



**Associated General Contractors of Kansas**

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*Building a Better Kansas*

**White Paper**

**ALTERNATIVE PROJECT DELIVERY  
IN THE PUBLIC SECTOR**

*February 11, 2004*

## **ALTERNATIVE PROJECT DELIVERY IN THE PUBLIC SECTOR**

### **EXECUTIVE SUMMARY**

The **Associated General Contractors of Kansas, Inc.**, (AGC of Kansas) a Chapter of the Associated General Contractors of America (AGC), represents the non-residential building construction industry in Kansas. Membership in the chapter is open to general contractors, specialty contractors and industry suppliers who possess the necessary attributes of **responsibility, integrity, and skill**.

The purpose of this document is to provide guidelines to public owners as to when alternative project delivery methods are appropriate and how to fairly select the construction entity to perform the work. The traditional project delivery method utilized by most public owners is Design-Bid-Build, where-by the owner retains the services of a design professional to fully design the project, bid the project, and build the project using the lowest responsible bidder. Alternative project delivery methods described in this white paper include: Construction Management Agency (CMA); Construction Management/General Contractor (CM/GC, also called CM @ Risk); and Design-Build (DB).

This document does not intend to cover each and every aspect of CMA, CM/GC and DB public sector building construction contracts. Instead, AGC of Kansas has addressed the most significant factors that should be considered in the original decision to exempt a particular project from the requirement of competitive bidding, as well as the recommended means of conducting a selection.

“Project Delivery Methods” is a general term describing the comprehensive design/construction process, including all procedures, actions, sequences of events, contractual relations, obligations, interrelations, and various forms of agreement all aimed at successful completion of the design and construction of buildings and other structures. The basic project delivery method, or traditional approach, has been the Design-Bid-Build method, wherein an owner selects a designer to design the project and upon completion of the construction documents the contractor is selected by submitting the lowest responsible bid to construct the project. In recent years, however, the public sector has increasingly employed alternative project delivery methods for technically complex and/or fast track projects. In effect, construction companies are retained to provide preconstruction and construction management services that include, but are not necessarily limited to: design review, scheduling, cost control, value engineering, constructability evaluation, preparation and coordination of bid packages, and construction administration. Design-build provides the owner a single source responsibility for both design and construction under one contract.

Project procurement represents the purchasing steps that the owner utilizes to acquire the construction services required under a chosen project delivery system. In the design-bid-build delivery method the public owner typically uses the lowest responsible bid to purchase construction services. The alternative project delivery methods listed above often utilize a combination of qualifications-based selection, negotiated, competitive bid, or best value proposals.

AGC of Kansas supports the traditional design/bid/build method of project delivery for building construction in the public sector. AGC of Kansas does not encourage the use of alternative project

delivery methods (CMA, CM/GC, DB), but feels the options could be available to public owners when an alternative project delivery system is in the public's best interest.

AGC of Kansas has adopted the following policy regarding the use of alternative project delivery methods, specifically Construction Management/Agency (CMA), Construction Management/General Contractor (CM/GC) and Design-Build (DB), on public sector building construction projects, which is consistent with the AGC of America policy on all alternative delivery methods. The policy is as follows:

*AGC of Kansas supports the use of Alternative Project Delivery Methods if the procedure and selection criteria adhere to the following guidelines in order to insure the protection of the public trust:*

*Associated General Contractors of America and AGC of Kansas maintain that alternative delivery systems are appropriate for the public sector if the selection process is as open, fair, objective, cost-effective and free of political influence as the competitive bid system.*

AGC of Kansas believes this "White Paper" should be an educational tool for Public Owners and Contractors as to when the use of an alternative project delivery method contracting procedure fits the requirements of a construction project and how the public entity should conduct the Contractor selection to ensure that the public entity selects the best Contractor in a fair selection process. AGC of Kansas has agreed to serve as an educational resource and is willing to meet with public owners to assist them in understanding generally the advantages and disadvantages of the alternative project delivery contractor selection process, and to provide counsel to the public owners while making decisions about whether to use that process.

This document will also be used as a tool to educate Contractors as to how the alternative project delivery method market is different from the Design-Bid-Build delivery method and what skills a Contractor needs to compete in the alternative project delivery market.

AGC of Kansas intends to develop partnerships with public owners and groups to propose legislation establishing procedures that protect the interests of the public, taxpayers, public owners, and other stakeholders when considering the use of alternative project delivery methods.

**ALTERNATIVE PROJECT DELIVERY IN THE PUBLIC SECTOR**

**TABLE OF CONTENTS**

**I. INTRODUCTION.....1**

**A. Who is AGC of Kansas?**

**B. Project Delivery vs. Project Procurement**

**C. Statement of Position on Alternative Project Delivery Methods**

**II. DEFINITIONS OF ALTERNATIVE PROJECT DELIVERY SYSTEMS.....3**

**A. Construction Management Agency (CMa)**

**B. Construction Management/General Contractor (CM/GC)**

**C. Design-Build (DB)**

**III. PUBLIC SECTOR BUILDING CONSTRUCTION STATUTES AND PRACTICES.....4**

**IV. CMa DELIVERY METHOD.....5**

**A. When CMa Should be Used .....5**

1. Time Savings

2. Cost Savings

3. Technical Complexity

4. Not Diminishing Competition or Encouraging Favoritism

**B. How CMa Should be Selected.....7**

1. Develop Adequate Findings

2. Public Meeting on Findings

3. Requests for Proposals (RFP)

a. Fair Competition

b. Solicitation Process

4. Suggested Request for Qualification (RFQ) Contents

5. Suggested Request for Proposal (RFP) Contents

6. Interview

7. Scoring

a. Scoring Guidelines

b. Scoring Process

c. Scoring Cross-Check

8. Post-Selection Disclosure

**C. CMa Administration.....11**

1. Subcontracting Requirements/Public Purchasing

2. CM/GC Performance of Subcontract Work

3. Public owner Administration of the CMa Process

<b>V.</b>	<b>CM/GC DELIVERY METHOD (or CM At-Risk)</b> .....	<b>12</b>
	<b>A. When CM/GC should be Used</b> .....	<b>12</b>
	1. Time Savings	
	2. Cost Savings	
	3. Technical Complexity	
	4. Not Diminishing Competition or Encouraging Favoritism	
	<b>B. How CM/GC Should be Selected</b> .....	<b>14</b>
	1. Develop Adequate Findings	
	2. Public Meeting on Findings	
	3. Requests for Proposals (RFP)	
	a. Fair Competition	
	b. Solicitation Process	
	4. Suggested Request for Qualification (RFQ) Contents	
	5. Suggested Request for Proposal (RFP) Contents	
	6. Interview	
	7. Scoring	
	a. Scoring Guidelines	
	b. Scoring Process	
	c. Scoring Cross-Check	
	8. Post-Selection Disclosure	
	<b>C. CM/GC Administration</b> .....	<b>18</b>
	1. Subcontracting Requirements/Public Purchasing	
	2. CM/GC Performance of Subcontract Work	
	3. Savings Distribution in GMP Price Contracts	
	4. Public owner Administration of the CM/GC Process	
<b>VI.</b>	<b>DESIGN-BUILD DELIVERY METHOD (DB)</b> .....	<b>19</b>
	<b>A. When Design-Build Should be Used</b> .....	<b>19</b>
	1. Time Savings	
	2. Cost Savings	
	3. Project Size	
	4. Technical Complexity	
	5. Not Diminishing Competition or Encouraging Favoritism	
	<b>B. How Design-Builder Should be Selected</b> .....	<b>21</b>
	1. Develop Adequate Findings	
	2. Public Meeting on Findings	
	3. Requests for Proposals (RFP)	
	a. Fair Competition	
	b. Solicitation Process	
	1. Stage-One (RFQ)	
	2. Stage-Two (RFP)	
	4. Suggested Request for Qualification (RFQ) Contents	
	5. Suggested Request for Proposal (RFP) Contents	
	6. Public Owner's Selection Process	

<b>VI.</b>	<b>DESIGN-BUILD DELIVERY METHOD (DB) (Continued)</b>	
	<b>C. RFQ (Stage-One) Selection and Scoring</b>	<b>26</b>
	1. Scoring Process	
	2. Scoring Cross-Check	
	3. Post-Selection Disclosure	
	<b>D. RFP (Stage-Two) Selection and Scoring</b>	<b>28</b>
	1. Technical Proposal Scoring	
	2. Bid Proposal Scoring	
	3. Price Element	
	4. Time Element	
	5. Final Selection Formula	
	6. Sample Competition Calculation	
	7. Post-Selection Disclosure	
	<b>E. Design-Build Administration</b>	<b>31</b>
	1. Public Owner’s Statement of Facility Requirements	
	2. Subcontracting Requirements/Public Purchasing	
	3. Design-Builder Performance of the Work	
	4. Public Owner Administration of the Design-Build Process	
<b>VII.</b>	<b>REVIEW PROCEDURES</b>	<b>32</b>
	<b>A. Post-Contract Report by Owner, Contractor and Architect</b>	
	<b>B. Education</b>	
	<b>C. Oversight</b>	
 <b>APPENDICES</b>		
	<b>APPENDIX A - CONSTRUCTION MANAGER COST MATRIX</b>	<b>33</b>
	<b>APPENDIX B - CONTRACTOR EVALUATION FORM</b>	<b>34</b>
	<b>REFERENCES</b>	<b>36</b>

# **ALTERNATIVE PROJECT DELIVERY IN THE PUBLIC SECTOR**

## **I. INTRODUCTION**

### **A. Who is AGC of Kansas?**

The **Associated General Contractors of Kansas, Inc.**, (AGC of Kansas) a Chapter of the Associated General Contractors of America (AGC), represents the non-residential building construction industry in Kansas. Membership in the chapter is open to general contractors, specialty contractors and industry suppliers who possess the necessary attributes of **responsibility, integrity, and skill**.

AGC of Kansas members constructed over \$700,000,000 worth of construction across the state in 2002, including a large majority of the Kansas' public (including state, city and school) buildings.

### **B. Project Delivery vs. Project Procurement**

A project delivery system is the process by which the components of a facility are designed and constructed. The decision to use a project delivery system requires the engagement of:

- ◆ Definition of scope and requirements of the project;
- ◆ Procedures, actions, and sequences of events;
- ◆ Contractual requirements, obligations, and responsibilities of the parties;
- ◆ Interrelationships among the participants;
- ◆ Mechanisms for managing time, costs, safety, and quality;
- ◆ Forms of agreement and documentation of activity;
- ◆ Actual execution of design and construction;
- ◆ Closeout of the project and start-up of the new facility.

