

Ohio Public Construction Reform

Alternative Project Delivery Methodologies

Basic Elements of General Contracting, CM at Risk and Design-Build Models

GENERAL CONTRACTING

1. Public agency desiring to use General Contracting model must have authorization to do so. Applies to project values of \$200,000 to \$600,000 that do not require a compressed schedule or early pricing or projects that can be easily designed without input from mechanical or electrical trades early on in process.
2. Lower threshold is raised from \$50,000 to \$200,000. Competitive bidding is required for project values over \$25,000.
3. Owner engages architect to assist in preparation of program and prepare design.
4. If necessary, Owner engages cost and constructability consultant to assist in limited preconstruction services. If more extensive preconstruction work is considered, CM at Risk should be considered.
5. Contractors prequalified based on project requirements (i.e., bonding, financials, project size and complexity, past performance).
6. Owner bids entire Project (no separation of trades) to single general contractors at 100% complete Construction Documents (design assist trade contract or performance specs as customary and permitted).
7. General contractor bids are received and opened in competitive and public process and awarded to the lowest responsive bidder.
8. Each GC must list prequalified subs from each of the separate MEP trades listed in ORC 153.50 (scheduled subs) at the time of bid and utilize such subs for construction (with limited exceptions for subcontractor default, etc.).
9. Each bidder must use the lowest scheduled sub bidder.
10. GC must provide 100% performance and payment bonds.
11. Contract entered into with lowest responsive general contractor. All contracts on state approved forms.
12. The GC method shall be subject to an independent study and review after two (2) years to insure that it is operating in an efficient, transparent and accountable fashion.

GENERAL CONTRACTING APPROACH (continued)

13. The thresholds (\$200,000-\$600 ,000) are subject to adjustment every five (5) years based on increases or decreases to an appropriate regional construction price index.

CONSTRUCTION MANAGER AT RISK

1. Public agency desiring to use CM at Risk model must have authorization to do so. Eligibility may be determined by total cost of project (e.g., Washington > 10MM; Massachusetts > 5MM) or other criteria.

-Certification criteria:

- a. Capability of staff
- b. Training
- c. Use of State's General Conditions
- d. Compliance with thresholds for local administration

2. If necessary, Public agency may obtain professional services to prepare program and preliminary technical and design requirements through Qualification Based Selection (QBS) process.

3. CM's prequalified based on project requirements.

4. Public agency identifies candidate CM's through public QBS process.

5. Agency and/or selection committee identifies CM's to receive RFP.

6. CM's are selected at early stage (by the end of schematic design) based upon criteria set forth in RFP, which can include qualifications as well as price (base fee and home office overhead, risk fee, estimated general conditions, and contingency.) CM accepts form of CM Agreement.

7. Selected CM to provide pre-construction services.

8. "Open Book" Guaranteed Maximum Price (GMP) proposed and accepted with less than complete construction drawings (60% to 90% CDs).

9. Major trade contracts can be bid and awarded prior to completion of design (fast track) and prior to GMP from selected CM.

10. All MEP subcontracts (including early release packages [i.e., prior to GMP] must be competitively bid pursuant to an open public bidding.

Subcontractors are prequalified:

- Prequalification process

- a. State Prequalification
- b. CM can review and modify
- c. Bidder inquiry and expedited appeal

- Public Bid Opening with low bid selected

- If under estimate, savings go in CM Contingency

- If over estimate, CM can (1) rebid with modified scope or (2) utilize contingency (No negotiating with low bidder as permitted in some states).

CONSTRUCTION MANAGER AT RISK(continued)

10. CM required to accept lowest responsive bid from prequalified firms.
11. If GMP cannot be agreed upon by CM and public owner, then public owner can terminate with the CM and go to CM with next best proposal, or take assignment of all major trade contracts reverting to a multiple prime delivery method.
12. Payment to trades assured by “open book” GMP payment method and escrow arrangement.
13. All contracts on state standard forms (supplemental conditions acceptable).
14. CM provides 100% performance and payment bond.
15. CM self performance:
 - For pre-identified and limited packages, as agreed to by State, and for which CM is prequalified as Contractor
 - Sealed bid cannot exceed GMP estimate (opened by State) and all other bids over GMP estimate
 - CM cannot use contingency for shortfalls

DESIGN/BUILD

1. Public agency desiring to use Design/Build model must have the authorization to do so. Eligibility may be determined by total cost of project (e.g., Washington > 10MM; Massachusetts > 5MM) or other criteria.
2. Public agency engages criteria or bridging (conceptual) architect through a QBS selection process to prepare documents to be included in RFQ/RFP process. Criteria or bridging architect may not be architect of record. Criteria or Bridging Documents through SD or 15% to 35% complete design.
3. D-Bs prequalified based on project requirements.
4. Public agency identifies candidate D-Bs through QBS process.
5. Agency or selection committee formed to identify D-Bs to receive RFP.
6. Selection based on Qualifications and Initial Pricing:
 - D-B selected based on qualifications, and pricing of fee, general conditions but no overall price.
 - Target price established
 - Subcontractors are bid by open, competitive bid process; Subcontractors must be prequalified
 - GMP is formula based with incentive for meeting target
7. Selection based on Price or “best value”:
 - GMP offered based upon criteria documents
 - Major Trades (MEP) are bid, same process as with CM @ Risk
8. D-B may include as part of its design team (i.e., without competitive bidding) a mechanical contractor and electrical contractor or other such beneficial trades. Such trades will be required to competitively bid their subcontracts if D-B is awarded on a Qualifications Based D-B Selection method (see above).
10. Payment to trades assured by “open book” GMP payment method and escrow arrangement.
13. All contracts on state standard forms (supplemental conditions acceptable.)
14. D-B provides 100% performance and payment bond.