

2009 SENATE TRANSPORTATION

SB 2147

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2147

Senate Transportation Committee

Check here for Conference Committee

Hearing Date: January 9, 2009

Recorder Job Number: 6728

Committee Clerk Signature

Jody Wange

Minutes:

Senator Gary Lee called the Transportation Committee to order. The clerk took the attendance (5 present and 1 absent). Senator Lee opened the hearing on SB 2147 relating to authorization for two design-build contracts for highway or bridge projects; to provide for a report to the legislative assembly; and to provide an expiration date.

Gary Levi, ND Department of Transportation testified in support of SB2147. See attachment #1 for testimony and draft of policy.

Senator Fiebiger asked if this design-build process is used in other states.

Levi said yes, for example the state of Minnesota has used it on a number of projects, Montana has tried it, and SD has also used it.

Senator Nething asked if this process avoids the bid process. Is this correct?

Levi said that it departs from the low bid concept. The award would consist of not necessarily the low bid but the best combination of the proposal for the dollar amount. He referred to page 7 in the draft. He also stated that the process allows the industry to be more creative in the design process and use the talents they have to come up with the best project. It should save a considerable amount of time.

Senator Lee asked what the Department of Transportation was looking to accomplish besides being efficient and effective.

Levi replied that one of the reasons we want to try this as a study is to determine if it will work in ND. He then shared some examples of how it worked in another state.

Senator Lee asked if the Department of Transportation would need more resources to manage this process.

Levi replied that it would be their intent to do this with the resources that they have available, to do this evaluation.

No opposing testimony

Russ Hanson, of the Associated General Contractors told the committee that their board took a neutral stand on this bill. He also stated that there seemed to be no model from other states and that each state does it different. No cookie cutter model. Also, their industry is supportive of putting into statute two projects over the next five years and also bid similar projects in the typical design-bid bill process so we have apples to apples research comparisons. He said they were skeptical but the bill clearly scopes two projects with a clear definition of what and when they are going to do it.

Senator Potter asked what they were skeptical about.

Hanson said they were concerned on projects on a large scale but supportive of just trying two.

Bonnie Staiger, ACEC ND, gave neutral testimony for SB 2147. They are supportive of the two projects but overall skeptical and concerned about the design-build process.

Connie Spryncznatyk testified on behalf of herself. She gave neutral testimony and came to listen. She stated as a member of the Bismarck City Commission she is very interested in how this design-build process will work.

Senator Potter asked if she thought that this could lead to merging costs and quality.

Spryncznatyk said we wouldn't know the answer until we try it.

Senator Lee closed the hearing on SB 2147.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2147

Senate Transportation Committee

Check here for Conference Committee

Hearing Date: January 15, 2009

Recorder Job Number: 7041

Committee Clerk Signature

Jody Hauge

Minutes:

SB2147 Committee Work.

Senator Nething moved a do pass.

Senator Potter seconded.

Senator Nething said that this was an interesting concept. There may be a concern with smaller contractors but the same problem may exist the way it is.

Senator Fiebiger said it looked to have been studied and thought out, and he liked the idea that it was just 2 projects for testing. Also the process has been used in other states.

Senator Potter said it was a test and he was for trying it.

There was no opposition testimony during the hearing.

Senator Marcellais said that this concept was not passed the last session.

Senator Lee said the last session bill was wider in scope.

Clerk took the roll call vote. SB 2147 passed 6-0-0.

Senator Fiebiger will be the carrier.

Date: 1-15-09
Roll Call Vote # (1) 2147 6-0-0

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2147

Senate Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Senator Nothing Seconded By Senator Potter

Senator	Yes	No	Senator	Yes	No
Chairman Senator Gary Lee	✓		Senator Tom Fiebiger	✓	
Senator George Nodland	✓		Senator Richard Marcellais	✓	
Senator Dave Nothing	✓		Senator Tracy Potter	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Fiebiger

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2147: Transportation Committee (Sen. G. Lee, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2147 was placed on the
Eleventh order on the calendar.

