

1-8-6: Design-Build Procurements

A. Definitions

1. The following words, terms and phrases, when used in this Section, shall have the meanings:
 - a. “Delivery System” means the design and construction approach used to develop and construct a project.
 - b. “Design-Build” means a Delivery System that provides responsibility within a single contract for the furnishing of architecture, engineering, land surveying, and related services as required and the labor, materials, equipment, and other construction services for the project.
 - c. “Design-Build Contract” means a contract for a project under this Section between the District and a Design-Build Entity to furnish: architecture, engineering, land surveying, public art or interpretive exhibits, and related services, as required; and the labor, materials, equipment, and other construction services for the project.
 - d. “Design-Build Entity” (or “Entity”) means any individual, sole proprietorship, firm, partnership, joint venture, corporation, professional corporation, or other entity that proposes to design and construct any public project under this Section. A Design-Build Entity and associated Design Professionals shall conduct themselves in accordance with all relevant Federal and State and local laws, regulations, rules, and ordinances, the related provisions of the Illinois Administrative Code, and the District’s Code of Ordinances and policies.
 - e. “Design Professional” means any individual, sole proprietorship, firm, partnership, joint venture, corporation, professional corporation, or other entity that offers services under the Illinois Architecture Practice Act of 1989 [225 ILCS 305/1 et seq.], the Professional Engineering Practice Act of 1989 [225 ILCS 325/1 et seq.], the Structural Engineering Practice Act of 1989 [225 ILCS 340/1 et seq.], or the Illinois Professional Land Surveyor Act of 1989 [225 ILCS 330/1 et seq.].
 - f. “District” means the Forest Preserve District of Cook County.
 - g. “Evaluation Criteria” means the requirements for the separate phases of the selection process as set forth herein, which include, among other things, the specialized experience, technical qualifications and competence, capacity to perform, past performance, experience with similar projects, assignment of personnel to the project, and other appropriate factors.
 - h. “Phase I Evaluation Process” means the District’s review and weighting of the general qualifications of a Design-Build Entity based on non-price or non-cost related criteria, which at a minimum, shall include the following: (i) Experience of personnel; (ii) Successful experience with similar project types; (iii) Financial capability; (iv) Timeliness of past performance; (v) Experience with similarly sized projects; (vi) Successful reference checks of the firm; (vii) Commitment to assign personnel for the duration of the project and qualifications of the entity’s consultants; (viii) Ability or past performance in meeting or exhausting good faith efforts to meet the utilization

goals for business enterprises established in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act [30 ILCS 575/0.01 et seq.] and with Section 2-105 of the Illinois Human Rights Act [775 ILCS 5/2-105]; and (ix) Any other criteria the District deems to be necessary and appropriate for the specific project.

- i. “Phase II Evaluation Process” means the District’s review and weighting of the technical and costs related components of an Entity’s Proposal, which, at a minimum, shall include the following criteria: (i) Compliance with objectives of the project; (ii) Compliance of proposed services to the request for proposal requirements; (iii) Quality of products or materials proposed; (iv) Quality of design parameters; (v) Design concepts; (vi) Innovation in meeting the scope and performance criteria; (vii) Constructability of the proposed project; (viii) The total project cost, the construction costs, and the time of completion; (ix) The forest preserve or conservation district may include any additional relevant technical evaluation factors it deems necessary for proper selection; (x) Any additional relevant technical evaluation factors it deems necessary for proper selection.
- j. “Proposal” means the offer to enter into a Design-Build Contract as submitted by a Design-Build Entity in accordance with this Section.
- k. “Public Art Designer” means any individual, sole proprietorship, firm, partnership, joint venture, corporation, professional corporation, or other entity that has demonstrated experience with the design and fabrication of public art including any media that has been planned and executed with the intention of being staged in the physical public domain outside and accessible to all or any art which is exhibited in a public space including publicly accessible buildings, or interpretive exhibits including communication media that is designed to engage, excite, inform, relate, or reveal the intrinsic nature or indispensable quality of a topic or story being presented.
- l. “Request for Proposal” (or “RFP” or “Design-Build RFP”) means the document used by the District to solicit Proposals for a Design-Build Contract.
- m. “Scope and Performance Criteria” means the requirements for a District project, including, but not limited to, the intended usage, capacity, size, scope, quality and performance standards, life-cycle costs, and other programmatic criteria that are expressed in performance-oriented and quantifiable specifications and drawings that can be reasonably inferred and are suited to allow a Design-Build Entity to develop a Proposal.

