

**CONSTRUCTION MANAGEMENT (CM) PROCEDURES AS ADOPTED BY  
THE SECRETARY OF ADMINISTRATION  
Effective January 1, 2020**

In accordance with the provision of Chapter 43.1 of the *Code of Virginia* (hereinafter referred to as the "Chapter"), I hereby adopt the following procedures for the procurement of Construction Management ("CM") contracts, as defined in the Chapter which shall be followed by all departments, agencies, and institutions of the Commonwealth (each of which is hereinafter referred to as the "Agency"). These procedures shall be effective January 1, 2020.

- A. **LEGISLATIVE AUTHORITY:** Under authority of the Chapter, the Commonwealth may enter into a contract with a Construction Manager in accordance with these procedures and § 2.2-1502.
- B. **CRITERIA AND APPROVAL FOR USE OF CM:** The Agency shall follow all the criteria for the use of CM as set forth in the Chapter and shall be limited to projects with a construction value that is in excess of \$26,000,000. With proper justification for complex projects, the Director of the Department of General Services may grant a waiver of this requirement.
- C. **CM SELECTION PROCEDURES:** The following procedures shall be used in selecting a CM 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. The Committee shall include a licensed professional engineer or architect provided by the Division of Engineering and Buildings. The Agency shall contact the Section in the Office of the Attorney General representing the Division of Engineering and Buildings to determine whether a representative from the OAG should be involved.
  2. The basis of the award of the contract shall be in accordance with the Chapter and the criteria for the award shall be submitted to the Director of the Division of Engineering and Buildings, in advance, for approval.
  3. **Selection of Qualified Offerors (STEP I):** On projects approved for CM, the Agency shall conduct a prequalification process as follows to determine which offerors are qualified to receive Request for Proposals (RFPs).
    - a) The Agency shall prepare a Request for Qualifications ("RFQ") containing the Agency's Facility Requirements, building and site criteria, site and survey data (if available), the criteria to be used to evaluate RFQ Responses and other relevant information, including any unique capabilities or qualifications that will be required of the contractor. All offerors shall have a licensed Class "A" contractor registered in the Commonwealth of Virginia as part of the Project team.
    - b) The RFQ shall be posted in accordance with Chapter 43.1 and agencies shall

include in the RFQ if responses may be submitted electronically and/or via paper response.

- c) The Committee shall evaluate each responding firm's RFQ responses and any other relevant information and shall determine those deemed qualified with respect to the criteria established for the project.
- d) The RFQ evaluation process shall result in a short list of three to five offerors to receive the RFP. If available, the short list shall include a minimum of one DSBSD-Certified Small Business that meets the minimum requirements for prequalification. An offeror may be denied prequalification only as specified under the § 2.2-4317, but the short list shall also be based upon the RFQ criteria.
- e) The RFQ evaluation process shall evaluate an offeror's experience for a period of ten prior years to determine whether the offeror has constructed, by any method of project delivery, at least three projects similar in program and size.
- f) At least 30 days prior to the date established for the submission of proposals, the Agency shall advise in writing each offeror which sought prequalification whether that offeror has been prequalified. Prequalified offerors that are not selected for the short list shall likewise be provided the reasons for such decision. In the event that an offeror is denied prequalification, the written notification to such offeror shall state the reasons for such denial of prequalification and the factual basis of such reasons.

#### 4. Selection of a Construction Manager (STEP II):

- a) The Agency shall send a Request for Proposal ("RFP") to the offerors on the short list and request submission of formal proposals from them. The criteria for award shall be included in the RFP.
- b) Proposals as described in the RFP shall be submitted to the Committee. Agencies shall include in the RFP if responses may be submitted electronically and/or via paper response.
- c) The Committee will evaluate and rank the proposals. After evaluation and ranking of the proposals, the Committee shall:
  - i. Conduct negotiations with two or more offerors submitting the highest ranked proposals. (or)
  - ii. Should the Agency determine, in writing and at its sole discretion, that only one offeror is fully qualified or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.
- d) The Committee shall make its recommendation on the selection of a construction manager to the Agency head based on its evaluations and negotiations. The contract shall be awarded to the offeror who is fully qualified and has been

determined to have provided the best value in response to the Request for Proposal.

- e) The Agency shall notify the Division of Engineering and Buildings of the its selection of the Construction Manager and shall request authority to award a contract by processing the CO-8, *Approval to Award Construction Contract* and providing supporting documents to the Division via e-mail to [coforms@dgs.virginia.gov](mailto:coforms@dgs.virginia.gov).
- f) The Agency will notify all offerors who submitted proposals which offeror was selected for the project. In the alternative, the Agency may notify all offerors who submitted proposals of the Agency's intent to award the contract to a particular offeror at any time after the Agency head has selected the Construction Manager. When the terms and conditions of multiple awards are so provided in the RFP, awards may be made to more than one offeror.
- g) Upon request, documentation of the process used for the final selection shall be made available to the unsuccessful proposers.

**D. REQUIRED CONSTRUCTION MANAGEMENT CONTRACT TERMS:** As required by the Chapter any construction management contract will contain provisions requiring that (1) not more than 10% of the construction work (measured by cost of the work) will be performed by the CM with its own forces and (2) that the remaining 90% of the construction work will be performed by subcontractors of the CM which the CM must procure by publicly advertised, competitive sealed bidding to the maximum extent practicable. The CM shall provide documentation detailing the reasons any work is not procured by publicly advertised competitive sealed bidding, such documentation shall be placed in contract file.

**E. GUARANTEED MAXIMUM PRICE:** The Guaranteed Maximum Price shall be established at the completion of working drawings unless a waiver has been granted to this requirement by the Director.

**F. COVERED INSTITUTIONS:** Covered Institutions as defined in the chapter are required to develop their own procedures for determining the selected procurement method which, at a minimum, shall consider cost, schedule, complexity, and building use and complies with the requirements of Article 3 of the Chapter and with these procedures. Such procedures, and any subsequent changes to adopted procedures shall be submitted to the Department of General Services for review and comment only. Covered Institutions procedures should not require the approval or involvement of the Director of the Department of General Services or Director of the Division of Engineering and Buildings but should instead seek the approval or involvement of the appropriate authority, as directed by the Board of Visitors.

G. LOCAL PUBLIC BODIES: The Chapter requires local public bodies planning to use CM to adopt guidelines consistent with the above procedures. Local public bodies are encouraged to follow these procedures when developing their own. A key difference is that steps requiring the approval or involvement of the Director of the Division of Engineering and Buildings will instead seek the approval or involvement of the appropriate authority, as directed by the governing body of the public body. Before implementing CM, such public body must have the required professional staff and meet the material requirements the Chapter.

H. GUIDANCE: Guidance for the use of these procedures can be found in the Construction and Professional Services Manual.

*Keyanna Conner*

*12/12/19*

Keyanna Conner  
Secretary of Administration

Date