

Prepared by Office of Procurement and Real Property Management
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A8.280.3

A8.200 Procurement

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A8.280.3 Qualifications-Based Construction Procurement for
Negotiated Construction (Primarily for Design-Assist
Construction Projects)

1. General

- a. Construction is the process of building, altering, repairing, improving or demolishing any University structure, building or improvement to real property, including painting and decorating. The term includes the routine operation, repair or maintenance of existing University structures, buildings, or real property. Such construction may be accomplished by use of a design-bid-build, design-build, design-assist, or other generally accepted construction process.
- b. Construction may be procured through any of the applicable source selection methods provided in these procedures, including this section.
- c. The procedure set forth in this section is intended primarily for design-assist construction projects or projects of a highly specialized nature where it is advantageous to negotiate the construction contract.

2. Public Notice for Procurement of Construction

- a. As often as may be necessary, the University may give public notice to invite persons engaged in performing designated construction to submit current statements of qualifications for construction which the University anticipates needing in the performance of its operations. The statements shall include:
 - 1) The name of the firm or person, the principal place of business, and location of all of its offices;

- 2) The age of the firm and its average number of employees over the past five years;
- 3) The education, training, contractor licenses held in Hawaii and elsewhere, and other qualifications of the firm;
- 4) The names and phone numbers of up to five clients who may be contacted, including at least two for whom construction services were rendered during the preceding year; and
- 5) Any promotional or descriptive literature which the firm desires to submit.

Firms or persons may amend statements of qualifications at any time by filing a new statement and shall immediately inform the University of any changes in their submission that could disqualify the firm or person from being considered for a contract award.

- b. Additional public notices inviting persons engaged in performing construction may be made if the response to the initial notice is not adequate, if the response to the initial notice does not result in an adequate representation of available sources, or if previously unanticipated needs for construction arise.

3. Procedure for the Acquisition of Construction

- a. If a University program identifies a need to procure construction services, and desires to utilize the construction procurement method described in this section, the following procedures shall apply:
 - 1) A notice shall be posted on a University website which describes the project and invites contractors who have submitted statements of qualifications to submit a written expression of interest in the project on a form to be designated by the University to the Office of Capital Improvements or the University campus Facilities Management office designated in the notice. Optionally, and in addition to internet posting on the University website, a legal advertisement may be published either in a daily

or weekly publication of general circulation within the State or in a daily or weekly publication of local circulation (if available) in a county of the State where the construction is to take place.

- 2) A selection committee shall be established which shall include at least three University employees with sufficient education, training, and credentials in the area of the construction required from the Office of Capital Improvements and/or the Facilities Management Office that will be responsible for or involved in the management and oversight of the construction to be procured. Additional University or State employees who have similar education, training, and credentials as the minimum three University employees may be added to the selection committee. The names of the members of the selection committee shall be placed in the contract file.
- 3) The selection criteria to be employed in descending order of importance shall be:
 - a) Experience and qualifications relevant to project type;
 - b) Past performance on projects of similar scope for public agencies or private industry, including corrective actions and other responses to notices of deficiencies;
 - c) Capacity to accomplish the work in the required time; and
 - d) Any additional criteria determined in writing by the selection committee to be relevant to the University's needs with respect to the project or necessary and appropriate to ensure full, open, and fair competition, such as the following:
 - (1) Specialized experience, equipment, and technical competence to be applied;
 - (2) Quality control practices, techniques, and methods used;

- (3) Ability to work effectively with University and user program staff;
 - (4) Familiarity with and knowledge of all applicable laws, codes, and ordinances; and
 - (5) Safety record.
- 4) Prior to the posting of the notice of the construction project on a University website, the selection committee shall agree upon and document in writing the selection criteria (including any weighting system) that it will use in conducting such evaluations. The selection criteria so established and to be used by the selection committee shall be included in said notice of the construction project and placed in the contract file.
- 5) The selection committee shall evaluate the statement of qualifications of those contractors who have timely submitted written expressions of interest for the project in accordance with the notice against the established selection criteria. Committee members may use OPRPM Form 156, Individual Evaluation Form for Construction, (**Attachment 280.1**), or a similar form or forms, for evaluation purposes.
- 6) Based upon the evaluation scoring of the statements of qualifications of those contractors interested in the project, the selection committee shall provide to the University's designated officer overseeing the particular procurement of construction services the ranking of all interested contractors based on the established selection criteria, together with a summary of their respective qualifications supporting the ranking of each such interested contractor on OPRPM Form 157, Construction Evaluation Ranking Abstract, (**Attachment 280.2**), or similar form, for the contract file.
- 7) The University's designated officer will be the head of the office that will be responsible for or involved with managing and overseeing the construction services to be procured. This will