B. Solicitation of Proposals

- 1. The District may enter into Design-Build Contracts through the issuance of a Design-Build RFP subject to the evaluation procedures and standards set forth herein. In the event of a conflict between the requirements for Competitive Bidding Contracts found at Section 1-8-2, with respect to RFPs for Design-Build Contracts issued under this Section, the procedures set forth herein shall control.
- 2. Prior to the issuance of a Design-Build RFP, the District must issue a notice of its intent to receive Proposals for the project at least 14 days before issuing the RFP. The District must publish the advance notice on the Purchasing Agent’s page of the District’s website,

located at www.fpdec.com. The District may also publish the notice in construction industry publications or post the notice on construction industry websites. A brief description of the proposed procurement must be included in the notice.

3. A Design-Build RFP shall be prepared for each project and must contain, without limitation, the following information:
 - a. The name of the District and the Department requesting the Proposal.
 - b. A preliminary schedule for the completion of the contract.
 - c. The proposed budget for the project, the source of funds, and the currently available funds at the time the RFP is submitted.
 - d. In addition to any prequalification, licensing, registration, or other requirements the District determines to be necessary and appropriate for the particular project, the RFP shall include all applicable conditions, restrictions, and qualifications for contracts set forth at Section 1-8-2 of the District's Code of Ordinances.
 - e. Material requirements of the contract, including, but not limited to, the proposed terms and conditions, required performance and payment bonds, insurance, and the Entity's plan to comply with the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act [30 ILCS 575/0.01 et seq.], with Section 2-105 of the Illinois Human Rights Act [775 ILCS 5/2-105], and the Prevailing Wage Act, [820 ILCS 130/2].
 - f. The Scope and Performance Criteria for the project.
 - g. The Evaluation Criteria for each Evaluation Phase of the solicitation.
 - h. The number of Entities that will be selected for the Phase II Evaluation Process and the anticipated deadline for the submission of Phase II Evaluation materials. The RFP shall allow selected Entities a minimum of 30 days to develop the Phase II submissions after the selection of Entities from the Phase I Evaluation Process is completed.
 - i. Any other relevant information that the District deems necessary and appropriate. The Design-Build Entity shall be entitled to rely upon the accuracy of this documentation in the development of its Proposal.
4. Notwithstanding any other requirements of the District's Code of Ordinances, all Proposals must be due at least 21 calendar days after the date of the issuance of the RFP. However, in the event the cost of the project is estimated to exceed \$12,000,000.00, the Proposal due date must be at least 28 calendar days after the date of the issuance of the RFP.

C. Scope and Performance Criteria

1. The District shall prepare the RFP with the assistance of a Design Professional or Public Art Designer, and in particular, the Scope and Performance Criteria set forth in a RFP shall be prepared by a Design Professional or Public Art Designer. The Scope and Performance Criteria must be in sufficient detail and contain adequate information to reasonably apprise Design-Build Entities of the District's overall programmatic needs and goals, including

criteria and preliminary design plans, general budget parameters, schedule, and delivery requirements.

