ALTERNATIVE WAYS TO DESIGN AND CONSTRUCT BUILDING PROJECTS FOR PRIVATE OWNERS IN NEBRASKA

WHAT ARE MY OPTIONS?

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ALTERNATIVE WAYS TO DESIGN AND CONSTRUCT BUILDING PROJECTS

FOR

PRIVATE CLIENTS IN NEBRASKA

INTRODUCTION

A building construction project, whether for a new or renovated facility is a complex subject. The material presented here, the product of the Nebraska Design and Construction Industry Council (NDCIC), is an effort to assist clients in making informed decisions on which method best meets the needs of their building project.

The Nebraska Design & Construction Industry Council was created in 2008 as a joint effort between the Associated General Contractors-Nebraska Building Chapter (AGC/N Bldg), American Institute of Architects-Nebraska (AIA/N) and American Council of Engineering Companies-Nebraska (ACEC/N). Together, the mission is to act as an unbiased educational resource to both public and private owners throughout Nebraska on any and all types of design and construction issues.

Today, the method in which design and construction is carried out is ever changing. These changes create new questions, new challenges, and new opportunities for all parties involved. The council pledges to provide professional expertise and information to allow the owner to make informed, educated decisions.

TYPICAL OWNER CONCERNS WHEN FACING A BUILDING PROJECT

If your project faces challenges in one or more of the following areas you may want to consider an alternative delivery method. Although no delivery method is perfect, each bring a variety of safeguards and pitfalls.

<u>Unique Scheduling requirements:</u>

Is the need for occupancy urgent?

Will the project need to be done in phases to accommodate productivity?

<u>Complexity issues:</u>

Will this type of construction require special design/construction expertise?

<u>Understanding project cost:</u>

Does the organization feel it is important to have a breakdown of the cost that makes up the total price or total cost of the project?

Is the cost break-down needed before bid time?

Capabilities of the Owner or staff:

Does the organization or its staff have the expertise to successfully carry out the project?

Past experience with delivery methods:

Does the organization have experience with similar projects?

What delivery methods were used on past projects?

Funding and timing of availability of those funds:

Is funding available for the entire project?

What type of funding is being utilized?

Is it a project that needs scope and cost identified prior to securing funding?

Type of project: (i.e. addition, remodel, new, occupied vs. unoccupied)

Will the project have additional safety needs?

Will project be occupied during construction?

ALTERNATIVE PROJECT DELIVERY SYSTEMS AVAILABLE TO OWNERS

WHAT IS A PROJECT DELIVERY SYSTEM?

A project delivery system defines how a construction project will be organized in order to take it from concept (idea) to reality. The delivery method provides a common framework to work within and assigns responsibilities to the parties involved and defines the relationship between those parties.

There are three basic project delivery systems commonly used in the design and construction industry:

- Design-Bid-Build (DBB)
- Construction Manager at Risk (CM@R)
- Design-Build (DB)

Matching the project to the delivery method may be the most important decision your organization will make.

INTRODUCTION

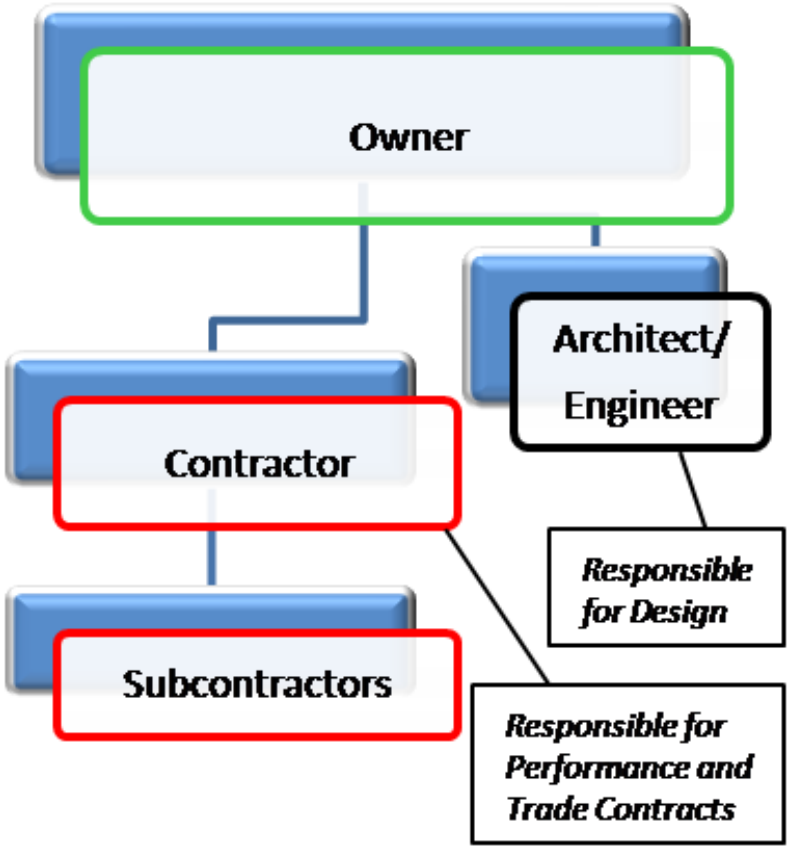
The intent of this document is to give an overview of the three most common alternative delivery methods by providing description of terms and generally agreed upon facts of each delivery method. The information contained herein is intended to be a general guide. You should always seek professional advice from industry experts in determining which delivery method is best for your particular project, and revaluate the delivery methods on a project by project basis.

ALTERNATIVE PROJECT DELIVERY SYSTEMS

There are three basic ways or systems to use to accomplish a commercial building project from idea to design, to construction and finally completion. The three systems are typically known as Design-Bid-Build (d-b-b), Construction Manager at Risk (cm@risk) or Design-Build (d-b). In this section each system is described by defining characteristics and a graphic picture.

