

VIRGINIA COMMUNITY COLLEGE SYSTEM

**ALTERNATIVE METHODS OF PROCUREMENT FOR
CONSTRUCTION POLICY MANUAL**

**PURSUANT TO THE PROVISIONS OF THE
RESTRUCTURED HIGHER EDUCATION FINANCIAL &
ADMINISTRATIVE OPERATIONS ACT
(Chapter 945 of the 2005 Session)**

November 16, 2006

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INTRODUCTION

1. Background

Chapter 945 of the 2005 Session of the General Assembly provided for a significant restructuring of operational authority for Virginia's institutions of higher education. Specifically, §23-38.88 allows institutions of higher education to utilize as methods of procurement a fixed price, design-build or construction management contract notwithstanding the provisions of § [2.2-4306](#).

In order to qualify for this authority, the State Board is required to adopt written policies and procedures that incorporate:

- Compliance with the Virginia Public Procurement Act and application of the Commonwealth's standard general terms and conditions.
- Documentation that an alternative method of procurement is more advantageous than a fixed price construction contract utilizing a general contractor.
- Procedures for authorization of either a one-step or two-step process.
- Provision for the following procedures for selection of a provider, awarding a contract, and obtaining building permits and Certificates of Occupancy:
 - Appointment of an evaluation committee.
 - Publication of notice of invitation for providers to submit qualifications, including publication on the Commonwealth's electronic procurement (eVA) website.
 - Preparation of a Request for Proposal (RFP) containing the institution's facility requirements, building and site criteria, site and survey data, criteria to be used to evaluate submittals and other relevant information. Cost should comprise not less than 51% of the total points available for selection.
 - Requirement that the selected designer be a licensed architect or engineer in Virginia, as provided by the Department of Professional and Occupational Regulation (DPOR).
 - Requirement that the selected provider or his construction contractor be licensed as a Class A Contractor in Virginia as provided by DPOR.
 - Requirement that the State Fire Marshal's Office conduct required inspections.

This document provides the approved Virginia Community College System (VCCS) policies and procedures for the utilization of, as methods of procurement, a fixed price, design-build or construction management contract notwithstanding the provisions of § [2.2-4306](#).

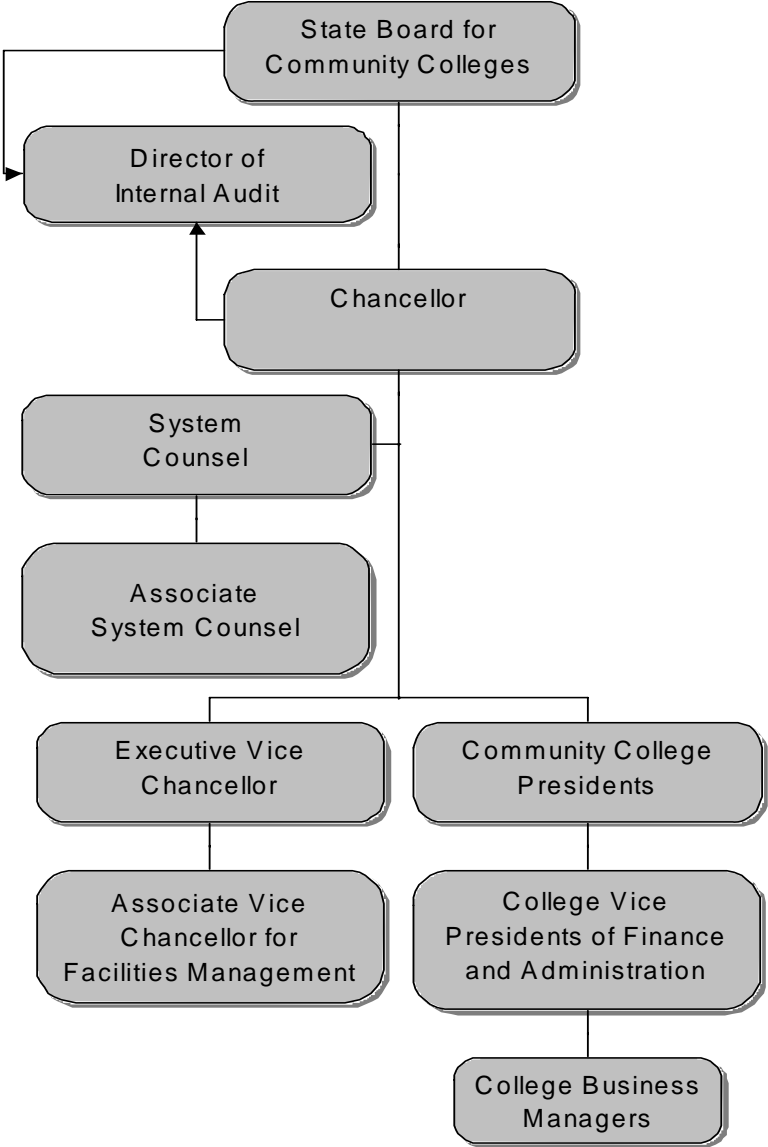
2. VCCS' Organizational Structure

Colleges shall adhere to the following structure for administering and performing each delegated function to utilize as methods of procurement a fixed price, design-build or construction management contract, unless otherwise approved by the VCCS' Chancellor:

