Procurement Documents for Progressive Design-Build Projects

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Model Procurement Documents for Progressive Design-Build
Overview

• What is progressive design-build (PDB)? How does it work?

• Benefits of PDB

• Key considerations in a PDB procurement
  – Understanding the model procurement documents
    • RFQ
    • RFP
    • Progressive Design Build Agreement

• Implementing the PDB procurement
Project Delivery Options

Traditional Delivery

Design-Bid-Build (DBB)

Owner

Designer

Builder

Construction Management at Risk (CMAR)

Owner

Designer

CM

Local Subconsultants

Local Subcontractors

“Progressive” Design-Build (GMP)

Owner

Design/Builder

Local Subconsultants/ Subcontractors

Lump-Sum Design-Build (LS)

Owner

Design/Builder

Operator

Alternative Delivery

Design-Build-Operate/ Finance, etc.

Owner

Design Builder Operator

Operator
In a progressive design-build procurement, the design-builder is selected primarily based on qualifications before substantial design is completed. Together, the owner and the design-build team advance the design, incorporating the details desired by the owner and providing the owner with cost input regarding options the owner is considering. This open-book approach enables the owner to make well-informed decisions on the overall quality of the project (page 25...Planning for DB).
Progressive Design-Build

Construction estimating can start very early in design, allowing comparison of specific technical solutions.

Owner

“Progressive” estimates keep owners informed and support-informed scope adjustment decisions.

Design/Builder

First fully detailed estimate can be used to establish a scope baseline. Estimating process is “open book.”

Design Definition

Owners can use third-parties to verify cost . . . . . . and go to the hard-bid market if needed (the “off-ramp”).

Design Development and Construction

Guaranteed maximum price established at the right time: Risk and contingency reduced, schedule needs met.
Progressive Design-Build

- Design/Builder
- Owner
- PM/OA
- Design Definition
- Design Development and Construction
- Phase 1
- 100%
- Phase 2
- GMP

Design-Build for Water/Wastewater
Hilton Walt Disney World Orlando, FL March 20-22, 2013
Progressive Design-Build Advantages

- **Investment in projects, not procurements**
- Offers owners maximum flexibility/opportunity to collaborate on permitting/design
- Maximizes overall schedule
- Owners have an “off-ramp” in case of permitting issues or if GMP is not accepted
- Very successful evolving model
Key Considerations in PDB Procurement

• Existing legal authority
• Basis for selection
• Required contents for submission
• Evaluation criteria and scoring methodology
• PDB Contract
  – Agreement
  – General Conditions
Legal Authority

Verify State and local procurement laws

– Is PDB allowed?

– Requirements for procurement
  • One step vs. Two-step process
  • Qualifications only vs. “best value” (quals + cost)
  • Self performance of work

Water Design Build Council survey (July 2012)

• Survey of relevant state legislation for select states
• Available on WDBC website
Legal Authority

- Does not expressly permit PDB
- Allows evaluation of RFP based on criteria deemed appropriate for the project
- Does not prohibit two-step process
- Best value evaluation
- Requires price consideration in evaluation, but need not be the sole determining factor
## Basis for Selection

### Qualifications-Based Selection

- Employ evaluation criteria that are traditionally used for any qualifications-based selection
- Owner able conduct process efficiently
- Reduces total time for procurement
- Reduces cost of procurement
- Reduces complexity
- Potentially allows for a larger pool of qualified firms to participate

### Best-Value Selection

- Allows price or costs to be considered with qualifications
- Total cost of construction is not a factor
- Typical cost considerations include:
  - Fixed fees for hourly billing rates for design and preconstruction services
  - Raw labor hour rate sheet
  - Design-builder fee or markup percentage of allowable project costs
  - Fixed fee for billing rates for General Condition costs
Basis for Selection

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  - Fixed fee for General Condition costs

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**Basic Intent of PDB is that selection of the design-builder is heavily based on qualifications**
- Fees and rates account for relatively small percentage of overall project costs
- Weighting of costs should be kept to minimum
  - Some state procurement laws dictate minimum percentages
  - Procurement documents provide suggestions on weighting of costs
Basis for Selection
Various Procurement Processes