The traditional project delivery method utilized by most public owners is Design-Bid-Build, whereby the owner retains the services of a design professional to fully design the project, bid the project, and build the project using the lowest responsible bidder. Alternative project delivery methods described in this white paper include: Construction Management Agency (CMA); Construction Management/General Contractor (CM/GC, also called CM @ Risk); and Design-Build (DB).

Project procurement represents the purchasing steps that the owner utilizes to acquire the construction services required under a chosen project delivery system. Utilizing the design-bid-build delivery method the public owner typically uses the lowest responsible bid to purchase construction services. The alternative project delivery methods listed above often utilize a combination of qualifications-based selection negotiated, competitive bid, or best value proposals.

### **C. Statement of Position on Alternative Project Delivery Methods**

AGC of Kansas supports the traditional design/bid/build method of project delivery for building construction in the public sector. AGC of Kansas does not encourage the use of Alternative Project Delivery Methods (CM/Agency, CM/GC, DB), but feels the options could be available to public owners when an alternative project delivery system is in the public's best interest.

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The purpose of this document is to provide guidelines to public owners as to when alternative project delivery methods are appropriate and how to fairly select the construction entity to perform the work. AGC of Kansas does not intend to cover each and every aspect of CMA, CM/GC and DB public sector building construction contracts. Instead, AGC of Kansas has addressed the most significant factors that should be considered in the original decision to exempt a particular project from the requirement of competitive bidding, as well as the recommended means of conducting a selection.

## II. DEFINITIONS OF ALTERNATIVE PROJECT DELIVERY METHODS

“Project Delivery Methods” is a general term describing the comprehensive design/construction process, including all procedures, actions, sequences of events, contractual relations, obligations, interrelations, and various forms of agreement all aimed at successful completion of the design and construction of buildings and other structures. The basic project delivery method, or traditional approach, has been the Design-Bid-Build method, wherein an owner selects a designer to design the project and upon completion of the construction documents the contractor is selected by submitting the lowest responsible bid to construct the project. In recent years, however, the public sector has increasingly employed alternative project delivery methods for technically complex and/or fast track projects. In effect, construction companies are retained to provide preconstruction and construction management services that include, but are not necessarily limited to: design review, scheduling, cost control, value engineering, constructability evaluation, preparation and coordination of bid packages, and construction administration. Design-build provides the owner a single source responsibility for both design and construction under one contract.

- A. “Construction Management-Agency” (CMa)** whereby the construction entity acts as the public owner’s construction manager providing leadership and administration for the project, from planning and design (in cooperation with the designers) to construction completion and project start-up. Under this arrangement, the CMa coordinates and monitors the various trade contractors, who become direct (prime) contractors to the public owner. The CMa also monitors costs, time, quality, and safety, but takes no responsibility for them. Therefore, the CMa is paid a fee for the services it renders and **assumes no risk**. The public owner continues to bear the risk of cost and schedule overruns, regardless of the estimates provided by the CMa. Since the CMa does not perform construction work, they are often called a construction administrator to distinguish his role from the CM/GC.
- B. “Construction Management/General Contractor (CM/GC)”** whereby the general contractor, in addition to providing the preconstruction, budgeting, and scheduling services, procures through competitive bidding contracts with specialty contractors and suppliers to construct the project. CM/GC assumes the responsibility and the risk for construction delivery, usually within specified cost and schedule terms and often including a guaranteed maximum price (GMP). **Risk assumption, therefore, is the principal difference between the two types of CM.**
- C. “Design-Build (DB)”** whereby the design-builder assumes the responsibility and the risk for architectural/engineering design and construction delivery under a single contract with the owner. The fundamental difference in the types of design-build contracts is based on how the design-builder provides the design service. In-house means that the designers are in the direct employment of the design-builder and consultancy means that an external design firm functions as a subcontractor to the design-builder. The design-builder may be contractor or designer led or may be a joint venture where each shares mutual responsibility for the contract.

### III. PUBLIC SECTOR BUILDING CONSTRUCTION STATUTES AND PRACTICES

Under most circumstances, Kansas law requires that contracts for public building construction (new, remodel and repair) projects be awarded to the lowest responsible bidder. Statutes governing these construction contracts include the following:

State government and agency contracts	K.S.A. 75-3739, 75-3740, 75-3741 and 75-1265
County contracts	K.S.A. 19-214, 19-215 and 19-216
City/Municipal Contracts	K.S.A. 12-601, 13-1017 and 14-101
Schools	K.S.A. 72-6760

Exceptions to the lowest bid requirement include K.S.A. 75-1265, which allows for CMA under certain circumstances with a fee cap of 1% of the estimated project cost. Public owners are using CMA based on a court ruling that considers CMA a “service” and therefore is not governed by the “construction” bidding laws. In Kansas, construction management is a largely unregulated business.

Some school districts and other public entities are utilizing the CM/GC delivery method on construction projects. However, bidding laws are not clear regarding the use of this method of project delivery. Since there are no current laws that specifically regulate CM/GC, public owners have few guidelines available as how to best procure and implement this method.

## IV. CMA DELIVERY METHOD

As used within this document, CMA stands for the project delivery system where the public owner retains the construction manager to act as the public owner's agent, providing construction administration services throughout the design process and construction activities. The selection process of the construction manager by a public owner should be as open, fair, objective, cost-effective and free of political influence as the competitive bid system. The process should be based on qualifications and typically includes a request for qualifications (RFQ), request for proposals (RFP), interviews, and selection.

During the design process the construction manager develops cost estimates, schedules, value engineering and constructability reviews to insure the project can be completed on time and within the project budget. **Under this arrangement, the construction manager also coordinates and monitors the various trade contractors during the construction process, who become direct (prime) contractors to the public owner.** The construction manager also monitors costs, time, quality, and safety, but takes no responsibility for them and therefore, assumes no risk. The public owner holds the prime/specialty contracts and continues to bear the risk of cost and schedule over-runs, regardless of the estimates provided by the construction manager. Since the construction manager does not perform the construction work, they are often called a construction administrator or an agent of the public owner, thus the term, Construction Management-Agency (CMA).

The CMA may also be designated as a "Program Manager" when the construction manager is providing input on a multi-project program. A program manager provides the same services as the CMA but on several projects at the same time, instead of just one. The public owner will hold the prime contracts for the individual projects versus the trade contracts under the single project CMA method. Like the CMA, the program manager only consults the public owner and does not assume any risk for its services.

Under these arrangements, the construction manager's fees may be generated in a variety of ways, from fixed amounts, to percentage of the cost of the work, to reimbursement of personnel and services.

### A. When CMA Should Be Used

It is AGC of Kansas' position that CMA is not necessarily appropriate for all projects. Additionally, public owners should meet a clear set of criteria. AGC of Kansas recommends that public owners carefully analyze why a project is well suited for CMA by comparing the benefits and risks of this project delivery method. AGC of Kansas supports the utilization of an oversight committee to review requests to deviate from the traditional design-bid-build project delivery method and determine whether the criteria (outlined below in Section A.1-4.) have been met.

The following criteria should be met to justify an alternative contracting procedure as being in the best interest of the public, taxpayers, and other stakeholders. Also the public owner should demonstrate the experience and expertise necessary to administer the sophisticated CMA process as described in Section IV.B-C. If not, public owners should not use the CMA process.

#### 1. Time Savings

The public owner finds that the project has significant schedule ramifications and concurrent design and construction is necessary to meet these critical deadlines and to shorten the overall duration of construction process. Potential time savings must be substantiated. In order to justify schedule concerns, the public owner may consider operational and financial data that shows significant savings and/or increased opportunities for generating revenue as a result of early project completion. Other findings influencing these criteria include demonstrated public benefits as a result of less construction duration/disruption to the public facility.

## 2. Cost Savings

The public owner finds that early construction manager input during the design process will contribute to significant cost savings. Potential or expected cost savings must be substantiated. In order to justify cost concerns, the public owner may consider the following: value engineering, building systems analysis, life cycle analysis and construction planning that will lead to substantial savings to the public or other stakeholders. Factors, which might influence these criteria, include high rates of inflation, market uncertainty due to material and labor fluctuations/scarcities, and the compelling need for specialized construction expertise due to technical challenges.

## 3. Technical Complexity

The public owner finds that this project presents significant technical complexities, which will require the hiring of additional personnel to manage the process. Acting as the public owner's agent, the construction manager advises the public owner and architect on how to solve specific project challenges during pre-construction. The public owner should show that taxpayers or other stakeholders would benefit as a result of construction manager input on issues such as:

- a. Sequencing of the work,
- b. Accurate cost projections to allow the public owner to make astute financial decisions,
- c. Best use of available resources (e.g. the formulation of bid packages, owner purchased items and services),
- d. Provide knowledge about alternative funding sources,
- e. Public safety (e.g., developing early and comprehensive project safety plan in concert with Owner and Architect)

## 4. Not Diminishing Competition or Encouraging Favoritism

The public owner finds that it is unlikely that the process of selecting a CMA will encourage favoritism in the awarding of the public contract or substantially diminish competition for the public contract.

**EXCEPTION:** In extraordinary circumstances, a Public owner needs to satisfy only two of the above-described criteria. Extraordinary circumstances would include the following:

- a. A time emergency (i.e., fire destroyed structure where an immediate start of construction is required, where the public sector has an immediate contractual requirement for the private sector services) where the competitive method will not work effectively.
- b. A project where the phasing and/or complexity are so extremely difficult that complete design and other pre-construction services cannot be completed effectively without the direct involvement of the CMA firm.

## B. How CMA Should be Selected

### 1. Develop Adequate Findings

As a minimum, findings supporting the use of the CMA method of contracting should address the following points:

- a. Demonstrate that the public owner has knowledgeable staff or consultants who have the capacity to manage the CMA process.
- b. Provide a clear indication of how the CMA selection process will be conducted.
- c. Describe how trade subcontractors and suppliers will be selected.
- d. Discuss how the process is unlikely to encourage favoritism in awarding the contract or substantially diminish competition.
- e. Provide evidence to demonstrate that the process should result in substantial cost savings to the public owner.
- f. Address any other administrative requirement for this process imposed by the public owner's public contract review authority.

### 2. Public Meeting on Findings

Prior to final adoption of findings justifying the use of alternative methods of procuring public building construction contracts, public owners should hold a public meeting. Notification of the public meeting should be published in at least one trade newspaper of general statewide circulation in accordance with K.S.A. 75-3739, or as required by local law. The notice should state that the public meeting is for the purpose of taking comments on draft findings for the use of CMA as the project delivery method. As a part of the public meeting, the public owner should offer an opportunity for any interested party to present comment. Publication of the meeting notice should occur a minimum of fourteen (14) days prior to the meeting. At the time of advertisement, copies of draft findings should be available to the public.

