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PROCEDURES
**SINGLE SELECTION PROCUREMENT OF
 DESIGN AND CONSTRUCTION MANAGEMENT SERVICES**

(Section 30 of Chapter 193 of the Acts of 2004)

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1.0 Introduction

The Massachusetts State College Building Authority (Authority) was established by Chapter 703 of the Acts of 1963 (the Enabling Act). This statute, as amended, states that the general purposes of the Authority are:

“...aiding and contributing to the performance of the educational purposes of the state colleges by providing dormitories, dining commons, and other buildings, structures and facilities designed primarily for housing, feeding, medical care, parking, athletics and cultural and extracurricular and other student life activities and services...”.

Building projects of the Authority are defined in section 1 of Chapter 703 of the Acts of 1963, as follows:

“... the construction of new buildings or structures and the acquisition, addition to, alteration, enlargement, reconstruction, rehabilitation, remodeling and other work, including but not limited to the alteration or modification of existing facilities or the construction of additional or new facilities required or made desirable by changes in or enactments of new law or regulation or changes in or new circumstances....

The non-guaranteed revenue bond financing of Authority facilities, based on student fees in conjunction with occupancy or use based on the academic calendar, are the primary drivers for structuring project schedules and phasing. Renovation and new construction must be ready for occupancy at the start of the academic year. Most renovation and major capital repair work must be performed during summer and vacation periods. In addition to new construction, an Authority project may include:

- 1) renovations of occupied facilities requiring multiple design and construction phases;
- 2) major capital repair and replacement of building systems, finishes, and envelopes involving multiple facilities and/or campuses; and
- 3) site work such as parking lots, athletic fields, and campus infrastructure.

1.1 Purpose and Definitions

On July 19, 2004, Chapter 193 of the Acts of 2004 was signed into law. Section 30 of Chapter 193 provides for use of a particular method of design and construction procurement by the Authority, called the “Single Selection Method”. The Single Selection Method is applicable on Authority building projects with an estimated cost of at least one million dollars (\$1,000,000).

The following procedures have been developed consistent with Sections 21A to 21I inclusive of the Enabling Act, as amended by Section 30 of Chapter 193, for the purpose of selecting a project team, consisting of a Designer and a Construction Management-at-Risk firm, hereinafter referred to as the “CM” or “CM firm”. These procedures were first approved by the Authority on September 7, 2004 and by the Office of the Inspector General on November 3, 2004; annual approval of the Office of the Inspector General is required by the statute.

The term “Designer” shall have the same meaning as found in section 38A of Chapter 7, and shall be independent of the CM firm and Owner’s Project Manager. For the purposes of these procedures the term “Designer” refers to the professional consulting firm that furnishes the principal design services for the proposed project. For new construction or general renovation projects, this will typically be an architectural firm. For other types of projects (athletic fields, site improvements, or installation or replacement of sub-components of buildings such as mechanical systems) the Designer may be a professional licensed in the specific discipline that is responsible for the principal scope of design work to be performed.

The "Single Selection Procurement Process" is the method by which a Designer and a CM firm submit jointly as a team in response to a Request for Qualifications and Proposals (RFQ/P) and are evaluated and scored as such by the Authority. When the selection is complete the Authority will enter into a contract with the Designer to provide design services, and will similarly enter into a separate contract with the CM firm to provide preconstruction advisory services and construction management at risk services.

The Single Selection Method incorporates Trade Contractor prequalification and bidding by the Authority with the contract award made to the lowest responsible pre-qualified bidder. .

Each construction contract between the Authority and a CM firm shall be secured by a performance and payment bond in the full sum of the Guaranteed Maximum Price (GMP) as defined below, by a surety company licensed to do business in the Commonwealth and whose name appears on the United States Treasury Department Circular 570. [The Authority may instead require, at its option, that the CM firm maintain a subcontractor default insurance policy covering the subcontracted work \(Trade Contractor and Subcontractor\) on the building project.](#)

2.0 Procurement of Owner’s Project Manager

Before procuring the services of a Designer and CM, the Authority will procure the services of an Owner’s Project Manager, who shall be an employee of the Authority, an independent consultant, or an employee of a consultant firm which provides owners’ representation services. For those project managers who are not employees of the Authority, the Authority will use a qualifications-based selection process.

