



Rules of
Office of Administration
Division 30—Division of Facilities Management,
Design and Construction
Chapter 3—Capital Improvement and Maintenance
Program

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Title 1—OFFICE OF ADMINISTRATION

Division 30—Division of Facilities Management, Design and Construction Chapter 3—Capital Improvement and Maintenance Program

1 CSR 30-3.010 Rule Objectives and Definitions

(Rescinded April 30, 2019)

AUTHORITY: sections 8.310 and 8.320, RSMo 2000. Original rule filed July 9, 1981, effective Feb. 15, 1982. Rescinded and readopted: Filed Nov. 5, 2007, effective June 30, 2008. Rescinded: Filed Aug. 31, 2018, effective April 30, 2019.

1 CSR 30-3.020 Project Definition and Fund Allocation

(Rescinded April 30, 2019)

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1 CSR 30-3.025 Procurement of Construction and Management Services

PURPOSE: This rule sets forth the methods and procedures for selection of project construction and management services.

(1) Definitions. As used in this regulation and the remainder of this chapter, the following terms mean:

(A) "Affiliate," a person who directly or indirectly controls, or has the power to control, another person or a person who is subject to the control of another person. Indicia of control include, but are not limited to: interlocking management or ownership, identity of interests among family members, shared facilities and equipment, common use of employees or a business entity organized following the suspension or debarment of a person that has the same or similar management, ownership, or principal employees as the debarred or suspended person;

(B) "Bidder," a person who submits a proposal for a construction contract in accordance with 1 CSR 30-3, or one who offers to or subcontracts to a person who submits a proposal for a construction contract;

(C) "Bid documents," a document or documents by which the division solicits proposals for a contract;

(D) "Commissioner," the Commissioner of the State of Missouri, Office of Administration;

(E) "Competitive bid," a process of advertising for bids in accordance with section 8.250, RSMo or solicitation of bids from a minimum of three (3) contractors in which an award is based on the lowest responsive, responsible bid or other pre-established criteria where cost is a factor;

(F) "Debarment," the exclusion of a contractor from performing work on a state project for an indefinite period of time;

(G) "Design-build," a project for which the design and construction services are furnished under one contract;

(H) "Design-build contract," a contract between the division and a design-builder, to furnish the architecture or engineering and related design services necessary for a given public construction project and to furnish the labor, materials, and other construction services for the same public project;

(I) "Design-builder," any individual, partnership, joint venture, corporation, or other legal entity that furnishes both the architectural or engineering services and construction services for a project, whether itself or through subcontracts;

(J) "Design criteria consultant," a person, corporation, partnership, or other legal entity duly registered and authorized to practice architecture or professional engineering in this state pursuant to Chapter 327, RSMo, and who is employed by contract to the division to provide professional design and administrative services in connection with the preparation of the design criteria package;

(K) "Design criteria package," performance-oriented program, scope, and specifications for the public construction project sufficient to permit a design-builder to prepare a response to the division's request for proposals for a design-build project;

(L) "Design services," services that are—

1. Within the practice of professional engineering as defined in section 327.181, RSMo, or the practice of architecture as defined in section 327.091, RSMo; or

2. Performed by a registered architect or professional engineer in connection with the architect's or professional engineer's employment or practice;

(M) "Director," the director of the Division of Facilities Management, Design and Construction;

(N) "Division," the State of Missouri, Office of Administration, Division of Facilities Management, Design and Construction;

(O) "Evaluation team," a group of people selected by the director to evaluate bidders' qualifications or proposals;

(P) "Job order contract," a standing contract where the prices for work are determined by specifying one (1) or more published construction unit price books and the applicable divisions or line items and/or providing a list of work items and requiring the bidders to bid or propose one (1) or more coefficients or multipliers to be applied to the price book or work items as the price proposal;

(Q) "Person," an individual, corporation, partnership, association, or legal entity;

(R) "Principal," an officer, director, owner, partner, key employee, or other person within an organizational structure having the authority to obligate the bidder in a contractual relationship;

(S) "Proposal," an offer to enter into a contract, including bids submitted in a competitive bidding process;

(T) "Public construction project," the process of designing, constructing, reconstructing, altering, or renovating state owned real property;

(U) "Request for proposals," a document by which the division solicits proposals for a contract;

(V) "Standing Contract," a contract for construction, renovation, maintenance, and/or repair services to be performed during a specified period of time where the delivery times and quantities of work are indefinite, and the cost of orders for work to be performed under the contract is based on predetermined rates;

(W) "Stipend," an amount paid to the unsuccessful proposers to defray the cost of submission of phase II of the design-build proposal;

(X) "Suspension," the exclusion of a contractor from performing work on a state project for a temporary period of time.

(2) Competitive Bidding.

(A) Soliciting Bids. Section 8.250, RSMo requires that bids be solicited for work on public construction projects. When appropriate, solicitation for bids will go beyond the minimum requirements of the statutes and/or this rule. Notice of solicitation for bids on projects in major metropolitan areas will be sent to minority contractor assistance organizations. Solicitation for bids is authorized only after review and approval of drawings and specifications have been completed in accordance with 1 CSR 30-3.030.

1. Projects costing more than twenty-five thousand dollars (\$25,000). Projects costing more than twenty-five thousand dollars



(\$25,000) will have solicitation advertised in accordance with section 8.250, RSMo. In addition, when appropriate, individual firms will be contacted to determine and/or solicit their interest.

2. Projects costing twenty-five thousand dollars (\$25,000) or less. Projects costing twenty-five thousand dollars (\$25,000) or less will be referred to in these regulations as small projects. Small projects may be accomplished using standing contracts or individually procured by the agency in accordance with the current policies of the Division of Facilities Management, Design and Construction.

3. Emergency projects.

A. Projects for emergency repairs the cost of which exceeds twenty-five thousand dollars (\$25,000) require approval of the director. Requests should include scope, source of funding and, when appropriate, drawings, specifications, and proposal forms.

B. The director may waive the requirement of competitive bids for construction projects when the director has determined that there exists a threat to life, property, public health, or public safety or when immediate projects are necessary for repairs to state property in order to protect against further loss of, or damage to, state property, to prevent or minimize serious disruption in state services or to ensure the integrity of state records. Emergency contracts for construction shall be made with as much competition as is practicable under the circumstances.