VIRGINIA COMMUNITY COLLEGE SYSTEM POSITION	FUNCTIONS
Chancellor	Approve the specific use for a particular project as a method of procurement, a fixed price, and design build or construction management or construction manager at risk contract. Sign authorized contract.
Associate Vice Chancellor for Facilities Mgmt Services	Recommend use of a fixed price, design-build, construction management or construction manager at risk contract; recommend justifications and document the reasons for the chosen method; ensure compliance with approved guidelines and applicable law.
VCCS Program Manager assigned to the project	<p>Ensure compliance with the Virginia Public Procurement Act and application of the VCCS's standard general terms and conditions; document that an alternative method of procurement is more advantageous than a fixed price construction contract utilizing a general contractor.</p> <p>Establish the following procedures for the selection of a provider, awarding a contract, and obtaining building permits and Certificates of Occupancy: appointment of an evaluation committee; publication of notice of invitation for providers to submit qualifications, including publication on the Commonwealth's electronic procurement (eVA) website; preparation of a Request for Proposal (RFP) containing the college's facility requirements, building and site criteria, site and survey data, criteria to be used to evaluate submittals and other relevant information. Cost should comprise not less than 51% of the total points available for selection.</p> <p>Require that the selected designer is a licensed architect or engineer in Virginia, as provided by the Department of Professional and Occupational Regulation (DPOR).</p> <p>Require that the selected provider or its construction contractor be licensed as a Class A Contractor in Virginia as provided by DPOR.</p> <p>Require that the State Fire Marshal's Office conduct required inspections.</p>
Associate System Counsel	Review to ensure accuracy and compliance with applicable law and approve contracts as to form.

The State Board for Community Colleges is ultimately responsible for each transaction entered into by the VCCS under these delegated authorities.

Organizational Chart
Alternative Methods of Procurement for Construction



CHAPTER 1: FIXED PRICE, DESIGN BUILD OR CONSTRUCTION MANAGEMENT CONTRACT

DESIGN BUILD PROCEDURES:

- 1. CRITERIA FOR USE OF DESIGN BUILD CONTRACTS (D/B):** Design Build contracts may be approved for use on building projects in the following general categories: warehouse/storage buildings, garage/maintenance shops, general mercantile buildings, single-story administrative buildings, recreational and concession buildings, exhibition and agricultural buildings and housing.
- 2. PROCEDURE FOR APPROVAL TO USE D/B:** The College shall request authority from the Chancellor, in writing, to use a D/B contract. The request shall justify and substantiate that Design Build is more advantageous than a competitive sealed bid construction contract with a general contractor and shall indicate how the Commonwealth will benefit from using D/B. The request shall also include a written justification that sealed bidding is not practical and/or fiscally advantageous. If the College desires an exception to the rule set forth in Paragraph 3.3(vii) hereof, that the contract be awarded to the lowest cost offeror which has submitted an acceptable Technical Proposal, the College must submit a request for an exception along with its request for authority to use a D/B Contract. The Chancellor, upon the Associate Vice Chancellor for Facilities Management's recommendation and the Executive Vice Chancellor's concurrence, is the approving authority for requests to use D/B procedures.
- 3. DESIGN-BUILD SELECTION PROCEDURES:** On projects approved for Design-Build, procurement of the contract shall be a two step competitive negotiation process. The following procedures shall be used in selecting a Design Builder and awarding a contract:
 - 3.1.** The System shall appoint a D/B Evaluation Committee (Evaluation Committee or Committee) which shall include a licensed professional engineer or architect provided by the division of Facilities Management in the System Office. College members shall include a licensed design professional, if possible.
 - 3.2.** Selection of Qualified Offerors (STEP I)
 - (i) The System shall publish notice of its invitation through an RFQ or RFI for Design Builders to submit qualifications. The notice shall appear in at least two daily newspapers and on the On-Line Bids page of eVA, Virginia's central electronic procurement website. The URL is <http://vbo.dgs.state.va.us>.
 - (ii) The Committee shall evaluate each responding firm's submittals and any other relevant information and shall select no more than five (5) offerors deemed most suitable for the project.