If a situation exists that requires prompt action by the agency, notification of the public meeting can be published simultaneously with the advertisement of the solicitation, as long as responses to the RFP/RFQ are due at least five days after the meeting and final approval of the findings.

### 3. Request for Proposals

The public owner's solicitation document should be designed to clearly communicate the needs of the project, the requirements for submission, and the evaluation **and selection** criteria. It additionally should address the following issues:

#### a. Fair Competition

A critically important aspect of alternative contracting is a fair and open selection process that allows all qualified firms to compete on a level playing field. AGC of Kansas feels that the selection process should include both a written and oral presentation. The basis for selecting a CMA firm should include, at a minimum, the firm's history, financial health, experience, proposed staff, project approach and fee. Public owners should have the latitude of developing additional criteria which reflect the specific project's goals, and that the weight of the scoring criteria should be left to the public owner's discretion, reflecting the needs of the particular project. As a guideline, this group recommends that no one category **be weighted more than 50% of the total possible score as described in Section IV.B.7.**

**b. Solicitation Process**

AGC of Kansas feels that in most cases the CMA competition can be fairly administered with a three-step (RFQ/RFP/Interview) process. In a three-step competition, the owner first requests qualification statements (RFQ) and pre-qualifies the contractors. The qualified contractors are then sent a Request for Proposal (RFP). The qualified firms returning RFPs are then short-listed to a minimum of three, maximum of five, assuming the owner has received at least three RFPs, to be invited for interviews.

When time is critical, a two-step (RFP/interview) process may be considered. In a two-step competition, the first question of the RFP can elicit qualifications (history, special capabilities, etc.) with subsequent questions becoming more project specific. A short-list of the top-ranked firms would then be invited to an interview.

**4. Suggested Request for Qualification (RFQ) Contents**

- a. An explanation of what the public owner is attempting to accomplish with the project.
- b. A thorough description of the project, background information, special requirements, etc.
- c. A clear description of preconstruction, construction and post-construction deliverables.
- d. Project Timeline/Milestones including critical dates, estimated (or desired) time of completion, etc.
- e. Minimum requirements for the proposer to be considered as CMA for the project, such as: insurance requirements, demonstrated capabilities (e.g., three projects of similar monetary value; current contractor license, etc.).
- f. Public Owner's Project Team (A/E, special consultants, etc) members
- g. Single (Public Owner) point of contact for questions
- h. CMA delivery method exemption from bidding statutes findings
- i. Scoring Criteria
- j. Public owner's intended selection panel, identifying the anticipated number of persons, their background, and qualifications.
- k. Sample *AIA Document A305 Contractors Qualification Statement* or *AGC Document 221 Contractors Statement of Qualifications forms to be used in the selection process.*

**5. Suggested Request for Proposal (RFP) Contents**

- a. Company overview
  1. Years of business
  2. Bankruptcy
  3. Contract defaults
- b. Experience/references relative to the particular project under question related to the following:
  1. Size
  2. Type
  3. Complexity
  4. Schedule

## c. Personnel

For each of the following project team members, indicate their level of participation in the project phases of pre-construction, construction and commissioning (this may be expressed as a percentage of their work time):

1. Project structure
2. Principals (highest person with authority)
3. Project manager
4. Superintendent

## d. Preconstruction Services

1. Conceptual estimating
2. Detailed estimating
3. Value analysis
4. Systems analysis
5. Scheduling services for all team members and public authorities
6. Constructability reviews
7. Long-lead item strategies and purchasing
8. Bid package development
9. Cultivation of specialty contractor and supplier interest
10. Design support

## e. Plan for the project

1. CPM Schedule
2. Construction services
  - a. Short interval scheduling
  - b. Cost control and cost forecasting
  - c. Change order management
  - d. Specialty contractor and supplier procurement
  - e. Punchlist and warranty programs
3. Unique management strategies
4. Describe the value that you bring to the job

## f. Safety plan as it applies to this project

## g. Fee

1. Fee for preconstruction services
2. Fee for general conditions
3. Fee for overhead and profit

*The RFP should include a project matrix that clearly defines what should be included in the fees proposed for the project (see APPENDIX A for sample of Construction Manager Costs Matrix).*

## h. Criteria for Scoring

## **6. Interview**

- a. Owners should require companies submitting proposals to have individuals who will be doing the work as presenters at the interview.
- b. Interview scores should not account for more than fifty percent of the total possible score.
- c. Interview committee should be comprised of a minimum of three members representing varying perspectives.

## **7. Scoring**

### **a. Scoring Guidelines**

The public owner should give the scorers guidelines for reviewing the RFP and conducting the interviews. These guidelines are intended to educate scorers as to what is important to the owner and what constitutes a superior, appropriate, and inferior answer to questions.

### **b. Scoring Process**

Each rater provides a numerical score for each proposal, based on the combined scoring of the RFP and interview within the guidelines provided by the public owner. Scorers should fill out their evaluation sheets individually, and the scores should be totaled to determine final scores and ranking.

### **c. Scoring Cross-check**

In addition to being evaluated based on the aggregate total for each firm, final ranking should be verified through “cross-checking”. This process involves looking at each scorer's ranking of the proposals in addition to the total points, using the following process:

1. Each rater’s top-scoring proposal receives one point; second highest proposal receives two points, and so forth.
2. The rankings for each proposer are totaled. (The best score a proposer can receive is equal to one multiplied by the number of raters, and the poorest is equal to the number of proposers multiplied by the number of raters.)
3. The proposer with the best ranking should be the same as the proposer with the highest numerical score total. If these methods do not agree, then the points assigned by one or more of the raters may be skewed and the selection committee should discuss and resolve the apparent discrepancy.

## **8. Post-Selection Disclosure**

Scoring documentation must be provided to all RFP participants at the conclusion of the process and be available to anyone else who requests it. Public owners should offer post-selection debriefings to all interview participants. This benefits not only the participants, but also the public owner in learning what worked well and what did not for future solicitation processes.

## C. CMa Administration

### 1. Subcontracting Requirements/Public Purchasing

The CMa shall use a competitive process to select the trade subcontractors and suppliers. Trade subcontractors shall be solicited in appropriate trade publications and may be required to submit Prequalification Statements prior to distribution of bid documents. The CMa can utilize *AIA Document A305 Contractors Qualification Statement* or *AGC Document 221 Contractors Statement of Qualifications for a Specific Project*. Unless specifically disapproved by the public owner, bid packages should be awarded to the trade subcontractor/supplier submitting the lowest responsive and responsible bid.

### 2. CMa Performance of Subcontract Work

To prevent conflicts of interest, most construction management contracts do not allow the construction manager to take an at-risk position after being selected to perform preconstruction services.

### 3. Public Owner Administration of the CMa Process

Consideration of the compatibility of the public owner and the construction manager is an important detail, since the construction manager will be acting on behalf of the owner. The public owner must also be a timely decision maker, since the construction manager must rely on the owner for crucial decisions. The construction manager, through its construction management function, can carry the majority of the project management load for the public owner. Therefore, the public owner must determine the division of duties and responsibilities between the owner and the construction manager.

During the design process the construction manager develops cost estimates, schedules, value engineering and constructability reviews to insure the project can be completed on time and within the project budget. Under this arrangement, the construction manager also coordinates and monitors the various trade contractors during the construction process, who become direct (prime) contractors to the public owner. The construction manager also monitors costs, time, quality, and safety, but takes no financial responsibility for them and therefore, **assumes no risk**. The public owner continues to bear the risk of cost and schedule over-runs, regardless of the estimates provided by the construction manager.

## **V. CM/GC DELIVERY METHOD (or CM At-Risk)**

As used within this document, CM/GC stands for the contracting method using a Construction Manager/General Contractor (commonly known as CM/at-risk) and results in a contract containing a Guaranteed Maximum Price (GMP). A single firm, referred to as a CM/GC, is selected during the design process by a competitive procurement (generally a Request for Proposal (RFP) or Request for Qualifications (RFQ)/RFP, followed in both cases by a “short-list” and an interview), which is primarily qualifications-based. Ideally, the CM/GC works as part of a collaborative team with the public owner and architect during the design process, providing value engineering, constructability review, scheduling, estimating, and other related services.

Prior to completion of the contract documents, but early as during the schematic design phase, the CM/GC provides the public owner with the GMP to perform the work as a “General Contractor.” The CM/GC also provides the public owner with a performance and payment bond for the full value of the GMP.

Compensation for the CM/GC’s services is paid on the basis of a fee, which is generally identified during, and is an element of the selection process. The actual construction work of the project is competitively bid by the CM/GC to various trade subcontractors. The CM/GC usually is required to contract with the responsible trade subcontractor/supplier, submitting the lowest responsive bids. The CM/GC may self-perform the “general conditions” and other minor “pick-up” work. The public owner often chooses to allow the CM/GC to bid against other subcontractors to perform portions of the trade work.

### **A. When CM/GC Should Be Used**

It is AGC of Kansas’ position that CM/GC is not necessarily appropriate for all projects. Additionally, public owners should meet a clear set of criteria when seeking an exemption from the statutory public purchasing requirements. AGC of Kansas recommends that public owners carefully analyze why a project is well suited for CM/GC by comparing the benefits and risks of this project delivery method. AGC of Kansas supports the creation of an oversight committee to review requests to deviate from the traditional design/bid/build project delivery method and determine whether the criteria (outlined below in Section V.A.1-4) have been met.

The following criteria should be met to justify an alternative contracting procedure as being in the best interest of the public, taxpayers, and other stakeholders. Also the public owner should demonstrate the experience and expertise necessary to administer the sophisticated CM/GC process as described in Section V.B-C. If not, public owners should not use the CM/GC process.

#### **1. Time Savings**

The public owner finds that the project has significant schedule ramifications and concurrent design and construction is necessary to meet these critical deadlines and to shorten the overall duration of construction process. Potential time savings must be substantiated. In order to justify schedule concerns, the public owner may consider operational and financial data that shows significant savings and/or increased opportunities for generating revenue as a result of early project completion. Other findings influencing these criteria include demonstrated public benefits as a result of less construction duration/disruption to the public facility.

#### **2. Cost Savings**

The public owner finds that early Contractor input during the design process will contribute to significant cost savings. Potential or expected cost savings must be substantiated. In order to justify cost concerns, the public owner may consider the following: value engineering, building systems analysis, life cycle analysis and construction planning that will lead to substantial savings to the public or other stakeholders. Factors, which might influence these criteria, include high rates of inflation, market uncertainty due to material and labor fluctuations/scarcities, and the compelling need for specialized construction expertise due to technical challenges.

