

Chapter 5

PROCUREMENT

5.01 INTRODUCTION

The Designer, following the Owner’s approval of the Construction Documents, shall assist the Owner in obtaining bids, negotiating proposals, and in awarding and preparing construction contracts. The State Building Commission normally solicits competitive sealed bids. Most of the material in this Chapter pertains to competitive bidding.

5.02 ALTERNATIVE DELIVERY METHODS

A. State Building Commission may authorize an Alternative Delivery Method that uses a Request for Proposal (RFP) instead of the standard Design / Bid / Build method.

B. A committee of State employee evaluators scores proposals, with the Designer typically being an advisor. If so, the Owner will supply the Designer with a set of proposals for review and scoring; and Designers shall attend the evaluation committee meeting(s) to share opinions. The median of evaluator scores will determine the proposal score; and, advisor’s scores are not applied.

C. Designer’s broader involvement includes the following:

1. Best Value Option 1 (Prequalify then bid)
   a. Designer has a contract for standard full basic services.
   b. The Owner issues a RFQ for interested bidders,
      1) Issue Pre-Design information to bidders;
      2) Bidders prepare and submit RFQ to Owner for evaluation;
      3) Evaluate RFQs per 5.02 B;
      4) Select a Shortlist of bidders for full bid process; and
      5) Issue Full bid documents to shortlist bidders.
   c. The low responsive bid from among the invited short-list of bidders determines award.
   d. Designer responsibilities include:
      1) Evaluate proposers’ qualifications that will develop a short-list of bidders; and
      2) Perform standard bid evaluation and recommendation.

2. Best Value Option 2 (Submit qualifications and bids concurrently)
   a. Designer has a contract for standard full basic services.
   b. The Owner will issue full bid documents and RFQ to interested bidders.
      1) Bidders will prepare and submit bids and RFQ responses to the Owner;
      2) The committee will evaluate and rank RFQs per 5.02 B; and
      3) The committee will open bids.
   c. Qualification scores and bid price determine the award.
      Have the bids and qualifications submitted simultaneously. Open the bids immediately after initial qualification evaluation and score them based upon a comparison of how low they are to other submitted bids.
   d. Designer responsibilities include:
      1) Evaluate proposers’ qualifications, while all submitted bids remain sealed; and
      2) If the Owner has authorized a Trade-Off Analysis; then, after bids are opened, the committee will re-convene and have the opportunity to refine the scores based on bid results and Trade-Off Analysis.
3. **Best Value Option 3** (Review pre-qualifying option; weigh the contractor’s qualification and bids, in a hybrid of options 1 and 2, with trade-off analysis when authorized):
   a. Designer has a contract for standard full basic services.
   b. Design the RFQ and have it ready to bid. Owner will issue any Addenda.
   c. Proposal evaluations include the following:
      1) Initial pre-qualifying review like for Option 1 to develop a short-list,
      2) Provide a technical evaluation similar to Option 2, depending upon whether bids are required simultaneous or not; and
      3) If a Trade-Off Analysis is authorized, as in Option 2, the committee will re-convene with knowledge of bids and refine scores.
   d. As in Option 2, combined scores of qualification and bid determine the **award**.

4. **Construction Manager / General Contractor (CM/GC):**
   a. Designer services are standard full basic services.
   b. Before the Owner issues an RFP, design work may be only at an early phase. The RFP will use a brief schematic narrative with available illustrations.
   c. Proposal evaluations include the following:
      1) A single evaluation of quality factors used to create a preference ranking to weigh against cost factors, and
      2) After selection, and as the design process allows development of full or partial construction Services Agreement (CSA) or Amendment, evaluate cost factors for a recommendation to Owner regarding the CM/GC’s guaranteed maximum price (GMP), such as for bidding and change orders.
   d) Combined scores of qualifications and costs determine the **award** of a pre-construction services Master Contract. The CM/GC participates in design similar to a consultant until a design is ready for the CM/GC to solicit trade bids and develop a GMP.
   e) When ready for construction, **trade bidding** packages may be issued as RFP(s) for a portion of the scope or the entire scope. Once the CM/GC proposes a GMP, the Designer shall provide specific cost advice regarding the self-performance itemization (similar to a change order recommendation) and general recommendations regarding the suitability of the entire proposal for award (similar to a bid award recommendation).

