



**BOARD OF
REGENTS**
STATE OF IOWA

ALTERNATIVE DELIVERY METHOD GUIDELINES

a set of definitions and procedures

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Table of Contents

Section	Page
1. Authority to Use Alternative Delivery Methods (ADMs)	3
2. Reasons for Using ADMs	5
3. Considerations when Selecting an ADM	6
4. Design Bid Build (DBB)	7
5. Construction Manager Agent (CMA)	8
5.1 University Process for CMA Approval to Proceed	8
5.2 Selection Procedures for CMA	9
5.2.1 General Requirements	
5.2.2 Overview of Phase 1 and 2	
5.2.3 Phase 1 – Request for Qualifications (RFQ)	
5.2.4 Phase 2 – Interview	
5.2.5 Selection	
5.3 Award of Design Professional Contract	11
5.4 Award of Construction Contracts	11
6. Construction Manager at Risk (CMR)	12
6.1 University Process for CMR Approval to Proceed	12
6.2 Selection Procedures for CMR	13
6.2.1 General Requirements	
6.2.2 Overview of Phase 1 and 2	
6.2.3 Phase 1 – Request for Qualifications (RFQ)	
6.2.4 Phase 2 – Request for Proposal (RFP)	
6.2.5 Phase 2 – Technical Proposal and Interview	
6.2.6 Phase 2 – Cost Proposal	
6.2.7 Selection	
6.3 Competitive Bidding of Subcontractors and Suppliers	17

Section	Page
7. Design Build (DB)	19
7.1 University Process for DB Approval to Proceed 7.1.1 Selection Procedures for Bridging Consultant (RFP)	19
7.2 Selection Procedures for Design Builders 7.2.1 General Requirements 7.2.2 Overview of Phase 1 and 2 7.2.3 Phase 1 – Request for Qualifications (RFQ) 7.2.4 Phase 2 – Request for Proposals (RFP) – Technical Proposal 7.2.5 Phase 2 – Request for Proposals (RFP) – Cost Proposal 7.2.6 Selection 7.2.7 Selection Criteria	20
END OF DOCUMENT	25

1. Authority to Use Alternative Delivery Methods (ADMs)

The universities, in consultation with the Board Office, have developed open and competitive bidding processes that fully comply with the requirements of Iowa Code §262.34. Iowa Code §262.34, which governs Board of Regents construction, provides when the estimated cost of a construction contract under the charge of the Board of Regents exceeds \$100,000, the Board is required to advertise for bids for the contemplated improvement and let the work to the lowest responsible bidder (Iowa Code §262.34.1). The Board is required to file and make available to the public all bids received on the plans or specifications, although the timing of this filing is not provided for in the Iowa Code. If the Board determines that bids received are not acceptable, it may reject all bids and proceed with the public project by a method as the Board may determine without any requirement to rebid. *Id.* Iowa Code §262.34 does not prohibit the use of alternative delivery methods.

In determining which firm represents the lowest responsible bidder, the Board is not limited to considering only monetary factors, but may take into consideration qualitative factors in addition to the amount of the bid. The Iowa Supreme Court held, “[r]esponsibility may embrace many factors other than the low dollar figure, including such considerations as the business judgment of the bidder and the bidder’s record for reliability in performance.” *Menke v. Board of Education*, 211 N.W.2d 601, 607 (Iowa 1973).

The Board has long recognized the flexibility afforded it under Iowa Code §262.34 and has adopted policies permitting regent universities to utilize alternative project delivery methods. Regent Policy Manual chapter 2.3, section 6 provides:

- For project budgets under \$5,000,000 using an ADM, submit a request to the Board Office to use the ADM before or with the request for approval of the Design Professional, Design Build Bridging Consultant or Construction Manager Selections and Agreements. Include three ADM advantages over the traditional Design Bid Build method.
- For project budgets over \$5,000,000 using an ADM, submit a request to the Board to use the ADM with the request for Permission to Proceed. Include three ADM advantages over the traditional Design Bid Build method.

There are three alternative delivery methods available to Regent universities:

- Construction Manager Agent (CMA)
- Construction Manager at Risk (CMR)
- Design Build-Bridging (DB)

CMR and DB utilize a competitive bidding process that takes into account both qualitative and monetary factors in determining the lowest responsible bidder. While Board policy is broadly written, for a number of years, the only alternative delivery method utilized was CMA.

The selection of a firm under CMA is done utilizing a Request for Proposals (RFP) process conducted in two phase, best value selection process. Fee is not a factor in the selection. Rather, the selected firm will negotiate the fee with the University.

The selection of a firm under either CMR or Design Build-Bridging (DB) is done utilizing a Request for Qualifications (RFQ)/Request for Proposals (RFP) process conducted in two phases as well.

Board approval of a request to utilize alternative delivery is not an exercise of the Board's emergency contracting authority¹, nor is it permission to proceed without competitive bidding.

Please see Sections 5, 6 and 7 for more information on procedures for CMA, CMR and DB.

¹ Under Iowa Code §262.34.2, when delay in undertaking a public improvement "might cause serious loss or injury" the Board is permitted to institute emergency procedures and proceed without competitive bidding.

2. Reasons for Using ADMs

2.1 ADMs save money and time. According to a comprehensive study done by Penn State University in 1998¹, Construction Manager at Risk (CMR) and Design Build (DB) are optimal delivery methods over Design Bid Build (DBB), especially in the areas of cost and schedule.