2009 HOUSE TRANSPORTATION

SB 2147

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2147

House Transportation Committee

Check here for Conference Committee

Hearing Date: 02/27/09

Recorder Job Number: 9834

Committee Clerk Signature

Janette Cook

Minutes:

Grant Levi, Deputy Director for Engineering for the North Dakota DOT, testified in support of SB 2147. See attachment #1.

Grant Levi expanded upon the process and the way that it would occur if this were to pass.

- DOT would first sit at a table with the consulting and contracting industry to refine the draft proposed policy that you see attached to the bill and reach an agreement.
- Then four projects would be picked, one signal light project that would be low-bid and the other would be design-build concept. The same would be done with the box culvert projects. Then there would be a comparison.
- A request for qualifications would be put out from the firms.
- The request for qualifications would be reviewed to determine the best qualified.
- Then a request for proposal would be put out. There would be a technical proposal and in addition to that a price proposal.

The way that the selection differs from the low-bid concept is that the first thing that you do is by removing everybody's name from it, you review the technical qualifications. We have a team of professionals do that. It is then given a score.

- The next step in the process is to open the price proposal. You take the score times the price proposal which gives you the bid. That is how it is different from low-bid.

On page 7 there is a table, it shows how the process would occur.

Representative Delmore: Will this put any of our North Dakota people out of the competition? There has previously been a concern that if a project is very large and couldn't be bid in more than one part, it would put some of our contractors at a disadvantage.

Grant Levi: That is not our intent. We do have neighboring states that have tried it. Typically what occurs is an engineering firm will partner up with a contractor to put together a proposal. They would still use some of the same subcontractors to do the work as well.

Since this is to evaluate the process, that is one of the things that we would look at. If those concerns existed, we would report that back. I want to point out that we are talking about two projects during a period of time that we are probably going to be bidding about 900 jobs.

Representative Potter: Is there a concern that the contractor is known from the beginning with a low bid project, and there might be a thought that the DOT can be persuaded toward a particular firm?

Grant Levi: With this process we take the names out when we do the technical review, so there is no bias associated with an evaluation. With the low-bid concept the department or a consulting engineering firms completes a set of plans. Then it is put out for the contracting industry to review. They then have a bid opening, and others know what others bid. That is how they would differ.

Representative Weisz: When you have the comparison project, will the bid project be "hidden", so that no one knows that it is targeted with this bill.

Grant Levi: We do want to make sure the process is given a fair evaluation. We would want to take some measures to make sure that would occur.

Representative Weisz: Do you save money on engineering, or are you duplicating services with a design build-contract?

Grant Levi: The way the process works, we would indicate to the firm that this is the set of requirements that must be met. We would still have to review that because ultimately we are still responsible for what is constructed on the state highway system. There would be some oversight. It is hoped that with the design build-process, the creativity that occurs by putting the contractor and engineer together up front in the design process will save time and money in addition to coming up with new designs and concepts.

Representative Gruchalla: Is the scoring process used in other states?

Grant Levi: The draft process that you have before you mirrors what other states do.

Representative Delmore: Is it common for engineers and contractors in this state to do partnering like this?

Grant Levi: Defers to the consulting and contracting industry.

Representative Delmore: Did they do similar pilot projects in other states before they went to a design-build project?

Grant Levi: Many of the states that I spoke with did do a pilot project, but some did not. We feel that it is the best approach. After going through the pilot, we can evaluate and work out the details, if it is an efficient process.

Representative Frantsvog: Realistically, knowing that DOT has had a lot of experience with virtually every contractor in North Dakota, isn't it going to be impossible not to be able to identify the contractors and design people involved in the presentations? How will you get around that?

Grant Levi: We will do our best. I think that you have a pretty fair assessment of that. We do work so closely with the consulting firms and the contracting industry, that some of the staff might even recognize methods that some firm would use. The intent would be that our staff would be objective and see the substance of the document that would be submitted.

Representative Vigesaa: Now that the design-build has been around for awhile, are there any statistics that show what the concept is saving in either cost or time of projects?