5. **Design/Build:**
   a. Designer services might be limited to any or all of the following:
      1) Program development and documentation;
      2) Act as a non-voting advisor for proposal evaluations; and
      3) Evaluate Monitoring delivery.
   b. Designing before issuing an RFP is typically limited to programming.
   c. Designer responsibilities include the following:
      1) Initial evaluation of qualifications of proposers to develop a short-list; and
      2) Later, evaluate quality of the designs that short-list proposers submitted.
   d. After the design evaluation, open the cost submittals and score them. The combined scores of design and cost determine the **award**.

5.03 **PLACE, DATE, AND TIME OF BID OPENINGS**
Campus Planning and Construction Administration (CPCA) will establish the place, date, and time for receipt and opening of bids and Alternative Delivery Method proposals. Reference section 00 22 20N for bid opening locations.
5.04 NOTIFICATION TO DESIGNER

A. When a Bid Date is established, CPCA will send the Designer formal written notification. Formal Bid Envelopes will be provided for a construction bid. For non-construction, the bid envelope is replaced with a form in the bidding documents. Unofficial notification may also be passed along by way of a phone call.

B. As soon as possible, the Designer shall discuss with CPCA the remaining aspects of the Work, the Bidding Documents, and the Bidding Phase that might still require particular attention, before placing advertisement or ordering final printing. The Designer shall obtain Owner's prior approval for printing costs, if printing will exceed the standard allowances.

5.05 PUBLIC ADVERTISEMENT FOR BIDS

CPCA will advertise by posting to the CPCA Bid List on the CPCA website. This advertisement runs continuously, normally starting approximately four (4) weeks before the bid date.

5.06 DOCUMENT DISTRIBUTION

A. As soon as Bidding Documents are available, provide one (1) complete set directly to the following:

1. MTSU:
   a. TBR (Only if instructed by CPCA);
   b. Campus Planning and Construction Administration personnel assigned to the project (The CPCA Project Manager will give the Designer a name and address.); 
   c. the third-party Construction Scheduling Consultant, when Owner-Assisted Scheduling applies (The CPCA Project Manager will give the Designer a name and address.); and
   d. other representatives of the institution, as agreed during Construction Document Phase review.

2. Each Plans Room and web-hosting service listed in the Invitation to Bid, as agreed during Construction Document Phase review.

3. Bidders of Record, if any yet registered.

B. As "Bidders of Record" register for a construction bid, provide each a "Bid Pack" consisting of a complete set of Bidding Documents, a separate Bid Form identical to the one currently in effect for the Bidding Documents, and a Bid Envelope. For non-construction bids, distribution is virtual and replace the Bid Envelope with a form in the bidding documents.

5.07 INFORMATION AVAILABLE TO BIDDERS

A. Information Available to Bidders consists of information outside of the Bidding and Contract Documents that is available for review by prospective bidders, such as preliminary scheduling data, geotechnical data, and similar documents.

B. Reference in Project Manual:

1. Unless it is identified in Bidding Requirements of the Project Manual as described in the Project Manual Guide discussion of 00 30 Available Information do not release such information.
2. When such information exists but the Project Manual does not include the appropriate acknowledgment and requirements, add the information to the Bidding Documents by addendum before entertaining any requests from bidders to see such information.

C. Procedure for dissemination:
   1. With the Owner’s prior arrangement, information may be available for inspection by appointment and may be disseminated free of charge with the Bid Packs or on request.
   2. The Bid Form includes a waiver.
   3. Limit conversations with bidders who request such information to the business of providing and identifying the information and securing the signed waiver. Do not interpret the information for them, because that act could confer special knowledge and be contrary to the competitive process.

