

APPENDIX B - DESIGN – BUILD PROCUREMENT

TABLE OF CONTENTS

Section 1. Purpose

Section 2. Definitions

Section 3. Minimum Qualification Requirements for Firms Providing Design-Build Services

Section 4. Public Announcement Procedures

Section 5. Technical Review Committee

Section 6. Pre-qualification of Design-Builders

Section 7. Performance Criteria Package and Request for Proposals

Section 8. Competitive Selection of Design-Build Services

Section 9. Selection and Award for Design-Build Services

Section 10. Protests

Section 11. Confidential Information

Section 12. Emergency Purchases

Source: Ord. No. 1457, 1999.

SUBJECT: City of Pierre Procedures for Design-Build Procurement

Section 1 - Purpose

Pursuant to SDCL Chapter 5, effective July 1, 1998, the following procedures are established for the solicitation and award of design-build contracts where the City has determined to utilize design-build under the specifications set forth in SDCL 5-18-26(2).

Section 2 - Definitions

For purposes of this procedure the definitions in SDCL Chapter 5, and the following definitions apply:

1. **"City"** means the City of Pierre.
2. **"Firm"** means any individual, firm, partnership, corporation, association, joint venture, or other legal entity permitted by law to practice engineering, architecture and construction contracting in the city of Pierre.
3. **"Project"** means the project described in the public announcement.

Section 3 - Minimum Qualification Requirements for Firms Providing Design-Build Services

The design-builder shall be duly registered with the South Dakota Secretary of State and the Department of Revenue and Department of Commerce and Regulations and, where required by state or federal law, shall be able to provide design or construction services by duly licensed or registered individuals.

Section 4 - Public Announcement Procedures

Except in emergency situations, the City shall publish an announcement in the city's official newspaper in accordance with SDCL 5-18-3, setting forth a general description of the project requiring design-build services and defining the time frame and procedures for interested qualified firms to apply for consideration. The public announcement shall further state whether design-builders will be pre-qualified for the project in accordance with SDCL 5-18-37.

Section 5 - Technical Review Committee

There shall be a Technical Review Committee comprised of the City Engineer, Public Works Director, Building Official, and the Director of the Major Organization Unit sponsoring the project. The Technical Review Committee shall determine the most qualified firms as provided in Section 6 and rate and score Qualitative Proposals as provided in Section 8.

Section 6 - Pre-qualification of Design-Builders

2. The City may issue a Request for Qualifications ("RFQ") by advertisement in accordance with SDCL 5-18-3. The RFQ shall contain a general description of the project- a description of the areas of qualification required for performance of the work, such as experience, management resources, and financial capacity. Design-build project shall submit a statement of qualifications setting forth the qualifications of the entities involved in the firm and providing any other information required by the RFQ.

3. The Technical Review Committee shall determine the relative ability of each firm to perform the services required for each project. Determination of ability shall be based upon experience with comparable projects; financial and bonding capacity, managerial resources; the abilities of the

professional personnel, past performance for the City; capacity to meet time and budget requirements; knowledge of local or regional conditions; recent, current, and project workload of the firms; and the ability of the design and construction teams to complete the work in a timely and satisfactory manner.

4. The Technical Review Committee shall select not more than five firms deemed to be most highly qualified to perform the required services, after considering the factors in 2 and 3 above. An RFP shall be issued to those firms selected.

Section 7 - Performance Criteria Package and Request for Proposals

1. A performance criteria package shall be prepared by the City using a registered architect or engineer, either on staff of the City or selected in accordance with procedures employed for selecting design firms. When a project is exempted from the provisions of SDCL 36-18, the criteria developer need not be registered. The design criteria package may include, but not be limited to, site survey; material quality standards, programmatic space needs; conceptual design criteria- design and construction schedules-, site development requirements-, stipulation of responsibilities for permits and connections to utilities, storm water and roads, stipulation of responsibility for meeting environmental regulations and growth management requirements, soil borings and geo-technical information, performance specifications-, and a statement of required compliance with codes and general technical specifications.