3.3. Selection of Design-Build Contractor (STEP II)

- (i) The System shall prepare a Request for Proposals (RFP) containing the College's Facility Requirements, building and site criteria, site and survey data, the criteria to be used to evaluate submittals and other relevant information.
- (ii) The Evaluation Committee will invite a minimum of two (2) and a maximum of five (5) D/B offerors deemed most suitable for the project, from those selected by the Committee to submit Technical and Cost Proposals. Sealed Technical Proposals will be submitted to the Evaluation Committee. Separately sealed Cost Proposals will be submitted to the VCCO, secured by and kept sealed until evaluation of the Technical Proposals and the design development negotiations are completed.
- (iii) The Evaluation Committee will evaluate the Technical Proposals based on the criteria contained in the RFP. It will inform each D/B offeror of any adjustments necessary to make its Technical Proposal fully comply with the requirements of the RFP. In addition, the Committee may require that offerors make design adjustments necessary to incorporate project improvements and/or additional detail identified by the Committee during design development.
- (iv) Based on the revisions made to the Technical Proposals, the Committee and an offeror may negotiate additive and deductive amendments to the offeror's Cost Proposals. In addition, an offeror may submit cost deductions from its original sealed cost proposal which are not based upon revisions to the Technical Proposals.
- (v) At the conclusion of design development, the Evaluation Committee shall publicly open, read aloud, and tabulate the Cost Proposals. It shall add to or subtract from the Cost Proposal any cost adjustments contained in amendments submitted by a D/B offeror.
- (vi) The Committee shall make its recommendation on the selection of a Design Builder to the Associate Vice Chancellor for Facilities Management Services based on its evaluation and negotiations. The Associate Vice Chancellor for Facilities Management shall select the Design Builder.
- (vii) Award of the D/B contract shall be made to the offeror which submits an acceptable Technical Proposal at the lowest cost, unless the Committee has received the approval of the Chancellor to award on an alternate basis.
- (viii) The Associate Vice Chancellor for Facilities Management will notify all offerors who submitted proposals which offeror was selected for the project. In the alternative, the Associate Vice Chancellor for Facilities Management may notify all offerors who submitted proposals of the System's intent to award the contract to a particular offeror at any time after the Associate Vice Chancellor for Facilities Management has selected the Design Builder.

4. CHECKLIST FOR DESIGN BUILD PROCUREMENT – BASIC PROCEDURE

- 4.1.** College to prepare justification for using Design Build procedure at least 4 months prior to expected commencement of design work.
- 4.2.** College to obtain System approval to use Design Build procedure at least 3 months prior to expected commencement of design work.
- 4.3.** Establish D/B Evaluation Committee at least 3 months prior to design commencement.
- 4.4.** Select A/E consultant or have licensed professional on staff to prepare Preliminary level “scope and criteria” design. Standard procedures used to select the A/E.
- 4.5.** Have A/E prepare schematics for approval / changes and then prepare Preliminary Documents (at least single line plans and elevations and outline specs to describe materials to be used and minimum level of quality and/or performance of systems.)
- 4.6.** Advertise for interested Design Builders to submit qualifications or interest through an RFQ or RFI showing qualifications of both the ‘Designer’ to be used and the ‘Builder’ to do the construction. See Chapter 2, Section 9 for procedures for Prequalification.
- 4.7.** Reference CO-7DB to be used as the General Conditions of the Design Build Contract and the CO-9DB as the Contract form to be used.
- 4.8.** Receive responses to RFQ or RFI.
- 4.9.** Evaluation Committee to review responses to RFQ/RFI and short list two (2) (minimum) to five (5) (preferred) qualified Design Builders to receive full Request For Proposals.
- 4.10.** VCCS Program Manager, in coordination with College, to prepare the RFP using Preliminary Documents (at least single line plans and elevations and outline specs to describe materials to be used and minimum level of quality and/or performance of systems) for the short listed D/B Proposers. Obtain Copy of Design Build General Conditions from State Bureau of Capital Outlay Management (BCOM) and use CO-7 DB for the D/B project.
- 4.11.** Distribute the formal RFP to the selected group with deadline for submitting both a Technical Proposal and a Cost Proposal (cost proposal to be in sealed envelope like Bid), including standard Bid Bond (CO-10.2).

- 4.12.** The A/E will also usually act as the System's Representative to review D/B Proposer's Technical Proposals for the design for conformance with the RFP and for conformance with the RFP during the Design Phase.
- 4.13.** Evaluation Committee to evaluate Technical Proposal from each respondent for conformance with requirements of the RFP.
- 4.14.** If any changes to the RFP are required, Evaluation Committee to meet and/or prepare clarifications of requirements, advise each proposer of those clarifications and allow each to submit a revised Technical Proposal and a sealed modification to its previously submitted cost proposal. Specify revised deadline(s).
- 4.15.** Make presentation to the DGS Art and Architectural Review Board (AARB) for approval of each proposed Design.
- 4.16.** Evaluation Committee to review revised Technical Proposals for compliance with the requirements of the RFP, as amended by any clarifications issued. Assuming changes required were made, all proposals, though they may have different features, would now meet the requirements of the RFP. (EQUALLY ACCEPTABLE WITH RESPECT TO THE RFP CRITERIA)
- 4.17.** Evaluation Committee to open Cost Proposals from each Proposer along with any cost modifications submitted. Since ALL PROPOSALS meet the RFP requirements, award contract to the lowest price.
- 4.18.** D/B Contractor obtains and submits standard contract security documentation on standard State forms: Performance Bond (CO-10) and Labor & Material Payment Bond (CO-10.1) and appropriate powers of attorney and contract authority documents, and sign contract.
- 4.19.** Submit documents to BCOM for Review and Building Permit. Note that the Committee must have independent structural and special inspections and that the work must still be inspected by other than the D/B Contractor to assure conformance with the plans and specifications.
- 4.20.** Submit documents to BCOM for Review and Building Permit. Note that Owner / College must have independent structural and special inspections and that the work must be inspected by other than the D/B Contractor to assure conformance with the plans and specifications.
- 4.21.** Prior to completion and occupancy by the College, inspections by BCOM and the State Fire Marshal's Office Representatives are required, and a Certificate of Occupancy must be issued.