### 3. Technical Complexity

The public owner finds that this project presents significant technical complexities which are best addressed by a “team approach”, with the CM/GC helping the public owner and architect solve specific project challenges during pre-construction. The public owner should show that taxpayers or other stakeholders will benefit as a result of contractor input on issues such as:

- a. Operations (e.g., keeping the facility functioning during construction)
- b. Tenant occupancy (e.g., maintaining tenant safety and efficiency throughout construction)
- c. Public safety (e.g., developing early and comprehensive project safety plan in concert with Owner and Architect)
- d. Delivery of an early budget and/or Guaranteed Maximum Price (GMP) enables the public owner to provide the public, taxpayers and other stakeholders with greater cost reliability and more effective management of budget process
- e. Facilitate in-kind giving
- f. Historic preservation (e.g., seismic upgrades while maintaining historic facades)
- g. Difficult remodel projects with many unknown factors
- h. Projects requiring complex phasing or highly coordinated scheduling

### 4. Not Diminishing Competition or Encouraging Favoritism

The public owner finds that it is unlikely that the process of selecting a CM/GC will encourage favoritism in the awarding of the public contract or substantially diminish competition for the public contract.

**EXCEPTION:** In extraordinary circumstances, a Public owner needs to satisfy only two of the above-described criteria. Extraordinary circumstances would include the following:

- a. A time emergency (i.e., fire destroyed structure where an immediate start of construction is required, where the public sector has an immediate contractual requirement for the private sector services) where the competitive method will not work effectively.
- b. A project where the phasing and/or complexity are so extremely difficult that complete design and other pre-construction services cannot be completed effectively without the direct involvement of the CM/GC firm.

## B. How CM/GC Should Be Selected

### 1. Develop Adequate Findings

As a minimum, findings supporting the use of the CM/GC method of contracting should address the following points:

- a. Demonstrate that the public owner has knowledgeable staff or consultants who have the capacity to manage the CM/GC process.
- b. Provide a clear indication of how the CM/GC selection process will be conducted.
- c. Describe how trade subcontractors/suppliers will be selected and the process used if the general contractor wishes to perform some of the work.
- d. Discuss how the process is unlikely to encourage favoritism in awarding the contract or substantially diminish competition.
- e. Provide evidence to demonstrate that the process should result in substantial cost savings to the public owner.
- f. Address any other administrative requirement for this process imposed by the public owner's public contract review authority.
- g. List the minimum requirements the public owner intends to require of prospective CM/GC's.

### 2. Public Meeting on Findings

Prior to final adoption of findings justifying the use of alternative methods of procuring public building construction contracts, public owners should hold a public meeting. Notification of the public meeting should be published in at least one trade newspaper of general statewide circulation in accordance with K.S.A. 75-3739, or as required by local law. The notice should state that the public meeting is for the purpose of taking comments on draft findings for an exemption from the public contracting requirement. As a part of the public meeting, the public owner should offer an opportunity for any interested party to present comment. Publication of the meeting notice should occur a minimum of fourteen (14) days prior to the meeting. At the time of advertisement, copies of draft findings should be available to the public.

If a situation exists that requires prompt action by the agency, notification of the public meeting can be published simultaneously with the advertisement of the solicitation, as long as responses to the RFP/RFQ are due at least five days after the meeting and final approval of the findings.

### 3. Request for Proposals

The public owner's solicitation document should be designed to clearly communicate the needs of the project, the requirements for submission, and the evaluation and selection criteria. It additionally should address the following issues:

#### a. Fair Competition

A critically important aspect of alternative contracting is a fair and open selection process that allows all qualified firms to compete on a level playing field. AGC of Kansas feels that the selection process should include both a written and oral presentation. The basis for selecting a CM/GC firm should include, at a minimum, the firm's history, financial health, bonding capability, experience, proposed staff, project approach and fee. Public owners should have the latitude of developing additional criteria which reflect the specific project's goals, and that the weight of the scoring criteria should be left to the public owner's discretion, reflecting the needs of the particular project. As a guideline, AGC of Kansas recommends that no one category **be weighted more than 50% of the total possible score.**

**b. Solicitation Process**

AGC of Kansas feels that in most cases the CM/GC competition can be fairly administered with a three-step (RFQ/RFP/Interview) process. In a three-step competition, the owner first requests qualification statements (RFQ) and pre-qualifies the contractors. The qualified contractors are then sent a Request for Proposal (RFP). The qualified firms returning RFPs are then short-listed to a minimum of three, maximum of five, assuming the owner has received at least three RFPs, to be invited for interviews.

When time is critical, a two-step (RFP/interview) process may be considered. In a two-step competition, the first question of the RFP can elicit qualifications (history, bonding capacity, special capabilities, etc.) with subsequent questions becoming more project specific. A short-list of the top-ranked firms would then be invited to an interview.

**4. Suggested Request for Qualification (RFQ) Contents**

- a. An explanation of what the public owner is attempting to accomplish with the project.
- b. A thorough description of the project, background information, special requirements, etc.
- c. A clear description of preconstruction, construction and post-construction deliverables.
- d. Project Timeline/Milestones including critical dates, GMP due, estimated (or desired) time of completion, etc.
- e. Minimum requirements for the proposer to be considered as CM/GC for the project, such as: Bonding capacity, insurance requirements, demonstrated capabilities (e.g., three projects of similar monetary value; current license, etc.).
- f. Public owner's Project Team (A/E, special consultants, etc) members
- g. Single (Public owner) point of contact for questions
- h. CM/GC project delivery exemption from bidding statute findings
- i. Scoring Criteria
- j. Public owner's intended selection panel, identifying the anticipated number of persons, their background, and qualifications.
- k. Sample *AIA Document A305 Contractors Qualification Statement* or *AGC Document 221 Contractors Statement of Qualifications for a Specific Project*.

**5. Suggested Request for Proposal (RFP) Contents**

- a. Company overview
  1. Years of business
  2. Bankruptcy
  3. Contract defaults
- b. Experience/references relative to the particular project under question related to the following:
  1. Size
  2. Type
  3. Complexity
  4. Schedule

## c. Personnel

For each of the following project team members, indicate their level of participation in the project phases of pre-construction, construction and commissioning (this may be expressed as a percentage of their work time):

1. Project structure
2. Principals (highest person with authority)
3. Project manager
4. Superintendent

## d. Preconstruction Services

1. Conceptual estimating
2. Detailed estimating
3. Value analysis
4. Systems analysis
5. Scheduling services for all team members and public authorities
6. Constructability reviews
7. Long-lead item strategies and purchasing
8. Bid package development
9. Cultivation of specialty contractor and supplier interest
10. Design support

## e. Plan for the project

1. CPM Schedule
2. Construction services
  - a. Short interval scheduling
  - b. Cost control and cost forecasting
  - c. Change order management
  - d. Self-performed work
  - e. Trade subcontractor and supplier procurement
  - f. Punchlist and warranty programs
3. Unique management strategies
4. Describe the value that you bring to the job

## f. Safety plan as it applies to this project

## g. Fee

1. Fee for preconstruction services
2. Fee for general conditions
3. Fee for overhead and profit
4. Fee for self-performed work

*RFP should include a project matrix that clearly defines what should be included in the fee proposed for the project (see APPENDIX A for sample Construction Manager Costs Matrix).*

## h. Criteria for Scoring

## 6. Interview

- a. Owners should require companies submitting proposals to have individuals who will be doing the work as presenters at the interview.
- b. Interview scores should not account for more than fifty percent of the total possible score.
- c. Interview committee should be comprised of a minimum of three members representing varying perspectives.

## 7. Scoring

### a. Scoring Guidelines

The public owner should give the scorers guidelines for reviewing the RFP and conducting the interviews. These guidelines are intended to educate scorers as to what is important to the owner and what constitutes a superior, appropriate, and inferior answer to questions.

### b. Scoring Process

Each rater provides a numerical score for each proposal, based on the combined scoring of the RFP and interview within the guidelines provided by the public owner. Scorers should fill out their evaluation sheets individually, and the scores should be totaled to determine final scores and ranking.

### c. Scoring Cross-Check

In addition to being evaluated based on the aggregate total for each firm, final ranking should be verified through “cross-checking”. This process involves looking at each scorer's ranking of the proposals in addition to the total points, using the following process:

1. Each rater’s top-scoring proposal receives one point, second highest proposal receives two points, and so forth.
2. The rankings for each proposer are totaled. (The best score a proposer can receive is equal to one multiplied by the number of raters, and the poorest is equal to the number of proposers multiplied by the number of raters.)
3. The proposer with the best ranking should be the same as the proposer with the highest numerical score total. If these methods do not agree, then the points assigned by one or more of the raters may be skewed and the selection committee should discuss and resolve the apparent discrepancy.

## 8. Post-Selection Disclosure

Scoring documentation must be provided to all RFP participants at the conclusion of the process and be available to anyone else who requests it. Public owners should offer post-selection debriefings to all interview participants. This benefits not only the participants, but also the public owner in learning what worked well and what did not for future solicitation processes.

## C. CM/GC Administration

### 1. Subcontracting Requirements/Public Purchasing

The CM/GC shall use a competitive process to select its trade subcontractors. Trade subcontractors shall be solicited in appropriate trade publications and may be required to submit pre-qualification statements prior to distribution of bid documents. The CM/GC can utilize *AIA Document A305 Contractors Qualification Statement* or *AGC Document 221 Contractors Statement of Qualifications for a Specific Project*. Unless specifically disapproved by the public owner, bid packages should be awarded to the trade subcontractor/supplier submitting the lowest responsive and responsible bid.

### 2. CM/GC Performance of Subcontract Work

A Public owner may allow the CM/GC to perform some of the trade work if the CM/GC competes competitively with trade subcontractors for that work. In such cases, a guaranteed maximum price (GMP) for that bid package will need to be submitted to the public owner or an independent third party. If selected, the CM/GC work would be performed on a cost basis plus the predetermined fee for self-performed work **as stated in the RFP**, not to exceed the GMP.

### 3. Savings Distribution in GMP Price Contracts

Under the CM/GC project delivery method construction activities can begin prior to the completion of contract documents with many details, such as finishes, are not completely decided until later in the project. In order to solidify the GMP, the CM/GC will establish budgets and/or contingencies for these unfinished items. During the course of the project, or at completion, the potential for savings may occur. Since the CM/GC works in the owner's interest this group recommends that when savings do occur they stay with the owner.