The Authority will place an advertisement for Owner’s Project Manager services in the *Central Register* summarizing the scope of services and timetable for these services, unless the Authority elects to use an employee for such services. The advertisement will require applicants to submit qualifications appropriate to the scope of services. Applicants will be required to submit hourly rates and any other anticipated fees for informational use by the Authority.

The Owner’s Project Manager will have the qualifications stated in section 44 1/2 of Chapter 149 of the General Laws, that is, professional registration in architecture or engineering with five years of construction management experience, or for those who are not registered, at least seven years of experience. The Owner's Project Manager will be independent of the Designer and the CM.

3.0 Procurement of Design and Construction Management Services

The Authority shall utilize Requests for Qualification/Proposals (RFQ/Ps) in order to select teams consisting of a Designer and a CM firm for each building project. One RFQ/P will be issued for each building project.

3.1 Establishment of the Selection Committee

Before issuing an RFQ/P, the Authority shall establish a Selection Committee for the purpose of reviewing and evaluating statements of qualifications and proposals submitted in response to the RFQ/P. The Committee shall be comprised of a minimum of five (5) members, one of whom shall be the Owner's Project Manager. The Authority's Director of Capital Projects, or designee, shall serve as the Chairperson of the Committee. Other members, including representatives of the State Colleges, may be included on the Committee if it is deemed appropriate.

3.2 Contents of the Public Notice and Request for Qualifications/Proposals

The single selection procurement process shall begin when the Authority provides public notice of the project and solicits responses from designers and CM firms to an RFQ/P issued by the Authority. Responses shall take the form of submission of statements of qualifications and proposals. The public notice shall include the following information:

- (a) Date and time that the RFQ/P will be available to interested parties, including instructions as to how interested parties shall obtain an RFQ/P;
- (b) Date and time for receipt of statements of qualifications and proposals, including the address of the office to which the statements of qualifications and proposals are to be delivered;
- (c) Notice that the Authority will accept only joint statements of qualifications and joint proposals from Designers and CM firms who will be selected as a team;
- (d) Notice that the Authority – although inviting responses from, and making final selection of, teams of Designers and CM firms – will enter into a separate contract with the Designer and the CM firm;
- (e) A clear description of requirements regarding the submission of the statements of qualifications and proposals, including that proposals submitted shall be in the form of separate Technical and Price Components;
- (f) A description of the project, including location, scope of work, estimated budget and schedule.

The RFQ/P shall include the following information:

- (a) All information included in the Public Advertisement, listed above;
- (b) A description of the building project including locations of the facilities, available preliminary concept designs and/or design information, geotechnical reports, existing condition surveys and specifications;
- (c) A description of the specific Designer services sought and the scope of services expected of the CM firm during the preconstruction and construction phases of the building project;

- (d) A general description of the anticipated schedule and estimated construction cost for the project, including site availability, the estimated time period within which the project is to be completed, and any occupancy expectations;
- (e) The evaluation procedure, the criteria for the selection of the Designer and CM firm, who shall be selected as a team, and the rating system employed;
- (f) A clear description of the communication guidelines to be followed during the procurement process including any measures to assure that the selection process will be open and fair;
- (g) The form of contract and general and supplemental conditions including any incentive provisions allowable and any damages for delay provisions;
- (h) Information on whether the Designer fee has been set or will be negotiated; and if the fee has been set, the amount of the fee;
- (i) A fully developed schedule of cost items listing the Authority's determination of what will be considered fee, cost of the work, and general condition items;
- (j) The timetable and process for establishing a GMP including status of design and limitations on the amount and use of contingency;
- (k) A list of the Trade Contractor classes of work to be required in the Trade Contractor prequalification plan;
- (l) Any additional information, as determined by the Authority, that identifies the expectations of the Authority of the selected team; and,
- (m) A statement indicating that evaluation of the responses to the RFQ/P will involve two rounds. The first round will be used to evaluate the Statements of Qualifications to determine which teams will be pre-qualified. The Technical and Price proposals of only the pre-qualified teams will be opened and evaluated in the second round. The RFQ/P will state whether the Authority intends to conduct interviews with the pre-qualified teams.