The study analyzed 351 buildings from 37 states, six building types and these three delivery methods. The six building types were light industrial (28%), multistory dwelling or residence hall (8%), simple office or classroom (24%), complex office or dry lab/library (18%), heavy industrial or power plant (5%) and high technology or hospital (17%). Study results were:

metric	Design Build vs Design Bid Build	CM at Risk vs Design Bid Build	Design Build vs CM at Risk
unit cost	6.1% lower	1.6% lower	4.5% lower
construction speed	12.0% faster	5.8% faster	7.0% faster
delivery speed	33.5% faster	13.3% faster	23.5% faster
change orders	5.2% less	7.8% more	12.6% less
schedule growth	11.4% less	9.2% less	2.2% less

2.2 ADMs provide better quality facilities. In comparing quality, the Penn State study also indicated that Design Build’s quality was at least equal to or better than CMR and Design Bid Build. Quality was measured in seven areas and determined by asking facility owners to measure actual versus expected facility performance. Design Build and CMR significantly outperformed Design Bid Build in terms of contractor callbacks to facilities. Design Bid Build barely met Owner expectations in some of these seven areas.

2.3 ADMs maximize the investment by delivering projects faster and at a lower cost.

2.4 ADMs provide greater project certainty. CMRs are contractually bound to deliver the project at a Guaranteed Maximum Price (GMP), leading to greater cost predictability. If fact, the Regents or any Owner, would receive a credit if the project is delivered under budget. Design Build minimizes finger pointing by providing the Regents a single point of contact for all design and construction issues.

2.5 ADMs can allow fewer change orders, “fast track” flexibility, project efficiency and greater team collaboration (fewer silos) are realized by overlapping the design and construction processes. While the Penn State study showed CMR with 7.8% more change orders than Design Bid Build, that has not been the Regents’ experience.

2.6 ADMs establish competition under Iowa Code §262.34 and through well-developed contracts, experienced facilities staff and this document, the Regents’ Alternative Delivery Method Guidelines. Established in January 2018, these guidelines are a set of step-by-step procedures for Regent facilities staff to follow, while administering each alternative delivery method.

2.7 ADMs keep the Regents competitive within the design and construction markets as ADMs flourish in private and public sectors throughout the United States.

¹ “Comparison of U.S. Project Delivery Systems,” Mark Konchar & Victor Sanvido of Pennsylvania State University, *Journal of Construction Engineering and Management*, Vol. 124, No. 6 (1998), pp. 435-444.

3. Considerations when Selecting an ADM

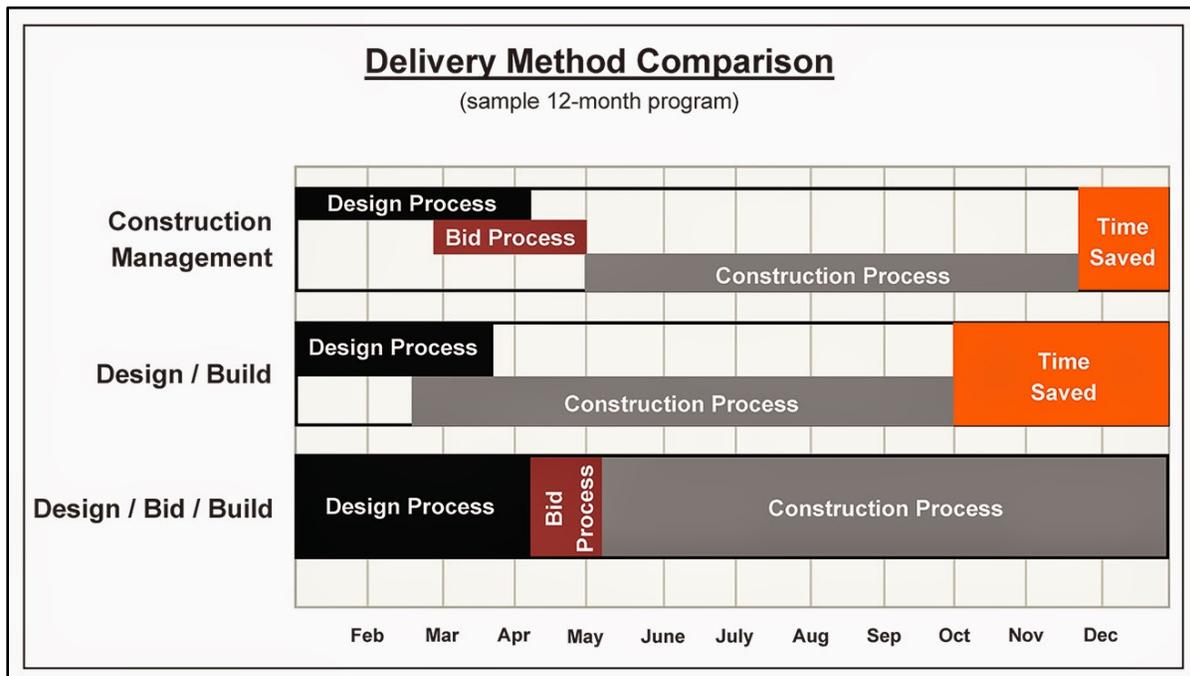
As of February 2021, the Board of Regents used ADMs 53 times over 21 years from 1999 to 2020, or 2.5 times per year.

Risk Assessment: In design and construction, a University must decide how much project risk they are comfortable in assuming. Construction risk can be closely tied to the local construction market, budget and schedule. In allocation of that risk, the University should try to assign risks to those parties that can best exercise control over it.

Budget: Before a budget can be determined, the University must evaluate financing, project feasibility, risk assessment, schedule, staff availability and site locations. Once the budget is determined, the University requires that the project be completed within the established budget.

Schedule: The ability to stack the design and construction phases through ADMs, thereby saving time is an important schedule consideration (see chart below). Depending on the size and complexity of the project, the ability to provide needed teaching, research and residence hall facilities within the predetermined calendar years of the universities can be challenging. The gain or loss of revenue based on the occupancy of the facility should also be carefully weighed.