Grant Levi: We have not been able to find any national statistics. Each part of our country is unique in its mixture of consulting firms and contractors that are available. The state of Utah has taken a signal light project that used to take them a good nine month and cut it down to three months. They have told us that just the process change has resulted in those types of efficiencies. I don't know if we can mirror that in North Dakota. That is why we want to evaluate.

Representative Weiler: In Section 2 it refers to a report to the legislative assembly. Who would you report to and what kind of plan is there for the report?

Grant Levi: I would imagine that a team would put the report together, so we could share with legislative council. Then they could decide what means they would like to be used to get the information to the legislators.

Representative Gruchalla: Have other that have used the design-build process gone back to the low-bid concept?

Grant Levi: States use it when they feel it is appropriate. It isn't a solution for all things. It is something that is used when you have some unique situation where you can see there is efficiency to be gained. For example, where some of the stimulus dollars are becoming available, some may use the process where they can to try to get things moving more quickly.

Keith Magnusson spoke on behalf of the North Dakota League of Cities in support of SB 2147. They would like to learn from the DOT's experience with this.

There was no opposition to SB 2147.

Russ Hanson from the Associated General Contractors of North Dakota spoke in a neutral position on SB 2147. The last time this came up we opposed it because there was a lack of definition of the project size and potential cost. This time the projects are specifically limited in design and scope, which eased our concern and changed our philosophy on this type of bill. Also, when the DOT chose the signal lights and the box culverts for this project, we felt that those weren't such large projects that it would be problematic for us (as North Dakota contractors). Even if it did go out of state, in a five year period the amount of money that would go out of state would not be huge compared to the total budget.

In regard to **Representative Vigesaa's** question about design-build, we have found in our research that there are no two alike. They are very varied and reflect what each state would feel is their need.

Representative Vigesaa: If we expanded this into major projects, are there contractor in North Dakota that can do the design-build concept?

Russ Hanson: Yes, there are some. Part of the reason that we were opposed last session is that those companies are the larger companies, and they work in a lot of states. The concern of the smaller contractors was that if they use the design-build concept widespread, that the little guy would lose out and would not have the expertise to compete. We will have to see what happens over the next five years.

Representative Frantsvog: Do you think that there will be contractors left out based on the two types of projects that are identified?

Russ Hanson: Probably, but there will be contractors that have the expertise to put in a bid on this.

Bonnie Steiger, American Council of Engineering Companies, gave a brief statement on their willingness to work with DOT on this, and their appreciation for DOT's consultation with them in the development of this bill. The ACEC looks forward to working with DOT in the research and gathering of information on these pilot projects. We are -inaudible- (30:47) this with a very healthy dose of skepticism. Although, it is a delivery and procurement method that has been used in most states, if you ask them now, many will say that I wish we had never gone there. There are many that say it is the coolest thing since sliced bread. The one thing that sets us apart, is because we are a small state the kinds of projects that are typically done in the design-build method are typically very large projects. The question is asked, "Will North Dakota providers not be able to bid or participate in these projects?" I think that is a healthy question to ask. I think the answer is yes.

I wanted to clarify the RSQ process. It is a federal process. The statute is called the Brooks Act. In North Dakota we have the equivalent which is called the Mini-brooks Act. That is procuring both architectural and engineering services on a qualifications based selection. The qualifications are submitted first, and the price is not to be part of the preliminary threshold. After you are determined as qualified, then the opportunity to provide pricing is the next level of discussion. If one cannot come to an agreement on the price, then the next person in line is to be negotiated with on price.

The hearing was closed on SB 2147.

Representative Weisz moved a Do Pass on SB 2147.

Representative Thorpe seconded the motion.

A roll call vote was taken. **Aye 13 Nay 0 Absent 1**



The motion passed.

Representative Weisz will carry SB 2147.