5.08 PRE-BID CONFERENCE
   A. Unless expressly waived by CPCA, hold a Pre-Construction Conference. To establish time, place, and requirements, consult with the CPCA Project Manager and Construction Representative; either or both of whom might wish to attend. Notify Bidders and other official plan-holders in writing of the time and place of conference with a section 00 25 13 in the project manual or by addendum.
   B. In Alternative Delivery methods through RFQ, the Owner will request and manage a similar pre-proposal conference; however, on CM/GC Trade bidding, the CM/GC shall request and manage a pre-bid conference.
   C. The following is a suggested agenda for a Pre-Bid Conference:
      1. Confirm that Bidders have full Bid Pack and addenda to date.
      2. Labor regulations:
         a. Wage Rates might apply when funds originate from federal or TDOT sources.
         b. Explain the prohibition against hiring illegal immigrants.
      3. Review sequence and timetable for questions and addenda. Remind bidders that no changes are binding and no clarifications are reliable unless confirmed in written addenda.
      4. Review special bid structures, if applicable, such as Alternates and Unit Prices.
      5. Review special administration, if applicable, such as Scheduling and Commissioning.
      6. Review briefly the scope of work and Contract Time emphasizing structured Time Phases, site access restrictions, and Roof Bond and Warranty, if applicable.
      7. Remind bidders that conditional or qualified bids are unacceptable.
      8. Confirm bid date and place.
      9. Tour the site and take questions.

5.09 ADDENDA AND MODIFICATIONS
   A. Make needed interpretations, clarifications, or changes to the Bidding Documents with written addenda that follow the CSI format guide. Addenda shall
      1. be identified by a sequential number and date;
      2. identify the project by its full title, including the SBC project number;
      3. identify the Designer as source, and be signed and sealed;
      4. include an appropriate introductory statement, identifying the previously issued Bidding Documents by date and instruct bidders to acknowledge it in the Bid Form; and,
      5. be self-descriptive as to number of pages and attachments.
B. Addenda should detail the specific changes to the Bidding Documents and follow the organizational order of the Bidding Documents under headings that identify each affected section of the project manual and each drawing.

C. If an addendum changes the Bid Form, the addendum should identify the changes, and the designer shall issue an entire replacement Bid Form reflecting the changes as an attachment to the addendum.

D. Pre-Bid Conference minutes, Q&A lists, and other similar documents are not suitable for inclusion in addenda. Organize such information into proper addendum format, per B above.

E. Issue Pre-Bid Conference attendance sheets in addenda as a Section 00 35 13 Available Information on Pre-Bid Conference Attendance.

F. Provide addenda automatically and simultaneously to all plan holders (per 5.06 above).

G. On CM/GC procurements, addenda issued by the Designer affect the documents that will form the agreement between Owner and Contractor and shall not include procurement documents between the Contractor and its prospective subcontractors. The CM/GC must produce and disseminate such documents itself.

5.10 FORMS FOR USE AT THE BID OPENING

A. Administrative Forms F551 Bidder Licensing Expectations Report
Determine if a bidder has shown adequate license information before the bid opening. Evaluate the Work to determine what license classifications and dollar limits the project requires. Record the minimum requirements on document F551 Bidder Licensing Expectations Report for your future reference at the bid opening.

B. Administrative Forms F555 Bid Tab

1. Prepare a preliminary bid tabulation abstract form (bid tab) before the bid opening. Use the standard Administrative Forms F555 Bid Tab. See the following pages for guidance in preparing the form and using it to record the apparent results of a bid opening.

2. Inform the TBR Bidding Coordinator of the names of prospective bidders by emailing a copy of the preliminary bid tab late Friday or early Monday before the Wednesday bid date. If the bid location is outside Nashville, and the Location Coordinator is known, copy the Location Coordinator on the same email; otherwise, include in the email a request that the TBR Bidding Coordinator forward it to the Location Coordinator.
## 5.11 PREPARE THE BID TAB

**Do NOT fill in:**

- [1b] Target
- [1c] M.A.C.C.

Only after making copies for spectator, fill-in the amounts for project Target and MACC.

Do not release these figures before the scheduled opening of bids.

- [1d] Page number of total pages (if all goes well, this fills-in itself)

**Fill in:**

- [1] General Information
  - [1a] Bid opening location (city)
  - [1e] Number of addenda issued
  - [1f] Contract Time in calendar days (if in phases, just put the overall Time)
  - [1g] Liquidated Damages amount (if in phases, just put the biggest rate)

- [2] Bid Tab Identification
  - [2a] Project Title
  - [2b] “Bid Date” deadline time and date

- [3] Bidders of Record
  - [3a] Names alphabetically
  - [3b] city
  - [3c] license number (if known)

- [9b, c, d, & e] Bid Abstract is divided into columns for Base Bid and Alternates. Put “n/a” if the bid is not soliciting such alternate as part of the bid.