Design: A design itself affects not only the risk assessment, budget and schedule, but also the University's mission, image and desire to fulfill the needs of its students, faculty and staff. Subsequently, the selected Design Professional should be well qualified in the type of facility being designed and the ADM being considered. In addition, the University must ensure that the program needs, budget, schedule and any design standards of the University are clearly conveyed to the Design Professional. The design documents must be complete, clear and well coordinated.



4. Design Bid Build (Traditional Method)



Definition

Design Bid Build, known as the “traditional” project delivery method, is the predominant delivery method used by the Board of Regents (Regents) and throughout in the United States. While it is referred to the “traditional” method, it has only been used in the United States for the last 150 years. For the 4,000 years prior to that, the delivery method used was called the “master builder” method where one firm designed and built the project; much like the Design Build-Bridging method, currently used by the Regents. Regardless, the Regents utilize the Design Bid Build project delivery method on 99 percent of their projects.

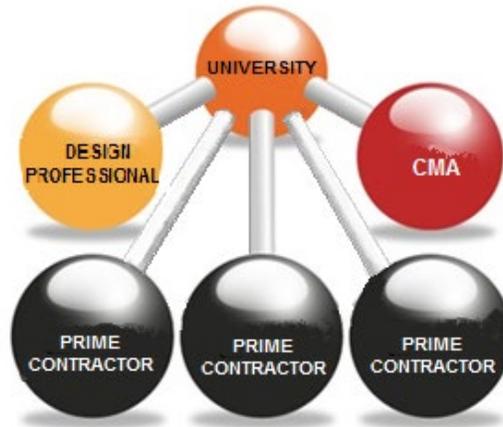
It separates design and construction responsibilities by awarding separate contracts to a Design Professional and a contractor. By doing so, Design Bid Build separates the project delivery process into three distinct phases: 1) design, 2) bid and 3) build (construction). Use of any other delivery method or ADMs requires specific Board approval.

The Design Professional is hired before the Contractor. During the Design Professional selection process, a Design Professional is chosen through a competitive, quality-based Request for Proposals (RFP) process awarding the contract to the firm with the best experience and quality service for that project.

Typically, the Design Professional provides architectural and engineering services and detailed construction documents through multiple design phases such as Pre-Design, Schematic Design, Design Development, Construction Documents, Construction Administration and Record Documents.

Contractors are publically invited to submit competitive, lump-sum bids. The University awards the construction contract to the contractor submitting the lowest responsive and responsible bid for a total contract price. The project then moves into the construction phase, with the University retaining responsibility for monitoring the contractor's performance through the Design Professional.

5. Construction Manager as Agent



Definition

The Construction Manager as Agent (CMA) is an advisor to the University. Unlike the Construction Manager at Risk (CMR), the CMA is not “at risk” for delivering the project on time or on budget, does not have the ability to self-perform the work and does not enter into subcontracts with trade contractors. The CMA performs pre-construction services, assists the University in managing multiple prime contractors and provides expertise on constructability, cost, schedule, value-engineering, local contractors and trends in construction throughout the project.

CMA is more a method for *managing* a construction project, while CMR is a project *delivery* system that more directly competes with Design Bid Build (traditional method) and Design Build-Bridging. CMA is a good fit with universities who have limited staff and are not always able to manage every aspect of every project.

The University holds separate contracts; one with the CMA, one with the Design Professional and multiple with prime contractors. The selection of the CMA can occur before, during, or after a Design Professional selection. The CMA and Design Professional are charged by the University to operate collaboratively as a team during the design and construction phases.

5.1 University Process for CMA

Approval to Proceed

After the University has evaluated the project, determined that its project budget is over \$5,000,000 and wants to use CMA, the University shall include a review of the advantages of CMA, any project time constraints and anticipated cost savings in their request to the Board for approval of Permission to Proceed with Project Planning or the Project Description and Budget. Project budgets under \$5,000,000 are approved by the Board Office and undergo the same analysis.

The Board of Regents will consider the following factors in making a determination regarding the use of any ADMs:

- A. The likelihood that the ADM selected will serve the public interest by providing substantial savings of time or money over the traditional Design Bid Build delivery process.

- B. The ability to overlap design and construction phases is required to meet the needs of the end-user.
- C. The project presents significant phasing or technical complexities, or both, requiring the use of an integrated team of advisors, designers and contractors to solve project challenges during the design or construction phases.
- D. The use of an accelerated schedule is required to make repairs resulting from an emergency.
- E. The use of an alternative project delivery method would help smaller local Iowa contractors be able to bid the project.

Selected and contracted separately, a Design Professional shall prepare the bidding and construction documents for the project. The selection of the Design Professional may occur before, after, or concurrently with CMA selection. The CMA may assist in the selection of the Design Professional or vis-versa, as the CMA remains an advisor, not a contractor.

5.2 Selection Procedures for CMA

5.2.1 General Requirements

- A. Establish a Selection Committee.
- B. Determine the scope and level of detail required to permit qualified firms to submit statement of qualifications.
- C. Establish RFQ criteria and weighting factors based on the elements of the project deemed important to the success of the project.
- D. Preference shall be given in accordance with Iowa Code to the selection of firms based either in Iowa or with permanent offices in Iowa. If a firm which is neither Iowa-based nor with a permanent office in Iowa is selected, reasons shall be reported to the Board Office.
- E. The University shall notify the Executive Director of the Board, when the University will evaluate the Phase 1 statements of qualifications and when the Selection Committee plans to interview firms in Phase 2.

5.2.2 Overview of Phase 1 and 2

The selection process for CMA is a two-phase, best value selection process. Solicitations should identify the scope of preconstruction, design, procurement and construction phase services. Solicitations should also identify the CMA's responsibility for estimating, constructability review, project planning and scheduling, along with the fee structure.