### 4. Public owner Administration of the CM/GC Process

In many, if not most cases, experience has shown that successful management of the CM/GC process by the public owner requires a level of project management activity equal to, or greater, than that of a comparable design-bid-build project. This demand is especially true for first-time users and projects developed on a phased construction basis. The process is very "owner-intensive" at all stages. Time demands on the public owner are particularly intense during the design process, when value-engineering options and the final guaranteed maximum price (GMP) are being developed and verified. During construction, the active public owner involvement and decision-making remains essential.

A common misunderstanding exists that the CM/GC, through its CM (construction management) function, can carry all the project management load for the public owner. A responsible CM/GC takes on active management of its subcontractors and the overall guidance of the work to ensure the project is on schedule, within budget, and of acceptable quality. However, this role of the CM/GC does not replace the public owner's responsibility for monitoring the progress of the work, processing payment applications (which is far more complex than the traditional design-bid-build process), and active participation in evaluating and prioritizing alternates, overall decision-making, and total project budget management.

One of the potential benefits of CM/GC is reduced construction time by overlapping construction with the completion of later design phases. When used for this benefit, continuous and active participation by staff of the public owner is particularly critical to the success of the project.

## VI. THE DESIGN-BUILD DELIVERY METHOD (DB)

As used within this document, Design-Build (DB) represents the single-source contracting method consisting of a firm or team of architect, engineer, and construction professionals who are at risk for the cost, schedule, quality, and management of the project. The design-builder may be a single firm, a partnership, a joint venture, or a corporation, which have the financial and management capabilities to undertake and accept the risks associated with the design-build tasks and responsibilities.

The fundamental difference in the types of design-build contracts is based on how the design-builder provides the design service. In-house means the designers are in the direct employment of the design-builder and consultancy means that an external design firm functions as a subcontractor to the design-builder. The design-builder may be contractor or designer led or may be a joint venture where each shares mutual responsibility and risk for the contract.

Many public owners follow the federal government two-step process enacted in the Federal Acquisition Reform Act of 1996, Title XLI, Section 4105. The two-step process first requires the owner to issue a request for qualification (RFQ) to solicit design-builders interested in the project. After evaluating and scoring the responses to the RFQ, the owner develops a shortlist of three to five qualified firms who are then sent a request for proposal (RFP). The short listed firms submit formal proposals based on the criteria identified in the RFP. At the outset, the public owner must define the selection criteria to be used in the procurement plan. The plan should incorporate selection factors and weights to be assigned to them that will ensure an open, fair, objective, cost-effective and free of political influence selection while providing the most qualified design-builder and best value that meets the needs of the owner.

Compensation for the design-builder's services is defined in the RFP criteria. Available payment methodologies include: lump sum, cost plus a fee, cost plus a fee with a guaranteed maximum price (GMP) and unit prices. The owner must ensure that the payment methodology selected matches its contracting philosophy for the project and the acceptance of risk between the owner and the design-builder.

### **A. When Design-Build Should Be Used**

It is AGC of Kansas' position that Design-Build is not necessarily appropriate for all projects. Additionally, public owners should meet a clear set of criteria when seeking an exemption from the statutory public purchasing requirements. AGC of Kansas recommends that public owners carefully analyze why a project is well suited for Design-Build by comparing the benefits and risks of this project delivery method. AGC of Kansas supports the utilization of an oversight committee to review requests to deviate from the traditional design/bid/build project delivery method and determine whether the criteria (outlined below in Section VI.A.1-4.) have been met.

The following criteria should be met to justify an alternative contracting procedure as being in the best interest of the public, taxpayers, and other stakeholders. Also the public owner should demonstrate the experience and expertise necessary to administer the sophisticated Design-Build process as described in Section VI. If not, public owners should not use the Design-Build process.

#### **1. Time Savings**

The public owner finds that the project has significant schedule ramifications and concurrent design and construction is necessary to meet these critical deadlines and to shorten the overall duration of construction process. Potential time savings must be substantiated. In order to justify schedule concerns, the public owner may consider operational and financial data that shows significant savings and/or increased opportunities for generating revenue as a result of early project completion. Other findings influencing these criteria include demonstrated public benefits a result of less construction duration/disruption to the public facility. In a competitive design- as build procurement process, a detailed program is an absolute necessity to communicate public owner's needs and facilities requirements to the competing design-build firms.

If the owner does not employ the skills of an experienced program specialist to define the public owner's needs, an incomplete or unsatisfying project may result.

## **2. Cost Savings**

The public owner finds that the design-builder's concurrent employment of design and construction professionals will contribute to significant cost savings. Potential or expected cost savings must be substantiated. In order to justify cost concerns, the public owner may consider the following: value engineering, building systems analysis, life cycle analysis and construction planning that will lead to substantial savings to the public or other stakeholders. Factors, which might influence these criteria, include high rates of inflation, market uncertainty due to material and labor fluctuations/scarcities, and the compelling need for specialized construction expertise due to technical challenges.

## **3. Project Size**

As in all contracting opportunities there must be a balance in the risk and effort to propose proportional to the reward. While the contract value of the project is only one of the factors the potential design-builder will evaluate to determine the risk involved in pursuing the contract, it is usually the first and simplest to accomplish. The size of the project, or contract value, must be of sufficient size to warrant the use of resources to obtain the contract. In other words, is the cost to prepare a comprehensive design-build proposal, often more intensive than design-bid-build, commensurate with the opportunity to profit from the contract to complete the design and construct the facility? Is the public owner willing to pay a stipend to the unsuccessful competing firms to partially offset the cost to participate in order to encourage a sufficient number of firms to compete?

The public owner must also be aware of the availability of design-builders within its community and/or region. The use of design-build may exclude those who are not experienced with this form of project delivery. On the other hand, if a project is too large, it may exceed the capabilities of the potential design-builders in the region.

## **4. Technical Complexity**

The public owner finds that this project presents significant technical complexities which are best addressed by a design-build approach, with the Design-Builder helping the public owner solve specific project challenges during pre-construction. The public owner should show that taxpayers or other stakeholders would benefit as a result of design-build on issues such as:

- a. Program requirements that can be defined by performance criteria
- b. Program requirements that are largely prescribed by industry or regulatory standards
- c. Public safety (e.g., developing early and comprehensive project safety plan in concert with public owner needs)
- d. Up-front price guarantees enable the public owner to provide the public, taxpayers and other stakeholders with greater cost reliability and more effective management of budget process
- e. Historic preservation (e.g., seismic upgrades while maintaining historic facades)
- f. Difficult remodel projects with many unknown factors

- g. Constructability challenges requiring complex phasing or highly coordinated scheduling to mitigate factors such as:
  1. The need to keep the public owner's critical functions in operation during construction
  2. Radically accelerated construction schedules
  3. Extreme weather conditions likely during the construction period
  4. Severe labor and/or material shortages
  5. Technology needs requiring advanced construction methods and/or materials

### **5. Not Diminishing Competition or Encouraging Favoritism**

The public owner finds that it is unlikely that the process of selecting a design-builder will encourage favoritism in the awarding of the public contract or substantially diminish competition for the public contract.

**EXCEPTION:** In extraordinary circumstances, a Public owner needs to satisfy only two of the above-described criteria. Extraordinary circumstances would include the following:

- a. A time emergency (i.e., fire destroyed structure where an immediate start of construction is required, where the public sector has an immediate contractual requirement for the private sector services) where the competitive method will not work effectively.
- b. A project where the phasing and/or complexity are so extremely difficult that complete design and other pre-construction services cannot be completed effectively without the direct involvement of the design-builder.

## **B. How Design-Builder Should Be Selected**

### **1. Develop Adequate Findings**

As a minimum, findings supporting the use of the Design-Builder method of contracting should address the following points:

- a. The project scope requirements have been adequately defined.
- b. Demonstrate that the public owner has knowledgeable staff or consultants who have the capacity to manage the Design-Build process.
- c. Provide a clear indication of how the Design-Build two-stage selection process will be conducted.
- d. Discuss how the process is unlikely to encourage favoritism in awarding the contract or substantially diminish competition.
- e. Demonstrate the time constraints of the project warrant the use of design-build.
- f. Provide evidence to demonstrate that the process should result in substantial cost savings to the public owner.
- g. Address any other administrative requirement for this process imposed by the public owner's public contract review authority.
- h. List the minimum requirements the public owner intends to require of a prospective Design-Builder.

## 2. Public Meeting on Findings

Prior to final adoption of findings justifying the use of alternative methods of procuring public building construction contracts, public owners should hold a public meeting. Notification of the public meeting should be published in at least one trade newspaper of general statewide circulation in accordance with K.S.A. 75-3739, or as required by local law. The notice should state that the public meeting is for the purpose of taking comments on draft findings for an exemption from the public contracting requirement. As a part of the public meeting, the public owner should offer an opportunity for any interested party to present comment. Publication of the meeting notice should occur a minimum of fourteen (14) days prior to the meeting. At the time of advertisement, copies of draft findings should be available to the public.

If a situation exists that requires prompt action by the agency, notification of the public meeting can be published simultaneously with the advertisement of the solicitation, as long as responses to the RFP/RFQ are due at least five days after the meeting and final approval of the findings.

## 3. Request for Proposals

The public owner's solicitation document should be designed to clearly communicate the needs of the project, the requirements for submission, and the evaluation **and selection** criteria. It additionally should address the following issues:

### a. Fair Competition

A critically important aspect of alternative contracting is a fair and open selection process that allows all qualified firms to compete on a level playing field. AGC of Kansas feels that the selection process should include both a written and oral presentation. The basis for selecting a Design-Build firm should include, at a minimum, the firm's history, financial health, bonding and insurance capability, design-build experience on similar projects, proposed design and construction staff, and required license and registration. Public owners should have the latitude of developing additional criteria which reflect the specific project's goals, and that the weight of the scoring criteria should be left to the public owner's discretion, reflecting the needs of the particular project. As a guideline, AGC recommends that no one category **be weighted more than 50% of the total possible score as described in Section VI.C-D.**

### b. Solicitation Process

AGC of Kansas feels that in most cases the Design-Build competition can be fairly administered with a two-stage RFQ/RFP process with interim interview stages as needed. In a two-stage competition the public agency develops, by a design professional (either in-house or by contract), a scope of work statement for inclusion in the solicitation that defines the project and provides prospective offerors with sufficient information to enable the offerors to submit proposals, which meet the public owner's needs.

#### 1. Stage-One

The **stage-one** proposals include a response to the owner's request for qualifications (RFQ). Proposals shall respond to the evaluation factors stated in the RFQ including specialized experience and technical competence relative to the project, capability to perform, past performance of the offeror's team (including the architect-engineer and construction members of the team), and other appropriate factors, except that cost-related or price-related evaluation factors are not permitted.

