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Design/Build Policy for Public Construction Work

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“Design/build” involves a project delivery method where the public owner is provided the advantages of the architect and contractor working together to achieve the public owner’s objectives. While a variety of design/build methodologies are utilized in the private sector, public sector projects provide additional challenges that must be met. The public owner has the responsibility to secure construction services with methods that will provide a fair and full opportunity for open competition and ensure that the public project is built at a competitive price to the taxpayer without risk in the performance of the contractor or favoritism. Licensed design professionals also have responsibilities to public health, safety and welfare that cannot be lessened or delegated in any way because of the involvement as part of a design/build team.

Basic Principles for Design Build in Public Construction Projects

Given the special nature of using design/build in public construction projects, any design/build approach utilized should incorporate the following basic principles:

1. The design/build entity will be a single entity with which the public owner holds a single contract. This entity could be: a contractor-led entity with the design firm as a subcontractor; a designer-led entity with the contractor as a subcontractor; or a legal joint venture of the two firms.
2. The public owner will provide a level of design criteria to the competing teams that will allow the teams to adequately respond. This criteria package could include:
 - Project scope
 - Site information
 - Preliminary program and design information
 - Preliminary specification information (any specific material or system requirements, for example)
 - Occupancy date expectations and schedule

This information will be prepared either by the owner’s in-house staff or an architect engaged by the owner to perform this work. It is assumed that the level of information provided is much less than that provided in the “Bridging Model” originally recommended in this JCR (which essentially calls for schematic design to be completed by an architect under contract to the public owner). The criteria provided would be more conceptual in nature, thus reducing the perceived and real expense of hiring architects to prepare a schematic design twice.

3. The selected design/build team will work with the public owner to develop a design that meets their criteria and budget.
4. While qualifications of the design/build team will be a component of the selection process, with public dollars involved, some level of cost competition between competing teams is also needed. The initial components of the cost competition

should include the general contractor's fee (overhead and profit) and the architect's fee combined into a single number. In addition, the general contractor's general conditions and preconstruction costs should also be presented. The public owner should prepare a matrix of their expectations for where individual cost components should be included.

5. Initial design ideas developed by the architect can be a part of the competition for the project if desired by the public owner.
6. The guaranteed maximum price should be established at the completion of construction documents (100%).
7. The general contractor should not be allowed to self perform work on the project.
8. Three or more subcontractors should be prequalified in each major trade for subcontractor bidding.
9. MB/WBE goals and objectives of the public owner will have to be addressed by the design/build entity.

Considerations in Using Design / Build for Public Construction Projects

When evaluating the suitability of the design/build system, and one of its potential method options, the public owner must carefully consider:

1. Time and cost constraints for delivery of the project;
2. The capability and experience of potential teams to respond to the owner's request for proposals;
3. The capability of the public owner to manage the project, including personnel to oversee the project who are familiar with the design/build delivery system;
4. The degree to which the owner or the public seeks to participate in the design and approval of the project;
5. The functional, technical and aesthetic quality objectives established for the project; and
6. Contractual issues involving liability and dispute resolution.

Design/Build gives the public owner a number of advantages related to these considerations:

- Potential collaboration between architect and contractor
- Singular contract responsibility
- Potential for better quality control
- Potential for cost savings
- Potential for time savings
- Potential for reduced administrative burden
- Early knowledge of construction costs
- Improved risk management

Recommendations:

Two potential design/build method options are recommended for consideration to the public owner. These options are derived from successful private sector models that can be adapted for use in the public sector. Each of these options incorporates the basic principles noted above.

Qualifications-Based Selection for the Design/Build Team

The public owner will pre-qualify potential design/build teams. The teams will submit qualifications information in response to a Request for Qualifications (that includes the Design Criteria package). A shortlist will be created by the owner and the short-listed firms will be interviewed by the owner. The owner will select a team using Qualifications-Based Selection.

The public owner will then negotiate preconstruction fees, construction fees, general conditions, and design fees with the selected team. The team will work together with the owner to develop a project that meets their expectations and establish a GMP at 100% completion of construction documents.

The cost competition in this model is solely through the competitive bidding of the subcontract trades. The project can be packaged and bid to facilitate fast-tracking if necessary to meet the schedule.

Qualifications- and Cost-Based Selection for the Design/Build Team

The public owner will pre-qualify potential design/build teams. The teams will submit qualifications information in response to a Request for Qualifications. A shortlist will be created by the owner and the short-listed firms will be interviewed by the owner. As a part of the shortlist presentation, the design/build team will present:

- Initial design ideas
- Costs for:
 - contractor's overhead and profit and design fees as a single number
 - preconstruction and general conditions costs

The public owner will select the design/build team using a combination of Qualifications- and Cost-Based selection.

The team will work together with the owner to develop a project that meets their expectations and establish a GMP at 100% completion of construction documents. The project can be packaged and bid to facilitate fast-tracking if necessary to meet the schedule.

The cost competition in this model includes all of the aspects of the project: soft costs (fees) and hard construction costs (through subcontractor bidding).

Conclusion

AIA North Carolina and Carolinas AGC believe that these guidelines will improve the team selection process for public agencies that consider using an alternative project delivery system such as design/build. When implemented, these guidelines will

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benefit public owners, design professionals and the construction community by bringing uniformity and consistency to the design/build process in the public sector.

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This recommendation is the result of considerable discussion and deliberation by the Architect and General Contractor members of the Joint Cooperative Committee of AIA North Carolina and the Carolinas AGC. While its provisions are not binding on individual Architects or General Contractors, the committee believes that adherence to the recommendations will benefit the Owner and the Construction Industry in general.