Date: 2/27/09

Roll Call Vote #: _____

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2147

House TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass Don't Pass Amended

Motion Made By Weisz Seconded By Thorpe

Representatives	Yes	No	Representatives	Yes	No
Representative Ruby - Chairman	✓		Representative Delmore	✓	
Rep. Weiler - Vice Chairman	✓		Representative Griffin	✓	
Representative Frantsvog	✓		Representative Gruchalla	✓	
Representative Heller	✓		Representative Potter	✓	
Representative R. Kelsch	A		Representative Schmidt	✓	
Representative Sukut	✓		Representative Thorpe	✓	
Representative Vigesaa	✓				
Representative Weisz	✓				

Total Yes 13 No 0

Absent 1

Bill Carrier Weisz

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2147: Transportation Committee (Rep. Ruby, Chairman) recommends DO PASS
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2147 was placed on the
Fourteenth order on the calendar.

2009 TESTIMONY

SB 2147

SENATE TRANSPORTATION COMMITTEE

January 9, 2009

North Dakota Department of Transportation
Grant Levi, P.E., Deputy Director for Engineering

SB 2147

①
Same given
to House
2-27-09.

Good morning, Mr. Chairman and members of the committee. I'm Grant Levi, Deputy Director for Engineering for the North Dakota Department of Transportation (NDDOT). I'm here today to testify in support of SB 2147, which was introduced at the request of the Department. We are seeking your approval to allow the Department the ability to try the design-build contract delivery process on two projects. One project would be a signal light project and the other would be a box culvert project.

Currently, we are required to use the design-bid-build contract delivery system for all highway projects as required by North Dakota Century Code, Chapter 24. This process requires us to design the project, advertise and receive bids from contractors, and then award the contract to the lowest bidder. The awarded contractor then builds the project. In this system, the project is completely designed before it is put out for bids and before any building can take place.

Section 1 of this bill gives the Director authority to use the design-build method of contract delivery by combining the design and construction elements of a project into a single contract. It also:

- Limits the number of projects and the type of projects to a signal light project and a box culvert project.
- Requires the Department to complete the environmental documents, acquire the right of way and provide for the relocation of utilities.
- Requires the Director, in conjunction with the appropriate and affected professionals and contractors, to develop and adopt policies for procuring projects using the design-build method for project delivery. A draft of the proposed policy is attached as Exhibit 1 for your information. The draft proposed policy does need additional discussion.
- Outlines the professional registration and licensing requirements for the prime design-build firm.

Section 2 of this bill requires the Director to work with appropriate and affected professionals and contractors to evaluate the design-build project delivery system and report to the legislative assembly with recommendations.

Section 3 of the bill establishes that it will be effective through December 31, 2013.

In the 2007 Legislative Session, the department introduced a bill to receive legislative approval to evaluate the design build process by using the design-build process for five projects during the 2008 – 2011 construction years. The bill was not supported by the consulting and contracting industry, and as a result the House did not pass the bill. However, the House Transportation Committee asked NDDOT to work with the consulting and contracting industry to reach an agreement to evaluate the design-build process. We have worked with Associated General Contractors (AGC) and American Council of Engineering Companies (ACEC) in the development of this proposed bill and to the best of my knowledge they do not oppose this bill. *Or*

It is important to continue to improve the quality of our transportation system for the citizens of North Dakota. To ensure we are using our resources as efficient and effectively as possible, we should continue to evaluate project delivery methods. By passing SB 2147 you would give us the opportunity to determine if a design-build contract delivery process is an efficient and effective process for certain projects within North Dakota.

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NORTH DAKOTA DEPARTMENT OF TRANSPORTATION PROCEDURES FOR DESIGN-BUILD PROCUREMENT OF HIGHWAY CONSTRUCTION PROJECTS

January 6, 2009

PURPOSE

To establish the departments procedures for procuring the design, construction, and construction engineering and inspection services within one contract.

AUTHORITY

North Dakota Century Code Section 24-02-17.1; Design-Build statute.

SCOPE

This procedure affects all North Dakota Department of Transportation (NDDOT) offices associated with the design and construction of transportation projects using the design-build process.

Background

Design-build combines into a single contract the design, construction, construction engineering, inspection requirements, and testing requirements for a project, all in accordance with standard NDDOT design criteria, construction specifications, and contract administration practices. These projects allow the contractor to participate in the design in an effort to reduce costs and expedite construction.