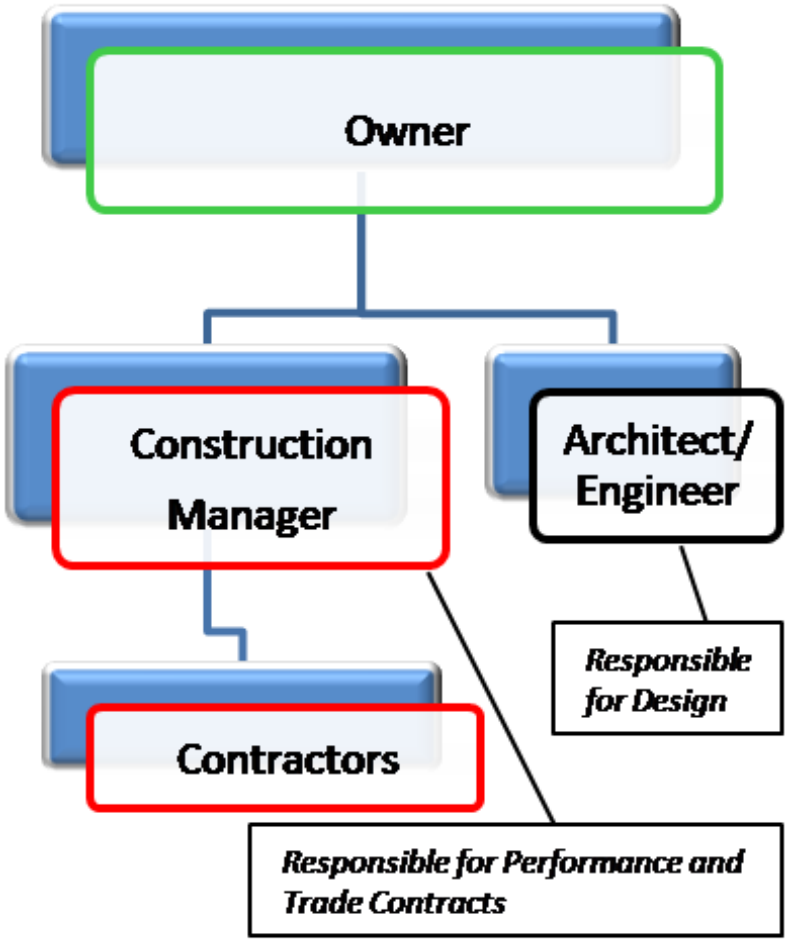
DESIGN-BID-BUILD

- Design and construction are separate contracts with the owner.
- The primary criterion for final selection is the lowest responsible bid.
- Payment is based on bid price.



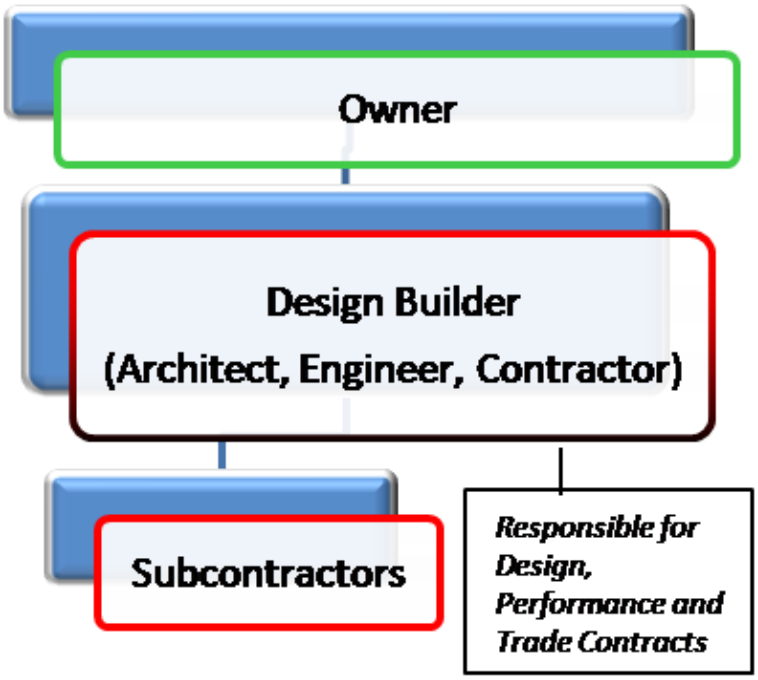
CONSTRUCTION MANAGER @ RISK (CM@Risk)

- Design and construction are separate contracts.
- Criteria for selection includes qualifications, project approach and construction manager fee.
- Reimbursement option may be other than low bid option. It typically is negotiated with fixed price, cost plus fee, or guarantee maximum being common options. Owners may require subcontracts to be competitively bid.
- CM usually is retained early in the design process to work with A/E and owner as an advisor during the design and as General Contractor during construction.



DESIGN-BUILD

- Design & construction contracts are combined in one contract with a single point of responsibility.
- Criteria for selection include qualifications and project approach; not construction cost or design.
- Reimbursement option may be other than low bid option. It typically is negotiated with a fixed price, cost plus fee, or guaranteed maximum price being common options. Owners may require subcontracts to be competitively bid.



HOW DO YOU DECIDE ON A PROJECT DELIVERY SYSTEM?

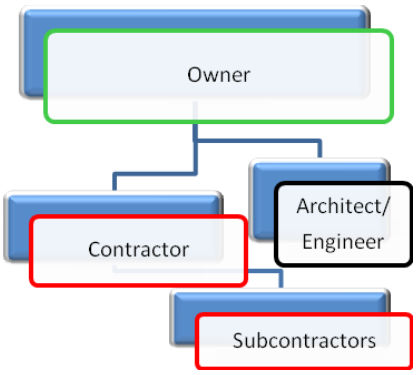
There are many factors and circumstances that form the basis of the selection of the project delivery system to be used. This section provides two resources to assist in making that decision. The chart on the following page entitled, ***"Project Delivery Systems: Typical Advantages and Disadvantages"*** will provide a condensed list of the typical positive benefits and the downsides of each of the three systems. The second resource, found on page 10, is a selection of 'Real Life Examples of Project Delivery Systems' being applied to different building projects.

Project Delivery Systems

Typical Advantages and Disadvantages

Design-Bid-Build

Most owners are familiar with this process as it is the most widely used. Plans and specifications are completed, then advertised for bids. Contractors bid the project exactly as it is designed.



