

RCW 39.10.360 General contractor/construction manager procedure

—**Contract award process.** (1) Public bodies should select general contractor/construction managers at a time in the project when the general contractor/construction manager's participation provides value.

(2) Contracts for the services of a general contractor/construction manager under this section shall be awarded through a competitive process requiring the public solicitation of proposals for general contractor/construction manager services. At a minimum, the public body shall publish at least once in a legal newspaper of general circulation published in, or as near as possible to, that part of the county in which the public work will be performed, a notice of its request for qualifications from proposers for general contractor/construction manager services, and the availability and location of the request for proposal documents. The public body is encouraged to post the general contractor/construction manager opportunity in additional areas, such as websites for business associations or the office of minority and women's business enterprises, to further publicize the opportunity for qualified general contractors/construction managers. The public solicitation of proposals shall include:

(a) A description of the project, including programmatic, performance, and technical requirements and specifications when available;

(b) The reasons for using the general contractor/construction manager procedure;

(c) A description of the qualifications to be required of the firm, including submission of the firm's accident prevention program;

(d) A description of the process the public body will use to evaluate qualifications and proposals, including evaluation factors, the relative weight of factors, and protest procedures including time limits for filing a protest, which in no event may limit the time to file a protest to fewer than four business days from the date the proposer was notified of the selection decision;

(e) The form of the contract, including any contract for preconstruction services, to be awarded;

(f) The estimated maximum allowable construction cost; and

(g) The bid instructions to be used by the general contractor/construction manager finalists.

(3) Evaluation factors for qualifications of the general contractor/construction manager shall include, but not be limited to:

(a) Experience and technical competence of key personnel;

(b) The proposer's past performance with negotiated or similarly complex projects;

(c) The proposer's capacity to perform the work;

(d) The scope of work the firm proposes to self-perform and its past performance of that scope of work;

(e) The proposer's approach to executing the project, including ability to meet the project time and budget requirements; and

(f) The proposer's past performance in utilization of business entities certified with the office of minority and women's business enterprises, including small businesses and business entities certified with the department of veterans affairs and the inclusion plan for business entities certified with the office of minority and women's business enterprises, including small businesses and business entities certified with the department of veterans affairs as

subconsultants, subcontractors, and suppliers for the project, to the extent permitted by law.

(4) A public body shall establish a committee to evaluate the proposals. After the committee has selected the most qualified finalists, at the time specified by the public body, these finalists shall submit final proposals, which must include sealed bids for the percent fee on the estimated maximum allowable construction cost and which may include other price-related factors identified in the request for proposal. In no event shall a price-related factor include a request for overall project budget, estimate, or bid. The public body shall establish a time and place for the opening of sealed bids. At the time and place named, these bids must be publicly opened and read and the public body shall make all previous scoring available to the public. The public body shall select the firm submitting the highest scored final proposal using the evaluation factors and the relative weight of factors published in the public solicitation of proposals. A public body shall not evaluate or disqualify a proposal based on the terms of a collective bargaining agreement.

(5) The public body shall notify all finalists of the selection decision and make a selection summary of the final proposals available to all proposers within two business days of such notification. If the public body receives a timely written protest from a proposer, the public body may not execute a contract until two business days after the final protest decision is transmitted to the protestor. The protestor must submit its protest in accordance with the published protest procedures.

(6) Public bodies may contract with the selected firm to provide services during the design phase that may include life-cycle cost design considerations, value engineering, scheduling, cost estimating, constructability, alternative construction options for cost savings, and sequencing of work, and to act as the construction manager and general contractor during the construction phase. [2023 c 395 s 10; 2021 c 230 s 9; 2014 c 42 s 5; 2013 c 222 s 13; 2009 c 75 s 6; 2007 c 494 s 303.]

Sunset Act application: See note following chapter digest.

Effective date—2023 c 395 ss 1-30, 32-34, 36, and 37: See note following RCW 39.04.010.

Findings—Intent—2023 c 395: See note following RCW 39.04.010.

Effective date—2021 c 230: See note following RCW 39.10.210.

Effective date—2013 c 222: See note following RCW 39.10.210.