3.2.1 Value of Technical and Price Components

The RFQ/P shall state the numerical system that will be used to evaluate the Technical and Price Components, namely, that the Technical Component shall be valued at 70% and the Price Component shall be valued at 30%. The Authority shall allocate points among the subcategories of each component, consistent with the total points for the component.

3.3 Advertisement

Public notice of the solicitation shall be advertised in a newspaper of general circulation in the area in which the project is located, in the *Central Register*, and on the COMPASS system. The public notice and solicitation shall be given at least four (4) weeks prior to the deadline for submitting responses to the RFQ/P.

3.4 RFQ/P Responses and Evaluation

Responses of the design and construction management teams to the RFQ/P will have two components: (1) the Statements of Qualifications, and (2) the Technical and Price Proposals.

3.4.1 Contents of Team Statements of Qualifications

Interested Designers and CM firms shall submit joint statements of qualifications and proposals in response to a publicly advertised RFQ/P. The statement of qualifications, submitted as part of the responses to the RFQ/P shall include, at a minimum, the following:

- (a) A cover letter identifying the contact individual for the team and an executive summary detailing the key elements and factors that differentiate the Designer and CM firm, hereinafter referred to as the "team", from other responders;
- (b) A completed qualifications application similar in form to AIA Document A305, 1986 edition, listing general business information and financial capacity;
- (c) A list of lawsuits and arbitrations to which either member of the team is a party in regard to design or construction contracts within the last three (3) years, including a list of all convictions or fines for violations of state or federal law;
- (d) An audited financial statement for both members of the team for the most recent fiscal year (to be submitted in a separate, sealed and labeled envelope), ~~and~~ a letter from the surety company of the CM firm confirming the ability to provide performance and payment bonds for the building project under consideration, or evidence that the CM firm is able to obtain a subcontractor default insurance policy;
- (e) Information on the CM firm's safety record including its workers' compensation experience modifier for the prior three (3) years;
- (f) Information on and evidence of each team member's compliance record with respect to minority business enterprise and women business enterprise inclusion goals and workforce inclusion goals, if applicable;
- (g) Information regarding the team's experience on building projects of similar size, scope, and complexity, including references from the owners and architects of such building projects, provided each member of the team may also submit its own experience on building projects of similar size, scope, and complexity;
- (h) Information on any projects where either member of the team was terminated, failed to complete the work, or paid liquidated damages;
- (i) A summary of the team's project management capabilities, including specific examples of the CM firm's project management reports or other illustrations of the team's operating philosophy; and,
- (j) Any other relevant information that the Authority determines is necessary to make an informed decision regarding team selection.

The statement of qualifications shall be signed by the duly authorized representatives of the Designer and the CM firm, respectively, under pains and penalties of perjury.

3.4.2 Contents of Technical and Price Proposals

The RFQ/P, in addition to the statement of qualifications, shall require the submission of separate technical and price components as part of the overall proposal submitted in response to said RFQ/P.

The Technical Component shall include:

- (a) A detailed description of the project approach, including preconstruction services;
- (b) Identification of the project team members with resumes documenting individual and joint experience and references, position descriptions, and relevant time commitments of said team members during the project, if applicable;
- (c) A project organization chart with specific information on key project personnel and/or consultants of the team;
- (d) A construction management plan indicating approach to control of cost, schedule, quality, documents, and claims;
- (e) Preliminary definition of Trade Contractor and Subcontractor bid packages and scopes of work to the extent possible taking into account the status of the project;
- (f) An affidavit of prevailing wage compliance pursuant to sections 26 and 27 of Chapter 149 of the General Laws;
- (g) A commitment letter from a surety company licensed to do business in the Commonwealth and whose name appears on United States Treasury Department Circular 570 stating the surety's willingness to bond the building project in the full sum of the contract at 100 percent of the budget for the building project;
- (h) A technical challenges and solutions plan, and any qualifications or exceptions to the terms of the form of contract or supplemental conditions as included in the RFQ/P.

The Price Component shall include:

- (a) The fee for design services, including the fee for pre-design (feasibility) phase, if the Authority does not set the fee per the RFQ/P;
- (b) Detailed description of and estimated amounts for Designer's reimbursable expenses and additional services;
- (c) The fee for preconstruction services to be rendered by the CM, including the fee for CM's support of pre-design (feasibility) phase, based on a fixed monthly fee and estimated number of months, if the Authority does not set the fee per the RFQ/P;

- (d) The fee for construction services, including CM profit and overhead, expressed as both a fixed fee based on the Authority's projected budget and as a percentage of general construction costs; and,
- (e) The estimated cost of specific general conditions with appropriate detail.

