



Legislation Text

File #: 94-24, Version: 0

EXECUTIVE ORDER #94-24

TO: MEMBERS OF THE LEGISLATURE
CLERK OF THE LEGISLATURE

DATE: OCTOBER 6, 1994

RE: FORMAL PROCEDURES FOR THE PROCUREMENT OF
ENGINEERING AND LAND SURVEYING SERVICES

ARCHITECTURAL,

A. Pursuant to Section 6.2 of Article III of the Jackson County Charter, there are established for the procurement of architectural, engineering and land surveying services the following formal procedures:

1. It shall be the policy of Jackson County to negotiate contracts for architectural, engineering and land surveying services on the basis of demonstrated competence and qualifications for the type of services required and at fair and reasonable prices.

2. As used in this executive order unless the context specifically requires otherwise:

(1) "Firm" means any individual, firm, partnership, corporation, association or other legal entity permitted by law to practice the profession of architecture, engineering or land surveying and provide said services.

(2) "Architectural services" means any service or creative work which requires architectural education, training and experience, including services and work such as consultation, evaluation, planning, aesthetic and structural design, the preparation of drawings, specifications and related documents, and the coordination of services furnished by structural, civil, mechanical and electrical engineers and other consultants as they relate to architectural work in connection with the construction or erection of any private or public building, building structure, building project or integral part or parts of buildings or of any additions or alterations thereto.

(3) "Engineering services" means any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, engineering teaching of advance engineering subjects or courses related thereto, engineering surveys, and the inspection of construction for the purpose of assuring compliance with drawings and specifications, any of which embraces such service or work either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, or projects and including such architectural work as is incidental to the practice of engineering.

(4) "Land surveying services" means any service comprising the determination of the location of land boundaries and land boundary corners, the preparation of maps showing the shape and area of tracts of land and their subdivisions into smaller tracts and showing access thereto, and the preparation of official plats, or maps, of said land.

(5) "Project" means any capital improvement project or any study, plan, survey or program activity of a county department, including development of new or existing programs.

(6) "Department" means the county department initiating a project.

(7) "Statement of qualifications and performance data" means a statement on file that accurately reflects the qualifications and performance data of a particular firm.

(8) "Design-build firm" means an individual, partnership, corporation, joint venture, or other legal entity which:

a. engages in contracting of projects; or

b. is certified under chapter 327, RSMo, to practice or to offer to practice engineering or architecture.

(9) "Design-build contract" means a single contract with a design-build firm for the design and construction of a project.

(10) "Design criteria package" means concise, performance-oriented drawings or specifications of a project. The purpose of a design criteria package is to furnish sufficient information so as to permit design-build firms to prepare bids and responses to a department's request for proposals. The design criteria package shall specify such performance-based criteria for the project, including, but not limited to, the legal description of the site, survey information concerning the site, subsurface conditions, environmental assessment, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, storm water retention and disposal, and parking requirements, as may be readily available and applicable to the project.

(11) "Design criteria professional" means a firm or individual which holds a current certificate of registration under chapter 327, RSMo, to practice architecture or engineering and which is employed by or under contract to the department for the providing of professional architectural or engineering services in connection with the preparation of a design criteria package.

3. In the procurement of architectural, engineering or land surveying services, a department shall encourage firms engaged in the lawful practice of the architectural, engineering, or land surveying professions to annually submit a statement of qualifications and performance data to said department. Whenever a project requiring architectural, engineering or land surveying services is proposed, the initiating department shall evaluate current statements of qualifications and performance data of firms on file together with those that may be submitted by other firms regarding the proposed project. In evaluating the qualifications of each firm the department shall use, but not be limited to, the following criteria:

(1) The specialized experience and technical competence of the firm with respect to the type of services required;