The RFQ shall establish the weighted importance assigned to each evaluation factor that must be considered in the evaluation of the stage-one proposals. **As a guideline, this group recommends that no one factor is weighted more than 50% of the total possible score as described in Section VI.C-D.** After reviewing the responses to the

RFQ, the owner develops a shortlist of at least three, not more than five, of the most highly qualified firms to submit stage-two competitive design-build proposal.

## 2. Stage-Two

In **stage-two** of the competition, the public owner issues a request for proposal (RFP) to the selected offerors in stage-one to submit **technical proposals** and **bid (cost or price information) proposals**. The **technical proposals** shall include a comprehensive plan to enable the owner to evaluate the capability of the design-build firm to provide the desired services and complete the specified work. The plan shall address all significant design, construction issues and constraints. Additionally the plan should demonstrate efficient use of manpower, materials, equipment, construction schemes, and techniques for completing the work. The **bid proposal** shall identify the offerors cost or price to complete the work within the specified requirements set forth in the RFP.

The owner's selection panel shall evaluate the technical proposals and bid proposals separately as described in **Section VI.C-D**.

### c. Suggested Request for Qualification (RFQ) Contents

1. Identification of the public owner, including organizational component(s) to occupy or use the facility.
2. Owner's contact person, name, title, address, and phone/fax numbers, and the restrictions or limitations on direct communications.
3. An explanation of what the public owner's project objectives, in general order of importance (e.g., design excellence, character, and image; functional efficiency, safety, and security; quality of systems and materials; operating and maintenance costs and energy efficiency; elapsed to design and construct; and capital cost or value).
4. A thorough description of the project, background information, special requirements, site location, site area, etc.
5. Net or gross floor area and number of stories, if applicable.
6. Estimated contract award amount or limits, and financial constraints, if any.
7. A clear description of preconstruction, construction and post-construction deliverables.
8. Project Timeline/Milestones including start dates, critical dates, estimated (or desired) time of completion, etc.
9. Minimum requirements for the proposer to be considered as Design-Builder for the project, such as: Bonding capacity, insurance requirements, demonstrated capabilities (e.g., three projects of \$xx; current state license, etc.).
10. Established selection criteria to measure and determine the most qualified firms to invite to participate in the proposal preparation stage.
11. Public owner's intended selection panel, identifying the anticipated number of persons, their background, and qualifications.
12. Deadline for submission of design-builders' qualification statements and number of copies required.
13. The maximum number of finalist the owner intends to invite to participate in the next stage of the selection process.
14. Any compensation to be offered to the finalist for the preparation of design-build proposals.
15. Sample *AIA Document A305 Contractors Qualification Statement* or *AGC Document 221 Contractors Statement of Qualifications forms to be used in the selection process*.

**d. Suggested Request for Proposal (RFP) Contents**

1. Identification of owner's organization, consultants, selection panel, qualified design-build teams and their member firms.
2. Instructions to proposers
  - a. Definitions and terms
  - b. Eligibility and honoraria
  - c. Official request for design-build proposal
  - d. Competition schedule.
  - e. Preproposal conference(s)
  - f. Proposal Form
  - g. Alternates
3. Supplements to proposal form
  - a. Appropriate level of detail in submittal documents
  - b. Definition of drawings to accompany proposal
  - c. Model of project (optional)
  - d. Design display boards
  - e. Color and material sample board
  - f. Proposal Form
4. Communications among owner and proposers
  - a. Conduct pre-proposal conference(s) describing the functions and operations to be housed in the facility.
  - b. Conduct multiple question and answer (Q&A) sessions and publish findings in addenda to the RFP.
  - c. Allow only written questions outside the Q&A sessions and provide written answers to all proposers simultaneously.
  - d. Determine owner's representative for contact with proposers.
5. Presentations provide the proposer the opportunity to present and defend their proposal before evaluators and selection panel and shall include:
  - a. The order of presentation shall be determined by lottery.
  - b. Only members and employees of the design-build team firms may participate in presentations (no professional presenters).
  - c. Members of competing teams must be excluded from the audience.
  - d. For public projects the presentations should be open to the public
  - e. Criteria for information and materials to be used in the presentation shall be determined in advance.
  - f. Design-build teams shall limit their in-person presentations to the information included in their proposal.
  - g. The owner shall identify and provide the audiovisual equipment to be used in the presentations.
  - h. Presentations should be video taped.

6. Disqualification criteria shall be determined to address significant and intentional breeches of the RFP procedures.
7. Weighted proposal selection criteria shall be communicated to all proposers and shall include the following:
  - a. Architectural image and character
  - b. Technical innovation and environmental acceptability of engineered solution
  - c. Functional efficiency and flexibility
  - d. Quality of materials and systems
  - e. Quantity of usable area
  - f. Access
  - g. Safety and security
  - h. Energy conservation
  - i. Operation and maintenance costs
  - j. Cost/value comparison
  - k. Completion schedule
8. Basis of Award
9. Information provided by owner
10. General conditions of contract
11. Agreement and surety bond forms
12. Program of facility requirements
13. Performance specifications

**e. Public Owner's Selection Process**

The owner, unlike any other party, has the ability to control the destiny of the project and everyone working on it, from the conception to completion. This of course includes the responsibility of establishing and implementing the selection criteria to measure and determine the most qualified firms to be selected in the RFQ (stage-one) to participate in the RFP (stage-two) proposal preparation. Only firms that have been selected through the RFQ process are eligible to submit a proposal, and the owner may select a proposal only from a prequalified firm. The owner retains the right to reject any or all proposals.

In order for the selection process to be successful during both stages it is recommended that the public owner provide a selection panel. The panel shall consist of individuals who understand the needs of the owner, the facility to be constructed, and are knowledgeable of the complexities inherent in the design and construction industry.

The dynamics of group discussions and decision-making would suggest that five to seven individuals would be the optimum panel size. When selecting the panel members the owner shall consider the following types of individuals:

1. Owner representatives and/or personnel who are familiar with the operations and objectives of the owner
2. Employees or user representatives of the facility
3. Well known and respected noncompeting design professionals, such as architects and engineers who are knowledgeable of the owner's operations and objectives
4. Noncompeting general contractors or other individuals, such as consultants, college professors, etc, who are familiar with the construction industry
5. Community representatives

The owner shall state in the RFQ and RFP the authority given to the selection panel to prequalify the design-build firms responding to the RFQ, and to recommend to the owner the design-build firm providing the overall best proposal for the project. The owner must also establish its limited authority to accept, or reject, the panel's recommendation and whether it will enter into contract with the selected design-build firm.

### C. RFQ (Stage-One) Selection and Scoring

The selection criteria utilized during the RFQ stage of the process is often a combination of both subjective and objective factors. AGC of Kansas maintains that a selection process containing both subjective and objective factors are appropriate for the public sector **if the selection process is as open, fair, objective, cost-effective and free of political influence as the competitive bid system.** The RFQ solicitation should list the criteria that shall be used by the selection panel to make a reasonable evaluation sufficient to recommend to the owner the desired number of prequalified firms to advance to the next stage of the competition. Selection factors should be listed in order of importance and weighted, if desired. As a guideline, this group recommends that no one category **be weighted more than 50% of the total possible score as described in this section.** Suggested selection factors to be considered for the RFQ process would include:

1. Reputation of the design-build firm, or team members, including owner and industry references
2. Similar experience of the design-build team members with respect to the facility in question
3. Actual design-build experience similar to that requested in the RFP
4. Prior experience of the design-build team members working together on similar projects
5. Financial strength and stability of the proposer
6. Sufficient bonding capacity
7. Ability to provide the stated insurance requirements
8. Performance records of the proposer on previous projects to provide value engineering savings, change-order record, on-time performance, and post project close-out and follow up (warranty)
9. Competence of technical and managerial organization proposed
10. Competence of individuals proposed for key positions
11. Design approach or philosophy, or preliminary design approach
12. Construction management plan
13. Resources (staff, equipment, and capital) available to the project

The pre-qualified design-build team must remain exactly as described in the design-builder's qualification statement, unless the owner has authorized a change or substitution.

In order to differentiate between seemingly equal qualification statements the Public owner may choose to conduct in-person interviews with the design-build teams. The interviews should be limited to the panel and members of the design-builder's organization as identified in their qualifications statement organization chart. The intent of this interview is to give the selection panel the opportunity to visit with each design-builder, allowing the design-builder to introduce its team members in person, expand on their qualifications, and respond to the panel's questions. Depending on the questions compiled, the panel can also gain an awareness of the design-builder's ability to address the owner's objectives and program, and to see how the team members work together under competitive pressure. The public owner should give the selection panel a set of guidelines to assist in review of the qualification proposals. These guidelines are intended to educate the panel members as to what is important to the owner and what constitutes a superior, appropriate, and inferior answer to questions. Interview scores should not account for more than fifty percent of the total possible score

### **1. Scoring Process**

The public owner should give the scorers guidelines for reviewing the RFP and conducting the interviews. These guidelines are intended to educate scorers as to what is important to the owner and what constitutes a superior, appropriate, and inferior answer to questions. Each rater provides a numerical score for each proposal, based on the combined scoring of the RFQ and interview within the guidelines and scoring matrix provided by the public owner. Panelist should fill out their evaluation sheets individually, and the scores should be totaled to determine final scores and ranking.

### **2. Scoring Cross-check**

In addition to being evaluated based on the aggregate total for each firm, final ranking should be verified through "cross-checking". This process involves looking at each panel member's ranking of the proposals in addition to the total points, using the following process:

- a. Each scorer's top-scoring proposal receives one point; second highest proposal receives two points, and so forth.
- b. The rankings for each proposer are totaled. (The "**best**" score a proposer can receive is equal to one multiplied by the number of jurors, and the "**poorest**" is equal to the number of proposers multiplied by the number of raters.)
- c. The proposer with the "**best**" ranking should be the same as the proposer with the lowest numerical score total. If these methods do not agree, then the points assigned by one or more of the raters may be skewed and the selection committee should discuss and resolve the apparent discrepancy.
- d. Utilizing the rankings determined above, the owner shall select the number of design-build firms determined within the guidelines of the RFQ to advance to the RFP Stage-Two competition.

### **3. Post-Selection Disclosure**

Scoring documentation must be provided to all RFQ participants at the conclusion of the process and be available to anyone else who requests it. Public owners should offer post-selection debriefings to all interview participants. This benefits not only the participants, but also the public owner in learning what worked well and what did not for future solicitation processes.

