



Ohio Revised Code

Section 153.693 Evaluation of design-build firms.

Effective: September 29, 2011

Legislation: House Bill 153 - 129th General Assembly

(A) For every design-build contract, the public authority planning to contract for design-build services, in consultation with the criteria architect or engineer, shall evaluate the statements of qualifications submitted by design-build firms specifically regarding the project, including the design-build firm's proposed architect or engineer of record. Following this evaluation, the public authority shall:

(1) Select and rank not fewer than three firms which it considers to be the most qualified to provide the required design-build services, except that the public authority shall select and rank fewer than three firms when the public authority determines in writing that fewer than three qualified firms are available;

(2) Provide each selected design-build firm with all of the following:

(a) A description of the project and project delivery;

(b) The design criteria produced by the criteria architect or engineer under section 153.692 of the Revised Code;

(c) A preliminary project schedule;

(d) A description of any preconstruction services;

(e) A description of the proposed design services;

(f) A description of a guaranteed maximum price, including the estimated level of design on which such guaranteed maximum price is based;

(g) The form of the design-build services contract;



- (h) A request for a pricing proposal that shall be divided into a design services fee and a preconstruction and design-build services fee. The pricing proposal of each design-build firm shall include at least all of the following:
- (i) A list of key personnel and consultants for the project;
 - (ii) Design concepts adhering to the design criteria produced by the criteria architect or engineer under section 153.692 of the Revised Code;
 - (iii) The design-build firm's statement of general conditions and estimated contingency requirements;
 - (iv) A preliminary project schedule.
- (3) Evaluate the pricing proposal submitted by each selected firm and, at its discretion, hold discussions with each firm to further investigate its pricing proposal, including the scope and nature of the firm's proposed services and potential technical approaches;
- (4) Rank the selected firms based on the public authority's evaluation of the value of each firm's pricing proposal, with such evaluation considering each firm's proposed costs and qualifications;
- (5) Enter into contract negotiations for design-build services with the design-build firm whose pricing proposal the public authority determines to be the best value under this section.
- (B) In complying with division (A)(5) of this section, contract negotiations shall be directed toward:
- (1) Ensuring that the design-build firm and the public authority mutually understand the essential requirements involved in providing the required design-build services, the provisions for the use of contingency funds, and the terms of the contract, including terms related to the possible distribution of savings in the final costs of the project;
 - (2) Ensuring that the design-build firm shall be able to provide the necessary personnel, equipment,



and facilities to perform the design-build services within the time required by the design-build construction 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 design-build firm for the project and that shall include the costs of all work, the cost of its general conditions, the contingency, and the fee payable to the design-build firm.

(C) If the public authority fails to negotiate a contract with the design-build firm whose pricing proposal the public authority determines to be the best value as determined under this section, the public authority shall inform the design-build firm in writing of the termination of negotiations. The public authority may then do the following:

(1) Negotiate a contract with a design-build firm ranked next highest under this section following the negotiation procedure described in this section;

(2) If negotiations fail with the design-build firm under division (C)(1) of this section, negotiate a contract with the design-build firm ranked next highest under this section following the negotiation procedure described in this section and continue negotiating with the design-build firms selected under this section in the order of their ranking until a contract is negotiated.

(D) If the public authority fails to negotiate a contract with a design-build firm whose pricing proposal the public authority determines to be the best value as determined under this section, it may select additional design-build firms to provide pricing proposals to the public authority pursuant to this section or may select an alternative delivery method for the project.

(E) The public authority may provide a stipend for pricing proposals received from design-build firms.

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