5. NOTES

- 5.1.** D/B Builder must be licensed as a Class A Contractor in Virginia by the State Department of Professional & Occupational Regulation (DPOR).
- 5.2.** D/B Designer must be licensed in Virginia by DPOR as an Architect and /or Professional Engineer.
- 5.3.** Design must conform to scope as authorized by CO-2.
- 5.4.** Design must conform to Department of General Services, Division of Engineering and Buildings, Construction and Professional Services Manual (CPSM) Chapter 7 - Technical Requirements.
- 5.5.** Design must conform to current Virginia Uniform Statewide Building Code (VUSBC).
- 5.6.** Must use all applicable CO- Forms and Contracts for the project, as required by the Construction and Services Manual on file at the Virginia Bureau of Capital Outlay Management.
- 5.7.** Must use CO-7DB for General Conditions.
- 5.8.** Must use CO-9DB for Contract.

6. CHECKLIST FOR DESIGN BUILD PROCUREMENT – USING PROTOTYPE

- 6.1.** Prepare justification for using Design Build procedure. Obtain approval to use Design Build procedure.
- 6.2.** Establish Evaluation Committee.
- 6.3.** Select A/E consultant or have licensed professional on staff to oversee design.
- 6.4.** Select Prototypical Design to use (Plans and Specs).
- 6.5.** List deviations or changes required and prepare Site Plan and Elevations.
- 6.6.** Since Prototype will be used, make presentation to AARB for approval at this location.
- 6.7.** Prepare the RFP for the short listed D/B Proposers.

- 6.8.** Advertise for interested Design Builders to submit qualifications or interest (RFQ) showing qualifications of both the ‘Designer’ to be used and the ‘Builder’ to do the construction. See Chapter 2, Section 9 for procedures for Prequalification.
- 6.9.** Receive responses / qualifications.
- 6.10.** Review Responses and short list two (2) (minimum) to five (5) (preferred) qualified Design Builders to receive full Request for Proposal.
- 6.11.** Distribute the formal RFP to the selected group with deadline for submitting both a Technical Proposal and a Cost Proposal (cost proposal to be in sealed envelope like Bid).
- 6.12.** Evaluate Technical Proposal from each respondent for conformance with requirements of the RFP. If changes are required, to meet and/or clarify your requirements, advise each proposer of those clarifications and allow each to submit a revised Technical Proposal and a sealed modification to its previously submitted cost proposal. Specify deadline.
- 6.13.** Review revised Technical Proposals for compliance with the requirements of the RFP and clarifications issued. Assuming changes required were made, all proposals, though they may have different features, would now meet the requirements of the RFP. (EQUALLY ACCEPTABLE WITH RESPECT TO THE RFP CRITERIA)
- 6.14.** Open Cost Proposals from each Proposer along with any cost modifications submitted. Since ALL PROPOSALS meet the RFP requirements, award contract to the lowest price.
- 6.15.** Obtain Bonds and other required contract documents, and sign contract.
- 6.16.** Have ‘Predesign’ meeting with BCOM to coordinate the documents that will be required for the Building Permit and whether partial permits will be issued for sitework phase, foundation phase and building phase.
- 6.17.** Submit documents to BCOM for Review and Building Permit. Note that project still must have independent structural and special inspections and that the work must still be inspected by other than the D/B Contractor to assure conformance with the plans and specs.
- 6.18.** Inspections by BCOM and State Fire Marshal’s Office representatives are required and a Certificate of Occupancy is required.

7. NOTES

- 7.1.** D/B Builder must be licensed as a Class A Contractor in Virginia by the State Department of Professional & Occupational Regulation (DPOR).
- 7.2.** D/B Designer must be licensed in Virginia by DPOR as an Architect and /or Professional Engineer.
- 7.3.** Design must conform to scope as authorized by CO-2.
- 7.4.** Design must conform to Department of General Services, Division of Engineering and Buildings, Construction and Professional Services Manual (CPSM) Chapter 7 - Technical Requirements.
- 7.5.** Design must conform to current Virginia Uniform Statewide Building Code (VUSBC).
- 7.6.** Must use all applicable CO- Forms and Contracts for the project, as required by the Construction and Services Manual on file at the Virginia Bureau of Capital Outlay Management.