2. Each RFP shall also include a description of the level of design to be provided in the Proposals. This description must include the scope and type of renderings, drawings, and specifications that, at a minimum, will be required by the District to be produced by the Design-Build Entities.
3. The Scope and Performance Criteria may be prepared by a Design Professional or Public Art Designer who is an employee of the District, or the District may contract with an independent Design Professional or Public Art Designer selected under the Local Government Professional Services Selection Act [50 ILCS 510/0.01 et seq.] to provide these services.
4. The Design Professional or Public Art Designer that prepares the Scope and Performance Criteria is prohibited from participating in any Design-Build Entity Proposal for the project.
5. The Design-Build Contract may be conditioned upon subsequent refinements in scope and price and the District may make modifications in the project scope without invalidating the RFP or the Design-Build Contract.

D. Procedures for Selection

1. For each Design-Build RFP issued under this Section the District will follow a two-phase selection process. Phase I of the process will evaluate and shortlist the Design-Build Entities based on qualifications. Phase II will consider the technical and cost components of Proposals submitted by the Entities identified as most qualified during the Phase I Evaluation Process.
2. Phase I Evaluation Criteria. Each RFP shall establish the relative importance assigned to each evaluation factor and subfactor, including any weighting of criteria to be employed by the District. The District must maintain a record of the evaluation scoring to be disclosed in event of a protest regarding the solicitation. The following criteria shall be included in each Phase I Evaluation of Design-Build Entities:
 - a. Experience of personnel;
 - b. Successful experience with similar project types;
 - c. Financial capability;
 - d. Timeliness of past performance;
 - e. Experience with similarly sized projects;
 - f. Successful reference checks of the firm;
 - g. Commitment to assign personnel for the duration of the project and qualifications of the Entity's consultants;

- h. Ability or past performance in meeting or exhausting good faith efforts to meet the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act [30 ILCS 575/0.01 et seq.] and with Section 2-105 of the Illinois Human Rights Act [775 ILCS 5/2-105]; and
 - i. Any other criteria the District deems to be necessary and appropriate for the specific project.
- 3. The District may not consider any Design-Build Entity for evaluation or award in violation of its Ethics Ordinance (Title 1, Chapter 13), or if the Entity has any pecuniary interest in the project or has other relationships or circumstances, including, but not limited to, long-term leasehold, mutual performance, or development contracts with the District, that may give the Design-Build Entity a financial or tangible advantage over other Design-Build Entities in the preparation, evaluation, or performance of the Design-Build Contract or that create the appearance of impropriety.
- 4. No Proposal shall be considered that does not include an Entity's plan to comply with the requirements established in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act, for both the design and construction areas of performance, and with Section 2-105 of the Illinois Human Rights Act.
- 5. Upon completion of the Phase I Evaluation, the District shall create a shortlist of the most highly qualified Design-Build Entities. However, the District, in its discretion, is not required to shortlist the maximum number of Entities as identified for Phase II Evaluation, provided that no less than 2 Design-Build Entities nor more than 6 are selected to submit Phase II Proposals.
- 6. The District shall notify the Entities selected for the shortlist in writing. This notification shall commence the period for the preparation of the Phase II Evaluation submissions (technical and cost evaluations). The District must allow at least 30 days for the shortlist entities to prepare their Phase II submittals.
- 7. Phase II Evaluation Criteria. The RFP shall set forth the evaluating factors to be used in the technical and cost submission components of the Phase II Evaluation Process. Each RFP shall establish, for both the technical and cost submission components of the Phase II Evaluation, the relative importance assigned to each evaluation factor and subfactor, including any weighting of criteria to be employed by the District. However, the total project cost criteria weighing factor shall not exceed 30%. The District must maintain a record of the evaluation scoring to be disclosed in event of a protest regarding the solicitation.
- 8. The following criteria shall be included in every Phase II technical evaluation of Design-Build Entities:
 - a. Compliance with objectives of the project;
 - b. Compliance of proposed services to the RFP requirements;
 - c. Quality of products or materials proposed;

- d. Quality of design parameters;
 - e. Design concepts;
 - f. Innovation in meeting the Scope and Performance Criteria;
 - g. Constructability of the proposed project; and
 - h. Any additional relevant technical evaluation factors the District deems necessary for proper selection.
9. The following criteria shall be included in every Phase II cost evaluation:
- a. Total project cost;
 - b. Construction costs;
 - c. Time of completion; and
 - d. Any additional relevant technical evaluation factors it deems necessary for proper selection.
10. The District shall directly employ or retain a Design Professional or a Public Art Designer to evaluate the technical and cost submissions to determine if the technical submissions are in accordance with generally accepted industry standards.
11. Upon completion of the Phase II Evaluation Process, the District may award the Design-Build Contract to the highest overall ranked Entity.