## D. RFP (Stage-Two) Selection and Scoring

The objective of the stage-two evaluation and scoring process is to determine which proposal provides the greatest (or best) value for the project and owner. In a greatest (or best) value selection process, the owner's selection is based on more than the lowest responsible price submitted. At a minimum, the owner must consider the value of the proposer's qualitative or technical elements, project duration, and the bid (or price) for the project. The selection criteria utilized during the RFP, Stage-two of the process contains a combination of both subjective and objective factors. AGC of Kansas maintains that a selection process containing both subjective and objective factors are appropriate for the public sector **if the selection process is as open, fair, objective, cost-effective and free of political influence as the competitive bid system.**

The proposers shall submit simultaneously in separate envelopes, **Technical Proposals (design and qualitative factors)** and **Bid Proposals (price and duration)**. The owner's selection panel shall first review each **Technical Proposal**, without opening the **Bid Proposals**, and conduct oral presentations with the proposer teams. The jury shall then assign scoring points on a predetermined scoring matrix, provided by the owner that corresponds to the evaluation factors listed in the RFP. After the technical proposals have been reviewed and scored the bid proposals are opened and included in the final selection formula described below in Section VI.D.2.c.

### 1. Technical Proposal Scoring

Each design-build firm being considered for the project shall be required to submit a **Technical Proposal**. The technical proposal shall be limited to the design and qualitative evaluation criteria listed in the Stage-Two RFP (no costs or price to be included). The proposal shall include sufficient information to enable the owner's panel to evaluate the capability of the design-build firm to provide the desired services. The data shall be significant to the project and shall be innovative, when appropriate, and practical. Suggested evaluation criteria may include:

1. Approach and understanding of project
2. Design support documents
3. Preliminary plans
4. Architectural image and character
5. Technical innovation and environmental acceptability of engineered solution
6. Functional efficiency and flexibility
7. Quality of materials and systems
8. Quantity of usable area
9. Access
10. Safety and security
11. Energy conservation
12. Operation and maintenance costs
13. Staffing plan
14. Quality control plan
15. Proposed schedule
16. Competence of key personnel
17. Warranty

The owner's panel shall evaluate the written Technical Proposal submitted by each design-build firm. The design-build firms shall not disclose their price proposal in their written technical proposals, or during oral presentations. The panel will score each evaluation factor on a predetermined scoring matrix, provided by the owner that corresponds to the evaluation factors listed in the RFP. Evaluation factors should be listed in order of importance and weighted, if desired. As a guideline, this group recommends that no one category **be weighted more than 50% of the total possible score as described in this section**. The sum of the evaluation factor points shall equal the proposer's technical score. A sample **Technical Proposal Score** would be as follows:

	Item	Max. Value	Team Score
1.	Design Support Documents	20	18
2.	Preliminary Plans	15	13
3.	Quality Control Plan	10	9
4.	Proposed Schedule	10	8
5.	Architectural Image and Character	10	9
6.	Operation and Maintenance Costs	10	7
7.	Functional Efficiency and Flexibility	10	8
8.	Staffing Plan	5	4
9.	Safety and Security	5	3
10.	Warranty	5	5
	Total	100	84

## 2. Bid Proposal Scoring

Each design-build firm being considered for the project shall be required to submit a **Bid Proposal** in a separate sealed package. The **Bid Proposal** package shall include both the proposer's price to complete the project within the requirements established by the owner's bid documents and the offeror's proposed contract time duration required to complete the project. **The sealed Bid Proposal packages shall remain sealed until the scoring of all technical proposals have been completed by the owner's panel.**

### a. Price Element

Depending on the requirements and complexity of the project the owner will establish in the RFP the type of contract price to submit, i.e. lump sum, guaranteed maximum, unit price, etc. The owner may also desire the proposer to submit a schedule of values that shall correspond to the project schedule and will be the basis for determining monthly progress payments. Whichever method is selected, the proposer shall submit the total price bid to fulfill the requirements of the RFP solicitation. The total price will be used in the final scoring formula described below.

### b. Time Element

One of the primary factors driving public owner's to select design-build, as a project delivery method, is the potential of reducing the duration of the project in calendar days. Therefore, contract time should be a factor used by the owner to evaluate the best value in a design-build proposal. To evaluate time, the owner should first establish and publish in the RFP the maximum allowable time in calendar days and a dollar value that each day is worth. This value can also be the same value used in determining liquidated damages and/or early completion incentive bonuses. The value is used by the owner to calculate the "**User Delay Cost**" associated with each design-build team's proposal. The "**User Delay Cost**" calculation is made by multiplying the owner established value per calendar day times the design-builder's proposed

contract time calendar days. **If the proposed contract time is greater than the published maximum allowable calendar days the proposal will be considered non-responsive.**

**c. Final Selection Formula**

As stated above, the objective of the stage-two evaluation and scoring process is to determine which proposal provides the greatest (or best) value for the project and owner. In order to determine the greatest (or best), the owner must combine the value of the proposer's qualitative or technical elements, project duration, and the bid (or price) for the project. The following formula combines the technical score, proposed time element and price proposal into an adjusted score representing the greatest, or best value.

$$\frac{BPP + (PCT * UDC)}{TS} = \text{Adjusted Score}$$

Where:

- BPP = Bid Price Proposal
- PCT = Proposed Contract Time (Calendar Days)
- UDC = User Delay Costs (\$\$ per Calendar Day)
- TS = Technical Score

The firm selected will be that firm with the lowest adjusted score.

**d. Sample Competition Calculation:**

Item	Team A	Team B	Team C
Bid Price Proposal (BPP)	\$4,889,000	\$4,950,000	\$4,930,000
Proposed Contract Time (PCT)	365	350	390
User Delay Costs (UDC)	\$1,000	\$1,000	\$1,000
Technical Score	84	91	88
Adjusted Score	62,548	58,242	60,454

In the sample competition above, Team B has the lowest adjusted score of 58,242. The owner would contract with Team B for a contract amount of \$4,950,000 and a project contract time of 350 calendar days.

**e. Post-Selection Disclosure**

Scoring documentation must be provided to all RFP participants at the conclusion of the process and be available to anyone else who requests it. Public owners should offer post-selection debriefings to all interview participants. This benefits not only the participants, but also the public owner in learning what worked well and what did not for future solicitation processes.

## E. Design-Build Administration

### 1. Public Owner's Statement of Facility Requirements

In the traditional design-bid-build delivery method the general contractor's bid price is based upon plans and specifications represented by the owner to be 100% complete. In a competitive design-build procurement process, a detailed program is an absolute necessity to communicate the public owner's needs and facilities requirements to the competing design-build firms. This design criteria package is usually developed by a design professional, either in-house or by contract. Performance criteria are usually divided into two separate parts: program requirements and performance requirements. The functional and quantitative needs of the facility such as: net floor area, number of floors, space requirements, and etc. define the program requirements. Performance requirements include the owner's expectations for the performance of the facility, design standards, quality levels, performance criteria, building assemblies and materials to be used in the construction process. The objective of the design criteria package is to provide prospective offerors with sufficient comprehensive information to enable the offerors to submit proposals, which meet the public owner's needs, but avoids overly restrictive requirements that would inhibit creative solutions. If the owner does not employ the skills of an experienced program specialist to define the public owner's needs, an incomplete or unsatisfying project may result.

### 2. Subcontracting Requirements/Public Purchasing

One of the benefits of the design-build project delivery method is the integration of a team concept to provide the best solutions to project challenges. To accomplish this task, the design-builder often chooses trade subcontractors based on past experiences and the trade subcontractors ability to perform under similar circumstances. Design-build subcontractors often accept the design and performance responsibility of their building systems. Under a competitive bid design-build approach, it is the design-builders choice to determine how it will pick its trade subcontractors for a particular project.

### 3. Design-Builder Performance of the Work

As is the case in any other competitive bid project the prime contractor, design-builder, shall retain the right to evaluate and determine the best method to provide the most competitive proposal. Therefore, the design-builder shall determine if it is in the team's best interest to self perform certain trades of the proposed contract.

### 4. Public Owner Administration of the Design-Build Process

In many, if not most cases, experience has shown that successful management of the design-build process by the public owner requires a level of project management activity greater than that of a comparable design-bid-build project. **This demand is especially true for first-time users. The process is very "owner-intensive" at all stages.** Time demands on the public owner are particularly intense during the programming stage and the selection of the design-builder through the two-stage competition. During construction, active public owner involvement and decision-making remains essential.

A misunderstanding may exist that the Design-Builder, through its single source responsibility, can carry the entire project management load for the public owner. A responsible Design-Builder takes on active management of the design and the overall guidance of the construction work to ensure the project is on schedule, within budget, and of acceptable quality. However, this role of the Design-Builder does not replace the public owner's responsibility for providing timely information, design review, monitoring the progress of the work, processing payment applications, and active participation in evaluating and prioritizing alternates, overall decision-making, and total project budget management.

The primary benefit of Design-Build is the single-source approach of design and construction under one contract. The use of design-build often results in reduced design/construction time by overlapping the two phases. When used for this benefit, continuous and active participation by staff of the public owner is particularly critical to the success of the project.

## VII. REVIEW PROCEDURES

### A. Post-Contract Report by Owner, Contractor, Subcontractor and Architect

The public owner, contractor, major subcontractors and the architect should review each public construction contract after the project is finally completed. Each of these post-contract contractor evaluation forms recap the benefits and detriments of the contracting procedures used, and the lessons learned by the reporting entity. See APPENDIX B for a sample of the Kansas Department of Administration - Division of Facilities Management - Contractor Evaluation Form.

### B. Education

AGC of Kansas believes this “White Paper” should be an educational tool for Public Owners and Contractors as to when the use of an alternative project delivery method contracting procedure fits the requirements of a construction project and how the public entity should conduct the Contractor selection to ensure that the public entity selects the best Contractor in a fair selection process. AGC of Kansas has agreed to serve as an educational resource and is willing to meet with public owners to assist them in understanding generally the advantages and disadvantages of the Alternative Project Delivery Contractor selection process, and to provide counsel to the public owners while making decisions about whether to use that process.

This document will also be used as a tool to educate Contractors as to how the Alternative Project Delivery Method market is different from the Design-Bid-Build delivery method, and what skills a Contractor needs to compete in the alternative project delivery market.

AGC of Kansas intends to develop partnerships with public owners and groups to propose legislation establishing procedures that protect the interests of the public, taxpayers, public owners and other stakeholders when considering the use of alternative project delivery methods.

### C. Oversight

AGC of Kansas recommends that a State advisory board be appointed to hear complaints from contractors and other persons that believe that a public owner is proposing to use an alternative project delivery method contractor selection process either when it is not consistent with the guidelines in the Alternative Project Delivery In The Public Sector White Paper, or in a manner that is inconsistent with the contractor selection processes as outlined in it. If the advisory board agrees that the complaint appears to have some merit, the advisory board will meet with the public owner to review the basis for its decision.