8. PREQUALIFICATION PROCEDURES

Prequalification procedures for design build contractors are set forth in Chapter 2, Section 9.

**CHAPTER 2: CONSTRUCTION MANAGEMENT PROCEDURES:
PROCEDURES FOR UTILIZING CONSTRUCTION MANAGEMENT (CM)
CONTRACTS**

**PROCEDURES FOR UTILIZING CONSTRUCTION MANAGEMENT (CM)
CONTRACTS**

- 1. CRITERIA FOR USE OF CONSTRUCTION MANAGEMENT:** Construction management (CM) contracts may be approved for use on projects with an estimated construction cost in excess of \$10,000,000 where 1) fast tracking of construction is needed to meet College program requirements and/or 2) where value engineering and/or constructability analyses concurrent with design are required. Projects under \$10,000,000 may be authorized for the use of construction management contracting if the College can demonstrate compelling circumstances, as required by the Construction and Services Manual on file at the Virginia Bureau of Capital Outlay Management.
- 2. PROCEDURE FOR APPROVAL TO USE CONSTRUCTION MANAGEMENT:** The College shall request authority, in writing to the Chancellor, to use a CM contract. The request shall justify and substantiate that a CM contract meets the criteria found in paragraph 1 above and the use of CM is more fiscally advantageous than a competitive sealed bid construction contract with a general contractor. The Chancellor is the approving authority for requests to use CM.
- 3. PREQUALIFICATION PROCEDURES:** On projects approved for CM, the System shall proceed as follows to pre-qualify offerors who may submit proposals.
 - 3.1.** The System shall appoint an Evaluation Committee (Evaluation Committee or Committee) which shall include a licensed professional engineer or architect provided by the division of Facilities Management in the System Office. College members shall include a licensed design professional, if possible.
 - 3.2.** The System shall publish an invitation to pre-qualify (Request For Qualifications) in at least two daily newspapers and on the On-Line Bids page of eVA, Virginia's central electronic procurement website. The URL is <http://vbo.dgs.state.va.us>.
 - 3.3.** The Evaluation Committee shall evaluate each responding firm's submittals and any other relevant information and shall determine those deemed qualified with respect to the criteria established for the project.
 - 3.4.** In addition to the procedures described above for pre-qualifying firms for individual CM projects, the Division of Engineering and Buildings may establish

prequalification procedures for particular types of construction projects in accordance with § 2.2-4317 of the *Code of Virginia* and firms qualified under that procedure may compete for projects of the type for which they qualified unless the Associate Vice Chancellor for Facilities Management determines that further pre-qualification for a particular project is desirable.

4. SELECTION PROCEDURES:

- 4.1. The Evaluation Committee will send Request for Proposals (RFP) to the pre-qualified firms and request submission of formal proposals from them.
- 4.2. The Committee will evaluate and rank the proposals and conduct negotiations with two or more offerors submitting the best proposals. Should the College 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, then, with the consent of the Associate Vice Chancellor for Facilities Management, a contract may be negotiated with and awarded to that offeror.
- 4.3. The Committee shall make its recommendation on the selection of a Construction Manager to the Associate Vice Chancellor for Facilities Management based on its evaluation and negotiations. The Associate Vice Chancellor for Facilities Management shall select the Construction Manager.
- 4.5. The Associate Vice Chancellor for Facilities Management will notify all offerors who submitted proposals which offeror was selected for the project. In the alternative, the Associate Vice Chancellor for Facilities Management may notify all offerors who submitted proposals of the System's intent to award the contract to a particular offeror at any time after the Associate Vice Chancellor for Facilities Management has selected the Construction Manager.

5. REQUIRED CONSTRUCTION MANAGEMENT CONTRACT TERMS: Any Guaranteed Maximum Price construction management contract entered into by any department, agency or institution of the Commonwealth 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 construction work (at least 90%) will be performed by subcontractors of the CM which the CM must procure by publicly advertised, competitive sealed bidding. In extraordinary circumstances the Chancellor may grant a waiver of these contractual requirements in whole or in part.

6. GUIDE FOR USING CONSTRUCTION MANAGER AT RISK OR CM/GC CONTRACTS

- 6.1. "CM/GC" or "Construction Manager at Risk" is a specific type of Construction Management where the CM provides a Guaranteed Maximum Price (GMP) for

the construction and all related services and is 'At Risk' for bringing the project in within the GMP.