The Legislative Assembly in 2009 authorized the NDDOT to use the design-build process on up to two projects. One project will be primarily a signal light project and the second project would be a box culvert structure. This authorization will expire on December 31, 2013.

The NDDOT director is to work with the appropriate professionals and contractors to evaluate the design-build process and report to the Legislative Assembly with recommendations whether or not to continue the design-build project delivery system.

Definitions

Bid Proposal, hereinafter referred to as "Proposal", means a technical proposal and a separately sealed price proposal submitted by each design-build firm.

Design-Build Firm, means any individual, partnership, corporation, association, joint venture, or other legal entity permitted by North Dakota law to practice engineering and construction contracting as appropriate. The entity may include a construction contractor

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with the design professional as subcontractor or a design professional with the construction contractor as the subcontractor. The contractor or design professional cannot team with other partners to submit more than one bid per project. The design-build team cannot change, after award, without the written approval of the department.

Design-Build Package, is the document published by the Department that contains the Public Advertisement (Notice to Bidders), the Request for Qualifications, the Request for Proposals, General Requirements, Design Scope of Work, Technical Specifications, Price Proposal Documents including the Bid Schedule, and any forms, drawings and other supporting documents necessary to guide the proposers in preparation and submittal of a proposal for a design-build project.

Price Proposal, contains the Proposer's price for performing the work contained in the Technical Proposal and specified in the Design-Build Package. The Price Proposal is sealed and completed only on forms included in the Design-Build Package.

Project, the project to be designed and constructed as described in the public announcement.

Proposer, a design-build firm or joint venture submitting a statement of qualifications or a technical proposal for a design-build project.

Request for Qualifications, A part of the DESIGN-BUILD Package that contains the desired minimum qualifications of the Design-Builder, a scope of work statement, the project requirements, and the selection criteria (understanding and approach, team members, firms capabilities, and quality and safety programs) for compiling a short list including the number of firms to be short listed.

Request for Proposals, A part of the DESIGN-BUILD Package that contains a detailed scope of work including design concepts, technical requirements, and specifications; the time allowed for design and construction; the Department's estimated cost of the project; the deadline for submitting the proposal; the required format for the proposal; the selection criteria; and a copy of the contract the Design-Builder is expected to sign.

Statement of Qualifications, the Design-Builder's response to the Request for Qualifications. It contains information about the Design-Builder capabilities, team members, previous experience, and understanding and approach to the project.

Technical Proposal, the Design-Builder's response to the Request for Proposals. This document contains detailed descriptions and exposé of the Design-Builder's approach to designing, constructing, and managing the project in accordance with the Design-Build Package. The Design-Builder's conceptual design is included as well as a proposed construction sequence and schedule. Technical Proposals contain tables, charts, drawings, plots, and sketches of the project.

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Public Announcement Procedures

Except in emergency situations, the Department shall publish an announcement in accordance with 24-02-19 NDCC. The announcement shall set forth a general description of the project requiring design-build services and defining time frame and procedures for interested qualified firms to apply for consideration. The public announcement shall further state whether design-builders will be pre-qualified for the project.

Technical Review Committee

There shall be a Technical Review Committee (Committee) comprised of the following:

1. The NDDOT Director, or designee;
2. The Director of the Office of Operations, or designee, and up to one additional member from this office appointed by its Director;
3. The Director of the Office of Project Development, or designee, and up to three additional members, to be appointed by its Director, from the areas of Materials and Research, Bridge Design, Environmental & Transportation Services, and Roadway Design; and
4. A Representative from the Federal Highway Administration.
5. A licensed contractor (highway or bridge, whichever is applicable) who is not involved in the project.

The Committee shall have responsibility for determination of the most qualified offerors as provided in "Qualification of Design-Builders" and rating and scoring Qualitative Proposals as provided in "Competitive Selection of Design-Build Services".