3.4.3 Evaluation Process

Upon receipt of the statements of qualifications and proposals submitted by interested teams, the Selection Committee shall evaluate all SOQ responses using the criteria provided in the RFQ/P. If the Selection Committee determines that additional information would be beneficial to the decision process, then all respondents will be asked for the same information in writing.

In round one, teams will be rated as to whether they are pre-qualified for the project. Only pre-qualified teams will have their Technical and Price Proposals reviewed in round two.

In round two, the Selection Committee shall evaluate Technical and Price proposals in accordance with the Technical and Price Criteria published in the RFQ/P, utilizing the numerical system published in the RFQ/P (70% value for Technical Component and 30% value for Price Component). The Selection Committee shall produce a weighted total score that shall be the basis of ranking teams.

If the Selection Committee elects to conduct an interview with any pre-qualified team, then the Selection Committee shall conduct interviews with all pre-qualified teams. Interview instructions will be the same for all pre-qualified teams and will be communicated in writing.

Based upon the evaluations and interviews, if any, the Selection Committee shall rank the proposals submitted by the teams and shall make a recommendation to the Members of the Authority as to the highest ranked Team selected to perform the work. The decision of the Selection Committee shall be final and not subject to appeal except on the grounds of fraud or collusion.

If the Selection Committee is not able to identify a qualified team, then the Authority shall either re-advertise the project using these procedures or procure the project pursuant to the provisions of sections 44A to 44J, inclusive, of Chapter 149 of the General Laws.

3.4.4 Contract Negotiation

The Authority shall commence negotiations with each member of the highest ranked team. Said negotiations shall commence with the Designer, unless the fee had been previously set and included in the RFQ/P. Any sub-consultants required for the completion of the project design services will be selected by the Designer in consultation with the Authority and the CM firm.

Non-fee negotiations shall continue with the CM firm. If the Authority determines that negotiations with the Designer or the CM firm will not result in a contract acceptable to the Authority, the Authority shall terminate negotiations with the highest ranked team and shall commence negotiations with the next highest ranked team. The process shall continue until the Authority has reached an acceptable contract with the members of one of the pre-qualified teams.

The award of the contract shall require the approval by the Members of the Authority. The list and ranking of proposed teams shall be certified by the Authority and made available as a public record after the contracts have been awarded.

3.4.5 Establishment of Guaranteed Maximum Price (GMP)

The Authority shall initially execute a contract with the CM firm for services not to exceed the preconstruction phase of the project, which contract may also include pre-design (feasibility) phase services. At the appropriate time, or at appropriate times for phased construction, the Authority shall negotiate a guaranteed maximum price, hereinafter referred to as the “GMP”, with the CM to provide construction management services. The GMP shall not be implemented as a separate contract but shall be authorized as an amendment to the preconstruction services contract.

The Authority shall establish a schedule for finalizing the GMP which shall comply with the following:

- (a) The GMP shall be established based on documents which are developed to a minimum of sixty (60) percent complete (design development level of completion);
- (b) The GMP amendment shall include a pricing structure which specifically identifies the following costs at a minimum: (a) Cost of the Work, (b) General Conditions, (c) CM’s Contingency and (d) CM’s fee. The GMP amendment may also include an Owner’s Contingency if the Authority chooses to include such an item. The GMP amendment shall entitle the Authority to monitor and audit all costs associated with the GMP;
- (c) The GMP amendment shall provide a detailed schedule of values including a line item breakdown by trade of all costs associated with construction services including the costs associated with any early construction packages that are included in the GMP. The GMP amendment also shall include attachments of other items on which the GMP is based including but not limited to (a) plans and specifications; (b) description of all allowances; (c) a detailed description of any assumptions and clarifications; (d) a list of appropriate schedule milestones including at a minimum the dates for substantial and final completion and any related liquidated damages; and (e) a detailed description of any alternates with a list of unit prices, if applicable;
- (d) The GMP amendment shall not include any incentive provisions related to the sharing of savings between the final GMP and the final cost of construction services. The GMP amendment may allow for incentives related to various performance objectives, provided the total dollars available to the CM from incentive provisions shall not exceed one percent of the estimated construction cost;
- (e) The GMP amendment shall be executed before the commencement of any construction work. If, however, the Authority chooses to authorize the implementation of certain construction work prior to the execution of the GMP amendment, hereinafter referred to as early construction packages, the Authority shall execute a separate amendment to the preconstruction services contract detailing the scope of work for an early construction package. The amendment shall include a pricing structure which specifically identifies, at a minimum, (a) cost of the work, (b)