C. For emergency repair projects, firms that are available and competent to perform the necessary work will be invited to visit the site for examination and discussion of the work. Attending firms will be provided with available drawings, specifications, proposal forms, and instructions for submitting proposals. Telephone bids for an hourly rate with a "total not to exceed" amount may be accepted.

D. Work included in an emergency request for proposals shall be held to the minimum necessary to eliminate hazards and/or prevent further damage. Corrective work shall not be included in the emergency request, but incorporated into a separate project for later solicitation.

4. Project related equipment. If it is determined that it is necessary or expedient for project related equipment or materials to be separately procured, the Division of Facilities Management, Design and Construction will prepare the necessary specifications and procure the equipment using appropriate competitive bidding procedures.

(B) Pre-Bid Conference. When appropriate, a pre-bid conference will be held at the

project site. Interested firms will be invited to inspect and discuss the project work. Answers and clarification to substantive questions raised at the pre-bid conference will be published in an addendum distributed to all plan holders having made deposits.

(C) Addenda. Substantive changes or clarifications established between the times of solicitation and receipt of proposals will be issued as addenda to all plan holders who hold plans. Sufficient time, including an extension if necessary, will be allowed for addenda to be received, considered, and incorporated into proposals submitted for the work.

(D) Receipt and Opening of Proposals. Unless otherwise approved by the director, all proposals will be received at the office of the division. Proposals received in response to a solicitation shall be held secure until the bid opening. If requested in writing and properly identified prior to the set date and time for opening, proposals may be returned to the firm making the submission. At the set date and time, all proposals received shall be opened and made public. Proposals received after the set date and time for openings shall be returned unopened to the firm making the late submission. For good and sufficient cause, in the best interest of Missouri, the director may reject any or all proposals.

(E) Evaluation of Proposals. Proposals received shall be evaluated based on the method of procurement as defined in the bid documents within the available appropriations. When several appropriation items are combined in a single lump sum bid item, the total price for the single bid item shall not exceed the total of the amounts appropriated for all the included items.

(F) Contracts. Approval by the director of a contract for a project costing twenty-five thousand dollars (\$25,000) or more will be granted only after review and approval of drawings and specifications in accordance with 1 CSR 30-3.030.

1. Award of contracts shall be made to the bidder successfully meeting the requirements of the bid documents within the available appropriations.

2. Intent to Award. An intent to award letter will be issued to the successful bidder upon approval by the director. The purpose of the intent to award letter is to notify the successful bidder of their selection so they may obtain the insurance, performance bond, and other documentation necessary to allow the notice to proceed to be issued.

3. Contract Documents. Contract documents may require, as appropriate, performance/payment bond, Workers' Compensation insurance, comprehensive general liability and

property damage insurance, automobile public liability and damage insurance, owner's protection liability insurance, builder's risk (or installation floater) insurance, and special hazard insurance. The director or his/her designee will determine the form and items required to provide the complete contract documents. Evidence of these items shall be furnished on the forms and in amounts determined by the director to be necessary and/or in compliance with current statutes. In addition, drawings and specifications on which proposals were submitted shall be incorporated by reference in the contract signed by the successful bidder. Contracts shall not be approved until these contract documents, properly executed, are received by the director. The director has discretion to reject any insurer for bond and insurance tendered. Failure to perform on a prior contract may be cause for rejection of an insurer. Failure to furnish the mandatory contract documents in a reasonable time may be treated by the director as refusal to accept the contract and/or execute the contract.

4. Notice to Proceed. Notice to proceed with work on a project will be issued by the director, or his/her designee, and work on a project will not be authorized until a notice is issued. This notice shall be issued only after encumbrance of funds for the contract.

(3) Pre-qualification.

(A) Criteria. The division may require pre-qualification of bidders when the construction project to be bid—

1. Is highly specialized as to the work to be performed;

2. Requires significant experience in the method of construction specified;

3. Requires specialized equipment and experience with such equipment;

4. Requires specific expertise in the installation of sophisticated equipment, systems, or controls;

5. Requires a minimum level of training or certification from specified equipment manufacturers;

6. Must be completed within a critical time frame; or

7. Requires higher than "industry standard" quality control.

(B) Selection. The director will select those projects for which pre-qualification of bidders is appropriate.

(C) Procedure. The pre-qualification process will be a one- (1-) step process. The division shall prepare a request for qualifications for specific selected project with a description of the project, the rationale for the decision to pre-qualify bidders, the procedures for submittal and the selection criteria to be



used. Notice of the request for qualifications shall be advertised in accordance with section 8.250, RSMo. The selection criteria to be used in the pre-qualification may include—

1. Experience of the bidder with similar projects;
2. Experience of key personnel proposed for project;
3. List of recent projects of similar scope and value;
4. Bonding capacity;
5. List of specified equipment available to bidder;
6. References;
7. Safety records;
8. Previous project completion schedules;
9. Previous project contract change rates; and
10. Qualifications of subcontractors proposed for specified areas of work.

(D) Evaluation. An evaluation team consisting of at least three (3) representatives of the division shall be selected by the director to evaluate the qualifications submitted by all potential bidders.

1. The evaluation team shall review the submittals of the potential bidders and assign points to each submittal in accordance with the criteria established for the project and as set out in the instructions of the request for qualifications.

2. All potential bidders obtaining a predetermined number of points shall be pre-qualified to submit a bid on the project on a date specified.

3. Only bids from pre-qualified bidders will be accepted and opened. Bid evaluation shall be on the basis of the lowest, responsive, responsible bidder.

(4) Project/Construction Management.

(A) Project/construction management services may be procured as provided in sections 8.675 to 8.687, RSMo.

(5) Design-Build.

(A) Criteria. The director will select those projects for which the use of design-build procurement is appropriate. In making that determination, the director should consider—

1. The likelihood of whether either method of procurement will serve the public interest by providing substantial savings of time or money over the traditional design/bid/build delivery process;
2. The time available to complete the project and meet the needs of the agency and any need to expedite the delivery process;
3. The type of project and its suitability of either method;
4. The size of the project;

5. The level of agency knowledge and confidence about the project scope and definition;

6. The availability of the using agency staff to manage the project; and

7. The availability of the division staff to manage the project. If a design-build process is selected, the director will determine the scope and level of detail necessary to permit qualified persons to submit proposals in accordance with the request for proposals given the nature of the project.