Criteria Package and Request for Proposals

(1.) The Department shall prepare a criteria package. The criteria developer may be either a private practitioner (selected in accordance with normal procedures for selecting design firms) or on the staff of the Department. The criteria developer is prohibited from being part of the bidding entity. The criteria package may include the following:

- a. Scope of work;
- b. Site survey
- c. Material quality standards;
- d. Conceptual design criteria;
- e. Design and construction schedules;
- f. Site development requirements;
- g. Stipulation of responsibilities for permits and utility, storm-water, and road connections;
- h. Stipulation of responsibility for meeting environmental regulations;
- i. Soil borings and geo-technical information;
- j. Traffic control stipulations
- k. Performance specifications;

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- l. Statement of required compliance with codes and general technical specifications;
and
- m. Stipulation of the responsibility for acquisition of right-of-way.
- n. Stipulation of the responsibility for coordinating utility relocation.

(2.) The purpose of the criteria package is to furnish sufficient information for firms to prepare qualitative proposals and price proposals. The firm submitting the successful proposal shall develop a detailed project design based on the criteria in the criteria package. Moreover, the firm shall construct the facility in accordance with the criteria package.

(3.) The Request for Proposals ("RFP") will consist of the criteria package, instructions to bidders, bid proposal forms, provisions for contracts, general and special conditions, and basis for evaluation of proposals.

Qualification of Design-Builders

(1.) The Department will qualify design-builders on a project by project basis.

(2.) The Department will advertise in accordance with 24-02-19 NDCC for a Request for Qualifications ("RFQ"). The RFQ shall contain the following:

- a. a general scope of work statement and schedule;
- b. the minimum qualifications of the design-builder;
- c. the basis upon which the most qualified offerors will be determined;
- d. the selection criteria for compiling a short list and the number of firms to be included on the short list.
- e. The maximum time allowable for design and construction.
- f. any other requirements the Department deems necessary.

Firms desiring to submit proposals on the design-build project shall submit a statement of qualifications setting forth the qualifications of the entities involved in the firm and providing any other information required by the RFQ.

(3.) The Committee shall determine the relative ability of each DESIGN-BUILD team to perform the services required for each project. The Committee shall base its determination upon the following:

- a. Experience with comparable projects;
- b. Financial and bonding capacity;
- c. Managerial resources;
- d. The abilities of the professional personnel;
- e. Past performance;
- f. Capacity to meet time and budget requirements;
- g. Knowledge of local or regional conditions
- h. Recent and current project workload; and

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- i. The ability of the design and construction teams to complete the work in a timely and satisfactory manner.
- j. Submitted Pre-qualification form for team.

(4.) The Committee shall select at least two and no more than five firms deemed to be most highly qualified to perform the required services, after considering the factors in (3) above. The Committee will report its selection of most highly qualified offerors to the Director.

(5.) The Director will issue RFP's to the most highly qualified firms selected by the Committee.

Competitive Selection of Design-Build Services

1. Each firm submitting a proposal shall submit a Qualitative Proposal and a Price Proposal. Only firms receiving an RFP may submit proposals. Proposals shall be segmented into two packages;
 - a. Qualitative Proposal. A qualitative proposal shall include preliminary design drawings, outline specifications, technical reports, calculations, permit requirements, management plan, schedule, and other data requested in response to the RFP. Qualitative proposals shall be submitted in a sealed package, which identifies the project and the design-builder on the outside of the package. Each firm shall place the words "**QUALITATIVE PROPOSAL**" on the outside of the package. Nothing contained in the qualitative package, except the project management plan set forth below shall identify the design-builder. The project management plan shall be submitted in a separate envelope within the qualitative proposal package.
 - b. Price Proposal. Price proposals shall include one lump sum cost for all design, construction, construction engineering, and inspection and testing for the proposed project. Each firm shall submit its price proposal in a separate sealed package. Each firm shall place the words "**PRICE PROPOSAL**" on the outside of the package. Each firm shall also place its name, the project description, and any other information required by the RFP on the outside of the package. The Department shall secure price proposals until the time provided in "Selection and Award", paragraph (1).
2. Each qualitative proposal shall be assigned a number by the Construction Engineer. The proposal, less the project management plan, shall be submitted to each member of the Committee with only the assigned number to identify the design-builder (it is intended that the Committee members not know the identity of the design-builder during the review and scoring of the technical and schedule aspects of the packages). The project management plan shall be submitted to the Committee members for review and scoring only after they have turned in their scores for the other portions of the qualitative proposal. The Committee members shall review the design concepts, preliminary designs and technical data submitted by each firm. Prior to