- A. Upon approval of the use of CMA project delivery method by the Board of Regents, the University shall proceed to Phase 1 and 2 of the selection process.
- B. Phase 1 shall be the Request for Qualifications (RFQ) where the University advertises the RFQ and each CMA firm submits a statement of qualifications that does not include their

fee. All RFQ statements of qualifications shall be evaluated and a minimum of two but not more five firms, the “shortlist,” shall be selected to advance to Phase 2.

- C. Phase 2 shall be the Interview where the Selection Committee interviews all firms to allow them to present their proposed team members, qualifications, project plan and to answer questions. The Selection Committee shall evaluate the interviews.
- D. At the conclusion of all Phase 2 interviews, the Selection Committee shall combine all evaluations to select the firm with best overall score and best value to the University. The University then requests permission from the Board Office to proceed with a negotiated contract with the selected firm.

5.2.3 Phase 1 – Request for Qualifications (RFQ):

- A. The need for CMA services for the project will be advertised at least 15 days prior to the date requests are due. The notice will include a description of the project, the procedures for submitting statements of qualifications, the selection criteria to be used, the time and place and other specific instructions for the receipt of the statements of qualifications.
- B. The RFQ will include the following minimum information:
 - 1. The firm’s capacity, past performance and general experience, including specific roles on similar or related projects comparable in design, scope and complexity.
 - 2. The capabilities and other qualifications of the firm’s proposed personnel.
 - 3. Experience in CMA project delivery system.
 - 4. Reference of Design Professionals and universities from previous projects.
 - 5. Proposed schedule and scheduling methodology.
 - 6. Safety record.
- C. The Selection Committee will evaluate the statements of qualifications in accordance with the criteria established in the RFQ.
- D. At the conclusion of Phase 1, a minimum of two but not more five firms shall be selected to advance to Phase 2.

5.2.4 Phase 2 – Interview

- A. The interview shall be conducted by the Selection Committee and may require an additional, in-depth written response that provides the Selection Committee with some or all of the following information:
 - 1. Company overview.
 - 2. Experience or references, or both, relative to the project under consideration.

3. Resumes of proposed project personnel and project staffing plan.
4. Overview of pre-construction and construction phase services to be provided.
5. Overview of processes.
6. Proposed schedule and scheduling methodology

5.2.5 Selection

- A. The Selection Committee's scoring of the Phase 1 RFQ statements of qualifications and the Phase 2 interviews including any required in-depth written responses shall be combined to determine the firm that provides the best value to the University. The Selection Committee shall select the firm providing the best value based on the criteria and weighting factors identified in the RFQ.
- B. If it is determined that it is not in its best interest to proceed with the project, pursuant to the statement of qualifications offered by the firm with the best score, all statements of qualifications may be rejected. If all statements of qualifications are rejected, new statements of qualifications may be solicited.
- C. The Selection Committee shall forward its selection, with justification, to the Board Office for authorization to negotiate an agreement with the selected firm.
- D. The Selection Committee's summary report shall be forwarded to the Board Office prior to the University's request for approval of the selected firm.
- E. If the University is unable to negotiate a satisfactory contract with the firm receiving the best score, negotiations with that firm will terminate and the Selection Committee will begin negotiations with the firm with next best score.

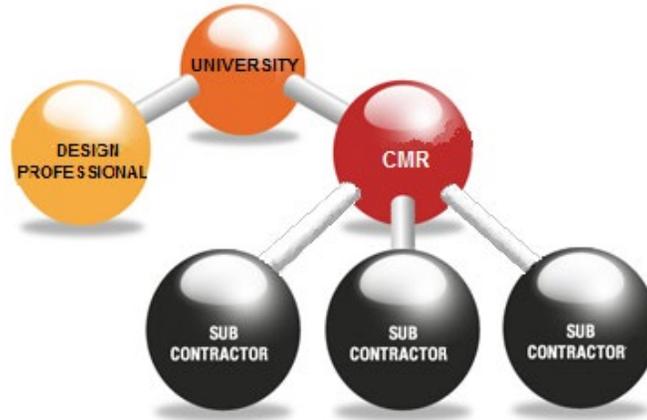
5.3 Award of Design Professional Contract

The CMA can assist the University with the RFQ package release, evaluation and contract award to the Design Professional. The selection of the Design Professional can occur before, during, or after the CMA selection.

5.4 Award of Construction Contract(s)

- A. Board of Regents, State of Iowa capital projects are governed by Iowa statutory requirements relating to public competitive bidding. Pursuant to Iowa Code §262.34 of the, when the estimated cost of a construction contract exceeds \$100,000, the University shall publically advertise for competitive bidding. All contracts shall be let to the lowest responsible bidder.
- B. The CMA shall assist the University in receiving bids, provide bid evaluations and make recommendations to the University for the Award of Contracts or rejection of bids.

6. Construction Management at Risk



Definition

Like CMA, Construction Manager at Risk (CMR) is an advisor to the University but additionally has an at-risk financial obligation to deliver the project within a Guaranteed Maximum Price (GMP) and on schedule. The CMR plays the role of a general contractor and enters into subcontracts with trade contractors to perform the work but also has the ability to self-perform work. The CMR also performs pre-construction services and provides expertise on constructability, cost, schedule, value-engineering, local contractors and trends in construction throughout the project.

During the pre-construction services, the CMR works with the Design Professional and the University to submit their GMP at a mutually agreed upon point in time before the CMR receives bids from their subcontractors. This helps the University budget their own funds. Any savings achieved after bidding and award of bid packages shall be applied to the appropriate contingency line item in the GMP. Any unused GMP contingency amounts remaining at the completion of the work shall accrue to the University.

6.1 University Process for CMR

Approval to Proceed

After the University has evaluated the project, determined that its project budget is over \$5,000,000 and wants to use CMR, the University shall include a review of the advantages of CMR, any project time constraints and anticipated cost savings in their request to the Board for approval of Permission to Proceed with Project Planning or the Project Description and Budget. Project budgets under \$5,000,000 are approved by the Board Office and undergo the same analysis.