general conditions, (c) CM's contingency, and (d) CM's fee, as such costs may apply to the specific scope of work for the early construction package. The Authority may choose to include an Owner's Contingency in the amendment for the early construction package if it is deemed appropriate. If an early construction package is authorized by the Authority, any class of work listed in section 44F of Chapter 149 of the General Laws included in the scope of work for that early construction package shall be subject to the Trade Contractor selection process set forth below. In the event that a final GMP cannot be successfully negotiated between the Authority and the CM firm, any existing Trade Contractor agreements between the CM firm and a Trade Contractor for work associated with an early construction package may be assigned to the Authority or to another CM firm designated by the Authority without the assent of the Trade Contractor. The Authority, the designated CM firm and the Trade Contractor shall be bound by the terms of the Trade Contractor agreement; and

- (f) Within five (5) business days after the execution of the GMP amendment, the CM firm shall provide all required performance and payment bonds in the amount of the GMP and evidence of subcontractor default insurance, if required for the project.

3.4.6 Failure to Reach Agreement

In the event that the Authority is unable to negotiate a GMP amendment with the CM firm, the Authority may commence negotiations with the CM firm member of the next highest ranked team. The process shall continue until the Authority has reached an acceptable contract with one of the pre-qualified CM firms. In the event that the Authority cannot successfully negotiate a contract and GMP amendment with any of the pre-qualified CM firms, the Authority shall terminate the procurement process and shall instead procure the project in accordance with sections 44A to 44J, inclusive, of Chapter 149 of the General Laws.

4.0 Trade Contractor and Subcontractor Procurement

4.1 Trade Contractor Selection

The Authority shall establish two processes for selection of trade contractors and subcontractors. The first will be for those subcontractors, referred to as "trade contractors" interested in performing any sub-bid class of work listed in section 44F of Chapter 149 of the General Laws and all other sub-bid classes of work selected by the Authority for the project; provided, however, that the sub-bid work meets or exceeds the threshold sum identified in paragraph (1) of section 44F of said Chapter 149, currently \$20,000; this process will be referred to as the "Trade Contractor Selection Process". The second will be for those subcontractors who perform work in trades not specifically defined as Trade Contractors or perform work below the threshold sum identified in paragraph (1) of section 44(F) of said Chapter 149; this process will be referred to as the "Subcontractor Selection Process".

The Authority may, consistent with established minority business enterprise and women business enterprise inclusion goals, provide an additional five (5) points to the total score of each minority business enterprise and women business enterprise in the prequalification process.

The CM firm may submit its qualifications to bid on trade contract work in accordance with this Section 4.1 provided that: (a) the CM firm customarily performs the work for which it submits qualifications; (b) the CM firm performs such work with employees on its own payroll; (c) the

CM firm meets all requirements of the trade contractor selection process; and (d) the CM firm does not participate as a member of the prequalification committee relative to a trade for which it seeks to submit qualifications and/or bids. In such cases, the Authority shall appoint a person to carry out the prequalification committee responsibilities of the CM firm.