be either the head of the Office of Capital Improvements or the head of the campus Facilities Management office involved with the management and oversight of the construction services to be procured.

- 8) The University's designated officer shall thereafter seek to negotiate a contract with the first-ranked contractor, which is fair and reasonable, established in writing, and based upon the estimated value, scope, complexity, and nature of the construction services to be performed. If a satisfactory contract cannot be negotiated with the first-ranked contractor, such negotiations shall be terminated and negotiations with the other contractors in order of their rankings shall commence. Negotiations shall be conducted confidentially.
- 9) If a contract at a fair and reasonable price cannot be negotiated with any of the ranked contractors, or the University's designated officer determines that further negotiations with any of the remaining ranked contractors will not likely result in a contract at a fair and reasonable price, the University's designated officer may cease further negotiations and procure the construction services through any of the other applicable source selection methods provided in these procedures.
- 10) Upon completion of successful negotiations, the University's designated officer shall forward the following documents to the OPRPM for processing:
 - a) Original cost proposal from the selected contractor, if applicable;
 - b) Completed OPRPM Form 95, Determination of Cost or Price Reasonableness (**Attachment 285.1**);
 - c) UH FMIS-41, Contract Encumbrance and Payment Form (**Attachment 275.1a**); and
 - d) A draft of the proposed contract terms and conditions including the technical specifications and plans, time of

performance, and the compensation and payment schedule.

- b. All contracts processed under these construction procurement procedures shall be submitted to the OPRPM for review, regardless of the dollar amount of the contract.

The award of the contract shall be made by the OPRPM, and only the OPRPM shall be authorized to issue a Notice to Proceed permitting the contractor to commence work under the contract. Neither the Office of Capital Improvements nor any of the University Facilities Management offices shall be authorized to issue any notices to proceed or otherwise permit the contractor to commence work under the contract.

4. Posting of Awards

All contracts awarded under this section shall be posted electronically on a University website within seven days of the contract award by the OPRPM and shall remain posted for at least one year. Information to be posted shall include, at a minimum, the following:

- a. The names of the contractors ranked by the selection committee;
- b. The names of the contractors with whom the University's designated officer conducted negotiations;
- c. The name of the contractor receiving the award; and
- d. The dollar amount of the contract;
- e. The name of the University's designated officer negotiating the contract; and
- f. Any relationship between the principals of the contractor receiving the award and the University's designated officer negotiating the contract.

5. Public Inspection

After the contract is awarded, the following information, at a minimum, shall be open to public inspection: (a) the contract, (b) the list of interested contractors evaluated by the selection committee, (c) the selection criteria established and used by the selection committee, (d) the selection committee's scoring of all interested contractors, and (e) the statements of qualifications and related information submitted by the interested contractors, except those portions for which a proper written request for confidentiality has been made.

6. Debriefing

- a. The purpose of a debriefing is to inform the contractors who submitted a written expression of interest for the project under consideration of the basis for their non-selection for award.
- b. A written request by a non-selected contractor for a debriefing shall be made within three working days after the posting of the award of the contract.
- c. Debriefing shall be held by the University's procurement officer or his or her designee, to the maximum extent practicable, within seven working days of receiving a timely written request for debriefing; provided the University's procurement officer or his or her designee may determine whether or not to conduct individual or combined debriefings.
- d. The University's procurement officer or his or her designee shall notify all contractors submitting timely written requests for debriefing of the scheduled date, time, and place for the debriefing and whether it will be an individual or combined debriefing.
- e. The University's designated officer or his or her designee shall attend each of the debriefings.