(B) Procedure. A design criteria consultant may be employed or retained by the division director to assist in preparation of the request for proposal, perform periodic site visits, prepare progress reports, review, and approve progress and final pay applications of the design-builder, review shop drawings and submittals, decide disputes, interpret the construction documents, perform inspections upon substantial and final completion, assist in warranty inspections, and to provide any other professional service where the director deems it to be in the public interest to have an independent design professional assisting with the project administration. The consultant will be selected and its contract negotiated in compliance with sections 8.285 to 8.291, RSMo.

1. Notice of requests for proposals shall be advertised in accordance with section 8.250, RSMo. The division shall publish a notice of a request for proposal with a description of the project, the rationale for the decision to use the design-build method of procurement, the procedures for submittal, and the selection criteria to be used.

2. The director shall establish in the request for proposal a time, place, and other specific instructions for the receipt of proposal. Proposals not submitted in strict accordance with those instructions shall be subject to rejection.

3. A request for proposals shall be prepared for each design-build contract containing at minimum the following elements:

A. The procedures to be followed for submitting proposals, the criteria for evaluation of proposals, and their relative weight and the procedures for making awards;

B. The proposed terms and conditions for the design-build contract;

C. The design criteria package;

D. A description of the drawings, specifications, or other information to be submitted with the proposal, with guidance as to the form and level of completeness of the drawings, specifications, or other information that will be acceptable;

E. A schedule for planned commencement and completion of the design-

build contract;

F. Budget limits for the design-build contract, if any;

G. Affirmative action and minority or women business enterprise requirements for the design-build contract, if any;

H. Requirements including any available ratings for performance bonds, payment bonds, and insurance; and

I. Any other information that the division in its discretion chooses to supply, including, without limitation, surveys, soil reports, drawings of existing structures, environmental studies, photographs, or references to public records, or affirmative action and minority business enterprise requirements consistent with state and federal law.

4. The director will solicit proposals in a three- (3-) stage process. Phase I will be the solicitation of qualifications of the design-build team. Phase II will be the solicitation of a technical proposal including conceptual design for the project, and Phase III will be the proposal of the construction cost.

5. The evaluation team shall consist of at least two (2) representatives of the division, two (2) representatives of the using agency, and a fifth member selected by the director who shall serve as chairman to facilitate the evaluation process and vote only in case of a tie. The evaluation team shall review the submittals of the proposers and assign points to each proposal in accordance with this regulation and the request for proposal.

6. In Phase I all proposers shall submit a statement of qualification that includes, but is not limited to—

A. Demonstrated ability to perform projects comparable in design, scope, and complexity;

B. References of owners for whom design-build projects have been performed;

C. Qualifications of personnel who will manage the design and construction aspects of the project; and

D. The names and qualifications of the primary design consultants and the contractors with whom the design-builder proposes to subcontract. The design-builder may only replace an identified subcontractor or subconsultant with the written approval of the director.

7. Architectural and engineering services on the project shall be evaluated in accordance with the requirements of sections 8.285 to 8.291, RSMo. Qualified proposers selected by the evaluation team may proceed to Phase II of the selection process. Proposers lacking the necessary qualifications to perform the work shall be disqualified and not allowed to proceed to Phase II of the process. Under no circumstances shall price or fee be



a part of the prequalification criteria. Points assigned in the Phase I evaluation process will not carry forward to Phase II of the process. All qualified proposers shall be ranked on points given in Phases II and III only.

8. The director has discretion to disqualify any proposer, which in the director's opinion, lacks the minimal qualifications necessary to perform the work.

9. Once a sufficient number of qualified proposers have been selected, the proposers will be given a specified amount of time with which to assemble Phase II and Phase III proposals.

10. Phase II of the process shall be conducted as follows:

A. The director will invite the top qualified proposers to participate in Phase II of the process;

B. The design proposal should demonstrate compliance with the requirements set out in the request for proposal, including the level of detail requested for the design;

C. The ability of the proposer to meet the schedule for completing a project as specified by the owner may be considered as an element of evaluation in Phase II;

D. Up to twenty percent (20%) of the points awarded to each proposer in Phase II may be based on each proposer's qualifications and ability to design, contract, and deliver the project on time and within budget of the Office of Administration;

E. Under no circumstances should the design proposal contain any reference to the cost of the proposal; and

F. The design submittals will be evaluated and assigned points in accordance with the requirements of the request for proposal. Phase II shall account for no less than forty percent (40%) of the total point score as specified in the request for proposal.

11. Phase III shall be conducted as follows:

A. The Phase III proposal must provide a firm, fixed cost of construction and be accompanied by bid security and any other submittals mandated by the request for proposals, such as statements of minority participation;

B. Cost proposals must be submitted in accordance with the request for proposal. The director shall reject any proposal that is not submitted on time. Phase III shall account for not less than forty percent (40%) of the total point score as specified in the request for proposal;

C. Proposals for Phase II and Phase III shall be submitted concurrently at the time and place specified in the request for propos-

al. The Phase III cost proposals shall be opened only after the Phase II design proposals have been evaluated and assigned points;

D. Cost proposals will be opened and read aloud at the time and place specified in the request for proposal. At the same time and place, the evaluation team will make public its scoring of Phase II. Cost proposals will be evaluated in accordance with the requirements of the request for proposal. In evaluating the cost proposals, the low bidder shall be awarded the total number of points assigned to be awarded in Phase III. For all other bidders, cost points will be calculated by reducing the maximum points available in Phase III by two percent (2%) or more for each percentage point of the low bid by which the bidder exceeds the low bid and the points assigned will be added to the points assigned for Phase II for each proposer;

E. If the director determines that it is not in the best interest of the state to proceed with the project pursuant to the proposal offered by the proposer with the highest total number of points, the director may reject all proposals. In such event, all qualified proposers with lower point totals shall receive a stipend and the proposer with the highest total number of points shall receive an amount equal to two (2) times such stipend. If the director determines to award the project, the responsive proposer with the highest number of points shall be awarded the contract; and

F. If all proposals are rejected, the director may solicit new proposals using different design criteria, budget constraints, or qualifications.

