



COUNCIL OF JUDGES ADMINISTRATION

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May 6, 2008

**Judge Anthony Cobos
And County Commissioners
County Courthouse
El Paso, TX**

Dear Judge Cobos and Commissioners:

I hereby request that the following item be placed on the next regular agenda for May 12th:

The Council of Judges, after its April 24th meeting of the Council of Judges, is requesting that Mike Izquierdo be designated as the governmental entity engineer representative for the duration of the Design Build work on the 4th floor remodeling project.

See attached Local Government Code Chapter §271.119 "Design-Build Contracts for Facilities".

Your approval of this item is greatly appreciated.

Sincerely,

MIKE IZQUIERDO
Executive Director

proposals, whichever is later.

(j) If the construction manager-at-risk reviews, evaluates, and recommends to the governmental entity a bid or proposal from a trade contractor or subcontractor but the governmental entity requires another bid or proposal to be accepted, the governmental entity shall compensate the construction manager-at-risk by a change in price, time, or guaranteed maximum cost for any additional cost and risk that the construction manager-at-risk may incur because of the governmental entity's requirement that another bid or proposal be accepted.

(k) If a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected in accordance with this section, the construction manager-at-risk may, without advertising, fulfill the contract requirements itself or select a replacement trade contractor or subcontractor to fulfill the contract requirements.

(l) If a fixed contract amount or guaranteed maximum price has not been determined at the time the contract is awarded, the penal sums of the performance and payment bonds delivered to the governmental entity must each be in an amount equal to the project budget, as specified in the request for qualifications. The construction manager shall deliver the bonds not later than the 10th day after the date the construction manager executes the contract unless the construction manager furnishes a bid bond or other financial security acceptable to the governmental entity to ensure that the construction manager will furnish the required performance and payment bonds when a guaranteed maximum price is established.

Added by Acts 2001, 77th Leg., ch. 1409, § 5, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 1276, § 14A.794, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1213, § 4, eff. September 1, 2007.

§ 271.119. DESIGN-BUILD CONTRACTS FOR FACILITIES.

(a) A governmental entity may use the design-build method for the construction, rehabilitation, alteration, or repair of a facility. In using that method and in entering into a contract for the services of a design-build firm, the contracting governmental entity and the design-build firm shall follow the procedures provided by this section.

(b) The governmental entity shall select or designate an engineer or architect independent of the design-build firm to act as its representative for the duration of the work on the facility. If the governmental entity's engineer or architect is not a full-time employee of the governmental entity, the governmental

entity shall select the engineer or architect on the basis of demonstrated competence and qualifications as provided by Section 2254.004, Government Code.

(c) The governmental entity shall prepare a request for qualifications that includes general information on the project site, project scope, budget, special systems, selection criteria, and other information that may assist potential design-build firms in submitting proposals for the project. The governmental entity shall also prepare a design criteria package that includes more detailed information on the project. If the preparation of the design criteria package requires engineering or architectural services that constitute the practice of engineering within the meaning of Chapter 1001, Occupations Code, or the practice of architecture within the meaning of Chapter 1051, Occupations Code, those services shall be provided in accordance with the applicable law.

(d) The governmental entity shall evaluate statements of qualifications and select a design-build firm in two phases:

(1) In phase one, the governmental entity shall prepare a request for qualifications and evaluate each offeror's experience, technical competence, and capability to perform, the past performance of the offeror's team and members of the team, and other appropriate factors submitted by the team or firm in response to the request for qualifications, except that cost-related or price-related evaluation factors are not permitted. Each offeror must certify to the governmental entity that each engineer or architect that is a member of its team was selected based on demonstrated competence and qualifications in the manner provided by Section 2254.004, Government Code. The governmental entity shall qualify a maximum of five offerors to submit additional information and, if the governmental entity chooses, to interview for final selection.

(2) In phase two, the governmental entity shall evaluate the information submitted by the offerors on the basis of the selection criteria stated in the request for qualifications and the results of an interview. The governmental entity may request additional information regarding demonstrated competence and qualifications, considerations of the safety and long-term durability of the project, the feasibility of implementing the project as proposed, the ability of the offeror to meet schedules, costing methodology, or other factors as appropriate. The governmental entity may not require offerors to submit detailed engineering or architectural designs as part of the proposal. The governmental entity shall rank each proposal submitted on the basis of the criteria set forth in the request for qualifications. The governmental entity shall select the design-build firm that submits the proposal offering the best value for the governmental entity on the basis of the published selection criteria and on its ranking evaluations. The governmental entity shall first attempt to negotiate a contract with the selected offeror. If the

governmental entity is unable to negotiate a satisfactory contract with the selected offeror, the governmental entity shall, formally and in writing, end negotiations with that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end.

(e) Following selection of a design-build firm under Subsection (d), that firm's engineers or architects shall complete the design, submitting all design elements for review and determination of scope compliance to the governmental entity or the governmental entity's engineer or architect before or concurrently with construction.

(f) An engineer shall have responsibility for compliance with the engineering design requirements and all other applicable requirements of Chapter 1001, Occupations Code. An architect shall have responsibility for compliance with the requirements of Chapter 1051, Occupations Code.

(g) The governmental entity shall provide or contract for, independently of the design-build firm, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the governmental entity. The governmental entity shall select those services for which it contracts in accordance with Section 2254.004, Government Code.

(h) The design-build firm shall supply a signed and sealed set of construction documents for the project to the governmental entity at the conclusion of construction.

(i) A payment or performance bond is not required for, and may not provide coverage for, the portion of a design-build contract under this section that includes design services only. If a fixed contract amount or guaranteed maximum price has not been determined at the time a design-build contract is awarded, the penal sums of the performance and payment bonds delivered to the governmental entity must each be in an amount equal to the project budget, as specified in the design criteria package. The design-build firm shall deliver the bonds not later than the 10th day after the date the design-build firm executes the contract unless the design-build firm furnishes a bid bond or other financial security acceptable to the governmental entity to ensure that the design-build firm will furnish the required performance and payment bonds when a guaranteed maximum price is established.

Added by Acts 2001, 77th Leg., ch. 1409, § 5, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 1276, § 14A.795, eff. Sept. 1, 2003.

§ 271.120. JOB ORDER CONTRACTS FOR FACILITIES CONSTRUCTION OR REPAIR. (a) A governmental entity may award job order contracts for the minor construction, repair,