TYPICAL ADVANTAGES

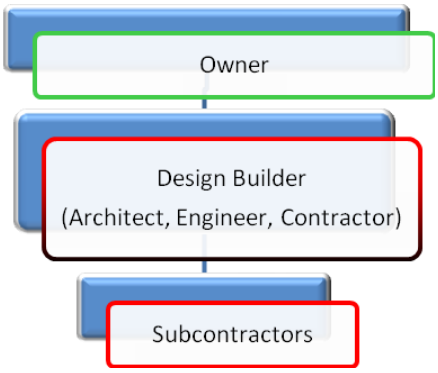
- Contractor cost commitment based on complete design documents
- Designers more active during construction administration
- Familiar delivery method with most team members
- Easy process to manage
- Flexibility in contractor selection (private funded projects)
- Design and construction roles are separate and well defined, making both responsibility and liability relatively clear

TYPICAL DISADVANTAGES

- Cost is not firmly established until design is complete
- Gaps in design documents become potential delays or added change orders
- Linear process=Longer schedule
- May require re-design or re-bidding to meet budget
- No Contractor input in early stage of project
- Adversarial relationships and the potential for litigation can develop between designers and contractor due to their separate contracts with the owner

Design-Build

The builder and designers are hired under one contract. The Design/Builder may use in house design team, or hire an outside entity. Team works together throughout project and construction begins before final design is complete, thus allowing completion in a shorter timeframe.



TYPICAL ADVANTAGES

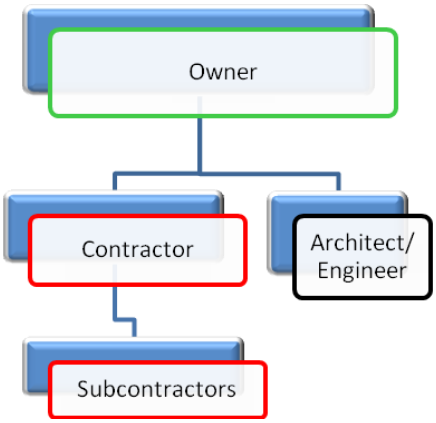
- Single point of accountability for design and construction
- Owner can list 'performance specs' that must be delivered by the design builder
- Conflicts are generally internalized with the team and do not involve the Owner
- Opportunity for quicker completion times and reduced change orders
- Guarantee Maximum Price (GMP) is known at start of construction, Team works together throughout project to meet budget

TYPICAL DISADVANTAGES

- Design, schedule, and construction are interwoven and do not involve the Owner
- Owner must select best team, rather than best designers and best contractor
- Quality may be an issue if scope of project not well defined
- Cost saving strategies taken by DB may lead to reduced building quality

Construction Manager at Risk

Allows Owner to hire designers and contractor up front under separate contracts. Contractor typically guarantees a maximum price and works with design team throughout the project to meet budget and intent.



TYPICAL ADVANTAGES

- Guaranteed maximum price given at start of project giving Owner degree of security for project cost
- Early contractor involvement in estimating and constructability
- Opportunity for quicker completion times, 'fast-tracking'
- Potential to reduce management burden on Owner
- Construction Manager selection based on quality of work and experience
- Separate CM & Architect contracts for checks & balances

TYPICAL DISADVANTAGES

- Management role of CM may be construed as additional cost to project
- Architect may increase fees to offset cost of extra meetings with CM/Owner
- Disputes possible with separate CM & Architect contracts
- GMP generally based on incomplete documents

REAL LIFE EXAMPLES OF PROJECT DELIVERY SYSTEMS

The following examples use alternative project delivery systems to create solutions for real problems or issues faced by public and private owners when constructing building projects.

EXAMPLE #1 Design Build

XYZ Organization is contemplating a project. XYZ realizes that there are no local General Contractors large enough to handle the complexity of their project. XYZ has had a tremendous amount of local support and wishes to utilize as much local talent as possible. It has always been XYZ's policy to keep as much money locally to support the community that has supported them. Traditional Design-bid-build (DBB) would not ensure XYZ the opportunity to be a partner in selecting the sub-contractors and suppliers from the local pool. Solution: XYZ hired a Design-Build (DB) firm from the region that was large enough to handle the project and willing to allow XYZ to share in the process of sub-contractor and supplier selection. The DB firm contractually would continue to carry the design and performance risk of the project. The local sub-contractors and suppliers were hired in a competitive scenario utilizing reference checks to help alleviate much of that risk.

EXAMPLE #2 Construction Manager at Risk

ABC Community needs a new community center. Funding is very difficult but available through grants and low interest loans once a project scope and budget have been identified which meet their needs and their ability for repayment. Solution: ABC hired an Architectural firm and Construction Management firm to work together with the community at a nominal fee. The fee was paid for the development of a scope, limited drawings and development of a budget. As part of the pre-construction agreement the community made a commitment to both the design firm and the construction firm that once funding is in place they would both be involved and set fee structures for both.

EXAMPLE #3 Design Build

ACME Manufacturing has a very corrosive environment; the environment has wreaked havoc on the structural portions of their facility and has caused an extensive amount of needed work. ACME has an annual shutdown planned that will last for 6 weeks. Extensive repairs are necessary to ensure the structural integrity of the facility. Due to client commitments ACME must be back in production no later than the end of the 6 week shutdown. Solution: ACME hired a large local Contractor as DB with the caveat that the DB bring in the structural design consultant they have been working with and who has extensive experience in corrosive environments. ACME then worked with the design-builder to pre-qualify subcontractors based on manpower and availability. The scheduling of work was developed and required the sub-contractors to sign off on meeting the schedule for their individual portions of work.

EXAMPLE #4 Construction Manager at Risk

CDE School district is moving forward on a multi-phase renovation and addition project. The school district has in the past utilized differing project delivery methods but the last project was wrought with poor communication and a late occupancy which delayed the start of the school year. The School board felt like the problems stemmed from the Design Consultants and the Contractors not communicating and resolving issues in a timely manner. Items that may have been worked out in friendlier relationships seemed to drag on and left the board feeling like it was their mess to clean up. The board wished to avoid the problems of the past in their future building projects. Solution: The Board made the decision

to hire the Design Consultants and Construction Manager as a "team" in a Construction Management@Risk (CM@R) delivery system. They advertised and interviewed teams that had a successful working relationships and a proven track record of tackling tough projects on time and on budget.