12. As an inducement to qualified proposers, the division may pay a reasonable stipend, the amount of which shall be established in the request for proposal, to each prequalified design-builder whose proposal is responsive but not accepted. Upon payment of the stipend to any unsuccessful design-build proposer, the state shall acquire a nonexclusive right to use the design submitted by the proposer, and the proposer shall have no further liability for its use by the state in any manner. If the design-build proposer desires to retain all rights and interest in the design proposed, the proposer shall forfeit the stipend.

(6) Standing Contracts.

(A) The minimum and maximum amounts of work to be performed under a standing contract shall be stated in the bid documents issued by the division. Once work reaches the maximum amount, no further work may be performed under the contract.

(B) The amount of each order for a job or

project issued under a standing contract shall not exceed the amounts set forth in section 8.255, RSMo.

(C) The division shall advertise for, receive, and publicly open sealed proposals for standing contracts in accordance with the competitive bidding standards established by Chapter 8, RSMo and these regulations.

(D) The division may require bidders on standing contracts to submit additional information besides rates, including experience, past performance, and proposed personnel and methodology.

(E) The division may award standing contracts to one (1) or more contractors in connection with each solicitation of bids or proposals.

(F) An order for a job or project under a standing contract must be signed by the division's representative and the contractor. The order may be a fixed price, lump-sum contract based substantially on contractual unit pricing applied to estimated quantities, or may be a unit price order based on the quantities and line items delivered.

(G) The contractor shall provide payment and performance bonds as set forth in bid documents issued by the division.

(H) The base term of a standing contract is for the initial period and any renewal options that the division sets forth in the bid documents. The base term may not exceed two (2) years and is not renewable without further advertisement and solicitation of proposals.

(I) If a standing contract or an order issued under the contract requires services that constitute the practice of engineering or the practice of architecture, those services shall be provided in accordance with applicable law.

(7) Contractor Responsibility. The director has the authority to declare a contractor not responsible, and to either suspend or debar the contractor from performing work on any state project.

(A) Initial Decision.

1. Notice of the director's decision to suspend or debar a contractor shall be sent to the contractor by certified mail, return receipt requested. The notice should contain a statement as to the factual basis for the contractor's suspension or debarment, the length of the suspension, and an explanation of what the contractor must do to be found eligible to again submit bids on contracts.

2. Upon receipt of notice of suspension or debarment, the contractor may request a hearing in front of the director or his/her appointed designee. The hearing will be informally conducted and provide the contractor or affiliates an opportunity to present any facts that may tend to show that the contractor is in



fact responsible.

3. Any request for a hearing must be postmarked within ten (10) consecutive calendar days of the date of receipt of the notice, as evidenced by the return receipt.

4. The director shall render a determination within sixty (60) consecutive calendar days of the hearing. The determination shall be sent to all parties by certified mail, return receipt requested. The determination shall set forth the basis for the suspension or debarment, the length of ineligibility, and the showing required for the contractor to once again be determined eligible to bid on contracts. The determination may affirm, reverse, or modify the preliminary determination.

(B) Appeal. The contractor may request that the director's determination be reviewed by the commissioner of administration or his/her appointed designee.

1. Any request for review must be in writing and be filed with the commissioner within fourteen (14) consecutive calendar days of the date of receipt of the director's final determination, as evidenced by the return receipt. The request must set forth specific reasons why relief should be granted.

2. A review under this section will be based solely on the documentation submitted by both the contractor and the director. No new hearing will be provided. The commissioner may set aside a determination only if it is found to be an abuse of discretion.

3. The commissioner's determination shall be issued within sixty (60) consecutive calendar days of the date of the request for review and shall be mailed to all parties.

4. The decision of the director or the commissioner to suspend or debar a contractor is not a "contested case" as defined in Chapter 536, RSMo.

(C) Effect of Suspension or Debarment. During the period of suspension or debarment, a suspended or debarred contractor will not be eligible to receive invitations for bids or requests for proposals or to be awarded any contract by the division. A suspended or debarred contractor may also not participate in any contract with the division. This restriction includes being a subcontractor, consultant, sub-consultant, or supplier to any eligible contractor, as well as submitting a bid as part of a partnership or joint venture.

1. If a contractor enters into any contract to perform work on a state project during a period of suspension or debarment, the director may issue a determination extending the time of suspension, changing a suspension to a debarment, or changing the showing that the contractor must make to be determined eligible to perform work on future contracts.

2. Any eligible contractor who knowingly contracts with a suspended or debarred contractor to provide labor or materials on a contract with the division may be suspended or debarred.

3. A suspension or debarment may extend to any affiliate of the contractor who had actual or constructive knowledge of the preliminary determination of suspension or debarment.

4. The director may suspend a contractor for a period not to exceed one (1) year or debar a contractor indefinitely. After the stated period of suspension has expired or more than two (2) years has passed since the finding of debarment, the contractor may apply to the director to be declared eligible. The contractor must show that the contractor has complied with the terms set forth in the final determination of suspension or debarment. If the contractor applies for reinstatement but is unable to demonstrate responsibility to the director, the contractor shall continue to be ineligible until the required information is provided.

(D) Cause for Suspension or Debarment. The director may suspend or debar a company or firm and their named principals for any or a combination of the following reasons:

1. Commission of a criminal offense related to obtaining or performing a government contract;

2. Violation of antitrust statutes;

3. Commission of fraud, embezzlement, theft, forgery, making false statements, or tax evasion;

4. Commission of any other offense or action indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of the contractor;

5. Debarment of the contractor by another state, the federal government, another entity of the state of Missouri, or by a political subdivision of the state of Missouri; or

6. Violations of material contract provisions, which include, but are not limited to failure to, perform or negligent performance of any term or standard of one or more contracts. The failure to perform caused by acts beyond the control of the contractor, or a subcontractor, or material supplier, shall not be considered a basis for suspension or debarment.