The Board of Regents will consider the following factors in making a determination regarding the use of any ADMs:

- A. The likelihood that the ADM selected will serve the public interest by providing substantial savings of time or money over the traditional Design Bid Build delivery process.
- B. The ability to overlap design and construction phases is required to meet the needs of the end-user.

- C. The project presents significant phasing or technical complexities, or both, requiring the use of an integrated team of advisors, designers and contractors to solve project challenges during the design or construction phases.
- D. The use of an accelerated schedule is required to make repairs resulting from an emergency.
- E. The use of an alternative project delivery method would help smaller local Iowa contractors be able to bid the project.

Selected and contracted separately, a Design Professional shall prepare the bidding and construction documents for the project. The selection of the Design Professional may occur before, after, or concurrently with CMR selection. The CMR may assist in the selection of the Design Professional or vis-versa.

6.2 Selection Procedures for CMR

6.2.1 General Requirements

- A. Establish a Selection Committee.
- B. Determine the scope and level of detail required to permit qualified firms to submit proposals.
- C. Establish RFQ and RFP criteria based on the elements of the project deemed important to the success of the project.
- D. Preference shall be given in accordance with Iowa Code to the selection of firms based either in Iowa or with permanent offices in Iowa. If a firm which is neither Iowa-based nor with a permanent office in Iowa is selected, reasons shall be reported to the Board Office.
- E. The University shall notify the Executive Director of the Board, when the University will evaluate the Phase 1 RFQ proposals and when the Selection Committee is to do the Phase 2 interviews.

6.2.2 Overview of Phase 1 and 2

The selection process for the CMR is a two-phase, best value selection process. Solicitations should identify the scope of preconstruction, design, procurement and construction phase services. Solicitations should also identify the CMR's responsibility for estimating, constructability review, project planning and scheduling, along with the CMR fee structure.

- A. Upon approval of the use of CMR project delivery method by the Board of Regents, the University shall proceed to Phase 1 and 2 of the selection process.
- B. Phase 1 shall be the Request for Qualifications (RFQ) where the University advertises the RFQ and each CMR firm submits a statement of qualifications. All statements of

qualifications shall be evaluated and a minimum of two but not more five firms, the "shortlist," shall be selected to advance to Phase 2.

- C. Scores assigned during the Phase 1 – RFQ phase do not carry forward to the evaluation of Phase 2 – RFP.
- D. In Phase 2, the University sends a Request for Proposal (RFP) to all firms selected in Phase 1 and evaluates them based on their Phase 2 proposals and interviews. The University shall then receive proposals from the selected firms, evaluate those proposals, interview the selected firms and evaluate those interviews. Separate, sealed Cost Proposals are submitted by the selected firms concurrently with the interviews but not opened and evaluated until after the Phase 2 proposal and interview evaluations are complete.
- E. At the conclusion of Phase 2 proposal and interview evaluations, the sealed Cost Proposals shall be opened, evaluated and combined with the scoring for Phase 2 proposal and interview evaluations to determine the firm with the overall best score.

6.2.3 Phase 1 – Request for Qualifications (RFQ):

- A. The University shall advertise its need for a CMR at least 15 days prior to the date requests are due. The notice shall include a description of the project, the procedures for submitting statements of qualifications, the selection criteria to be used, the time and place and other specific instructions for the receipt of the proposals.
- B. The Request for Qualifications (RFQ) shall include the following minimum information:
 - 1. The firm's capacity, past performance and general experience, including specific roles on similar or related projects comparable in design, scope and complexity.
 - 2. The capabilities and other qualifications of the firm's proposed personnel.
 - 3. Experience in CMR project delivery system.
 - 4. Reference of Design Professionals and universities from previous projects.
 - 5. Description of the construction manager's project management approach.
 - 6. Proposed schedule and scheduling methodology
 - 7. Safety record.
 - 8. Bonding capacity, including evidence of such bonding capacity. Failure to present such evidence will deem the firm as unqualified. Financial statements may be requested if necessary to confirm the qualifications of the firm.
- C. The Selection Committee shall evaluate each proposal in accordance with the criteria established.

- D. The University shall have discretion to disqualify any firm that lacks the minimum qualifications required to perform the work.
- E. Qualified firms selected at the conclusion of Phase 1 will receive an RFP and proceed to Phase 2 of the selection process. If at least two qualified firms cannot be identified, the selection process shall cease.

6.2.4 Phase 2 – Request for Proposal (RFP):

- A. A Request for Proposal (RFP) shall be prepared by the University containing the following minimum information:
 - 1. Procedures to be followed for submitting proposals, the criteria for evaluation of proposals and their relative weight and the procedures for making awards.
 - 2. Proposed terms and conditions of the construction management at-risk contract.
 - 3. Drawings, specifications, or other information available on the project.
 - 4. Schedule for planned commencement and completion of the construction management at-risk contract.
 - 5. Budget limits for the construction management at-risk contract.
 - 6. Requirements for bid bonds, performance bonds, payment bonds and insurance.
 - 7. Acceptable alternates to the defined criteria.
 - 8. Other information the University chooses to supply, such as surveys, soil reports, drawings of existing structures, environmental studies, photographs, or references to public records.
- B. The RFP shall require an in-depth written response from the selected firms that provides the Selection Committee the following minimum information:
 - 1. Company overview.
 - 2. Experience or references, or both, relative to the project under consideration.
 - 3. Resumes of proposed project personnel and project staffing plan.
 - 4. Overview of pre-construction and construction phase services to be provided.
 - 5. Overview of construction control processes.
 - 6. Proposed schedule and scheduling methodology
 - 7. Proposed construction phase safety plan.

