



Ohio Revised Code

Section 9.334 Evaluation of most qualified proposals; pricing proposals; contract negotiations.

Effective: September 29, 2011

Legislation: House Bill 153 - 129th General Assembly

(A) Every public authority planning to contract for construction management services with a construction manager at risk shall evaluate the proposals submitted and select not fewer than three construction managers at risk the public authority considers to be the most qualified to provide the required construction management services, except that the public authority shall select and rank fewer than three when the public authority determines in writing that fewer than three qualified construction managers at risk are available.

(B) The public authority shall provide each construction manager at risk selected under division (A) of this section with a description of the project, including a statement of available design detail, a description of how the guaranteed maximum price for the project shall be determined, including the estimated level of design detail upon which the guaranteed maximum price shall be based, the form of the construction management contract, and a request for a pricing proposal.

(C) The pricing proposal of each construction manager at risk shall include at least the following regarding the construction manager at risk:

(1) A list of key personnel for the project;

(2) A statement of the general conditions and contingency requirements;

(3) A fee proposal divided into a preconstruction fee, a construction fee, and the portion of the construction fee to be at risk in a guaranteed maximum price.

(D) The public authority shall evaluate the submitted pricing proposals and may hold discussions with individual construction managers at risk to explore their proposals further, including the scope and nature of the proposed services and potential technical approaches.



(E) After evaluating the pricing proposals, the public authority shall rank the selected construction managers at risk based on its evaluation of the value of each pricing proposal, with such evaluation considering the proposed cost and qualifications.

(F) The public authority shall enter into negotiations for a construction management contract with the construction manager at risk whose pricing proposal the public authority determines to be the best value under division (E) of this section. Contract negotiations shall be directed toward:

(1) Ensuring that the construction manager at risk and the public authority mutually understand the essential requirements involved in providing the required construction management services, including the provisions for the use of contingency funds and the possible distribution of savings in the final costs of the project;

(2) Ensuring that the construction manager at risk will be able to provide the necessary personnel, equipment, and facilities to perform the construction management services within the time required by the construction management contract;

(3) Agreeing upon a procedure and schedule for determining a guaranteed maximum price using an open book pricing method that shall represent the total maximum amount to be paid by the public authority to the construction manager at risk for the project and that shall include the costs of all the work, the cost of its general conditions, the contingency, and the fee payable to the construction manager at risk.

(G)(1) If the public authority fails to negotiate a construction management contract with the construction manager at risk whose pricing proposal the public authority determines to be the best value under division (E) of this section, the public authority shall inform the construction manager at risk, in writing, of the termination of negotiations.

(2) Upon terminating negotiations, the public authority may enter into negotiations as provided in this section with the construction manager at risk that the public authority ranked next highest under division (E) of this section. If negotiations fail, the public authority may enter into negotiations as provided in this section with the construction manager at risk the public authority ranked next highest under division (E) of this section.



(3) If a public authority fails to negotiate a construction management contract with a construction manager at risk whose pricing proposal the public authority determines to be the best value under division (E) of this section, the public authority may select additional construction managers at risk to provide pricing proposals to the public authority pursuant to this section or may select an alternative delivery method for the project.

(H) If the public authority and construction manager at risk fail to agree on a guaranteed maximum price, nothing in this section shall prohibit the public authority from allowing the construction manager at risk to provide the management services that a construction manager is authorized to provide.

(I) Nothing in this section affects a public authority's right to accept or reject any or all proposals in whole or in part.