Bid Tab is an Excel™ workbook with 5 rows for each of 6 bidders.

If adding more bidders, add all 5 rows for each additional bidder and force a page break between sets of 5 rows that represent each bidder. Job Bar and Header will repeat on pages, and page numbers should update themselves.
5.12 PRESIDING OFFICIAL FOR BID OPENING

The Designer shall act as the presiding official at bid openings unless otherwise approved by CPCA. Many different persons thus serve in this capacity. The presiding official is responsible for the bid opening, including preparations therefor, smooth conduct thereof, making a proper record, and associated actions delegated to others. Follow the guidelines in this Chapter in order to promote consistency in the conduct of bid openings and in the method of recording apparent results.

5.13 LAST THINGS TO DO BEFORE A BID OPENING

A. Be sure to prepare a Bidder Licensing Expectations Report and a preliminary Bid Tab (See 5.10 and 5.11). Do not write the Target and MACC for the project on the Bid Tab yet. There shall be only one original and official Bid Tab; however, make a sufficient number of copies of the preliminary Bid Tab form to accommodate participants and spectators.

B. Review applicable provisions of the Bidding Documents, particularly the Instructions to Bidders.

C. Arrive at the Bid Opening Location (preferably one-half hour) in advance to take command of the proceedings. The Location Coordinator holds bids that arrive by mail and turns them over to the Designer when the Designer arrives. The Presiding Official (normally the Designer or a representative) officially receives bids at the standard location indicated.

D. Receive bids (See also Instructions to Bidders.)
   1. Contractors Licensing law (TCA § 62-6-101 et seq) requires that license numbers, expiration dates, and classifications be provided on the Bid Envelope for the Bidder and the Bidder’s Plumbing, HVAC, and Electrical subcontractors.
   2. Review the bid envelope informally to see if it appears properly completed and sealed. If submitted in person by a bidder with sufficient time available, point out apparent problems to the bidder for their correction before officially "receiving" the bid. (See also 5.13.I)
   3. Record the time and date of receipt and by whom it was received on the face of the Bid Envelope. This marks the point at which the Bid Envelope is officially received. After this, keep the Bid Envelope and its contents secure and do not return it to the bidder.
   4. Fill in the Bid Tab (in spaces [3] and [8] of the illustration in 5.15) with bidder and subcontractor names and license information that are provided on the face of the bid envelope, to the extent not already filled in advance. Do this as each bid arrives, rather than during the opening. Verify the names of bidders already listed.

E. If a bidder requests a modification or to withdraw before the deadline, record time and date of receipt and by whom it was received on its face and keep it secure with the Bid Envelope. Do not return a withdrawn bid at this time and do not open it in the Bid Opening either.

F. Do not accept or consider bids and modifications received after the deadline. Requests to withdraw a bid after the deadline may only be considered if made in accordance with the Instructions to Bidders.

G. Provide copies of the Bid Tab, as prepared for the bid opening, for spectators to use.

H. Fill in Target and MACC amounts on only the copy used for official record of results. If the Administrative Form F551 Bidder Licensing Expectations Report has been prepared as instructed in Paragraph 5.10.A, these amounts will be indicated there. Do not reveal these amounts before the Bid Opening, except as instructed in Paragraph 5.14.B when alternates are used.
I. Before the opening of a bid, the designer will review the information given on the Bid Envelope to ascertain that it appears properly completed and submitted in accordance with the *Instructions to Bidders*; and, if found so, the designer will **sign in the space provided at the bottom of the envelope**. Do not open a Bid Envelope, if not so approved.

1. **Administrative Form F551 Bidder Licensing Expectations Report** (See paragraph 5.10.A of this chapter) can be very helpful to the Designer in evaluating whether a Bid Envelope should be opened when there is missing information about subcontractors or licensing.