Two categories for Procurement

Single-Step
- Request for Qualifications
  - Qualifications only
- Request for Proposals
  - “Best Value” Qualifications + Costs

Single-Step
- Request for Qualifications
  - Qualifications only
- Request for Proposals
  - “Best Value” Qualifications + Costs

Two - Step
- Request for Qualifications
- Request for Proposals
  - Qualifications only

Two - Step
- Request for Qualifications
- Request for Proposals
  - “Best Value” Qualifications + Costs
Basis for Selection
Various Procurement Processes

Single-Step – Qualifications Selection

- If schedule is a critical driver
- If maximum owner/design-builder collaboration is a priority
- If state/local law allow qualifications- only selection

WDBC No. W-1200-2013
Basis for Selection
Various Procurement Processes

Single-Step: Best Value

- If schedule is a critical driver
- If maximum owner/design-builder collaboration is a priority
- If Owner prefers (or if state/local law requires) inclusion of cost as a selection factor

Request for Qualifications
- Qualifications only

Request for Proposals
- WDBC No. W-1300-2013

Single-Step
Basis for Selection
Various Procurement Processes

Two –Step: Request for Qualifications

- If schedule can accommodate the time required for two procurement steps
- Potentially greater degree of project data provided with RFP
- Short list firms to receive RFP
Basis for Selection
Various Procurement Processes

Two-Step: Request for Proposals

- Includes Project Approach
- Potentially greater degree of project data provided with RFP
- Qualifications only or best value

Two - Step

Request for Qualifications

Request for Proposals

Two - Step

Request for Qualifications

Request for Proposals

Quals only

Best value

WDBC No. W-1500-2013
Required Contents for Submission

Documents – RFQ & RFP

– Comprehensive

– Based on historical submission requirements from previous PDB deliveries

– Provide foundation for development of RFQ & RFP that best suits an Owner’s specific needs
RFQ Contents

Statement of Qualifications - Contents

- Section 1. Background
- Section 2. Project Overview
- Section 3. Progressive Design-Build Services
- Section 4. Procurement Process
- Section 5. SOQ Submission Requirements
- Section 6. SOQ Evaluation and Selection
- Section 7. Conditions for Respondents

WDBC Documents W-1200-2013 & W-1400-2013
RFQ Contents

Attachments

ATTACHMENTS

- A: Definition of Terms
- B: Scope of Design-Builders Services
- C: Draft PDB Contract
- D: Project Background Documents
- E: Project Technical Requirements
- F: Submission Forms

WDBC Documents W-1200-2013 & W-1400-2013
RFQ Contents

Statement of Qualifications - Contents

- Section 1. Background
- Section 2. Project Overview
- Section 3. Progressive Design-Build Services
- Section 4. Procurement Process
- Section 5. SOQ Submission Requirements
- Section 6. SOQ Evaluation and Selection
- Section 7. Conditions for Respondents

DIFFERENCES
- Procurement Schedule
  - Single-Step - includes Project Approach and PDB Contract Markup
  - Evaluation criteria / weighting
  - Selection
RFQ Contents

Statement of Qualifications - Contents

- Section 1. Background
- Section 2. Project Overview
- Section 3. Progressive Design-Build Services
- Section 4. Procurement Process
- Section 5. SOQ Submission Requirements
- Section 6. SOQ Evaluation and Selection
- Section 7. Conditions for Respondents

WDBC Documents W-1200-2013 & W-1400-2013
RFQ Contents

Statement of Qualifications – Section 5

- Transmittal Letter
- Part 1: Executive Summary
- Part 2: Design-Builder Profile
- Part 3: Project Team
- Part 4: Experience

WDBC Documents W-1200-2013 & W-1400-2013
RFQ Contents

• Transmittal Letter

  Identifies the design-builder and provides contact information

• Page limited
• Contact information for Respondent Contact
• Signatory for contracts
• Must make reference to “Forms of Compliance”
RFQ Contents

• Part 1: Executive Summary

Provides first glance overview of the SOQ contents, highlighting important features

• Page limited
• Key elements of the SOQ
• No additional information not found in SOQ
RFQ Contents

• Part 2: Design-Builder Profile

  Provides general, legal and financial information concerning the design-builder

  • General
  • Legal Structure
  • Project office location
  • Financial condition