4.1.1 Trade Contractor Prequalification

All Trade Contractors will be pre-qualified in accordance with these procedures. Trade Contractors shall be pre-qualified for the following classes of work:

- (a) Roofing and Flashing
- (b) Waterproofing, Damp-proofing, and Caulking
- (c) Lathing and Plastering
- (d) Marble
- (e) Terrazzo
- (f) Glass and glazing
- (g) Plumbing
- (h) Electrical
- (i) Elevators
- (j) Metal Windows
- (k) Miscellaneous Metal and Ornamental Iron
- (l) Acoustical Tile
- (m) Ceramic Tile
- (n) Resilient Floors
- (o) Painting
- (p) Heating, Ventilating, and Air-conditioning (HVAC)
- (q) Masonry
- (r) Fire Protection
- (s) Any other class of work for which the Authority deems it necessary or convenient to pre-qualify Trade Contractors

4.1.2 Trade Contractor Prequalification Committee

The Authority shall establish a Trade Contractor Prequalification Committee for the building project. The Committee shall be comprised of a minimum of five members appointed by the Authority, including a representative of the Designer and a representative of the CM firm. The Authority's Director of Capital Projects, or designee, shall serve as Chairperson of the Trade Contractor Prequalification Committee.

4.1.3 Requests for Qualification

A Request for Qualifications ("RFQ") shall be used to solicit responses from interested firms to pre-qualify Trade Contractors to participate in bidding on building projects.

The Authority will develop detailed information to the extent possible describing the work required for each Trade Contractor. This detailed information shall serve as the basis of an RFQ to be issued by the Authority. The Authority shall give public notice of Trade Contractor work on the building project and shall issue for each Trade Contract an RFQ which shall be used to solicit responses from eligible trade contractors and which shall be used to pre-qualify the trade contractors to participate in bidding for the project.

Each public notice and RFQ shall include at a minimum:

- (a) Date, time and place for submission;
- (b) Relevant information about the project and the bidding process;
- (c) Specific criteria for Trade Contractor prequalification and selection;
- (d) A statement indicating that the RFQ will be used to pre-qualify Trade Contractors that will be invited to submit a bid;
- (e) A statement that the responders' names are to be posted, but that there shall be no public opening of responses;

All interested Trade Contractors shall be eligible to respond to the RFQ and to participate in the prequalification process. Each response submitted by a Trade Contractor in response to the RFQ shall be signed under pains and penalties of perjury. Financial information provided in response to the RFQ shall remain confidential and not be a public record, as defined in section 7 of Chapter 4 of the General Laws and shall not be open to public inspection.

4.1.4 Advertisement

The public notice and solicitation shall be advertised in a newspaper of general circulation in the area in which the building project is located, in the *Central Register* pursuant to section 20A of Chapter 9 of the General Laws, and within the COMPASS system. The public notice and solicitation shall give not less than two (2) weeks before the deadline for submitting responses to the RFQ.

4.1.5 Contents of the Trade Contractor RFQ

The RFQ shall require only the information listed below, and shall identify the specific point allocation for each category and sub-category of information. Within each category of

information, the Authority may use discretion in allocating points among the subcategories, consistent with the total points for the category.

(A) Management Experience (50 points; minimum of 25 required for approval):

- (i) Business owners – The name, title, and years with firm of each owner of the business and identification of the MBE or WBE status of the firm, if applicable.
- (ii) Management personnel – The names, title, education and construction experience, years with firm, and list of projects completed by all management personnel.
- (iii) Similar project experience – The project name, description, description of scope, original trade contract sum, final trade contract sum with explanation of any difference(s), and original completion date and final completion date of similar projects with a detailed explanation of any difference.
- (iv) Terminations - A list of any projects on which the trade contractor was terminated or failed to complete the work.
- (v) Lawsuits - A list of commercial lawsuits in which the trade contractor is a defendant or defendant-in-counterclaim with regard to construction contracts within the last three (3) years. This list will not include any actions that primarily involve personal injury or workers' compensation claims, or where the sole cause of action involves the Trade Contractor's exercise of its rights for direct payment under section 39F of Chapter 30 of the General Laws.
- (vi) Safety record - The most-recent three-year history of the Trade Contractor's workers' compensation experience modifier.

(B) References (30 points; minimum of 15 required for approval). The Trade Contractor shall ensure that contact information is current and usable.

- (i) Project references - Client references for all projects listed in A (iii) above, including the project name, client's name, address, telephone and fax numbers, and contact person.
- (ii) Credit references – A minimum of five (5) credit references, including telephone and fax numbers of contact person from key suppliers, vendors, and banks.
- (iii) Public project record – A list of all completed public building construction projects as defined in section 44A of Chapter 149 of the General Laws during the past three (3) years with client's name, address, telephone and fax numbers, and contact person.