AUTHORITY: sections 8.250, 8.255, 8.310, and 8.320, RSMo 2016. Original rule filed Nov. 5, 2007, effective June 30, 2008. Amended: Filed Nov. 30, 2018, effective July 30, 2019.*

**Original authority: 8.250, RSMo 1939, amended 1957, 1995, 2007; 8.255, RSMo 1995, amended 2005, 2007; 8.310, RSMo 1958, amended 1965, 1984, 1985, 1995, 2014; and 8.320, RSMo 1958, amended 1965, 2014.*

1 CSR 30-3.030 Project Design

PURPOSE: This rule sets forth the procedure for design of projects.

(1) Selection of Designer.

(A) Design by Department/Agency. The department/agency may recommend in-house design for those projects within their capability and capacity, provided they have licensed engineers or architects to seal the prepared plans and specifications. The director will concur with this recommendation unless there appears to be a substantial question of capability or capacity. The director will be the determining authority for questions of department/agency capacity and/or capability for design of projects.

(B) Design by Division of Facilities Management, Design and Construction. The director will examine projects remaining after selections for in-house department/agency design. Those projects that are cost prohibitive to be done by consultants or for which the Division of Facilities Management, Design and Construction has the capability and capacity may be selected for in-house design by that division.

(C) Design by Consultants. Private consultants will be selected by the director for design of the balance of the projects.

1. The director will maintain a file and database of consultant firms who have expressed interest in performing work on projects. This file will include notations of specific areas of experience or expertise as expressed by each consultant firm and ratings of previous projects completed and evaluated by the division.

2. The department/agency may make recommendations for selections of consultants for design of projects not selected for in-house design.

3. The selection of consultants will be based on the factors set forth in section 8.289, RSMo. The director will approve the selected consultants after full consideration of the consultants' professional and technical competence, experience, special expertise, and capacity necessary for studies and/or design of proposed projects.

A. Consideration will be given to providing opportunities for as many competent consultants as possible. Consultants who have not been retained for recent state projects will be given priority consideration in selections for new projects.



B. In those projects or programs where continuity is a significant factor, consideration will be given to continued retention of a consultant already engaged for existing projects or programs.

(2) Consultant Firm Design.

(A) Contracts. The division will negotiate contracts for consultant studies and/or design in accordance with section 8.291, RSMo. These contracts will be negotiated for a reasonable fee considering scope, difficulty, research, disciplines involved, and proposals by the selected consultant. The director reserves the right to approve additional consultants retained by the selected consultant for work on the project or study.

(B) Communications. All official communication and direction to the consultant will be issued by the director or his/her designee, and all official communications for all designs and/or studies by the consultant will be with the director or his/her designee. This will include all submissions for approval or payment, recommendations for modifications of scope, or other guidance and resolution of any differences or problems encountered. This will not limit informal communication or coordination between consultants and department/agencies. Informal communication and working conferences between the department/agency, and the consultant are essential to successful completion of a project and are encouraged. Knowledgeable personnel shall be made available by the department/agency for consultations and site visits by the consultant. The consultant, by prior arrangement, shall have access to the project site at reasonable times. Records and conclusions reached at any working conference(s) between the department/agency and the consultant will be forwarded to the director or his/her designee by the consultant for review and approval.

(C) Consultant's General Responsibilities. The consultant is responsible for establishing the concept and planning for the project, as well as providing completed designs, studies, or both as indicated in consultant contract. For project design, the consultant is responsible for providing plans and specifications to fully describe the equipment, materials and work for completion of the project in accordance with the criteria, funding, and scope provided by the director. Periodically, as scheduled in the contract, the consultant will submit work for review and approval. The submissions will include estimated costs for all project work. When estimates for the complete project work exceed allocated funding, the consultant immediately shall notify the director, recommending adjustments and requesting further

instructions before proceeding with additional design and/or study. Acceptance of the contract by the consultant includes acceptance of the adequacy of allocated funding for the work and the responsibility for redesign, if necessary, to establish a scope of project work within allocated funding.

(D) Payments. Payment method and/or periods will be as stipulated in the consultant's contract. The director is responsible for review and approval of a consultant's requests for payment. Approval of payment to a consultant will be based on review and approval of work completed to the date of the payment request. Where there appear to be differences between the payment request and the demonstrated progress, those differences will be resolved by decision of the director or his/her designee.

(3) Design Review. Designs and/or studies will be submitted to the director or his/her designee for review and approval in all projects designed by a department/agency or a consultant. The director's review will include examination of technical adequacy, as well as economy of materials and construction methods proposed. In addition, the director will examine estimated costs to assure that projects remain within funding authorizations. The review will be commensurate with the scope, complexity, and cost of the work. In the case of design by a consultant, review will be coordinated with the department/agency concerned. One (1) complete copy of each submission will be forwarded by the designer to the department/agency simultaneously with the submission to the director or his/her designee. Comments by the department/agency representative, if any, will be forwarded to the project manager. Department/agency comments, along with comments of the Division of Facilities Management, Design and Construction, will be used as the basis for response to the designer.

(A) Pre-Design Conference. For projects designed by a consultant, a pre-design conference will be scheduled by the project manager with the consultant and the representative of the department/agency concerned. The project definitions established in the initial coordination will be reviewed to confirm or adjust project criteria, scope, cost, scheduling, and funding allocation. Initial fund distribution for the cost elements of the project will also be reviewed to confirm or adjust this fund distribution. Limitations and/or requirements expressed in the appropriation language should be carefully observed to assure that the project scope, costs, and funding remain within the authorization of the appropriations. The designer must agree that the

scope of work can be accomplished within the available funding. When appropriate, the pre-design conference will be held at the project site to assure that all parties are familiar with the conditions under which the work will proceed, and that accommodations necessary to support the work are available. The design schedule begins with completion of the pre-design conference. After that, no changes will be made in the scope or funding of projects without written approval of the director.

(B) Design Review Submissions. For projects designed by a consultant, normally, a minimum of three (3) design review submissions will be made. These submissions will be made at approximately twenty percent (20%), fifty percent (50%), and one hundred percent (100%) of design completion to provide for timely review of technical and economic considerations in the design. For minor projects, the first two (2) submissions, with the approval of the project/construction manager, may be combined to provide design reviews at fifty percent (50%) and one hundred percent (100%) of design completion.