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issuing their ratings, the Committee members may consult with each other and with any Consultant hired by the Department to assist with the design-build procurement process. The Committee members shall then independently rate each firm's proposal based upon criteria established by the Committee for the project. The criteria may include the following format example, but shall be adjusted for the particular characteristics of the project prior to the advertisement of RFP:

- | | |
|---|-------------------|
| 1. Technical Criteria | Maximum Score: 75 |
| 2. Project-specific Management Plan | Maximum Score: 15 |
| A. Management Plan and Organization | |
| B. Resumes of Key Professional and Managerial Personnel | |
| C. Quality Assurance Plan | |
| D. Safety Plan | |
| E. Minority and Disadvantaged Business Participation Plan | |
| 3. Project Schedule | Maximum Score: 10 |
| A. Construction Schedule and Ability to Meet Schedule | |
| B. Engineering Design Schedule and Ability to Meet Schedule | |
| C. Length of Construction and Design Schedule | |
| Total Maximum Score: 100 | |

3. The Committee may adjust and refine all of the above criteria and the points assigned to each based on the project type and Department experience. The Committee may reduce the weight of management criteria or omit it entirely if it is sufficiently determinative in selection of the most qualified offerors under "Qualification of Design-Builders". The Committee may omit schedule as criteria when it is a fixed requirement in the RFP.

4. The Committee members shall, without conferring with one another, submit their criteria scores for each design-builder to the Director. The Director or the Director's designee, will average the scores of the Committee members for each design-builder to arrive at a single score for each design-builder.

Selection and Award for Design-Build Services

1. The Director shall set a date for publicly opening the price proposals, and shall notify all firms submitting price proposals at least seven calendar days prior to the opening date. The notification shall include the date, time, and place of the opening of price proposals and date for award of the project.

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2. The Director shall publicly open the sealed price proposals and divide each firm's proposed price by the qualitative score given by the Committee to obtain an "adjusted price". The firm selected will be that firm whose adjusted price is lowest. An example of the selection formula follows:

Firm	Qualitative Score	Proposed Price	Adjusted Price
A	90	\$5.1 million	\$5.67 million
B	79	\$4.8 million	\$6.08 million
C	84	\$6.2 million	\$7.38 million

3. (Award to Firm A at \$5.1 million)

4. Instead of requiring Qualitative Proposals and Price Proposals, the Department may establish a fixed dollar budget for the design-build project in the RFP. With a fixed price established for all proposers, each firm would submit only Qualitative Proposals. The Department would award the project to the firm receiving the highest qualitative score.
5. The Department reserves the right to reject all proposals. The director shall either reject all proposals or approve an award to the firm with the lowest adjusted price. The Director will notify all proposers in writing of the Department's intent to enter into a contract with that firm.
6. The Department shall enter into a contract with the firm selected as provided above. At the time of the award, the Department may negotiate minor changes for the purpose of clarifying the design criteria and work to be done, provided that the negotiated changes do not affect the ranking of the proposals based on their adjusted scored.

Stipends for unsuccessful firms that submitted an RFP

Design-build firms that were selected to submit a Technical Proposal but, were unsuccessful in obtaining the bid, may receive compensation for their efforts in preparing the proposal if the proposal is determined to be responsive by the Technical Review Committee. The intent to compensate and the amount of the compensation will be noted in the RFP. A stipend is not intended to compensate the firms for the total cost of preparing the bid package. Compensation will be commensurate with the level of effort required to develop a bid

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proposal. In return, the department reserves the right to use any of the concepts or ideas within the technical proposals, as the department deems appropriate.

Upon request, a firm may elect not to receive a stipend. In this case the department is prevented from using any of the information contained in the technical proposal.