(C) Capacity to Complete Projects (20 points; minimum of 10 required for approval):

- (i) Annual revenue for prior three (3) fiscal years. There shall be no requirement for submission of financial statements.
- (ii) Revenue under contract for next three (3) fiscal years.

(D) Mandatory commitment letter, for which no points are assigned, for payment and performance bonds at 100 percent of the estimated trade contract value from a surety company licensed to do business in the Commonwealth and whose name appears on United States Treasury Department Circular 570.

4.1.6 Prequalification Process

Statements of Qualifications submitted in response to the RFQ shall be reviewed and scored by the Trade Contractor Prequalification Committee. All trade contractors who achieve a score of 70 points or greater shall be pre-qualified to participate in bidding for a specific building project.

In the event that fewer than three (3) Trade Contractors are pre-qualified for a particular class of work the Authority may elect to increase the pool of prospective bidders in the following manner: the Authority may re-issue the Trade Contractor RFQ, as described above. If the second round of Trade Contractor prequalification does not result in a total of at least three (3) pre-qualified Trade Contractors (including those Trade Contractors pre-qualified in the first round), then the CM firm, on behalf of and with the consent of the Authority, shall utilize the procedures for selection of Subcontractors who are not Trade Contractors, set out below (Subcontractor Procurement). In this event the CM firm shall include all Trade Contractors, if any, that have been previously pre-qualified for this project in the bidding of this work.

The decision of the Prequalification Committee shall be final and not subject to appeal except on the grounds of fraud or collusion.

4.2 Trade Contractor Bidding

4.2.1 Request For Bids

The Authority will notify all pre-qualified Trade Contractors of the approximate date that bids will be taken. Pre-qualified Trade Contractors shall be invited to submit a bid pursuant to a Request for Bids. The Request for Bids shall include the following information:

- (a) Date, time, and place for submission of bids;
- (b) Fully detailed drawings and specifications by class of work in accordance with subsection (1) of paragraph (a) of section 44F of Chapter 149 of the General Laws which shall provide for full competition for each item of material to be furnished under the contract as set forth under subsection (b) of section 39M of Chapter 30 of the General Laws;
- (c) A detailed definition of the Trade Contractor's scope of work, including alternates and allowances, if any, within that scope of work;
- (d) A project schedule indicating the planned sequence and duration of each Trade Contractor's work;

- (e) A list of pre-qualified Trade Contractors;
- (f) A Trade Contractor bid form that shall require a listing of price, addenda, alternates, and allowances, if any, for the trade work; and shall further require the Trade Contractor to certify that he will perform the complete trade work with employees on his own payroll, except for work customarily performed by sub-trade subcontractors within the trade; and shall further require, without limitation, the names of all sub-trade subcontractors to be used if awarded the Trade Contract and each sub-trade contract sum;
- (g) An affidavit that all sub-trade subcontractors named on the bid form have been pre-qualified by the Trade Contractor using criteria similar to the criteria for the prequalification of Trade Contractors;
- (h) An affidavit of tax compliance;
- (i) An affidavit of prevailing wage compliance pursuant to sections 26 and 27 of Chapter 149 of the General Laws;
- (j) A non-collusion affidavit;
- (k) A requirement for the bidder to post a five percent (5%) bid bond from a surety company licensed to do business in the Commonwealth and whose name appears on U.S. Treasury Department Circular 570; but, the bid bond shall be returned to the bidder if the bidder is not selected as the Trade Contractor;
- (l) The budget for the project, and the budget amount for the Trade Contract scope of work as provided in the project guaranteed maximum price if available, or as provided in the most recent budget for the project; and
- (m) The Trade Contractor agreement form as set forth in this section including all exhibits.

4.2.2 Submission of Bids

Trade Contractors submitting bids in response to a request for bids shall do so in accordance with the requirements contained in the request for bids package. Any submission that does not include the bid bond or affidavits required pursuant to this paragraph or any response in which the information requested is incomplete, conditional, or obscure or which contains any additions not required in the request for bids package shall be rejected. Bidders are required to list the names of all sub-trade subcontractors they will use if awarded the trade contract and each corresponding sub-trade contract sum; provided, however, that the certification required by Paragraph F(6), above, shall not apply to sub-trade subcontracts of less than Ten Thousand Dollars (\$10,000.00) nor to sub-trade subcontracts that are not subject to the provisions of G.L. c. 149, §§ 44A-J. Bidders will not be required to list themselves on the bid form for sub-trade subcontract work that they will perform with employees on their own payroll, including any specific classes of work that may be identified in any technical specification section.