- 6.2. Compare project criteria to determine if it qualifies for consideration for CM/GC.
- 6.3. Prepare justification and request for approval to use CM/GC.
- 6.4. Determine criteria for CM/GC qualification.
- 6.5. Determine scope of services for CM/GC to perform during the Pre-construction (design) phase of the project.
- 6.6. Assuming project is approved for use of CM/GC, prepare an RFQ/RFP for posting and Advertisement.
- 6.7. Selection and contract will be in 2 phases or parts.
- 6.8. Part (or Phase) 1 will be Pre-construction period services which will be subject to the Terms and Conditions for Non-professional services and will be performed for a stipulated or fixed amount.
- 6.9. Part 2 or Phase 2 Construction period services / construction will be contingent upon the CM/GC providing an agreeable GMP to the Owner. If a GMP cannot be agreed upon, the Contract for Part 1 is concluded and terminated and the Committee requests a GMP from the other qualified CM/GC's or since the documents are substantially complete, the project may be Bid.
- 6.10. The CO-7 General Conditions apply to the construction contract.
- 6.11. Any special arrangement on the CM/GC Contract (CO-9 CM/GC) can be stipulated in an MOU attached to that contract.

7. CHECKLIST FOR CONSTRUCTION MANAGER AT RISK PROCUREMENT – BASIC PROCEDURE

- 7.1. Does project meet criteria for using CM?
- 7.2. What is the Justification for using CM "At Risk"?
- 7.3. What are the benefits for using CM?
- 7.4. Is it 'fiscally advantageous' to use CM? (must explain in request or documentation)
- 7.5. Prepare justification for using CM At Risk (also called CM/GC) procedure.

- 7.6. Obtain approval to use CM At Risk procedure.
- 7.7. When will CM be hired? (At what stage of the project?)
- 7.8. Do you intend to use CM for “Preconstruction” (i.e. design period) services?
- 7.9. When will you require that the CM/GC give you a “Guaranteed Maximum Price” (GMP)?
- 7.10. Establish CM At Risk Building Committee (Evaluation Committee) (the Facilities Management in the System Office must be represented on panel)
- 7.11. Advertise for interested CM At Risk firms to submit qualifications or interest (RFQ) showing qualifications of both the ‘Firm’ and the ‘Team Members’ to do the construction. Use Prequalification procedures in Section 9.0 and CO-16.
- 7.12. Use “Prequalification” format and procedures for ‘qualifying’ CM’s to receive the RFP (CO-16, Questionnaire, Attachment 1, Reference letter. Consent to contact references letter,etc)
- 7.13. Determine Qualified CM’s to receive RFP.
- 7.14. Have A/E prepare Schematics or Preliminary Documents (at least single line plans and elevations and outline specs to describe materials to be used and minimum level of quality and/or performance of systems.) for use by CM proposers in responding to the RFP. These are the documents which represent the current state of the project scope and design - Send Request for Proposals to Qualified CM At Risk firms asking them to submit detailed proposals showing qualifications of both the ‘Firm’ and the ‘Team Members’ to do the construction and complete the cost proposal form. Describe data you want the qualified firms to submit
- 7.15. The RFP should include above Preliminary Documents , the CO-7 CM “AT RISK”, CO-9 CM “AT RISK” Contract and a Draft CM “At Risk” MOU project.
- 7.16. Point out / emphasize the “SWAM” requirements that the CM must meet for the project.
- 7.17. Clearly point out that the CM At Risk Contractor obtains and submits required contract security including Performance Bond and Labor & Material Payment Bond, Insurances, etc, as part of the General Conditions Fee for the project.
- 7.18. Distribute the formal RFP to the selected group with deadline for submitting both a Service Proposal and a Fee / GMP Proposal.
- 7.19. Receive responses / proposals.

- 7.20.** Review Responses and short list two (2) (minimum) to 5 (preferred) qualified CM At Risk firms to be interviewed ‘face-to-face’ and make presentations.
- 7.21.** Conduct Interviews. Ask questions as necessary to determine the “best fit” firms for the specific project and select two (2) or three (3) CM At Risk proposers for detailed negotiations.
- 7.22.** Evaluate Technical Proposal and Cost Proposal from each respondent for conformance with requirements of the RFP and for a clear understanding by the Committee and the CM of what is required and what will be provided.
- 7.23.** If changes are required, to meet and/or clarify your requirements, advise each proposer individually of those clarifications and allow each to submit a revised Proposal including a modification to its previously submitted cost proposal or a new cost proposal. Specify deadline.
- 7.24.** Review revised Proposals for compliance with the requirements of the RFP and clarifications issued.
- 7.25.** Have ‘Preconstruction’ meeting with BCOM to coordinate the documents that will be required for the Building Permit and whether partial permits will be issued for sitework phase, foundation phase and building phase.
- 7.26.** Submit documents to BCOM for Review and Building Permit. Note that Owner must have independent structural and special inspections and that the work must still be inspected by other than the CM At Risk Contractor to assure conformance with the plans and specs.
- 7.27.** Inspections by BCOM and State Fire Marshal’s Office Representatives are required and a Certificate of Occupancy is required.