E. Combined Evaluations Phases for Projects Estimated to be Less than \$12,000,000

1. In any case where the total overall cost of the project is estimated to be less than \$12,000,000, the District may combine the Phase I and Phase II Evaluation Processes into one combined stage, provided that all the requirements of evaluation are performed in accordance this Ordinance and Section 25 of the Forest Preserve District and Conservation District Design-Build Authorization Act (70 ILCS 860/25).

F. Submission of Proposals

1. Proposals must be timely and properly submitted electronically consistent with the requirements of the RFP and Section 1-8-2 of the District's Code of Ordinances. Proposals may not be reviewed until after the deadline for submission has passed as set forth in the RFP. All Design-Build Entities submitting Proposals shall be disclosed after the deadline for submission, and all Design-Build Entities who are selected for the Phase II Evaluation Process shall also be disclosed at the time of that determination.
2. Proposals shall include a bid bond in the form and security as designated in the RFP. Proposals shall also contain a separate sealed envelope (or an electronic file if the Proposal is allowed to be submitted electronically) with the cost information within the overall Proposal submission. Proposals shall include a list of all Design Professionals, Public Art Designers, and other entities to which any work may be subcontracted during the performance of the contract.

3. The District shall review the Proposals for compliance with the Performance Criteria and Evaluation factors. Proposals must meet all material requirements of the RFP or they may be rejected as non-responsive. The District shall have the right to reject any and all Proposals.
4. Unless otherwise specified in the RFP, the drawings and specifications of the Proposal will remain the property of the Design-Build Entity. An Entity must identify any information or materials contained within its Proposal that it in good faith believes to be trade secret or proprietary commercial or financial information that is exempt from disclosure under the Illinois Freedom of Information Act [5 ILCS 140/7(g)]. If any Entity identifies any such information or materials, it must submit a properly redacted version of its Proposal as part of its submission which the District may release in response to a request for records made pursuant to the Illinois Freedom of Information Act. Nothing in this Section shall be construed to prevent an Entity from consenting to the disclosure of such information.
5. Proposals may be withdrawn prior to evaluation for any cause. After evaluation begins by the District, clear and convincing evidence of error is required for withdrawal. An Entity that withdraws its Proposal after the evaluation period has commenced will be deemed unqualified and will be prohibited from receiving a District contract for a period of one (1) year per 1-8-2(N)(7).

G. Award

1. The Design-Build Contract shall be awarded to the highest overall ranked entity. Notice of award shall be made in writing. Unsuccessful entities shall also be notified in writing. The District may not request a best and final offer after the receipt of Proposals. The District may negotiate with the selected Design-Build Entity after award but prior to contract execution for the purpose of securing better terms than originally proposed, provided that the salient features of the request for proposal are not diminished.
2. 2. For bids that require Board approval, the final recommendation for award shall be transmitted to the Board, through its Finance Committee, for approval of the recommendation for award and execution of a contract with the approved bidder. The Purchasing Agent shall ensure that all required certifications, affidavits, and disclosures are executed and all due diligence is performed prior to the request to award and execute the contract.

H. Reports and Evaluation

1. At the end of every 6 month period following the contract award, and again prior to final contract payout and closure, a selected Design-Build Entity shall detail, in a written report submitted to the District, its efforts and success in implementing the Entity's plan to comply with the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act [30 ILCS 575/0.01 et seq.] and the provisions of Section 2-105 of the Illinois Human Rights Act [775 ILCS 5/2-105].