  • Performance bonds
  • Insurance
  • Material adverse changes in financial position
  • Legal proceedings
RFQ Contents

• Part 2: Design-Builder Profile

  Provides general, legal and financial information concerning the design-builder

• Completion of contracts
• Violation of laws
• Debarred from bidding
RFQ Contents

• Part 3: Project Team

  Describes key personnel and additional firms
  * ORGANIZATION  * ROLES & RESPONSIBILITIES  * RESUMES

Design-builder/other firms

  * Roles and responsibilities of all firms
  * Phase 1 and Phase 2 organizational charts
RFQ Contents

• Part 3: Project Team

  Describes key personnel and additional firms
  * ORGANIZATION   * ROLES & RESPONSIBILITIES   * RESUMES

Key Personnel

  * Roles and responsibilities
  * Level of commitment
  * Resumes
RFQ Contents

• Part 4: Experience

  Provides detailed information on relevant design, construction, design-build projects and safety

• Reference projects – number specified by owner

• Three categories:
  – Design
  – Construction
  – Design-build
RFQ Contents

• Part 4: Experience

Provides detailed information on relevant design, construction, design-build projects and safety

• Information provided for each project:
  – Name of owner
  – Year started and completed
  – Owner reference and contact information
RFQ Contents

• Part 4: Experience

Provides detailed information on relevant design, construction, design-build projects and safety

• Information provided for each project:
  – Firms and key personnel that participated in the project
  – Description of the project

• One–page summary table to cross reference the projects with project team (firms and key personnel)
Required Contents for Submission

Request for Proposals

- Two-Step RFP discussed (W-1500-2013)
- Used for both
  - Qualifications based selection
  - Best Value selection
- RFP for Single-Step also includes requirements outlined in Single-Step RFQ

WDBC Documents W-1300-2013 & W-1500-2013
RFP Contents

Request for Proposals - Contents

- Section 1. Background
- Section 2. Project Overview
- Section 3. Progressive Design-Build Services
- Section 4. Procurement Process
- Section 5. Proposal Submission Requirements
- Section 6. Proposal Evaluation and Selection
- Section 7. Conditions for Respondents

WDBC Documents W-1300-2013 & W-1500-2013
RFP Contents

Request for Proposals - Attachments

A: Definition of Terms
B: Scope of Design-Builders Services
C: Draft PDB Contract
D: Project Background Documents
E: Project Technical Requirements
F: Fee and Rate Proposal Form

Not used if “Qualifications Only” selection

WDBC Documents W-1300-2013 & W-1500-2013
RFP Contents

Request for Proposals - Contents

Section 1. Background
Section 2. Project Overview
Section 3. Progressive Design-Build Services
Section 4. Procurement Process
Section 5. Proposal Submission Requirements
Section 6. Proposal Evaluation and Selection
Section 7. Conditions for Respondents

WDBC Documents W-1300-2013 & W-1500-2013
RFP Contents

Request for Proposals - Contents

- Transmittal Letter
- Part 1: Executive Summary
- Part 2: Project Approach
- Part 3: Draft PDB Contract Markup
- Part 4: Fee and Rate Proposal
- Part 5: Updated Qualifications

Not used if “Qualifications Only” selection
Not used in Single-Step Process

WDBC Documents W-1300-2013 & W-1500-2013
RFP Contents

• Transmittal Letter
• Part 1: Executive Summary

Same as the RFQ
RFP Contents

Part 2: Project Approach

– Can include discussion on:

• How collaborative relationship with the Owner would be established

• How the design and construction processes will interface

• Critical work components for success

• The process for GMP development
RFP Contents

Part 2: Project Approach

– Also can include discussion on approach to:
  • Communications with owner and stakeholders
  • Quality management
  • Risk management
  • Adherence to the GMP and schedule
Required Contents for Submission

• Part 3: Draft PDB Contract Markup

**PURPOSE**

Provides a description and discussion of the rationale for proposed revisions to the draft PDB contract

• Allows proposers to revisions to the contract that would more efficiently allocate:
  - Risk
  - Improve parties understanding of risk allocation
  - Improve clarity

Owner is not obligated to accept any of the suggested revisions
Part 4: Fee and Rate Proposal