8. NOTES

- 8.1.** CM must be licensed in Virginia by DPOR as a Class A Contractor.
- 8.2.** Must use all applicable CO- Forms and Contracts for the project, as required by the Construction and Services Manual on file at the Virginia Bureau of Capital Outlay Management.
- 8.3.** Must use CO-7CM “AT RISK” for General Conditions. See Forms Center.
- 8.4.** Must use CO-9CM “AT RISK” for Contract. See Forms Center.
- 8.5.** Must use an MOU similar to the Sample on record in the VCCS Facilities Management Office.

9. PREQUALIFICATION PROCEDURES

- 9.1.** The System may prequalify contractors for a particular construction project and limit consideration of bids or proposals to prequalified contractors (*Code of Virginia*, §2.2-4317). The procedures contained in this Section 9 shall be used for prequalification of contractors for a particular construction project. The System may prequalify general contractors or selected subcontractors or both. Any prequalification of contractors and/or subcontractors shall be conducted in accordance with the procedures stipulated in this Section and *Code of Virginia*, §2.2-4317, and sufficiently in advance of the bid receipt date to allow potential contractors a fair opportunity to complete the process.
- 9.2.** The objective of prequalification shall be to qualify as many contractors as possible to bid on the proposed work. Prequalification is most frequently used for projects with sophisticated building systems, a unique site or constructability issue or where project scheduling or sequencing is critical.
- 9.3.** The table in Figure 2-1 depicts reasonable times for elements of the prequalification process. Shorter times may be used, provided they are consistent with the intent of the minimum time specified in §2.2-4317. The System shall advertise for the prequalification (Request for Qualifications) in a newspaper of daily statewide circulation; on the On-Line Bids page of eVA, Virginia's central electronic procurement website [URL is <http://vbo.dgs.state.va.us>], and shall post the advertisement in the public area where Invitations to Bid and Requests for Proposals are generally posted. The date set for receipt of the Standard Form for Contractor's Statement of Qualifications shall be at least thirty (30) calendar days from the date of the initial newspaper advertisement.
- 9.4.** The Standard Form for Contractor's Statement of Qualifications, G.S. Form E&B CO-16 (CO-16) shall be the application form submitted by contractors when applying to be prequalified for a particular construction project. The CO-16, when provided to interested contractors, shall be accompanied by the minimum qualification criteria for the proposed construction contract.
- 9.5.** The System shall establish a committee of at least five (5) state employees to review the CO-16 forms submitted by interested contractors and determine which, if any, of the contractors shall be prequalified. Of the five (5) persons one shall be an accredited Virginia Construction Contracting Officer (VCCO) of the System, one shall be a registered architect or engineer and one shall be the project manager for the proposed project. The remaining persons should be state employees familiar with the design and construction industry. The A/E for the project may, at the discretion of the Committee, serve as an advisor to the Committee.

9.6. *Code of Virginia*, §2.2-4317, permits denial of prequalification to any contractor only if at least one of the following is found:

- (i) The contractor does not have sufficient financial ability to perform the contract. Evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required for the project shall be sufficient to establish financial ability;
- (ii) The contractor does not have appropriate experience to perform the construction project in question;
- (iii) The contractor or any officer, director or owner thereof has had judgments entered against him within the past ten years for the breach of contracts for governmental or nongovernmental construction;
- (iv) The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with a public body, without good cause. The System may not utilize this provision to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior construction project file and such information relating thereto was given to the contractor at that time, with the opportunity to respond;
- (v) The contractor or any officer, director, owner, project manager, procurement manager or chief financial official thereof has been convicted within the past ten years of a crime related to governmental or nongovernmental construction or contracting;
- (vi) The contractor or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government; and
- (vii) The contractor failed to provide, in a timely manner, any information requested by the System relevant to (i) through (vi) above. The System shall deny prequalification to any contractor who does not have the requisite Virginia license issued by the Virginia Board of Contractors to perform work in Virginia pursuant to *Code of Virginia*, §54.1-1100 et seq.

9.7. The System shall notify, in writing, each contractor that submitted the CO-16 whether that contractor has been prequalified. If a contractor is denied prequalification, the written notice to that contractor shall state the reason(s) for denial of prequalification and the factual basis of such reasons(s). The written notice to each contractor shall be delivered by U. S. mail. A contractor denied prequalification shall have ten (10) calendar days from the postmark date of the written notice from the System in which to appeal the denial of prequalification. The contractor shall submit the written appeal with any additional information which may support the appeal to the System's designated appeal officer (Appeal Officer). The Appeal Officer shall be the Associate Vice Chancellor for Facilities Management. The Committee shall review the information submitted and make a recommendation on the appeal to the Appeal Officer within ten (10) calendar days of the date of the Appeal Officer's receipt of the appeal. The Appeal Officer shall

notify the contractor, in writing, of his/her decision within fifteen (15) calendar days of receipt of the appeal. The decision of the Appeal Officer shall be the final System decision. There is no further administrative appeal procedure pursuant to *Code of Virginia*, §2.2-4357 and §2.2-4365; however, the contractor may initiate legal action pursuant to *Code of Virginia*, §2.2-4357 and §2.2-4364.