If a public owner, contractor or other person wishes to avail itself of these educational services, please contact Corey Peterson, Executive Vice President, Associated General Contractors of Kansas, 200 SW 33<sup>rd</sup>, Topeka, Kansas, (Tel) 785-266-4015.

## APPENDIX A – CONSTRUCTION MANAGER COST MATRIX

<b>In Preconstruction Services</b>	<b>In General Conditions (cont.)</b>	<b>In Cost of Work</b>
Office Supplies	Temporary Power	Trade Contract Cost
Copy Machine & Maintenance	Temporary Water Service	Materials Incorporated in the Work
Computers, Usage, Software & Maintenance	Temporary Gas	Corrective Work
Long Distance Telephone Charges	Temporary Heat & Ventilation	Punchlist Work
Postage & Express Mail	Temporary Construction Facilities & Services	Warranty Work
Project Budgeting	Clean Up & Dumpsters	
Research & Development	Safety	<b>By Others</b>
Value Engineering	Audit	Site Surveys & Soils Report
Value Analysis Studies	Record Storage	Testing Laboratory Services
Constructability Reviews	Public Information Program	Soils Testing & Inspection
Project Schedule	Building Permits	Concrete Testing & Inspection
Payroll Taxes & Fringes	Special Permits, Licenses, & Fees	Steel Erection Testing & Inspection
Worker's Comp. Insurance	Utility Connection Permits	Masonry Testing & Inspection
Preconstruction Personnel	Construction Mgmt. Labor	Special Inspections
Payroll Taxes & Fringes	Safety Officer	Operational Permits
Worker's Comp. Insurance	QA/QC Manager	Easement Impact Fees
<b>In General Conditions</b>	General Conditions Labor	Title/Development Costs
Field Office, Furniture & Furnishings	Payroll Taxes & Benefits	Land Costs
Office Supplies	Worker's Comp. Insurance	Financing/Interest Cost
Computers, Usage, Software & Maintenance	Liability & property Insurance for Project	Interim Financing Cost
Field Office Telephones	Builder's Risk Insurance	Moving Coordination
Long Distance Telephone Charges	Public Owner's Protective Insurance	Owner Moving Costs
Fld. Office Equip. & Maint.	Miscellaneous Insurance	
Copy Machine & Maint.	Payment & Performance Bonds	<b>In A/E Design Services</b>
Fax Machine & Service	Sales, Use & Gross Receipt Taxes	A/E Temporary Office
Postage & Express Mail	Legal Fees	Cost of Design & Engineering
Plans & Bid Packages	Field Engineer	Construction Documents
Scheduling Expense	Layout Crew	A/E Costs for Bid Packages
Construction Photos & Supplies	Level & Transits	As-built Documents (Drafting)
Job Travel	Engineering Equipment	Errors & Omissions Insurance
Job Meetings	Engineering Supplies	
Job Ceremony Expense	Licensed Survey Layout	
Partnering Sessions		
Record Drawings		
Temporary Electric Service		

## APPENDIX B – CONTRACTOR EVALUATION FORM

### DIVISION OF FACILITIES MANAGEMENT CONTRACTOR EVALUATION FORM: EXPLANATION

The Statement of Qualification form is part of a process to pre-qualify contractors to bid on State of Kansas construction projects as authorized by K.S.A. 75-37,104. This entire process is to define a "responsible bidder" per K.S.A. 75-3740. This process will be completed in two parts as follows: Contractor must have on file with the Division of Facilities Management, 1.) a completed Statement of Qualifications; 2.) Evaluation forms filled out by the A/E, agency staff and DFM employees for each construction project completed.

Beginning on February 1, 2004 contractors wishing to bid on state construction projects must have on file a Statement of Qualifications (SOQ) with the Division of Facilities Management. Two forms are acceptable for use: AIA A305 and AGC Form 221. Guidelines for using these two forms will be posted and updated on the DFM website [www.da.state.ks.us/fp](http://www.da.state.ks.us/fp) under executable forms. If a contractor has not completed work for the state and has submitted a SOQ, evaluation of the contractor from the listed references will be used to calculate whether the contractor has performed in a manner to become a qualified bidder. The contractor's overall score will be subject to the rules below.

If a contractor has completed work for the state and has submitted a SOQ, all the evaluations completed to date will be used to calculate whether the contractor has performed in a manner to remain a qualified bidder. The description of how these evaluations will be used is described below.

The evaluation forms will be part of the project closeout. Each representative of the Owner group (agency), DFM and the A/E will fill out an evaluation form. Therefore, multiple evaluations will be completed for each project. Contractors will receive copies of the evaluations and will be given a chance to respond to each evaluation completed. Scores will not be changed if the contractor is in disagreement. Contractor will be allowed a chance to comment on each evaluation. These forms will be entered into a database and will be used to determine their continuing eligibility to bid on State of Kansas construction projects.

#### Scoring:

1. 2.85 is the minimum competence level for a contractor to qualify. This is equal to score of 2.0 or higher in each question. Questions are weighted in order of importance as noted on the attached form.
2. For unanswered questions, place N/A in the space provided. Do not leave any score blank.
3. Scores must be in half-point increments. (i.e. 3.5, 3 2.5) with 4.0 being the highest score possible.
4. If the contractor's overall average falls below the 2.85 points, the contractor will be put on probation. During probation, the contractor may bid state projects as stated below.
5. Contractor has one project to improve his overall score to above the 2.85-point average to become re-qualified to do state work and to be taken off probation. That one project must be completed and evaluations received and calculated to determine if he will be reinstated. While on probation, the contractor will only be awarded one project.
6. If a contractor falls below the 2.85-point average and fails to improve his score to the acceptable level after one additional project, the contractor will be disqualified from bidding on state work for a period of 6 months. After the 6-month period is completed the contractor is again on probation and must meet the criteria in Item No. 4 above.
7. If a contractor's average score falls below the average after the probation project, he is then disqualified to bid for a period of 3 years. At that time he must resubmit his Statement of Qualifications and provide references as requested.
8. A contractor's last three projects will be reviewed and averaged to spot trends.
9. A contractor's last project will be reviewed to determine recent work qualifications.

**DIVISION OF FACILITIES MANAGEMENT  
CONTRACTOR EVALUATION FORM: FORM**

**Project  
Number**

**Project Title**

**Name of Construction Company**

**Primary Contact**

**User Agency**

**Project Location**

**Date Occupied**

**Name of Evaluator**

**Title**

**Date of Evaluation**

Scoring: A (4) – exceptional (consistently exceeds expectations)  
 B (3) – above average (often exceeds expectations)  
 C (2) – average (meets expectations)  
 D (1) – needs work (frequently fails to meet expectations)  
 F (0) – failing (consistently fails to meet expectations)  
 Scores must be in **half point increments** with 4.0 and the highest.

**DFM Use Only**

Priority: While all items in the list below are important, there are some that have been ranked as having greater importance than others. Therefore the questions have been ranked in three priority categories with **category 1 being the greatest importance.**

No.	Description	Priority	Score
1.	Complete understanding of the project scope, construction documents and specifications.	2	
2.	Supplied bonds and insurances in a timely manner per Document B Section 1.14	3	Yes (4) <input type="checkbox"/> No (0) <input type="checkbox"/>
3.	Coordinated the work of his own forces and the scheduling of the sub-contractors and suppliers. Kept the sub-contractors and suppliers informed on the project status.	2	
4.	Submitted a shop drawing submittal schedule and submitted shop drawings and samples in a timely manner so as not to delay the work if shop drawings needed to be resubmitted per General Conditions Article 6.	1	
5.	Cooperated with State personnel and the project architect/engineer to resolve problems created by differing conditions & discrepancies between actual conditions and construction documents.	1	
6.	Submitted Requests for Information and responded to Requests for Proposal's in a timely manner	2	
7.	Provided adequate detail to the Change Order Proposals to allow the Architect/Engineer to evaluate the proposals.	2	
8.	Quality of work meets specifications.	1	
9.	Maintained a clean construction site and maintained adjacent areas.	3	
10.	Maintained construction site safety per OSHA standards.	1	
11.	Submitted accurate payment applications on time and in the format acceptable to the Owner.	3	
12.	Maintained-construction records, including shop drawings, and noted changes made in actual construction in preparation for as-built records per General Conditions Article 17.Z.	2	
13.	Maintained project records and construction log updated and on site at all times.	2	
14.	Provided updated progress schedule throughout the duration of the project per General Conditions Article 22.	1	
15.	Project was substantially completed on time, within the (adjusted) substantial completion date.	1	Yes (4) <input type="checkbox"/> No (0) <input type="checkbox"/>
16.	Completed punch list including delivery of O & M manuals, within the allotted time set forth in the Certificate of Substantial Completion.	2	Yes (4) <input type="checkbox"/> No (0) <input type="checkbox"/>
17.	Completed project closeout, including delivery of record documents to the Architect/Engineer as required by the General conditions in in the time frame noted.	2	Yes (4) <input type="checkbox"/> No (0) <input type="checkbox"/>

**Instructions:** Please complete this form and forward to Facilities Planning, Design and Construction at the Division of Facilities Management, 900 SW Jackson, Suite 600, Topeka, Kansas 66612. Forms will be forwarded to the contractor for response. The scores will be entered into a database and used to compile the contractor's overall performance score, which then determines his eligibility to bid State of Kansas construction projects. All evaluations are then placed on file at the Division of Facilities Management.

If any individual item is scored **below** a C (2) the evaluator must include an explanation with factual information substantiating the lower rating.

The overall score is determined by multiplying the rating for each question and by a priority factor.



## References:

Dorsey, R. W. (1997). Project Delivery Systems for Building Construction. AGC of America.

Beard, J.L., Loulakis, Sr, M.C., & Wundrum, E.C. (2001). Design Build: Planning through development. New York: McGraw-Hill.

U.S. Government. (1996). Federal Acquisition Reform Act (FARA) of 1996. Washington, D.C.: U.S Government Printing Office.

U.S. Government. (2000). Federal Property and Administration Services Act of 1949. Washington, D.C.: U.S. Government Printing Office.

Six Myths Debunked about Using D/B for Public Projects (Dec., 1002). Contractor's Business Management Report, 02-12, (1,13-15).

Public Contracting Coalition: CM/GC White Paper (1997). Oregon: Public Contracting Coalition.

CM/GC Guidelines for Public Owners (2003). Alexandria. AGC of America, National Association of State Facilities Administrators.

Glavinich, T.E. (2003). School Construction Guide. Alexandria. AGC of America.