Example #5 Design Bid Build

School District PDQ is upgrading all older facilities within the district. Upgrades include Heating, Ventilation and Air conditioning to more efficient and reliable systems. They are also replacing all windows with new energy efficient windows and undertaking a complex series of improvements that will bring all the older facilities within current regulations as it pertains to Safety and Disability issues. Within the District there are several contractors with the ability to perform the services they are requesting. The District feels a traditional Design-bid-build format will serve them best by bringing the value of competitive pricing for each facility. This will also ensure several firms an opportunity to work for the District.

The District Interviewed and selected from a qualified pool a Design Consultants for the project. The Design Consultants worked closely with the Maintenance staff to prepare drawings and specifications for the work for each building. The Design Consultants were also responsible for Budget information for the work designed. Once complete the Drawings and specifications were distributed to the local contractors to prepare competitive bids.

The competitive nature of the current economy provided the District with very competitive costs on the day the bids were opened. The Owner and Design Consultants provided specific alternates as part of process to allow the Owners and Design Consultants a way to reduce scope and or size of the work to be performed. The bids were opened and a few of the facilities came in over budget while a few came in under budget and some came in at budget. All totaled the School District selected the lowest responsible bidders but were over their budget by around 3%. The School District along with the Design Consultants examined pricing submitted along with alternatives and reduced the scope of the work to be performed to bring the Contracted amount just under the budget allowance.

Example #6 Construction Manager at Risk

School District LMO has set aside some monies to add a performing arts center and the community is very supportive of the addition. The Monies set aside do not equal the amount necessary to build the Performing Arts Center. The School District works to pass a public bond issue to gain the necessary funding they are short for the project.

The School District has utilized Design-Bid-Build in the past but with mixed results. Meeting schedules and quality concerns from using low bid contractors remain the largest concern for The School District. The project is very high profile in the community and the School district understands the importance of retaining the quality that was assured when the District was speaking with the voters prior to the election. The District Officials and several community members have spent considerable time and resources to visit and tour other facilities and they have formulated a vision for what this project should be when completed.

The District interviewed and selected the Team of Design Consultants they are comfortable with and are ready to proceed. After studying the Construction Delivery Methods available, the District felt like Construction Management at Risk would allow them to select the Construction professionals which

whom they trust to provide them with the Quality they are looking for. The Construction Manager is chosen on qualifications and reputation. Construction Management also allows the District to competitively bid all portions of the work. The sub-contractors who are apparent low for their specified portion of work are investigated by the Construction Manager for quality and reputation and are awarded work only after they check out positively.

Budgeting commences after the design consultants prepare a schematic design for the proposed facility utilizing all the Owners criteria. After initial budgets have been prepared, it appears the Districts wants may exceed the funding that is available. The Construction Manager working with the Design Consultants prepare a list of items that could be changed and not affect functionality and affect the appearance minimally. Through this process of good communication by all parties involved the project was massaged to meet the original budget.

As design development proceeded, The Design Consultants uncovered several issues related to the existing building. A previous addition has limited the ability of the current structure to carry the burden of additional snow load added to the existing structure by this facility. Also, the current water service to the existing facility doesn't have enough pressure to supply the fire suppression system. At a meeting with the District and Design Consultants the Construction Manager presents the costs of these issues that will have to be taken care of. All the alternatives are discussed and the District has to either scale back the Performing Arts Center or find alternative funds to cover these items.

Once the School District has all pertinent information they decide to move forward without scaling back the Performing Arts Center and find additional funds to cover the costs associated with the existing facilities issues.

The Construction Management format worked successfully due to a commitment to constant communication by all parties on the team. Other delivery methods may have not uncovered these issues until actual construction and created a situation of costly change orders without giving the Owners group the opportunity to plan for funding.

EXAMPLE #7 Construction Manager at Risk

School District "JKL" has passed a bond issue to construct two new elementary schools. They currently have a staff that has very limited knowledge of construction related issues. The School Board believes the patrons would best be served by an Experienced Design firm paired with an Experienced Construction Manager to work together to build their new facility(s) . Important considerations include staying within the budget and schedule for both facilities. Equally important is creating space that children find it an easy and comfortable atmosphere to learn.

The School District is under a tight timeline due to expanding enrollment. After an initial design and budget exercise were performed, the Construction Manager and Design Consultant were told to proceed with School 1. School 2 was being held up by land acquisition. Due to enrollment the school Superintendent felt they could get by for another year if they had one of the schools open by the start of the school year.

Due to tight time constraints School 1 proceeded once the basic structural and underground portions of the plans were finished. Construction could commence, while still allowing an additional 30-45 days for the completion of the rest of the design plans. A Guaranteed Maximum Price for the two schools was

established prior to the start of the projects. The Guaranteed Maximum Price included monies to cover inflationary concerns based on School #2 being delayed.

Due to consistent communication by all parties and the Construction Manager working closely with the Design Consultants to finalize designs utilizing cost effective materials the two projects were completed on schedule and close to a million dollars under the Guaranteed Maximum price of $26,300,000.00.

ONCE A DELIVERY METHOD HAS BEEN SELECTED, HOW DO YOU PROCEED TO IMPLEMENTATION?

The handbook, “User Manual for Alternative Project Delivery Systems-Steps for Implementation”, will provide a clear roadmap to assist private entities to implement Design-Build or Construction Management at Risk.

USER MANUAL FOR ALTERNATIVE PROJECT DELIVERY SYSTEMS

Steps for Implementation

The following pages will provide a clear roadmap for implementing D-B or CM@R contracting methods in your organization. Each of the seven steps describes the suggested procedures along with definitions and resources you can use to develop procurement and contracting methods.

The resources listed are generally accepted processes, terms and conditions consistent with nationally recognized models of the design and construction industry, and are offered here only as guides or tools for your use in procurement and contracting processes.

STEP	DESCRIPTION
1	Establish Construction Delivery Method
2a - DB	Evaluation of Proposals for Design-Build Contracts
2b - DB	Prequalification of Design-Builder
2c - DB	Request for Proposals for Design-Build Contract
2d - DB	Negotiation Process for Design-Build Contracts
-or-	
3a - CM@R	Evaluation of Proposals for Construction Management at Risk Contracts
3b - CM@R	Request for Proposals for Construction Management at Risk Contract
3c - CM@R	Negotiation Process for Construction Management at Risk Contracts
4	Miscellaneous Provisions

STEP 1 – Establish Construction Delivery Method

1. Adopt Resolution selecting preferred construction delivery system
    a. Design-Build contract, or
    b. Construction Management at Risk contract
2. Recommended that it be a affirmative vote of at least 2/3 of governing body
    a. If Design-Build, proceed to Step 2
    b. If Construction Management at Risk, proceed to Step 3

Definitions:

Design-Build contract means a contract which is subject to qualifications-based selection between a owner and a design-builder to furnish:
a) architectural, engineering and related design services for a project.
b) labor, materials, supplies, equipment, and construction services for a project.

