

2021 Kansas Statutes

72-1155. **Procedures; construction management at-risk projects.** Construction management at-risk project delivery procedures shall be conducted as follows:

- (a) The board shall determine the scope and level of detail required to permit a qualified firm to submit construction management at-risk proposals in accordance with the request for proposals given the nature of the project.
- (b) Prior to completion of the construction documents, or as early as during the initiation of the project, the construction manager or general contractor shall be selected. The project design professional may be employed or retained by the board to assist in the selection process.
- (c) The board shall publish a notice of the request for qualifications and proposals for the required project services at least 15 days prior to the commencement of such requests in the official newspaper of the school district and with a statewide school board or construction industry association website in accordance with K.S.A. 64-101, and amendments thereto, to the associated general contractors of Kansas and in such other appropriate manner as may be determined by the board.
- (d) The board shall solicit proposals in a three stage qualifications based selection process. Phase I shall be the solicitation of qualifications and prequalifying a minimum of three but no more than five firms to advance to phase II. Phase II shall be the solicitation of a request for proposal for the project, and phase III shall include an interview with each proposer to present their qualifications and answer questions.
 - (1) Phase I shall require all firms to submit a statement of qualifications which shall include, but not be limited to:
 - (A) Similar project experience;
 - (B) experience in this type of project delivery system;
 - (C) references from design professionals and owners from previous projects;
 - (D) description of the construction manager or general contractor's project management approach; and
 - (E) bonding capacity. Firms submitting a statement of qualifications shall be capable of providing a public works bond in accordance with K.S.A. 60-1111, and amendments thereto, and shall present evidence of such bonding capacity to the board with their statement of qualifications. If a firm fails to present such evidence, such firm shall be deemed unqualified for selection under this subsection.
 - (2) The board shall evaluate the qualifications of all firms in accordance with the instructions of the request for qualifications. The board shall prepare a short list containing a minimum of three and maximum of five qualified firms, which have the best and most relevant qualifications to perform the services required of the project, to participate in phase II of the selection process. If the board receives qualifications from less than four firms, all firms shall be invited to participate in phase II of the selection process. The board shall have discretion to disqualify any firm that, in the board's opinion, lacks the minimal qualifications required to perform the work.
 - (3) Phase II of the process shall be conducted as follows:
 - (A) Prequalified firms selected in phase I shall be given a request for proposal. The request for proposal shall require all firms to submit a more in depth response including, but not be limited to:
 - (i) Company overview;
 - (ii) experience or references, or both, relative to the project under question;
 - (iii) resumes of proposed project personnel;

- (iv) overview of preconstruction services;
- (v) overview of construction planning; and
- (vi) proposed safety plan.

(B) All prequalified firms shall submit proposed fees in a format required by the department of administration, including fees for preconstruction services, fees for general conditions, fees for overhead and profits directly and only to the secretary of administration. The secretary of administration shall score and rank the proposals for the best value and report such findings to the selection recommendation committee after all other interviews and scoring have been completed. The recommendations of the secretary of administration to the selection recommendation committee shall be open for public review. The scores on fees and profits shall not account for more than 25% of the total possible score.

(4) Phase III shall be conducted as follows:

(A) Once all proposals have been submitted, the selection recommendation committee shall interview each of the firms in executive session, allowing the competing firms to present their proposed team members, qualifications, project plan and to answer questions. All other discussion and any action taken in the selection process shall be held in an open meeting. Interview scores shall not account for more than 50% of the total possible score.

(B) The selection recommendation committee shall select the firm providing the best value based on the proposal criteria, weighting factors utilized to emphasize important elements of each project for approval by the board and recommendation of the secretary of administration. All scoring criteria and weighting factors shall be identified by the board in the request for proposal instructions to firms. The selection recommendation committee shall proceed to negotiate with and attempt to enter into a construction management at-risk contract with the firm receiving the best total score to serve as the construction manager or general contractor for the project. Should the selection recommendation committee be unable to negotiate a satisfactory contract with the firm scoring the best total score, negotiations with that firm shall be terminated, and the committee shall undertake negotiations with the firm with the next best total score, in accordance with this act.

(C) If the selection recommendation committee determines, that it is not in the best interest of the board to proceed with the project pursuant to the proposals offered, the selection recommendation committee shall reject all proposals. If all proposals are rejected, the board may solicit new proposals using different design criteria, budget constraints or qualifications.

(D) The construction management at-risk contract for a project shall be prepared by the board and entered into between the board and the firm performing such construction management at-risk services. A construction management at-risk contract utilizing a cost plus guaranteed maximum price contract value shall return all savings under the guaranteed maximum price to the school district.

(E) The board or the construction manager at-risk, at the board's discretion shall publish a construction services bid notice in the official newspaper of the school district and website of a statewide school board association or construction industry association and in such other appropriate manner for the construction manager or general contractor as may be determined by the board. Each construction services bid notice shall include the request for bids and other bidding information prepared by the construction manager or general contractor and the board. The board may allow the construction manager or general contractor to self-perform construction services provided the construction manager or general contractor submits a sealed bid proposal under the same conditions as all other competing firms. At the time for opening the bids, the construction manager or general contractor shall evaluate the bids and shall determine the lowest responsible bidder except

in the case of self-performed work for which the board shall determine the lowest responsible bidder. The construction manager or general contractor shall enter into a contract with each firm performing the construction services for the project and make a public announcement of each firm selected at the first school board meeting following the selection.

History: L. 2008, ch. 148, § 12; L. 2010, ch. 57, § 7; L. 2015, ch. 11, § 1; July 1.