C. The RFP shall specify non-GMP costs to be included in the sealed Cost Proposal including any or all of the following:

1. Costs for pre-construction services.
2. Costs for general conditions.
3. Fees for overhead and profit and,
4. Costs for self-performed work.

Note: The Guaranteed Maximum Price will be negotiated between the University and CMR at a mutually agreed upon time before the CMR receives bids from their subcontractors.

6.2.5 Phase 2 – Technical Proposal and Interview

- A. Upon receipt of all RFP proposals, the Selection Committee shall interview all firms to allow them to present their proposed team members, qualifications, project plan and to answer questions.
- B. The Selection Committee shall evaluate each firm in accordance with the criteria established.

6.2.6 Phase 2 – Cost Proposal

The Cost Proposal shall be opened after the conclusion of Phase 2.

Cost Proposals shall be submitted in accordance with the requirements of the RFP. Failure to submit a Cost Proposal on time shall be cause to reject the proposal. The Cost Proposal shall be accompanied by bid security and any other submittals as required by the RFP. The Cost Proposal shall be enclosed in its own sealed envelope, separate from the other required documents and identified with the name of the firm and the project name. Cost Proposals shall be evaluated separately and opened only after the Technical Proposals and Interviews have been evaluated.

Cost Proposal Evaluation: Score Cost Proposals using the following equation. The lowest cost proposal will receive the maximum Cost Proposal Points.

$$\text{Cost Proposal Points Available} \times \left[1.0 - \frac{\text{Cost Proposal} - \text{Lowest Cost Proposal}}{\text{Lowest Cost Proposal}} \right] = \text{Cost Proposal Points}$$

Technical Proposals and Interviews shall account for a minimum of 70 percent of the Total Points Available. Cost Proposals shall account for a maximum of 30 percent of the Total Points Available.

6.2.7 Selection

- A. The Selection Committee's proposal, interview and Cost Proposal evaluations shall be combined to determine the firm with the best overall score and best value to the University.
- B. If the University determines that it is not in its best interest to proceed with the project pursuant to the proposal offered by the firm with the best score, the University may reject all proposals. If all proposals are rejected, the University may solicit new proposals using different criteria, budget constraints, or qualifications.
- C. The Selection Committee shall forward its selection, with justification, to the University president or the president's designee for authorization to negotiate an agreement with the selected firm.
- D. The Selection Committee's summary report shall be forwarded to the Board Office prior to the University's request for approval of the selected firm.
- E. Should the University be unable to negotiate a satisfactory contract with the firm receiving the best score, negotiations with that firm will terminate and the Selection Committee will begin negotiations with the firm with next best score.

6.3 Competitive Bidding of Subcontractors and Suppliers

The term 'subcontractor' means a firm who is successfully awarded a Major Work Trade Package construction contract by the CMR. The CMR may also be a subcontractor who self-performs the work.

The CMR shall solicit competitive subcontractor bids as follows.

- A. **Bid:** When the estimated total cost of a Major Work Trade Package construction contract is in excess of \$100,000, the CMR shall advertise for competitive bids, receive bids, prepare a bid analysis.

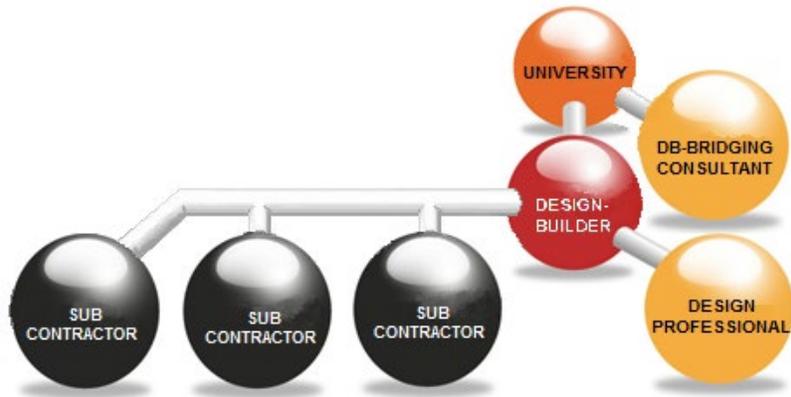
Prior to entering into a contract with any proposed Major Work Trade Package Subcontractor, the CMR shall provide the Owner with the bid analysis and written rationale for awarding to other than the lowest pecuniary bid, if applicable. If the Owner has an objection to any proposed Major Work Trade Package Subcontractor, the Owner shall notify the CMR in writing and the CMR shall not contract with the proposed Major Work Trade Package Subcontractor. The CMR shall propose another Major Work Trade Package Subcontractor for the Owner's review.

Failure of the Owner to promptly object following receipt shall constitute acceptance. An appropriate Change Order shall reflect any increase or decrease in the GMP or dates of Substantial or Final Completion because of the substitution.

The Owner may participate in the bid review and evaluation process, but the Owner's participation in the decision to award shall be limited to rejection of a proposed subcontractor and subsubcontractor.

- B. **CMR Self-Performs Work:** The University may allow the CMR to submit a bid to self-perform construction for any Major Work Trade Package construction contract. The CMR shall notify the University in writing of its intent to submit a bid for a Major Work Trade Package construction contract. The CMR's bid must be submitted under the same conditions that apply to all other competing firms. The University will receive bids, participate in and provide oversight of all bid analyses pertinent to the award of subcontracts or rejection of bids on any trade package for which the CMR submits a bid. Where the CMR is not the apparent low bidder, the University shall be responsible for determining whether a recommendation of award to the CMR is in the best interests of the project.

7. Design Build



Definition

While there are many forms of Design Build, the Regents use the Design Build-Bridging (DB) delivery method, where a Bridging Consultant is competitively selected to provide a preliminary design or “bridging document,” that prospective Design Builders use to submit their proposals.