Design-Builder means the legal entity which proposes to enter into a design-build contract which is subject to qualifications-based selection.

Construction Management at Risk contract means a contract by which a construction manager:
a) assumes the legal responsibility to deliver a construction project within a contracted price to the owner
b) acts as a construction consultant to the owner during the design development phase of the project when the owner's architect or engineer designs the project
c) is the builder during the construction phase of the project.

Construction Manager means the legal entity which proposes to enter into a construction management at risk contract.

STEP 2a Evaluation of Proposals for Design-Build Contracts

1. The owner shall refer the proposals for recommendation to him/herself or the selection committee composed by the owner.
2. The selection committee and the owner shall evaluate proposals taking into consideration the selection criteria (See criteria weighting list–Exhibit 2.3)

Resources:

- Evaluation Criteria List – See Exhibit 2.3

STEP 2b Prequalification of Design-Builder

1. Prepare a Request for Letters of Interest
    a. Describe project in sufficient detail to permit a design-builder to submit a letter of interest
    b. Request for Letters of Interest can be
        i. Published in a newspaper of general circulation at least 30 days prior to the deadline for receiving letters of interest or
        ii. Sent to any design-builder owner chooses
    c. Letters of Interest shall be reviewed by the owner
    d. Select prospective design-builders in accordance with weighted criteria outlined in Exhibit 2.3
    e. Owner should select at least two or three prospective design-builders
    f. The selected design-builders shall be considered pre-qualified and eligible to receive requests for proposals

Definitions:

Letter of Interest means a statement indicating interest to enter into a design-build contract or a construction management at risk contract for a project

Request for Letters of Interest means the documentation or publication by which a owner solicits letters of interest.

Resources:

- Sample Letter of Interest – see Exhibit 1

STEP 2c Request for Proposals for Design-Build Contract

1. The Request for Proposal (RFP) shall contain at a minimum the requirements of Neb. Rev. Stat. § 13-2907—see Exhibit 2
2. Notice of the RFP's shall be published in a newspaper of general circulation at least thirty days prior to the deadline for receiving and opening proposals
    a. A notice of the RFP's by a school district shall be filed with the State Department of Education at least thirty days prior to the deadline for receiving and opening proposals

Definitions:

Proposal means an offer in response to a request for proposals:
a) by a design-builder to enter into a design-build contract for a project pursuant to the
b) by a construction manager to enter into a construction management at risk contract for a project pursuant to the act.

Request for Proposals (RFP) means the documentation by which a owner solicits proposals.

Resources:

- Sample Request for Proposal for Design-Builder – See Exhibit 2

STEP 2d Negotiation Process for Design-Build Contracts

1. The RFP shall be sent only to the prequalified design-builders
2. Proposals shall be sealed and should not be opened until expiration of the time established for making proposals as set forth in the RFP
3. Proposals may be withdrawn at any time prior to acceptance. The owner shall have the right to reject any and all proposals.
4. The owner shall rank in order of preference the design-builders pursuant to the criteria in the RFP and taking into consideration the recommendation of the selection committee.
5. The owner may attempt to negotiate a design-build contract with the highest ranked design-builder selected by the owner and may enter into a design-build contract after negotiations. The negotiations shall include a final determination of the manner by which the design-builder selects a subcontractor
6. If the owner is unable to negotiate a satisfactory design-build contract with the highest ranked design-builder, the owner may terminate negotiations with that design-builder. The owner may then undertake negotiations with the next highest ranked design-builder and may enter into a design-build contract after negotiations.
7. If the owner is unable to negotiate a satisfactory contract with any of the ranked design-builders, the owner may either revise the RFP and solicit new proposals or cancel the design-build process.

Resources:

- Evaluation Criteria List – see Exhibit 2.3
- Process for evaluation of proposals—see Exhibit 2.2
- Terms and conditions of the Design-Build contract—see Exhibit 2.4
- Sample: **AIA A141 – 2004, Agreement Between Owner and Design Builder**
- Sample: **ConsensusDOCS 400, 410 or 415 – Preliminary Owner/Design-Builder Agreement & General Conditions**
- Sample: **EJCDC D-510 or 520, Standard From of Agreement Between Owner & Design/Builder for Preliminary Services**

STEP 3a Evaluation of Proposals for Construction Management at Risk Contracts

1. The owner shall refer the proposals for recommendation to him/herself or a selection committee composed by the owner.
2. The selection committee and the owner shall evaluate proposals taking into consideration the criteria listed in criteria weighting list–Exhibit 3.3

Resources:

- Evaluation Criteria List – See Exhibit 3.3
- Process for receipt and evaluation of proposals for the CM@R contract—see Exhibit 3.2

STEP 3b Request for Proposals for Construction Management at Risk Contract

1. The Request for Proposal (RFP) should contain at a minimum the requirements of Exhibit 3.
2. Notice of the RFP's may be published in a newspaper of general circulation at least thirty days prior to the deadline for receiving and opening proposals

Definitions:

Proposal means an offer in response to a request for proposals:
a) by a design-builder to enter into a design-build contract for a project
b) by a construction manager to enter into a construction management at risk contract for a project pursuant to the act.

Request for Proposals (RFP) means the documentation by which a owner solicits proposals.

Resources:

Sample Request for Proposal – See Exhibit 3

Step 3c Negotiation Process for Construction Management at Risk Contracts

1. The owner shall evaluate and rank each proposal on the basis of best meeting the criteria in the RFP's ad taking into consideration the recommendation of the selection committee.
2. The owner shall attempt to negotiate a construction management at risk contract with the highest ranked construction manager and may enter into a construction management at risk contract after negotiations.
3. If the owner is unable to negotiate a satisfactory contract with the highest ranked construction manager, the owner may undertake negotiations with the next highest ranked construction manager, if any, and may enter into a construction management at risk contract after negotiations.
4. If the owner is unable to negotiate a satisfactory contract with any of the ranked construction managers, the owner may either revise the RFP and solicit new proposals or cancel the construction management at risk process.