Provides certain fees and rates for design-builder services during Phase 1 and Phase 2

- Fixed fee or hourly rates for:
  - Design services
  - Engineering services during construction
  - Pre-construction services

- Design-builder fee or markup as a percentage of project costs

- Fixed fee or hourly rates for components of the GCs.
Part 5: Updated Qualifications

- Any proposed changes to the SOQ
- Resumes of additional personnel proposed
- Proposed changes subject to acceptance of owner

Confirm prior SOQ and describes any changes to projects team or key personnel and explains reason for change.
Evaluation Criteria and Scoring Methodology

EVALUATION CRITERIA

Should be designed to select a design-builder with the highest probability of achieving an Owner’s project objectives

• Fair
• Clear
• Transparent
Evaluation Criteria and Scoring Methodology

Minimum qualification requirements

– SOQ and Proposal for Single-Step
– Pass/Fail

* Performance bond
* Material adverse conditions
* Design experience
* Design-build experience
* Net worth
* Licensing and registration
* Construction experience
* Safety record
## Evaluation Criteria and Scoring Methodology

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<th>Document</th>
<th>Quals</th>
<th>Best Value</th>
<th>Experience and capabilities</th>
<th>Organization, Management and Safety</th>
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Progressive Design Build Contract

Agreement

– Short integrating agreement

– Phased delivery:
  • Phase 1 for design development & GMP proposal, cost-plus basis
  • Phase 2 upon award, for design completion, procurement, construction, start-up, testing
  • Off-ramp for Owner at end of Phase 1

– LD’s for late delivery of Phase 2; bonus for early completion

– Limitations of liability
Progressive Design Build Contract

Attachment A – Scope of Work

– Phase 1: preliminary estimate, schedule, design documents; price proposal
  • Clear statement of Owner’s responsibilities

– Phase 2: complete design, prepare manuals, construction; safety emphasis
  • Construction warranties; performance warranty
  • Limitation of liability
  • Subcontractors
  • Changes & extras
  • Owner’s responsibilities
Progressive Design Build Contract

Attachment B – Compensation

– Phase 1: Cost-plus or stipulated sum
– Phase 2: GMP or fixed Contract Price or CPFF
  • Open book development of GMP
  • Detailed cost definition
  • GMP proposal; negotiation; agreement or off-ramp
  • **Incentive**: Savings sharing of underruns
Progressive Design Build Contract
Attachment D – General Conditions

– Definitions

– Design-Builder’s services & responsibilities
  • Standard of care
  • Construction GC’s
    – Safety
    – Construction warranty; defects correction
  • Performance warranty; performance tests

– Owner’s services & responsibilities
  • Reliability of information provided
Progressive Design Build Contract
Attachment D – General Conditions (cont.)

- Hazardous conditions
- Differing site conditions
- Payment provisions
- Delays
  - Equitable adjustment in Price & Schedule
- Changes, adjustments, disputes
- Suspension & termination
Progressive Design Build Contract

Attachment E – Indemnity, Insurance & Bonding

- Narrow-form vs. broad-form indemnity
- Liability insurance to match form of indemnity
- Adequate liability insurance limits
- Builder’s Risk by Design-Builder
- Performance & Payment Bonds at Owner option
Progressive Design Build Contract

Attachment F – Owner’s Project Criteria

– Design Criteria
– Performance Criteria
– Performance Tests
– Performance Warranty
– Wage rates
– DBE/MBE/WBE requirements

All Criteria dependent on complete and accurate characterization of influent water or wastewater
Progressive Design Build Contract

Attachment G – Owner’s Permit List

– Owner to provide “discretionary” permits
  • EPA, RWQCB, Corps

– Design-Builder to provide “ministerial” permits
  • Building permits, occupancy permits, explosives
Implementing the PDB Procurement

RFQ – defines qualifications criteria; short lists qualified firms

Propose Concept

Select from qualified firms - selection based on qualifications; may include “rates” or “conceptual/target price” in evaluation

Design/Develop GMP

Complete Design

Inspection

Construction, Startup

Warranty

Agree on GMP - based on collaborative scope and design; pricing may be verified by third party
Model Procurement Documents for Progressive Design-Build

www.waterdesignbuild.org