The “bridging document” acts as a bridge between the preliminary design provided by the Design Build-Bridging Consultant and the final design done by the Design Builder. The selected Design Builder then contracts with the University to finish the design and build the project under one contract. The Design Builder has the ability to self-perform work or contract the work to subcontractors. DB is a good fit for universities who want a single point of contact and/or need to shorten the project duration afforded by stacking the design and construction phases.

7.1 University Process for Design Build

Approval to Proceed

After the University has evaluated the project, determined that its project budget is over \$5,000,000 and wants to use DB, the University shall include a review of the advantages of DB, any project time constraints, anticipated cost savings and their desire to utilize a Design Build-Bridging Consultant in their request to the Board for approval of Permission to Proceed with Project Planning or the Project Description and Budget. Project budgets under \$5,000,000 are approved by the Board Office and undergo the same analysis.

The Board of Regents will consider the following factors in making a determination regarding the use of any ADMs:

- A. The likelihood that the ADM selected will serve the public interest by providing substantial savings of time or money over the traditional Design Bid Build delivery process.
- B. The ability to overlap design and construction phases is required to meet the needs of the end-user.

- C. The project presents significant phasing or technical complexities, or both, requiring the use of an integrated team of advisors, designers and contractors to solve project challenges during the design or construction phases.
- D. The use of an accelerated schedule is required to make repairs resulting from an emergency.
- E. The use of an alternative project delivery method would help smaller local Iowa contractors be able to bid the project.

7.1.1 Selection Procedures for the Design Build-Bridging Consultant

- A. The University will select the Design Build-Bridging Consultant using the same Request for Proposals (RFP) requirements routinely used for design professional selections for Design Build-Bridging Consultant agreements estimated to be over \$200,000. Design Build-Bridging services will include preparing a preliminary design and a set of design guidelines to serve as the basis for a Request for Qualifications (RFQ) for a Design Builder to complete the design and construct the project. The services of the Design Build-Bridging Consultant will also include assisting with the evaluation of Design Builder qualifications and proposed design submissions; reviewing the design work of the successful team to ensure compliance with the Design Build-Bridging guidelines; and assisting with review of construction documents and construction administration to ensure compliance with the construction contract. The Design Professional on the Design Build team, not the Design Build-Bridging Consultant, will serve as the architect or engineer of record.
- B. The Design Build-Bridging Consultant will advance the design to a preliminary or conceptual design phase; typically, the Schematic Design phase or as far as necessary to describe the University's design requirements.

7.2 Selection Procedures for the Design Builder

7.2.1 General Requirements

- A. Establish a Selection Committee.
- B. Determine the scope and level of detail required to permit qualified firms to submit proposals.
- C. Establish RFQ and RFP criteria based on the elements of the project deemed important to the success of the project.
- D. Preference shall be given in accordance with Iowa Code to the selection of firms based either in Iowa or with permanent offices in Iowa. If a firm which is neither Iowa-based nor with a permanent office in Iowa is selected, reasons shall be reported to the Board Office.

- E. The University shall notify the Executive Director of the Board, when the University will evaluate the Phase 1 RFQ proposals and when the Selection Committee is to do the Phase 2 interviews.

7.2.2 Overview of Phase 1 and 2

- A. Upon approval of the use of DB, the University will solicit proposals in a two-phase, best value selection process.
- B. In Phase 1, the University shall advertise a Request for Qualifications (RFQ) for a DB. All RFQ statements of qualifications shall be evaluated and a minimum of two but not more than five firms, the “shortlist,” shall be selected to advance to Phase 2.
- C. In Phase 2, the University sends a Request for Proposal (RFP) to all firms selected in Phase 1. The University shall then receive RFP proposals from the selected firms, evaluate the RFP proposals, interview the selected firms, evaluate the interviews and evaluate the Cost Proposal. Separate, sealed Cost Proposals are submitted by the selected firms concurrently with the interviews, but not opened and evaluated until after the Phase 2 proposal and interview evaluations are complete.
- D. At the conclusion of Phase 2 proposal and interview evaluations, the sealed Cost Proposals shall be opened, evaluated and combined with the scoring for Phase 2 proposal and interview evaluations to determine the firm with the overall best score.

7.2.3 Phase 1 – Request for Qualifications (RFQ)

Prior to requesting approval of the Schematic Design, Project Description and Budget from the Board of Regents, the Design Build-Bridging Consultant will assist the University in developing the RFQ for a pool of Design Build teams to submit their statement of qualifications. This selection process shall include publication of an RFQ by the University, review of the statements of qualifications and the selection of a minimum of two but not more than five Design Build teams. The detailed steps are as follows:

- A. The University will publish the RFQ on its website.
- B. The RFQ will include a general description of the project, an estimated cost of the project and the anticipated project schedule as well as a time, place, terms of contract and other specific instructions for the submission of a firm’s statement of qualifications. A statement of qualifications not submitted according to the instructions may be rejected for further consideration.
- C. Each Design Build team will be required to submit a statement of qualifications that includes, but is not limited to, the following information:
 - 1. Examples of similar project experience, including experience in the Design Build method of alternative project delivery.
 - 2. Qualifications of all proposed project personnel.

3. References from similar projects.
 4. The Design Build team's experience modification rating and a description of the Design Builder's safety plan.
 5. Proof of bonding capacity. Design Builders submitting a statement of qualifications shall be capable of providing a bond according to the requirements of Iowa Code chapter 573 and shall include evidence of such bonding capacity with their statement of qualifications.
 6. Other information deemed appropriate for consideration and evaluation.
- D. If a Design Builder fails to include evidence of bonding capacity, the Design Builder shall be deemed unqualified for selection.
- E. The University will evaluate and score each statement of qualifications received according to the predetermined selection criteria and scoring methodology as specified in the RFQ (see the last page).
- F. The cost or fees associated with the project will not be considered by the University when evaluating a statement of qualifications.
- G. Scores assigned during the Phase 1 – RFQ phase will not carry forward for evaluation of the Design Build proposals submitted in Phase 2 – RFP.
- H. The University will have discretion to disqualify any Design Builder that lacks the minimum qualifications required to perform the Design Build project work. If all Design Builders are rejected, the University may solicit new proposals.