Definitions:

Qualifications-based Selection Process mean a process of selecting a Construction Manager at Risk based first on the qualifications of the Construction Manager's proposed approach to the design and construction of the project.

Resources:

- Evaluation Criteria List – See Exhibit 3.3
- Sample**: AIA A133 – 2009, Standard Form of Agreement Between Owner and Construction Manager at Risk where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price**
- Sample: **ConsensusDOCS 500, Owner/Contractor Agreement/General Conditions (Guaranteed Maximum Price)**

STEP 4 Miscellaneous Provisions

1. A design-build contract and a construction management at risk contract may be conditioned upon later refinements in scope and price and may permit the owner in agreement with the design-builder or construction manager to make changes in the project without invalidating the contract.

EXHIBITS

EXHIBIT	NAME
1	Sample Letter of Interest for Design-Builder Contract
2	Sample Request for Proposal for Design-Builder Contract
3	Sample Request for Proposal for Construction Management at Risk Contract

EXHIBIT 1

SAMPLE

REQUEST for LETTERS OF INTEREST

For

PREQUALIFICATION OF DESIGN-BUILDER

EXHIBIT 1 - SAMPLE REQUEST for LETTERS OF INTEREST for PREQUALIFICATION OF DESIGN-BUILDER

[Owner] is requesting Letters of Interest from prospective Design-Builders for [name of Project]. The information provided in the Letter of Interest will be used by [Owner] to select (prequalify) at least three prospective Design-Builders and they will be eligible to receive Requests for Proposals. If only two Design-Builders submit Letters of Interest, both will receive the Requests for Proposals. Those firms selected to receive Request for Proposal will be required to provide more detailed qualifying information.

The Design-Builder ultimately selected by [Owner] will enter into a Design-Build Contract with [Owner] to furnish a) architectural, engineering and related design services for the Project and b) labor, material, supplies, equipment, and construction services for the Project.

The scope of the Project is [e.g. XYZ Company of _____ *, Nebraska intends to construct a new warehouse to replace the existing facility consisting of offices, conference rooms, lobby, public restrooms and support spaces, etc. . . with a projected budget of $_____]*

Prospective Design-Builders shall respond to all items in this questionnaire. Failure to do so will deem the Letter nonresponsive at the discretion of [Owner]. If the prospective Design-Builder team is a prime contractor-subcontractor relationship or joint venture, both entities must complete their relevant information on the questionnaire.

Submittal Requirements:

1. Design-Builder Firm Information:
    a. Firm name, address, phone, fax and email
    b. Name of primary point of contact
    c. Proof of bonding capacity and insurance coverage
2. Design-Builder's Subconsultant(s) Firm Information (If the Design-Builder is a contractor, then list the architectural-engineering team. If the Design-Builder is an Architect or Engineer, then list the General Contractor):
    a. Firm names, addresses, phone, fax and email addresses
    b. Name of primary point of contact
    c. Proof of liability insurance
3. Design-Builder Team and Experience
    a. Resume of key team members (Project manager, project superintendent, design architect or engineer)
        i. Name and title
        ii. Role in the project
        iii. Education
        iv. Professional registration
        v. Years of experience

b. List of 3 relevant projects on which the Design-Builder provided design and/or construction services similar to those requested in this RFP. Provide project scope, budget, year completed and form of project delivery (Design-Build, Design-Bid-Build, or Construction Management at Risk). Provide graphics or photos if available. Also, list client references for each of the 3 projects (organization, contact name, address, phone, fax and email).
    i. If the Design-Builder subcontracts for design or construction services, list 3 relevant projects of the designer or contractor and information requested in paragraph above.

4. Design Builder's Approach
    a. Briefly describe the Design-Builder's approach in working with [Owner] to design and build the proposed project.

Submit ___ copies of the Letter of Interest to
_____ by [date and time]

Signed for [Owner]

EXHIBIT 2

SAMPLE

REQUEST for PROPOSALS

For

DESIGN-BUILD PROJECT

EXHIBIT 2 – SAMPLE REQUEST for PROPOSALS for DESIGN-BUILD PROJECT

[Owner] is requesting Request for Proposals from qualified Design-Builders for [name of Project]. The information provided in the Proposal will be used by [Owner] to select the Design-Builder.

The Design-Builder selected by [Owner] will enter into a Design-Build Contract with [Owner] to furnish a) architectural, engineering and related design services for the Project and b) labor, material, supplies, equipment, and construction services for the Project.

The scope of the Project is [e.g. *XYZ Company of_____, Nebraska intends to construct a new warehouse to replace the existing facility consisting of offices, conference rooms, lobby, public restrooms and support spaces, etc. . .*

Location of supporting documents to this RFP are listed below:

- The process for evaluation of proposals for the design-build contract are found in Exhibit 2.2
- The criteria for evaluation of proposals and the relative weights of each criterion are found in Exhibit 2.3
- The terms and conditions of the design-build contract are found in Exhibit 2.4
- Policies adopted by [Owner] relevant to the project are found in Exhibit 2.5

Prequalified prospective Design-Builders shall respond to all items in this questionnaire. Failure to do so will deem the Proposal nonresponsive at the discretion of [Owner]. If the prospective Design-Builder team is a prime contractor-subcontractor relationship or joint venture, both entities must complete their relevant information on the questionnaire.