2. The purpose of the performance criteria package is to furnish sufficient information for firms to prepare qualitative proposals and price proposals. The firm to whom the design-build contract is awarded shall develop a detailed project design based on the criteria in the performance criteria package and for construction of the facility in compliance with the performance criteria package.

3. The Request for Proposals ("RFP") shall consist of the performance criteria package, instructions to bidders, bid proposal forms, provisions for contracts, general and special conditions, and basis for evaluation of proposals.

Section 8 - Competitive Selection of Design-Build Services

1. A Qualitative and a Price Proposal shall be submitted by each firm submitting proposals. In the case of pre-qualification such proposals shall only be accepted from pre-qualified firms. Price proposals shall include one lump sum cost for all design and construction of the proposed project, preliminary design documents and other data requested in response to the RFP. Proposals shall be segmented into two packages;

- a. Qualitative Proposal. A qualitative proposal shall include preliminary design drawings, outline specifications, technical reports, calculations, permit requirements, management plan, schedule, and other data requested in response to the RFP.
- b. Price Proposal. The price proposal shall be submitted in a separate sealed package. The package shall indicate clearly that it is the price proposal and shall identify clearly the firm's name,

project description, or any other information required for submission of proposals. The price proposal shall be secured until the time provided in Section 9, paragraph 1.

2. The Technical Review Committee shall review the design concepts, preliminary designs and technical data proposed by each firm and shall establish a rating for each firm's proposal based upon criteria to be established by the Technical Review Committee for the project.
3. The Technical Review Committee then will total and submit the qualitative scores for each firm to the City Commission. The maximum qualitative score is 1.0.

Section 9 - Selection and Award for Design-Build Services

1. The City Commission shall set a date for publicly opening the price proposals, and shall notify all firms submitting price proposals at least seven days prior to the opening date. The notification shall include the date, time, and place of the opening of price proposals and date for award of the project.
2. The City Commission shall publicly open the sealed price proposals and divide each firm's proposed price by the qualitative score given by the Technical Review Committee to obtain an "adjusted price". (The firm selected will be that firm whose adjusted price is lowest.)
3. In lieu of requiring Qualitative and Price Proposals, the City may establish a fixed dollar budget for the design-build project in the RFP, and require only Qualitative Proposals, price being fixed for all firms. In this approach, award is made to the proposal receiving the highest qualitative score.
4. Unless all proposals are rejected, the City Commission will approve an award to the firm with the lowest adjusted price. The City shall give written notice to the design-builder who submitted the accepted proposal. All other design-builders shall be informed in writing that their proposals were not accepted. The City reserves the right to reject all proposals.
5. The City may enter into a contract with the firm selected. At the time of the award, the City may negotiate minor changes for the purpose of clarifying the design criteria and work to be done, provided that the negotiated changes do not affect the ranking of the proposals based on their adjusted scores.

Section 10 - Protests.

Any firm submitting a proposal, which is adversely affected by the intended decision of the City to award a contract or to reject all bids, may file a notice of protest within five business days of the City's decision, stating, with particularity the facts and law upon which the protest is based. The City Commission shall schedule a hearing on the protest within ten days of the filing of the protest and may affirm, reject or modify its decision. Nothing in this procedure precludes an aggrieved party from exercising its right to pursue a protest in circuit court.

Section 11 - Confidential Information

The City will make reasonable efforts to maintain the secrecy and confidentiality of any proposal and all information contained in any proposal and may not disclose any proposal or the information contained in a proposal to the design/builder's competitors. To the extent permitted by the provisions of SDCL Chapter 1-25, the City will not disclose confidential and proprietary information contained in any proposal to the public until such time as the City takes final action to accept a proposal.

Section 12 - Emergency Purchases

A design/build contract may be awarded in an emergency without advertising pursuant to the provisions of SDCL section 5-18-3.1 and any amendments thereto.

Source: Ord. No. 1457, 1999.