1. Schematic. Initial submission (approximately twenty percent (20%)) should provide drawings and an outline of specifications, in sufficient detail to demonstrate the proposed concept for arrangement, as well as the criteria and general parameters used for architectural, electrical, mechanical, and structural development. Proposed innovative methods or development should be presented in sufficient detail to permit a review in depth. An estimate should be submitted in sufficient detail to demonstrate the costs of the various elements of work as well as the total cost for completion of all project work. A copy of all items in the schematic submission will be furnished to the department/agency that will occupy or use the completed project. Comments and/or recommendations of the department/agency will be forwarded to the project manager. The project scope and cost estimate should be reviewed carefully to assure compliance with requirements and/or limitations of appropriation language. Approval by the director's representative of schematic submission will indicate acceptance of, or required revisions to, scope, criteria, design parameters, and cost estimate.

2. Design Development. The second submission (approximately fifty percent (50%)) should provide drawings and outline specifications to indicate general architectural, electrical, mechanical, and structural development of the approved concept. The development should clearly demonstrate sizes, capacities, and arrangement, and



include sufficient details to define major elements of architectural and structural work and to define sizing, location, routing, and application of mechanical and electrical equipment and/or work. An estimate should be submitted in sufficient detail to demonstrate costs of the various elements of work as well as the total cost for completion of all project work. The detail should indicate costs for major items of equipment as well as a breakdown of labor and material costs for each trade with significant work on the project. When the first two (2) design review submissions are combined, a copy of all items in the design development submission will be forwarded to the department/agency that will occupy or use the completed project. Comments and/or recommendations of the end user will be forwarded to the project manager. When a project site is in a city or county that has adopted codes for regulation of work involved in a project, the designer will furnish one (1) courtesy copy of the design development drawings and specifications to the code review authority of that city or county. The transmittal shall note that the plans and specifications are furnished as a courtesy, for information only, and that the code review authority, if it desires, may submit comments to the director's representative for consideration.

3. Final Review. The final review submission is to contain one hundred percent (100%) of the completed drawings and specifications, including the documentation required to solicit bids. Drawings and specifications will be submitted in accordance with the latest issue of State of Missouri's Standard Specification Format as published by the Division of Facilities Management, Design and Construction. The documents are to be complete, and sealed by appropriate engineering and/or architectural disciplines. A final construction cost estimate should be submitted in sufficient detail to demonstrate costs of the various elements of work as well as the total cost for completion of all project work. The detail should indicate costs for major items of equipment as well as a breakdown of labor and material costs for each trade with significant work on the project. The final review documents and a copy of all previous comments and responses generated during the design development submission will be included with the submittal. Comments and/or recommendations of the department/agency will be forwarded to the project manager.

4. Construction Documents. This final submission shall consist of drawings and specifications and construction cost estimate. The documents are to be complete, sealed by

appropriate engineering and/or architectural disciplines, and ready for issuance for bidding. Upon receipt, the project manager will finalize the bidding documents. The director's designee performs an administrative review of the documents and, if acceptable, signs the documents as appropriate.

(4) Codes and Standards. The following are adopted as the codes and standards for work on state facilities, with the exception of facilities operated and maintained by agencies exempted from the requirements of this regulation as set forth below. The chief engineer/architect of the division is the authority for code determinations.

(A) *International Building Codes* (IBC—current edition);

(B) The Americans with Disabilities Act (ADAAG—current edition);

(C) *National Fire Code (NFPA 70 - National Electrical Code* and *NFPA 101—Life Safety Code*—current editions);

(D) *International Mechanical Code* (IMC—current edition);

(E) *International Plumbing Code* (IPC—current edition);

(F) American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE Standards 90.1 for Energy Efficient Design of New Buildings except Low-Rise Residential Buildings—current edition);

(G) American Society of Mechanical Engineers (ASME—current edition);

(H) American National Standards Institute (ANSI—current edition);

(I) American Concrete Institute (ACI—current edition);

(J) Sheet Metal and Air Conditioning Contractor's National Association (SMACNA—current edition);

(K) Boiler and Pressure Vessel Act of the State of Missouri— (current edition).

(L) Local Codes. Current codes adopted by a Missouri city and/or county in which a project site is located are applicable only to the extent that they are not in conflict with the codes listed above or are otherwise required by statute. The State of Missouri and its contractors are exempt from paying license, inspection, or similar fees for work on state premises.

(5) Bidding.

(A) Prospective Bidders. Consultants retained for design work should assist the director in establishing a list of prospective bidders for projects they design. If necessary, consultants will contact prospective bidders to determine and/or solicit interest in bidding for the work. The department/agency will

provide, within its capability, similar assistance.

(B) Bid Review and Recommendations. The project manager will notify the designer and the department/agency of scheduled project bid dates. Immediately following the opening of bids for a project, the project manager may coordinate a review of the bids with the department/agency and, when appropriate, with the designer. If the bids for the project are within available funding and there is agreement on the low responsive bidder, the department/agency will forward its written recommendation for award to the director along with the encumbrance for the amount of the recommended award. If project bids are not within available funding or agreement on the low responsive bidder is not reached, the department/agency will forward to the director its written recommendation for subsequent action on the project. When requested by the director, the designer also will forward a recommendation on the bids received and/or subsequent action on the project.

(6) Exceptions. Exceptions to the requirements of this rule may be granted by the commissioner of administration or his/her designee upon presentation of satisfactory justification for those exceptions.

(7) Exemptions. There are specific exemptions from requirements of this rule provided by the *Missouri Constitution* and by the *Revised Statutes of Missouri*.

(A) Department of Transportation projects and expenditures for highway construction and highway maintenance are exempted from the provisions of this rule by Article IV, Section 29, *Missouri Constitution* of 1945.

(B) Institutions of higher learning, community junior colleges, and the Department of Conservation are exempted by section 8.310, RSMo from provisions of this rule which require coordination with or approval by the commissioner of administration and/or the director of the Division of Facilities Management, Design and Construction for defining projects, determining fund allocation, negotiation or approval of contracts, and approval of payments.