Submittal Requirements

1. **Cover Letter**
2. **Table of Contents**
3. **Financial Resources of the Design-Builder to Complete the Project** (Percentage of Total Points Available – 10%)
    - **a.** Surety – provide certification from surety that Design-Builder's bonding capacity is adequate to construct the proposed project
    - **b.** Insurance – provide certificates from your insurance carrier(s) for required coverage for both design and construction services
4. **Ability of the Proposed Personnel of the Design-Builder to Perform** (Percentage of Total Points Available – 30%)
    - **a.** For both the design and construction components of the Design-Builder team, provide an **organization chart** identifying the lead individual in each role classification. These include, but are not limited to, the following services (if applicable) for the project:
        - **i.** Design-Builder Principal
        - **ii.** Project Superintendent
        - **iii.** Project Foreman
        - **iv.** Project Architect
        - **v.** Design Architect
        - **vi.** Structural Engineer
        - **vii.** Mechanical Engineer
        - **viii.** Civil/Site Engineer
    - **b.** List any **specialty subconsultants** required for the project.
    - **c.** For each individual listed above, provide the following resume information:
        - **i.** Name and role in the project
        - **ii.** Relationship to Design-Builder (employee, subconsultant, subcontractor, etc.)
        - **iii.** Company
        - iv. Contact information (address, phone)
        - **v.** Professional registrations/certifications
        - **vi.** Years with current firm and with other firms
        - **vii.** List of five (5) relevant or similar projects including:
            1. Project name and brief scope of services provided
            2. Year completed
            3. Reference (name, title, phone and email address)
5. **Character, Integrity, Reputation, Judgment, Experience, and Efficiency of the Design-Builder** (Percentage of Total Points Available – 30%)
    - **a.** Design-Builder shall list a reference in the following categories (provide name, company, address, phone and relationship to the reference):
        - **i.** Financial (bank or surety)
        - **ii.** Project of similar scope (contractual point of contact for owner)
        - iii. Facility user of project of similar scope (such as school principal, department manger or facility manager)

6. **Quality of performance on previous projects** (Percentage of Total Points Available – 30%)
    - **a.** The Design-Builder shall list five (5) completed projects of similar scope or budget and provide the following information for each:
        - **i.** Project name – brief description of relevance to the project of this RFP
        - **ii.** Address
        - **iii.** Owner, contact name , title, address and phone
        - **iv.** Design Professional – firm name, contact name, address and phone
        - **v.** Type of project delivery (design-build, CM@Risk, design-bid-build)
        - **vi.** Project performance
            1. **1.** Budget
            2. **2.** Schedule (days/months)
            3. **3.** List 3 specific problems and how they were resolved
            4. **4.** Claims made by owner regarding budgets, schedule or performance
7. **Ability of the Design-Builder to Perform Within the Time Specified** (Percentage of Total Points Available – 30%)
    - **a.** Provide detailed information on the five (5) listed projects above with respect to:
        - **i.** Design schedule – proposed and actual (number of calendar days total for programming, preliminary design and final design)
        - **ii.** Construction schedule – proposed and actual
            1. **1.** Date of Substantial Completion
            2. **2.** Date of Final Completion
            3. **3.** Post-construction warranty work required
            4. **4.** Was the client inconvenienced by the delivery dates of any of the services provided by the Design-Builder?
8. **Design-Builder's Approach to Design and Construction of the Project**
    - **a.** Provide a written approach on how the design and construction team will take the information provided by **[owner]** and develop final design, construction documents, budget control, schedule, and construction processes. The approach may contain graphic materials illustrating the proposed approach to design and construction, but shall not include price proposals.
9. **Previous and Existing Compliance of the Design-Builder Relating to the Contract** (Percentage of Total Points Available – 10%)
    - **a.** Has the Design-Builder, or any proposed member of the design-build team been cited for failure to comply with local, state or federal law of any nature in the last five (5) years? ____Yes, ____No
        - **i.** If yes, explain in detail
    - **b.** Are there any civil or criminal actions pending against the Design-Builder or any proposed member of the design-build team? ____Yes _____No
        - **i.** If yes, explain in detail
10. **Such Other Information as May be Secured Having a Bearing on the Selection** (Percentage of Total Points Available – 20%)
    - **a.** Subcontractors: List the work on this project you expect to subcontract
    - **b.** Current capacity: provide a list of your firm's and your subconsultant's current contracted projects and the scope of those projects.

Design-Builder's Agreement to the Following Conditions

Design-Builder's submittal of a proposal implies agreement to the following conditions:

1. An architect or engineer licensed to practice in Nebraska will participate substantially in those aspects of the offering which involve architectural or engineering services.
2. At the time of the design-build offering, the Design-Builder will furnish to **[owner]** a written statement identifying the architect or engineer who will perform the architectural or engineering work for the design-build project.
3. The architect or engineer engaged by the Design-Builder to perform the architectural or engineering work with respect to the design-build project will have direct supervision of such work and may not be removed by the Design-Builder prior to the completion of the project without the written consent of the **[owner].**
4. A Design-Builder offering design-build services with its own employees who are design professionals licensed to practice in Nebraska will:
    a. Comply with the Engineers and Architects Regulation Act by procuring a certificate of authorization to practice architecture or engineering; and
    b. Submit proof of sufficient professional liability insurance; and
5. The rendering of architectural or engineering services by a licensed architect or engineer employed by the Design-Builder will conform to the Engineers and Architects Regulation Act and rules and regulations adopted under the act; and
6. **Other information which [owner] chooses to require.**

2.1: Performance Criteria, Budget and Schedule parameters and Bond and Insurance required by law or [Owner]

List here in summary form, yet with enough detail for Design-Builder to properly respond to the questions of the RFP, the Project objectives, program statement, performance criteria, site information, and such graphic plans (site and building) as may have been prepared.

List any budget parameters established and any bonds and insurance requirements of the Design-Builder.

2.2: Process for Evaluation of Proposals for the Design-Build Contract

[Owner] should evaluate proposals for a design-build contract in accordance with the following:

1. The request for proposal is being sent only to the prequalified design-builders selected as part of the prior prequalification process
2. Design-builders shall submit proposals as required by the Request for Proposals. **[Owner]** may only want to proceed to negotiate and enter into a design-build contract if there are at least two proposals from prequalified design-builders.
3. Proposals shall be sealed and shall not be opened until expiration of the time established for making proposals if set forth in the request for proposals.
4. Proposals may be withdrawn at any time prior to acceptance. **[Owner]** shall have the right to reject any and all proposals. **[Owner]** may thereafter solicit new proposals using the same or different project performance criteria.
5. In evaluating proposals in accordance with criteria in Exhibit 2.3 of the request for proposals, **[Owner]** shall refer the proposals for recommendation to a selection committee designated by the **[Owner]**.
6. **[Owner]** shall rank in order of preference the design-builders pursuant to the criteria in the request for proposals and taking into consideration the recommendation of the selection committee, if any**.**
7. **[Owner]** may attempt to negotiate a design-build contract with the highest ranked design-builder selected by **[Owner]** and may enter into a design-build contract after negotiations. The negotiations shall include a final determination of the manner by which the design-builder selects a subcontractor. If **[Owner]** is unable to negotiate a satisfactory design-build contract with the highest ranked design-builder, **[Owner]** should then undertake negotiations with the second highest ranked design-builder and may enter into a design-build contract after negotiations. If **[Owner]** is unable to negotiate a satisfactory contract with the second highest ranked design-builder, **[Owner]** should undertake negotiations with the third highest ranked design-builder, if any, and may enter into a design-build contract after negotiations.
8. If **[Owner]** is unable to negotiate a satisfactory contract with any of the ranked design-builders, **[Owner]** may either revise the request for proposals and solicit new proposals or cancel the design-build process.

