works, and Job Order Contracting.

Alternative delivery methods for construction and construction related services have been available for use by Texas local governments since 2001. Alternative contracting methods have an advantage over traditional competitive sealed bidding in that key considerations, other than price only, are evaluated. The current criteria requests information related to a contractor's past experience and reputation, including the experience and reputation of its key personnel; the

contractor's business practices as it relates to the use of small and minority subcontractors; the contractor's sustainability practices; the capacity and capability of the contractor to perform the services in the timeframe required; the contractor's safety record and program; and the contractor's technical expertise.

Use of alternative contracting methods for the City's Capital Improvements Program has been on the rise since 2008 and these methodologies have been successfully used for some of our larger capital projects. For example, the Construction Manager-at-Risk method was recently used to construct Water Treatment Plant 4 and in 2003, Austin City Hall. It is also the contracting method for the New Central Library and Related Improvements project that is currently underway. Some previous projects completed by Competitive Sealed Proposal include the African American Cultural Center and the Holly Street Power Plant Decommissioning. The Design-Build method of contracting was used to design and construct the Asian American Resources Center, and is currently being used for the Austin Bergstrom International Airport East Infill Improvements. Job Order Contracting is used for work at a variety of City facilities across the organization.

In closing, alternative delivery methods of contracting serve a valuable purpose in implementing the City's capital improvements program when schedules, flexibility, innovation, and collaboration are critical. As required by state law, staff will seek Council's approval and endorsement when it is determined that an alternative delivery method of contracting for a capital improvement project offers a better value than the traditional competitive sealed bidding method.

I am available to discuss this further if you have questions or need additional information. Thank you.

Alternative Delivery Methods in the City of Austin

Summary of Options

Low Bid or Competitive Sealed Bidding:

Low bid is the standard process used to contract for construction services for City of Austin projects. Construction documents are prepared by either an architect or engineer, depending on the nature of the project. These services are contracted for through a Qualifications-Based Selection process lead by the Contract Management Department (CMD) or are performed by engineering teams internal to the City of Austin. When the construction documents are 100% complete, CMD issues a solicitation for the services of a general contractor. Contractors submit a competitive sealed bid and award is made based on the lowest responsive and responsible bidder. Each construction project is reviewed by the Small and Minority Business Resources Department (SMBR) to establish MBE/WBE goals and the contractor must submit a compliance plan that is compliant through meeting the goals or by documenting Good Faith Efforts to be awarded the contract.

Overview of Alternative Delivery:

Government Code Chapter 2269 details the allowable methods including prescribed processes for each. The primary difference between alternate delivery methods and the traditional competitive sealed bidding method is that selection and award of a contracting firm is based on the proposal that offers the “best value” to the City. Weighted evaluation criteria such as price, experience, reputation, safety record, key personnel experience, financial capability, and other relevant factors are published in the Request for Qualifications or Proposals and a City staffed evaluation panel, composed of technical experts, scores and ranks the proposals. Best value determination is achieved through evaluation and ranking of responses to the Request for Qualifications or Proposals.

Early in the City’s capital planning process, many factors are considered in determining the best most effective method for accomplishing the work. No single project delivery method is appropriate for every project and staff performs a thorough analysis of each project prior to recommendation of a delivery method or requesting the authorization for an alternate methodology from Council as required by State statute.

The alternative contracting methods used in the City are:

COMPETITIVE SEALED PROPOSALS (CSP)

CSP is the solicitation process most like Competitive Sealed Bidding. Design work is completed by an architect/engineer secured through a Qualifications-Based Selection process to ensure independence. Separately, the City issues a CSP solicitation to hire a contractor to perform a specific scope of work. CSP is a good methodology to use when work requires specific expertise and/or specific or specialized technical experience. Contractors propose on 100% completed construction documents. MBE/WBE goals are established and compliance with the MBE/WBE Procurement Program is required through meeting the goals or documenting Good Faith Efforts. A diverse City-staffed Evaluation Panel, comprised of technical experts, reviews, scores, and ranks proposals against criteria established and published with the solicitation. Council’s authorization is requested to negotiate and execute an agreement with the highest ranked proposer.

CONSTRUCTION MANAGER-AT-RISK (CMAR)

The CMAR methodology is best for large complex construction projects when preconstruction phase services are needed during the architectural/engineering phase. A Request for

Qualifications is issued for the Architect/Engineer separately from the CMAR solicitation through a Qualifications-Based Selection process to ensure independence. This methodology allows construction to start before design documents are 100% complete.

A CMAR solicitation is a 2-Step Process consisting of Request for Qualifications (step 1) and Request for Proposals and Interviews (step 2). A diverse City-staffed Evaluation Panel, comprised of technical experts, reviews, scores, and shortlists firms eligible to proceed to step 2 and following interviews, a highest-ranked firm is selected. Council's authorization is requested to negotiate and execute an agreement with the highest ranked Construction Manager for Preconstruction Phase Services only. The Construction Manager's Preconstruction Phase activities typically start when Design Services begin.