2. **Evaluating the Bid Envelope:**
   a. Failure to use the **standard bid envelope** is an allowable informality; however, such a bidder increases its risk of error, omission, mishandling, and rejection.
   b. **Identification** of Project and Bidder must be satisfactory to the Presiding Official.
   c. **Bidder’s license information** is required, but accuracy need not be verified yet. If left blank or the bidder has indicated itself as unlicensed, designer must determine whether the bid might reasonably be under the licensing threshold (varies by trade).
      1) If a determination cannot be made, or the bid could be under the threshold, allow the lack of information subject to later rejection if over the threshold. When no license is required, failure to provide license information is an allowable informality;
      2) Otherwise, do not open the bid.
   d. **Require the names for Electrical, Plumbing, HVAC, Geothermal, and Masonry subcontractors**, regardless of work value or applicability of licensing law. If a subcontractor identification space is left blank, the designer must determine whether there is such work.
      1) If a determination cannot be made, allow the defect subject to a later determination and possible rejection;
      2) If there is no such work, allow the defect subject to later possible rejection. Failure to fill in “none required” is an allowable informality;
      3) Otherwise, do not open the bid.
   e. **Subcontractor license information is required** by statute if work of the trade is over the statutory threshold set for that trade (thresholds vary). If the information has been left blank, the designer must determine if the value of such work might reasonably be under the licensing threshold.
      1) If a determination cannot be made, allow the defect subject to a later determination and possible rejection;
      2) If a licensed subcontractor is not required, no license information is required;
      3) If the bidder has indicated itself as its own subcontractor and has provided sufficient information in the bidder license spaces, allow the omission. Failure to provide duplicate information here is a waivable informality;
      4) Otherwise, the bid should not be opened.

3. Write **Modifications to bid** on the Bid Envelope or submit them separately (Look for them.). Have them signed and indicate amount of increase or decrease (not the result).
5.14 CONDUCTING A BID OPENING

A. At the appointed time and place, announce the project title, the close of bidding, and the commencement of the bid opening. Read aloud the paragraph in the top center portion of the Bid Tab (See illustration with Article 5.15, following).

B. If alternates are a part of the bids, announce the Bid Target as required by the "Consideration of Bids" paragraph in the Instructions to Bidders. If the Administrative Form F555 Bid Tab has been prepared as instructed in Paragraph 5.13.H, it will indicate the Bid Target. Failing that, if the Administrative Form F551 Bidder Licensing Expectations Report has been prepared as instructed in Paragraph 5.10.A, it will indicate the Bid Target. If alternates are a part of the bids, do not open bids until the designer determines, announces, and accurately indicates the Bid Target on the Bid Tab.

C. Take bids in the order as listed on Bid Tab with the unlisted bidders added last. For any listed Bidder of Record who has not submitted a bid, announce that they have given “no response”.

1. Bid Envelope:
   a. Verify that the Designer has approved the bid for opening per paragraph 5.13.I above.
   b. Announce Bidder’s name (and city if not on prepared Bid Tab) and license number.
   c. Announce listed subcontractors.

2. Bid Form (first pass):
   a. Announce whether Contract Crime Status declaration is filled-in.
   b. Announce which, if any, addenda are acknowledged.

3. Bid Security:
   a. Obligee/payee should be "State of Tennessee".
   b. Guarantee/amount should be 5% of bid (including alternates).
   c. If in check form, it should be a certified or cashier's check.
   d. If it is a Bid Bond, it shall identify the project, the Bidder, and the Surety. The Surety's attorney-in-fact shall have signed the Bond and have certified current power-of-attorney attached from same Surety that empowers the same attorney-in-fact with no limitations affecting the bid.
   e. Announce whether Bid Security is enclosed. If it is enclosed, announce the form (Bond or Check), the amount, and any observed irregularities.

4. Bid Form (back to finish-up):
   a. Check unit prices and bid breakdown, if required, and announce whether complete.
   b. Announce amounts for Base Bid and alternates as given in words and in figures.
      1) If words and figures differ, point it out. In most cases, the words will prevail as the bid amount.
      2) For modified bids, announce original amount, amount of modification, and resultant amount.

D. After bids are opened and recorded, announce that the Owner will take the bid under advisement and determine their disposition later. Make no statements concerning implications or results of apparent non-conformance.

E. Make any other notations needed on the Bid Tab and (in space [10] of the illustration in 5.15) sign it. Fill in the names of those who represented the Designer (probably yourself) and Owner.
### 5.15 COMPLETE THE BID TAB
by filling in during bid opening:

1. **Bidders of Record (*)**
   
   a. Name and city may be pre-filled for those who registered in advance. Others are evident on their Bid Envelope, so may be filled in prior to opening of bids.
   