AUTHORITY: sections 8.310 and 8.320, RSMo 2016. Original rule filed July 9, 1981, effective Feb. 15, 1982. Emergency amendment filed June 14, 1985, effective July 1, 1985, expired Oct. 29, 1985. Amended: Filed June 14, 1985, effective Aug. 26, 1985. Rescinded and readopted: Filed Nov. 5, 2007, effective June 30, 2008. Amended: Filed Oct. 11, 2018, effective May 30, 2019.*



**Original authority: 8.310, RSMo 1958, amended 1965, 1984, 1987, 1995, 2014 and 8.320, RSMo 1958, amended 1965, 2014.*

1 CSR 30-3.035 Project Selection/Bidding Methods

(Rescinded April 30, 2019)

AUTHORITY: section 8.291, RSMo Supp. 2007. Original rule filed Nov. 5, 2007, effective June 30, 2008. Rescinded: Filed Aug. 31, 2018, effective April 30, 2019.

1 CSR 30-3.040 Project Contracts and Work Completion

PURPOSE: This rule establishes the procedures for accomplishing the work on projects under the supervision of the director of the Division of Facilities Management, Design and Construction.

(1) Project Supervision. The director is responsible for supervision of work on all projects with the exception of projects for agencies that are exempt from this rule as set forth below.

(A) Department/Agency/Site. The department/agency and personnel at the project site are responsible for providing the contractor with reasonable access to the project site, available utility connections, and authorized storage areas. These will be arranged to minimize interference between necessary operations at the facility and the project work. Department/agency/site personnel shall:

1. Cooperate by exchanging information and coordinating with the contractor, but shall not assist the contractor with, or issue instructions on, project work;

2. Cooperate with and assist, to the extent possible, the director's on-site representative and the designer in observing the work, equipment, and materials on the site; and

3. Report unusual occurrences or apparent problems to the director's on-site representative at the earliest opportunity.

(B) Division of Facilities Management, Design and Construction. For each project, the director shall designate an on-site representative. The director's on-site representative may be a division employee, a consultant, or a department/agency employee, as the director deems appropriate for that project. The director's on-site representative is responsible for supervision and administration of the project, including the following:

1. Issuing, in coordination with the designer, official instructions to the contractor;

2. Providing coordination as necessary

with site personnel and verifying work or materials included in payment estimates;

3. Assisting with coordinating and scheduling the work and providing coordination between contractors working at the project site;

4. Performing or arranging for testing when indicated by conditions or special requirements;

5. Providing periodic reports and/or recommendations to the director;

6. Notifying the department/agency of scheduled visits, meetings, and inspections; and

7. Maintaining records of payments, proposals, request for information, contract changes, etc. having to do with the progress of the work.

(C) Designer. The designer shall provide construction administration as set forth in the terms of the designer's contract or, if the designer is a state employee, as follows:

1. Provide on-site observation to assure that the work is performed in accordance with the contract documents;

2. Issue, in coordination with the director's on-site representative, official instructions to the contractor and verify work or materials included in payment estimates;

3. Assist the contractor in establishing the sequence and control for the several phases and trades involved in the project work;

4. Provide expeditious review and response for all submissions from the contractor and/or along with clarifications or interpretations of the intent of the contract documents;

5. Provide reports for all meetings called to review the work or progress or to resolve problems. Reports for periodic progress meetings should include a review of work to date, progress for the period, scheduled versus actual progress, and efforts to resolve differences between the schedule and actual progress;

6. Provide recommendations for resolving problems of unusual occurrences or unanticipated requirements; and

7. Provide a complete set of reproducible, as-built drawings for the project.

(D) Contractor. The contractor shall be responsible for providing all services set forth in the contractor's contract.

(E) Preconstruction Conference. The director's on-site representative shall call together the contractor, the designer, a department/agency representative, and other interested parties for a conference at the site prior to the start of work on the project. The administrative procedures, coordination of access, security, storage, utility connections, areas of responsibilities, and the authority for

interpretations and/or issuance of instructions will be reviewed to assure understanding by all parties. The director's on-site representative will provide instructions for any requirements or conditions requiring special attention.

(F) Construction Progress Meetings. The director's on-site representative shall periodically call together the designer and the contractor to review progress of the work in addition to the review and verification of payment requests. Schedule versus actual progress will be examined. When actual progress has fallen behind scheduled progress, adjustments in work force, materials, equipment, or other factors, as appropriate, should be established at the progress meeting to assure completion within the time allowed.

(G) Contract Changes. Changes in the work shall be approved only when the director determines that it would be detrimental to bid the work separately. If possible, pricing for contract changes will be determined from unit prices stated in, or derived from, the contractor's original bid proposal. Contract changes shall not be used to expand the scope of work beyond the intent of the appropriation. Contract changes will be submitted in such form as may be established by the director, and the proposed work shall not proceed until approved by the director or his/her designee. The designer will coordinate proposed changes with the director's on-site representative and the department/agency and then prepare the contract change, including appropriate drawings and specifications. After review and approval of the contractor's proposal, the designer shall furnish the contract change and proposal to the director's on-site representative. Submission and approval of an encumbrance in the amount of the contract change should proceed concurrently with approval and signature for the contract change. Notice to proceed with work under a contract change will be issued only after confirmation of available funding.

1. Pre-final inspection. When the contractor notifies the director's on-site representative that the contractor has substantially completed the work, the on-site representative, with the designer and contractor, shall review this list, examine the work, and note any exceptions or additional items to be corrected or completed. After review of the items to be corrected and completed and considering the time necessary to accomplish these, a time and date will be set for final inspection.

2. Final inspection. Final inspection is an examination of the completed project, with particular emphasis on the items for correction and completion established in the pre-final



inspection. Representatives of the department/agency will be invited to participate in the final inspection along with the director's on-site representative, the designer, and contractor. Any items remaining for correction and completion shall be noted and the contractor given a specific time to accomplish these items. Items of testing and adjustment that are incomplete due to seasonal requirements will be scheduled for completion in the appropriate season. Final acceptance may be made after completion of all items except for testing or adjusting seasonal equipment.