4.2.3 Bid Opening and Evaluation

Bids shall be opened publicly by the Authority and shall be awarded to the lowest responsible pre-qualified bidder. If the Authority receives fewer than three (3) responsive bids on any proposed trade contract and the lowest bid exceeds the estimated cost for the work for which proposals are requested, the CM firm shall attempt to negotiate an acceptable price with the lowest pre-qualified bidder. If the negotiations are unsuccessful, the CM firm shall terminate negotiations with the lowest pre-qualified bidder and shall initiate negotiations with the Trade Contractor who was the second lowest pre-qualified bidder. If the CM firm is unsuccessful in negotiating an acceptable price with the lowest pre-qualified bidder and second lowest pre-qualified bidder, the construction management at risk firm, on behalf of and with the consent of the Authority, shall solicit additional bids, utilizing the procedures for selection of Subcontractors who are not Trade Contractors, set out below (Subcontractor Procurement).

4.2.4 Form of Trade Contract

The CM firm shall execute a trade contract with each of the Trade Contractors selected through the trade contractor bidding process. Each Trade Contractor selected by the CM firm to perform work on the building project shall return an executed trade contract including the required performance and payment bonds, if applicable pursuant to Section 4.2.5 below, and insurance certificate to the CM firm within ten (10) business days of receipt of the trade contract from the CM firm. The trade contract shall be the same trade contract attached to these procedures.

4.2.5 ~~Performance and Payment Bonds~~ Bonding Requirements

Each trade contract shall be secured by performance and payment bonds in the full amount of the trade contract amount from a surety company licensed to do business in the Commonwealth and whose name appears on United States Treasury Department Circular 570; provided that the payment bonds shall be subject to paragraph (3) of section 44F of Chapter 149 of the General Laws, unless the Authority permits the CM firm to carry subcontractor default insurance in lieu of the aforementioned bonds and the trade contractor is covered by such insurance.

4.3 Subcontractor Procurement

4.3.1 Subcontractor Selection Process

The Authority shall establish a Subcontractor Selection Process for subcontractors who are not Trade Contractors but for which the scope of work on which they are bidding exceeds the threshold sum set for trade contractors, defined in subsection (1) of section 44F of Chapter 149 of the General Laws.

The CM firm shall provide the Authority with the qualifications that a Subcontractor must have in order to perform work successfully as well as a list of no fewer than three Subcontractors which the CM firm believes meets such qualifications in each specific category of Subcontractor work. The Authority may choose to eliminate Subcontractors from the list without the approval of the CM firm and may choose to add Subcontractors to the list; provided such additional firms are acceptable to the CM firm.

The CM firm shall prepare a list of approved Subcontractors for each specific scope of subcontractor work. The CM firm shall develop detailed bidding information and provide such information to each Subcontractor on the list of approved Subcontractors and invite each approved Subcontractor to submit a bid for the work. The CM firm shall present a list of the bids submitted

by approved Subcontractors to the Authority. The CM firm shall indicate the bidders who are selected to be awarded a subcontract. The CM firm shall provide a written explanation as to the reason for the award of a subcontract.

The CM firm may submit a bid to perform subcontract work in accordance with this Section 4.3.1 provided that: (a) the CM firm customarily performs the work for which it submits qualifications; (b) the CM firm performs such work with employees on its own payroll; (c) the CM firm meets all requirements of the subcontractor selection process; and (d) the CM firm shall direct bidders to submit bids directly to the Authority for each subcontract bid package on which the CM firm intends to submit a bid.

For scopes of work whose value does not exceed the threshold sum identified for trade contractors in subsection (1) of section 44F of said Chapter 149 (\$20,000), the CM firm may select subcontractors using any selection method so long as such selection method is approved by the Authority.

4.3.2 Form of Subcontract

The CM firm may choose to utilize a different form of contract with each Subcontractor, not defined as a Trade Contractor, provided the Authority reviews and approves the proposed form of subcontract prior to its execution between the CM firm and the Subcontractor.

End of document