- (2) The capacity and capability of the firm to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project;
 - (3) The past record of performance of the firm with respect to such factors as control of costs, quality of work, and ability to meet schedules;
 - (4) The firm's proximity to and familiarity with the area in which the project is located; and,
 - (5) The firm's eligibility under law and ordinance for the contract in question.
4. The initiating department shall list minimum of three highly qualified firms. The initiating department shall then select the firm considered best qualified and capable of performing the desired work and negotiate a contract for the project with the firm selected.
5. Negotiation of the contract.
- (1) For a basis for negotiations the department shall prepare a written description of the scope of the proposed services.
 - (2) If the department is unable to negotiate a satisfactory contract with the firm selected, negotiations with that firm shall be terminated. The department shall then undertake negotiations with another of the qualified firms selected. If there is a failing of accord with the second firm, negotiations with such firm shall be terminated. The department shall then undertake negotiations with the third qualified firm.
 - (3) If the department is unable to negotiate a contract with any of the selected firms, the department shall reevaluate the necessary architectural, engineering or land surveying services, including the scope and reasonable fee requirements, and shall again compile a list of qualified firms and proceed in accordance with this executive order.
6. Applicability to design-build contracts.
- (1) Except as provided in this paragraph and paragraph 7. below, this executive order is not applicable to the procurement of design-build contracts by a department, and any such department shall award design-build contracts in accordance with the procurement laws, rules, and ordinances applicable to the department.
 - (2) A design criteria package shall be prepared by a design criteria professional employed by or retained by the department. If the department elects to enter into a professional services contract for the preparation of the design criteria package, then the design criteria professional shall be selected and contracted with in accordance with the requirements of paragraphs 3. through 5. A design criteria professional who has been selected to prepare the design criteria package shall not be eligible to render services under a design-build contract executed pursuant to the design criteria package.
 - (3) Each department shall specify procedures for the award of design-build contracts in the request for proposals for the project. Such procedures shall provide for, at a minimum, the following:
 - a. The preparation of a design criteria package for the design and construction of the project.
 - b. The criteria, procedures, and standards for the evaluation of design-build contract proposals or bids, based on price and technical and design qualifications, weighted for the project, as hereinafter specified.
 - c. The solicitation of competitive proposals, pursuant to a design criteria package, from qualified design-build firms and the evaluation of the responses or bids submitted by those firms based on the evaluation criteria and procedures established pursuant to paragraph 7. below.
 - d. Consultation with the employed or retained design criteria professional concerning the evaluation of the cost proposals submitted by the design-build firms, the supervision or approval by the department of the detailed working drawings of the project, and evaluation of the compliance of the project construction with the design criteria package by the design criteria professional.
 - e. In the case of public emergencies, declaration of an emergency by the county executive and authorization of negotiations with the best qualified design-build firm available at that time.
7. Evaluation criteria and procedures for design-build proposals.
- (1) Design-build firms shall submit their proposals to the department in two parts according to subparagraphs (2) and (3). The proposals shall be contained in sealed envelopes on forms provided by the department. The department shall designate separate selection and review team members to open, review, and evaluate the proposals and to recommend selection of a firm based on the combined totals as stated in subparagraph (5).
 - (2) The design qualifications of the design-build firm and its subcontractors or consultants shall be submitted separate from the cost proposal in an envelope clearly marked on the outside "Design Qualifications." The department selection team shall rank each firm's design qualifications in accordance with the criteria set forth in subparagraph
 - (4). Under no circumstances shall price or fee be included in the design qualification proposal and any proposal which includes that information shall be deemed non-responsive and the proposal shall be rejected.
 - (3) The cost proposal of the design-build firm for all design services and construction required to complete the project shall be submitted separate from the design qualifications in an envelope clearly marked "Cost Proposal." Cost proposals shall be evaluated and ranked as any other competitive bid, based on the lowest responsible and qualified bidder.
 - (4) Design qualifications shall be ranked from most qualified to least qualified, with each firm assigned a numerical ranking with the most qualified ranked one, the next qualified ranked two, and so on through the least qualified. Only after these proposals have been evaluated and ranked based on design qualifications may the department open and read aloud, at a designated and publicly announced time and place, the cost proposals. The cost proposals shall likewise be ranked numerically, with the lowest bid being ranked one, the next higher bid ranked two, and so on. If, after review of a design-build firm's design qualifications proposal, the department selection team determines that, based on qualifications, availability, and past work, the firm is not qualified to undertake the project, it shall reject that firm's entire proposal outright, without consideration of the firm's cost proposal, which shall remain unopened.
 - (5) After all cost proposals have been opened and ranked per subparagraphs (3) and (4), the department shall total each design-build firm's combined score, based on the ranking assigned to each of the two-part submittals. The design-build firm with the lowest overall total (most qualified plus lowest bid) shall be recommended for award of the contract. In the event of a tie, the lower cost proposal shall prevail.
 - (6) Each department shall take precautions to assure that cost proposal information is not revealed to selection team members who are reviewing and ranking the design qualifications proposals until after the firms have been ranked using the criteria in subparagraph (3).
8. Participation of design criteria professional.
- The design-criteria professional shall not participate in the ranking of firm qualifications under subparagraph (2). The design-criteria professional may be employed or retained to perform periodic site visits, prepare progress reports, review and approve progress and final pay applications, review shop drawings and submittals, decide disputes, make interpretations of the documents, perform inspections upon

substantial and final completion, and assist in warranty inspections, and to provide any other professional service where the department deems it in the public interest to have an independent professional assisting with project administration.

B. Executive order 83-50, dated October 24, 1983, is hereby rescinded.
Marsha J. Murphy, County Executive