

Chapter 28. Construction Management (CM) Procedures

Summary

This chapter outlines the procedures to be followed by all departments, agencies, and institutions of the County (each of which is hereinafter referred to as the "Agency") for the procurement of construction management ("CM") services.

Essential Information in this Chapter	
<ul style="list-style-type: none">• A County Agency may procure CM services only after it has determined, in writing, that competitive sealed bidding is either not practicable or not fiscally advantageous to the public.• Prior to procuring CM services, a County Agency must receive approval from the Board of Supervisors.• Procurement of CM services is a two-step competitive negotiation process. The agency first selects qualified offerors and then, from among them, the construction manager.	
Key References to the Code of Virginia Applicable to this Chapter	
Section 2.2-4379: Definitions of construction management contract and other key terms Section 2.2-4382: Design-build or construction management contracts for local public bodies	

28-1 General

A construction management contract is a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner, and may also include, if provided in the applicable contract, furnishing construction services to the owner. The County may enter into a contract or series of contracts with a construction manager in accordance with *Virginia Code § 2.2-4382*, and the procedures adopted by the Virginia Secretary of Administration for utilizing design-build or construction management contracts. The County is authorized to use competitive negotiations to procure CM services when the Purchasing Agent determines in advance and sets forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public. The determination shall also include the basis for the finding.

The use of CM shall be limited to projects with a construction value that is in excess of \$10,000,000 or less than \$10,000,000, provided the project is complex and the CM method is approved by the Board of Supervisors.

28-2 Procedure for Approval

The Agency's first formal action shall be to request written authority and receive approval from the Board of Supervisors to use the CM method. The request shall justify and substantiate that a CM contract meets the criteria found in this Chapter

and *Virginia Code* § 2.2-4382. The request must also include the stipulation that the CM contract for pre-construction services will be initiated no later than the completion of the schematic phase of design. The request shall also include a written determination from the Purchasing Agent that sealed bidding is not practicable or fiscally advantageous. These justifications for the use of a CM contract shall also be stated in the Request for Qualifications (“RFQ”).

28-3 Selection Procedures

On projects approved for CM, procurement of the contract shall be a two-step process. The following procedures shall be used in selecting a CM and awarding a contract:

1. The Agency shall appoint an Evaluation Committee (“Committee”) which shall consist of at least three members from the Agency, including a licensed design professional, if possible. In addition to the Agency members, the Committee shall include a licensed professional engineer or architect provided by the Facilities and Planning and Construction, a division of the Department of Facilities and Environmental Services, or on contract with the County. The Agency or the Purchasing Agent shall contact the County Attorney’s Office (CAO) to determine whether a representative from the CAO should be involved.
2. The basis of the award of the contract shall be in accordance with *Virginia Code* § 2.2-4382 and the criteria for the award shall be submitted to the Purchasing Agent, in advance, for approval. It is noted that cost is a critical component of the selection process.
3. Selection of Qualified Offerors (STEP I): On projects approved for CM, the Agency shall conduct a prequalification process as follows to determine which offerors are qualified to receive Request for Proposals (RFPs).
 - a) The Agency shall prepare a RFQ containing the Agency's facility requirements, building and site criteria, site and survey data (if available), the criteria to be used to evaluate RFQ responses and other relevant information, including any unique capabilities or qualifications that will be required of the contractor. All offerors shall have a licensed Class “A” contractor registered in the Commonwealth of Virginia.
 - b) The RFQ shall be posted in accordance with the current standards for the posting of public bids in the *Virginia Code* and in accordance with the latest edition of the *Construction and Professional Services Manual*.
 - c) The Committee shall evaluate each responding firm's RFQ responses and any other relevant information and shall

determine those deemed qualified with respect to the criteria established for the project in the RFQ. Prior CM experience shall not be required; however, the Agency may consider the experience of each contractor on comparable projects.

- d) The RFQ evaluation process shall result in a short list of 2-5 offerors to receive the Request For Proposals (“RFP”). An offeror may be denied prequalification only as specified under the *Virginia Code* § 2.2-4317, but the short list shall also be those deemed best qualified.
- e) At least 30 days prior to the date established for the submission of proposals in response to the RFP, the Agency shall advise in writing each offeror which sought prequalification whether that offeror has been prequalified. Prequalified offerors that are not selected for the short list shall be provided the reasons for such decision. If an offeror is denied prequalification, the written notification to such offeror shall state the reasons for such denial of prequalification and the factual basis of such reasons.

4. Selection of a Construction Manager (STEP II):

- a) The Agency shall send an RFP to the offerors on the short list and request submission of formal proposals from them. The criteria for award shall be included in the RFP. The RFP shall also describe a two-phase contracting process, in which a selected offeror would first contract for pre-construction services and, second, at the County’s option, contract for construction services.
- b) Proposals shall be submitted to the Purchasing Agent. The proposals that conform to the submission requirements and that the Purchasing Agent determines to be otherwise acceptable shall be forwarded to the Committee.
- c) The Committee will evaluate and rank the proposals according to established criteria. After evaluation and ranking of the proposals, the Committee shall:
 - 1. Conduct negotiations with two or more offerors submitting the highest ranked proposals; or
 - 2. Should the Purchasing Agent determine, in writing and at its sole discretion, that only one offeror is fully qualified or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

- d) The Committee shall make its recommendation on the selection of a construction manager to the County Executive, who shall approve or disapprove the selection. The contract shall be awarded to the offeror who is fully qualified and has been determined to have provided the best value in response to the RFP.
- e) The County Executive shall notify the Purchasing Agent of his or her selection of the Construction Manager. The Agency shall request that the Purchasing Agent commence the contract award process.
- f) The Agency will notify all offerors who submitted proposals which offeror was selected for the project. When the terms and conditions of multiple awards are so provided in the RFP, awards may be made to more than one offeror.
- g) Upon request, documentation of the process used for the final selection shall be made available to the unsuccessful proposers.

28-4 Required Contract Terms

Any Guaranteed Maximum Price construction management contract entered into by any department, agency or institution of the County will contain provisions requiring that (1) not more than 10% of the construction work (measured by cost of the work) will be performed by the CM with its own forces and (2) that the remaining 90% of the construction work will be performed by subcontractors of the CM which the CM must procure by publicly advertised, competitive sealed bidding to the maximum extent practicable. Documentation shall be placed in the file detailing the reasons any work is not procured by publicly advertised competitive sealed bidding.

28-5 Guaranteed Maximum Price

The Guaranteed Maximum Price ("GMP") shall be established at the completion of working drawings unless a waiver has been granted to this requirement by the Purchasing Agent. If an Agency and the CM cannot agree on a GMP, the Agency may competitively bid the project with the other prequalified CM offerors in accordance with the requirements of the *Virginia Code*.