7.2.4 Phase 2 – Request for Proposals (RFP) – Technical Proposal

- A. Upon approval of the pool of Design Builders by the University's Selection Committee, the University shall issue one RFP for both the Phase 2 – Technical Proposals and Phase 2 – Cost Proposals for each firm in that pool. The RFP shall include, but is not limited, to the following information:
1. The same procedures followed in submitting proposals and information relating to Design Builder interviews under 6.3.1 (Phase 1 – RFQ).
 2. The selection criteria and scoring methodology for the proposals (see the last page).
 3. Information related to the requirements, scope, budget and schedule for the project, including requirements and scope for preconstruction services, construction services and a requirement ensuring that the Design Builder will exercise responsible control over the design, protect the health, safety and welfare of the public and act in the University's and project's best interest.
 4. The proposed terms and conditions for the project contract.
 5. The requirements for the submission of a Cost Proposal in a separate envelope from the rest of the proposal information.

6. Other information requested by the University in accordance with the selection plan.
- B. Each Design Builder selected during the Phase 1 – RFQ phase shall submit a complete proposal. Each proposal submitted under this section shall not contain references to costs associated with work contained in the proposal. The University will evaluate and score each proposal according to the selection criteria and scoring methodology specified in the RFP.
 - C. Any proposal may be withdrawn prior to the time set for the receipt of proposals. No proposal may be withdrawn for a period of 45 calendar days thereafter.

7.2.5 Phase 2 – Request for Proposals (RFP) – Cost Proposal

- A. Each Design Builder will also provide the University with a separate Cost Proposal. The Technical Proposal and the Cost Proposal may be submitted sequentially or concurrently, according to the requirements of the RFP. Failure to submit a Cost Proposal according to the delivery requirements of the request for proposals may be grounds to reject the proposal.
- B. The Cost Proposal shall include all of the following:
 1. A lump sum Cost Proposal for the scope of work.
 2. A bid security pursuant to Iowa Code chapter 573.
 3. Any other information required by the request for proposals.

7.2.6 Selection

- A. After the deadline for submission of proposals has passed, the University will individually interview each Design Builder that has submitted a proposal, allowing each Design Builder to present the Design Builder's proposed team members, qualifications and proposal and to answer questions from the University's Selection Committee.
- B. The Cost Proposals will be opened only after all Technical Proposals have been evaluated and scored and after completion of all Design Builder interviews. At the time the Cost Proposals are opened, the University will make the proposal scoring public. Cost Proposals shall be evaluated and scored according to selection criteria and scoring methodology specified in the RFP.
- C. The University will select the Design Builder receiving the highest score based on the selection criteria and scoring methodology specified in the RFP. The University will proceed to negotiate with and attempt to enter into a contract with the selected firm to serve as the Design Builder for the public project. Included in the contract are bonding requirements as defined in Iowa Code chapter 573. If the University is unable to negotiate a satisfactory contract with the selected Design Builder, negotiations with that Design Builder will be terminated and the University will undertake negotiations with the Design Builder receiving the second highest score. If negotiations cannot be successfully

completed with the Design Builder receiving the second highest score, the contract shall not be awarded.

- D. If the University determines that it is not in its best interest to proceed with the project pursuant to the proposals offered, the University shall reject all proposals. If all proposals are rejected, the University may solicit new statements of qualifications and proposals using different design or budget criteria.
- E. As an inducement to qualified Design Builders, the University will pay a fair and reasonable stipend, the amount of which shall be established in the request for proposals, to each Design Builder who participates in phase 2, but is not selected as the Design Builder for the project.
- F. The Design Builder will produce design review documents for each bid package consistent with the requirements for traditional methods of project delivery. The University and the Design Build-Bridging Consultant will review the designs for compliance with the Design Build Guidelines and contract requirements. Construction Documents for each bid package shall be sealed by licensed architects and engineers on the Design Builder's team.

7.2.7 Selection Criteria

Phase 1 – Request for Qualifications (RFQ): example

General Information	0 Points (Required)
Relevant Firm Experience	25 points
Team Experience & Qualifications	20 Points
Project Understanding & Approach	15 points
Project Management	25 points
Safety	10 Points
<u>Other Factors</u>	<u>5 Points</u>
Phase 1 Total Points Available	100 Points

Phase 2 – Request for Proposals (RFP): example

Design Requirement Compliance	75 Points
Design Creativity, Context & Approach to Project	250 Points
Project & Team Management	75 Points
<u>Project Schedule</u>	<u>100 Points</u>
Phase 2 Technical Proposal Total	500 Points
<u>Phase 2 Cost Proposal Total</u>	<u>500 Points¹</u>
Phase 2 Total Points Available	1,000 Points

¹ Phase 2 – Cost Proposal Calculation:
Score Cost Proposals using the following equation.

$$\text{Cost Proposal Points Available} \times \left[1.0 - \frac{\text{Cost Proposal} - \text{Lowest Cost Proposal}}{\text{Lowest Cost Proposal}} \right] = \text{Cost Proposal Points}$$

The point value shall be reviewed for each project. The above DB Selection Criteria is provided as a guideline and shall be adjusted by the University as appropriate for the criteria used in making the selection.

The ratio of Technical Proposal Points to Cost Proposal Points shall be between 40/60 and 60/40, unless approved by the Board Office.

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