3. Warranty period. All equipment, materials, and work should be guaranteed or warranted for at least one (1) year after final acceptance, unless otherwise approved by the director. During the warranty period the facility operator shall inform the contractor of all deficiencies encountered needing correction. If not corrected within a reasonable period of time, the director's on-site representative shall be notified.

4. Warranty inspection. During the tenth or eleventh month following completion, the designer shall schedule a meeting at the project site with the contractor, a representative of the department/agency/site, and a representative of the director. Performance of items under guaranty or warranty will be examined to assure that the contractor is providing satisfactory service. Deficiencies shall be noted and the contractor given a specific time for correction. Payment/performance bonds shall not be released until after the warranty inspection and correction of noted deficiencies. This warranty inspection shall not be construed to limit or relieve any contractual responsibility of the contractor to provide call-back or other service or correction of deficiencies during the warranty period for the equipment, materials, or work on the project.

(2) Exemptions. There are specific exemptions from requirements of this rule provided by the *Missouri Constitution* or by the *Revised Statutes of Missouri*.

(A) Department of Transportation projects and expenditures for highway construction and highway maintenance are exempted from provisions of this rule by Article IV, Section 29, *Missouri Constitution* of 1945.

(B) Institutions of higher learning, community junior colleges, and the Department of Conservation are exempted by section 8.310, RSMo from provisions of this rule which require coordination with or approval by the commissioner of administration, Division of Facilities Management, Design and Construction, or both, for soliciting and receipt of proposals, award of and payments

for contracts and contract supervision.

AUTHORITY: sections 8.310 and 8.320, RSMo 2016 and subsections 6 and 7 of section 15, 1974 Reorganization Act. Original rule filed July 9, 1981, effective Feb. 15, 1982. Emergency amendment filed June 14, 1985, effective July 1, 1985, expired Oct. 29, 1985. Amended: Filed June 14, 1985, effective Aug. 26, 1985. Amended: Filed Nov. 30, 1993, effective July 10, 1994. Rescinded and readopted: Filed Nov. 5, 2007, effective June 30, 2008. Amended: Filed Oct. 11, 2018, effective May 30, 2019.*

**Original authority: 8.310, RSMo 1958, amended 1965, 1984, 1987, 1995 and 8.320, RSMo 1958, amended 1965.*

1 CSR 30-3.050 Project Payments, Acceptance and Occupancy

PURPOSE: This rule establishes the procedures for payments and acceptance and occupancy of projects.

(1) Payments. Payments to the contractor will be made after review and verification of work and materials in place and/or on-site. Review and verification will generally be accomplished as part of a periodic construction progress meeting. When possible, apparent differences between the requests for payment and work or material will be resolved so that the request for payment may be signed by the director's on-site representative, the contractor and the designer prior to conclusion of the progress meeting. When necessary, the payment request will be transmitted to the department/agency. The department/agency shall sign and return the payment request to the division within five (5) working days after receipt of the payment request.

(A) Projects Costing One Hundred Thousand Dollars (\$100,000) or More. Payment for labor and material on projects costing one hundred thousand dollars (\$100,000) or more shall be made in accordance with section 8.260, RSMo.

(B) Projects Costing Less Than One Hundred Thousand Dollars (\$100,000). Payment for labor and materials on projects costing less than one hundred thousand dollars (\$100,000) shall be made in accordance with section 8.270, RSMo.

(C) Final Payment. Final payment will not be made until all work under the contract has been completed and accepted, documentation as required by the director has been furnished, and project records have been delivered to the director's on-site representative. After review and approval of the requests for payment, reports, records, and other docu-

mentation by the director or his/her designee, final payment may be made.

(D) Projects Supported with Non-Appropriated Funds. All payments for projects supported directly with donated, grant, or other funding not appropriated by the General Assembly shall be made in accordance with agreements established in the initial coordination of that project and after approval of the director or his/her designee.

(2) Acceptance and Occupancy.

(A) Acceptance. After completion of all work (including deficiencies or discrepancies noted in the final inspection) and delivery of project records, the director or his/her designee shall issue final payment acknowledging acceptance of the project.

(B) Occupancy. The employees of the department/agency shall not occupy the facility or area where the project work is performed until after acceptance by the director. In exceptional circumstances, the director may establish conditions for occupancy prior to final acceptance.

(C) Project Records. The division shall deliver one (1) copy of project shop drawings, operation and maintenance manuals, record drawings, warranties, and all other pertinent files to a representative of the department/agency. The department/agency shall cause these records to be preserved and stored at the project site or other suitable location for reference in future work at the site.

(D) Reporting Changes in Facility Conditions. The department/agency shall report any substantive change in condition of the facility to the division. Substantive changes in condition of the facility resulting from accidents or acts of God shall be reported to the division at the time of occurrence.

(3) Exemptions. There are specific exemptions from requirements of this rule provided by the *Missouri Constitution* or by statute.

(A) Department of Transportation projects and expenditures for highway construction and highway maintenance are exempt from the provisions of this rule by Article IV, Section 29, *Missouri Constitution* of 1945.

(B) Institutions of higher learning, community junior colleges and the Department of Conservation are exempted by section 8.310, RSMo from provisions of this rule which require coordination with or approval by the commissioner of administration, or both Division of Facilities Management, Design and Construction for approval of payments.

AUTHORITY: sections 8.310 and 8.320, RSMo 2016. Original rule filed July 9, 1981, effective Feb. 15, 1982. Emergency*



amendment filed June 14, 1985, effective July 1, 1985, expired Oct. 29, 1985. Amended: Filed June 14, 1985, effective Aug. 26, 1985. Rescinded and readopted: Filed Nov. 5, 2007, effective June 30, 2008. Amended: Filed Oct. 11, 2018, effective May 30, 2019.

**Original authority: 8.310, RSMo 1958, amended 1965, 1984, 1987, 1995, 2014 and 8.320, RSMo 1958, amended 1965, 2014.*

1 CSR 30-3.060 Determination of Contractor Responsibility

(Rescinded July 30, 2019)

AUTHORITY: section 8.320, RSMo 2000. Original rule filed July 14, 1989, effective Oct. 16, 1989. Rescinded and readopted: Filed Nov. 5, 2007, effective June 30, 2008. Rescinded: Filed Nov. 30, 2018, effective July 30, 2019.