- 9.8.** Verification of References supplied by the contractor in Sections VI: 1, 2, 3 & 5 of the CO- 16 shall be accomplished using the contractor reference sheet found on the DGS Forms Center.
- 9.9.** Contractor experience qualification criteria shall be sufficiently general so that contractors with the qualifications and experience to satisfactorily complete the proposed project will not be arbitrarily excluded. For example, requiring a contractor to have constructed a two-story college dormitory is too restrictive. Therefore, experience criteria shall be expressed in terms such as the building's:
- **functional type** (classroom, dining facility, lab space, etc.);
 - **off-site access** (dense urban location surrounded by multiple story buildings, open rural area, etc.);
 - **height and physical size** (14 stories with 4 below grade floors; 250,000 gross square feet);
 - **foundation system** (piles, spread footings, mat foundation, etc.);
 - **structural system** (reinforced cast in place concrete; structural steel; precast concrete members, etc.);
 - **exterior wall system** (granite panels; glass store front; brick with CMU back-up, etc.);
 - **electrical service and distribution;**
 - **mechanical system** (gas- fired package boilers; four pipe hot water/chilled water; centrifugal chiller, VAV box, etc.);
 - **number of subcontractors used on a typical job;**
 - **roofing system** (four-ply built- up; single-ply EPDM, etc.); and other similar criteria.
- 9.10.** Qualification criteria I, III, V and VI in the standard qualification criteria package on the DGS Forms Center shall not be changed without the prior written approval of the Associate Vice Chancellor for Facilities Management Services. Qualification criteria for Experience (II) shall be customized to fit the particular project for which prequalification is intended.
- 9.11.** The Notice of Invitation for Bids for the project shall be posted in a public place normally used for posting Notices or published in a newspaper of statewide circulation or both, and on the On-Line Bids page of eVA, Virginia's central electronic procurement website. The URL is <http://vbo.dgs.state.va.us>. The advertisement shall appear no less than 30 days prior to the date of bid receipt, unless otherwise approved by the Associate Vice Chancellor for Facilities Management Services. The advertisement shall state that bids will be accepted

only from those contractors prequalified to bid on the project. Further, contractor shall be a registered vendor with the eVA electronic procurement system

Prequalification Process

Figure 2-1

Week:

- 1 Prepare Questionnaire** 10 days
- 2 Advertise for Qualification Statements** 30 days
- 3 Receive Statements** 1 day
- 4 Review Statements** 14 days
- 5 Check References** 14 days
- 6 Issue Notifications** 5 days
- 7 Appeal Period** 10 days
- 8 Review of Appeal** 10 days
- 9 Issue Final Decision** 5 days
- 10 Advertise for and Receive Bids** 30 days

CHAPTER 3: COMPLIANCE

1. GUIDANCE: Delegated restructuring authority is subject to revocation if an institution does not adhere to relevant state and State Board policies and procedures. In order to ensure such compliance, the following guidelines will be enforced.

1.1. APPROVAL: The System must follow the State Board Policy Manual requirements and gain approval to utilize as methods of procurement a fixed price, design-build or construction management or construction manager at risk contract notwithstanding the provisions of § [2.2-4306](#).

1.2. ADMINISTRATION: The System will adhere to the established structure for administering and performing each delegated function to utilize as methods of procurement a fixed price, design-build or construction management or construction manager at risk contract notwithstanding the provisions of § [2.2-4306](#), unless otherwise approved by the VCCS' Executive Vice Chancellor.

1.3. RECORD-KEEPING: The System will maintain and file all records and documentation in an accessible manner and make them available for review at any time.

1.4. AUDIT: The VCCS' Internal Auditor shall periodically audit the contracts entered into pursuant to the Delegated Alternative Methods of Procurement for Construction Authority.

1.5. REVOCATION OF AUTHORITY: If the State Board determines that a procurement does not conform to approved guidelines, policies and procedures, then because of its non-compliance the State Board may require the Associate Vice Chancellor for Facilities Management to gain contract approval through the VCCS' Chancellor for at least one year in order to demonstrate compliance. If the Associate Vice Chancellor for Facilities Management cannot demonstrate compliance after one year, then the State Board may remove it from participation under the Delegated Alternative Methods of Procurement for Construction Authority.

1.6. FRAUD: Cases of apparent fraud will be referred to the System's Internal Auditor, the Auditor of Public Accounts, the State Police and/or other appropriate authority as may be required by law.

1.7 SWaM: SWaM participation and evaluation of such is required for alternative methods of construction procurement as part of the selection process to the extent and in the manner required by Virginia law.