When Design is sufficiently complete and prior to Construction Phase, MBE/WBE goals are established based on identified construction trades. The CMAR contracts directly with subcontractors and suppliers with the City's overview and approval. The contract is an "open book" which allows the City to more closely monitor costs. This methodology helps to ensure that a collaborative relationship exists with the Architect/Engineer, City, and Construction Manager. The Construction Manager submits a Guaranteed Maximum Price Proposal and staff requests Council's approval to negotiate and execute a Guaranteed Maximum Price Proposal Amendment. Once that Amendment is executed, construction can begin and the Construction Manager assumes the risk for ensuring work is completed within the negotiated Guaranteed Maximum Price.

DESIGN-BUILD (D-B)

Design-Build is a project delivery method where a single firm (or joint venture) is hired to provide both design and construction services. D-B is best for large complex projects with schedule constraints. Because a single legal entity is responsible for both design and construction services there tend to be fewer change orders during construction. This process is used in the City primarily for facility work or improvements to real property.

A D-B solicitation is a 2-Step Process consisting of Request for Qualifications (step 1) and Request for Additional Information and Interviews (step 2). A diverse City-staffed Evaluation Panel, comprised of technical experts, reviews, scores, and shortlists Design-Builders eligible to proceed to step 2 and following interviews, a highest-ranked Design-Builder is selected. Council's authorization is requested to negotiate and execute an agreement with the highest ranked Design-Builder to begin Design Phase services. MBE/WBE goals are initially established for the Design Phase services only. When Design is sufficiently complete and prior to Construction Phase, MBE/WBE goals are established based on identified construction trades. The Design-Builder submits a Guaranteed Maximum Price Proposal for the Construction Phase and staff requests Council's approval to negotiate and execute a Guaranteed Maximum Price Proposal Amendment. Once that Amendment is executed, construction can begin.

DESIGN-BUILD CIVIL WORKS (D-B CV)

Design-Build for Civil Works is a project delivery method where a single firm (or joint venture) is hired to provide both design and construction services for projects defined as "Civil works projects" which includes roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water distribution and wastewater conveyance facilities, desalination projects, wharves, docks, airport runways and taxiways, storm drainage and flood control projects or transit projects.

D-B Civil Works is best for large complex projects with schedule constraints although there are legal limitations on the number of project per fiscal year that can be accomplished. To date, the City has not utilized this delivery method. The current process as prescribed by law consists of a very lengthy solicitation process due to the evaluation and assessment of technical and cost proposal. For instance, the submission of technical proposals during the solicitation process is 180 days. Additionally, the statute calls for payment of a stipend by the governmental entity for technical proposals.

A D-B solicitation is a 2-Step Process consisting of Request for Qualifications (step 1) and Request for Technical and Price Proposals (step 2). A diverse City-staffed Evaluation Panel, comprised of technical experts, reviews, scores, and shortlists Design-Builders eligible to proceed to step 2 and following interviews, a highest-ranked Design-Builder is selected. Council's authorization is requested to negotiate and execute an agreement with the highest ranked Design-Builder to begin Design Phase services. MBE/WBE goals are initially established for the Design Phase services only. Prior to Construction Phase, MBE/WBE goals are established based on identified construction trades. The Design-Builder submits a Guaranteed Maximum Price Proposal for the Construction Phase and staff requests Council's approval to negotiate and execute a Guaranteed Maximum Price Proposal Amendment. Once that Amendment is executed, construction can begin.

JOB ORDER CONTRACTING (JOC)

JOC is a methodology designed to expedite minor construction, repairs or renovations to existing City facilities. Job Order Contractors are selected using the Competitive Sealed Proposal Method. This is the only methodology which allows the City to execute a contract with multiple Contractors based on a single step solicitation. JOC pricing is based on established unit prices plus Contractor's coefficient which covers the Contractors overhead and profit. A key feature of JOC is that as scopes of work are identified, work assignments are rotated among the JOC Contractors.

When a JOC is solicited, project scopes of work are not yet identified. Proposals are evaluated on qualifications, experience and coefficient price proposal. MBE/WBE goals are established by SMBR. A diverse City-staffed Evaluation Panel, comprised of technical experts, reviews, scores, and ranks proposals and staff requests Council's authorization to negotiate and execute an agreement with the highest ranked proposers. Job Order Assignments are made on a rotation-type basis dependent upon scopes materializing and availability of funding. If a specific Job Order Assignment is expected to exceed \$500,000, Council authorization is sought prior to assignment in accordance with statute.