2. **License number**
   
   If not filled-in, write “NFI” (evident on the Bid Envelope, so may be filled-in prior to opening of bids)

3. **Regulated Subcontractors**
   
   are evident on the Bid Envelope, so may be filled-in prior to opening of bids.

4. **Contract Crime Statement**
   
   ✓ if completed
   
   or fill-in “yes” or “no” as bidder provided or “NFI” if not completed

5. **Addenda Acknowledgment**
   
   “n/a” if none issued
   
   ✓ or “All” if all acknowledged
   
   * otherwise, with notation in area [9f].

6. **Bid Security**
   
   B if Bid Bond
   
   C if proper check
   
   * otherwise, with notation in area [9f].

7. **Unit Prices**
   
   “n/a” if none solicited
   
   ✓ if all provided
   
   * otherwise, with notation in area [9f].

8. **Bid Abstract**
   
   [9a, b, c, d, e, & f] Amounts, etc.
   
   □ If words and figures differ, fill in amount by words (normally prevails) and add note in area [9f].
   
   □ If a Bidder submits a modification, in the applicable space indicate result and add note in area [9f].
   
   □ Write “No Response” in the “Other Notations” column for any Bidder of Record not bidding.
   
   □ Make a brief note in area [9f] regarding extra enclosures, discrepancies, notations, qualifiers, defects, or irregularities, if any.

9. **Signature of Presiding Official,**
   
   and names of one person present representing each:
   
   Designer (normally the Presiding Official) and Owner.
As shown in the example above, if the Bid Tab is filled out as a live electronic spreadsheet, the yellow-shaded areas under the alternate bid amounts provide a running total of the bid. We could have gotten more complicated, but that would just make more opportunity for goofs. In this sample, the low bid is shown in green; but the real spreadsheet will not do that on its own. Also, clearing the yellow shading is recommended for better printing.
5.17 COMMUNICATING APPARENT RESULTS
A. Notify TBR Bidding Coordinator of apparent results in person or by emailing a scanned copy of the bid tab, before the end of day (4:30 pm Central Time). Deliver or transmit the bids and Bid Tab to the Bidding Coordinator by next working day. Express mail or common courier charges for this are reimbursable. The Bidding Coordinator will review original bid material, make notations if necessary, and send a copy of the Bid Tab to the Designer.
B. Notify appropriate plan rooms and trade organizations of apparent results, subject to further review of bids and determination of low bidder.

5.18 DISPOSITION OF BIDS
A. Make an evaluation of the results and provide a written recommendation to the Project Manager concerning the appropriate disposition of bids as soon as practicable after the receipt of bids. Direct a copy of such correspondence to the Bidding Coordinator and Facility Coordinator.
B. TIE BIDS
1. Definition: A "tie bid" exists when two or more responsive bids submitted by responsible bidders are evaluated as equal and lower than all other bids (if any) for base bid plus alternates (if any) considered in order up to, but not to exceed, the Bid Target.
2. Resolution (See Instructions to Bidders): The Designer shall not attempt to resolve a tie bid situation at the bid opening. Refer this matter to the Bidding Coordinator. If chance is to rule, invite each tying bidder to send a representative to witness a lot or coin toss conducted by CPCA.
C. AWARD OF CONTRACT: The Bidding Coordinator will prepare the Agreement form and related documents and present them to the proposed Contractor. When the Coordinator receives the documents back and determines them to be in proper order, the Coordinator will process them for the appropriate signatures.

5.19 FORFEITURE OF PLAN DEPOSIT
A. If the successful bidder fails to return the documents, hold the deposit until a contract is awarded and then return the deposit. The successful bidder is not required to forfeit the plan deposit.
B. Should any other bidder fail to comply with requirements stated in Instructions to Bidders for return of deposit, send the deposit check to the Bidding Coordinator with a short letter stating the fault and send a copy of the letter to the bidder.

5.20 Administrative Forms F566 Designer Evaluation for Design & Bid Phases
Toward the conclusion of a successful Bidding Phase while the construction contract award is being pursued, the Owner will begin the process of making an evaluation of the design and bidding services rendered by the Designer. A copy of the form used is included in the Administrative Forms as Document F566. The Owner will provide a copy of the completed evaluation to the Designer, with a request that the Designer sign and return the form acknowledging that this information has been shared. The Designer may make and keep copies if desired and may add a letter when returning the form in order to add its own comments.