2.3: Criteria for Evaluation of Proposals and the Relative Weights of each Criterion and Other Criteria Required by [Owner]

The selection committee and the owner shall evaluate proposals taking into consideration the criteria enumerated below with the maximum percentage of total points for evaluation which may be assigned to each criterion. [**The following criteria shall be evaluated, when applicable.]**

Item	Criterion	Weight (points)
1	The financial resources of the design-builder to complete the project	10
2	The ability of the proposed personnel of the design-builder to perform	30
3	The character, integrity, reputation, judgment, experience and efficiency of the design-builder	30
4	The quality of performance ion previous projects	30
5	The ability of the design-builder to perform within the time specified	30
6	The previous and existing compliance of the design- with laws relating to the contract	10
7	Such other information as may be secured having a bearing on the selection	20

Other Criteria Items for Evaluation Required by [Owner]

2.4: Terms and Conditions of the Design-Build Contract

Identify the document here the proposed general terms and conditions shall be consistent with nationally recognized model general terms and conditions which are standard in the design and construction industry in Nebraska,

A draft copy of AIA documents may be obtained from:

American Institute of Architects – Nebraska
P.O. Box 8045
Lincoln, Nebraska 68501 402-472-1476 http://www.aiane.org/

A draft copy of ConsensusDOCS documents may be obtained from:

Associated General Contractors-Nebraska Building Chapter
1327 H Street #202
Lincoln, Nebraska 68508 402-438-0400 http://www.agcnebuilders.com

A draft copy of EJCDC documents may be obtained from:

American Council of Engineering Companies-Nebraska
301 South 13th Street, #101
Lincoln, Nebraska 68508 402-476-2572 http://www.acecnebraska.org

2.5: Policies Adopted by [Owner] Relevant to the Project

1. Procedures for the preparation and content of requests for proposals
2. Procedures and standards to be used to prequalify design-builders and construction managers
3. Procedures for preparing and submitting proposals
4. Procedures for evaluating proposals
5. Procedures for negotiations between [Owner] and the design-builders or construction managers submitting proposals prior to the acceptance of a proposal

EXHIBIT 3

SAMPLE

REQUEST for PROPOSALS

For

CONSTRUCTION MANAGER AT RISK PROJECT

EXHIBIT 3 SAMPLE REQUEST for PROPOSALS for CONSTRUCTION MANAGER AT RISK PROJECT

[Owner] is requesting Request for Proposals from Construction Managers at Risk for [name of Project]. The information provided in the Proposal will be used by **[Owner]** to select the Construction Manager at Risk utilizing criteria issued and defined herein.

The Construction Manager at Risk selected by **[Owner]** will enter into a Construction Manager at Risk contract with **[Owner]** to furnish a) consultation with **[Owner]** architect or engineer related to construction cost, construction scheduling and phasing and best value practices and b) labor, material, supplies, equipment, and construction services for the Project. This process is pursuant to the act.

The scope of the Project is [e.g. XYZ Company *of _____, Nebraska intends to construct a new warehouse to replace the existing facility consisting of offices, conference rooms, lobby, public restrooms and support spaces, etc. . .*
Location of supporting documents to this RFP are listed below:

- The full project scope, budget and schedule parameters and bond and insurance required by law or [Owner] are found in Exhibit 3.1
- The process for evaluation of proposals for the Construction Manager at Risk contract are found in Exhibit 3.2
- The criteria for evaluation of proposals and the relative weights of each criterion are found in Exhibit 3.3
- The terms and conditions of the Construction Manager at Risk contract are found in Exhibit 3.4
- Policies adopted by [Owner] relevant to the project are found in Exhibit 3.5

Prospective Construction Managers at Risk shall respond to all items in this questionnaire. Failure to do so will deem the Proposal nonresponsive at the discretion of **[Owner].**

Submittal Requirements

1. **Cover letter**
2. **Table of Contents**
3. **Financial Resources of the Construction Manager at Risk to Complete the Project**
   (Percentage of Total Points Available – 10%)
   a. Surety – provide certification from surety that Construction Manager at Risk's bonding capacity is adequate to construct the proposed project
   b. Insurance – provide certificates from your insurance carrier(s) for required coverage for construction services
4. **Ability of the Proposed Personnel of the Construction Manager at Risk to Perform**
   (Percentage of Total Points Available – 30%)
   a. Provide an **organization chart** identifying the lead individual in each role classification. These include, but are not limited to, the following services (if applicable) for the project:
      - **i.** Construction Manager at Risk Principal
      - **ii.** Project Superintendent
      - **iii.** Project Foreman

   b. List any **specialty subconsultants** required for the project.
   c. For each individual listed above, provide the following resume information:
      - **i.** Name and role in the project
      - **ii.** Relationship to Construction Manager at Risk (employee, subconsultant, subcontractor, etc.)
      - **iii.** Company
      - iv. Contact information (address, phone)
      - **v.** Professional registrations/certifications
      - **vi.** Years with current firm and with other firms
      - **vii.** List of five (5) relevant or similar projects including:
         1. Project name and brief scope of services provided
         2. Year completed
         3. Reference (name, title, phone and email address)

5. **Character, Integrity, Reputation, Judgment, Experience, and Efficiency of the Construction Manager at Risk** (Percentage of Total Points Available – 30%)
   a. Construction Manager at Risk shall list a reference in the following categories (provide name, company, address, phone and relationship to the reference):
      - **i.** Financial (bank or surety)
      - **ii.** Project of similar scope (contractual point of contact for owner)
      - iii. Facility user of project of similar scope (such as school principal, department manger or facility manager)

6. **Quality of Performance on Previous Projects** (Percentage of Total Points Available – 30%)
   a. The Construction Manager at Risk shall list five (5) completed projects of similar scope or budget and provide the following information for each:
      - **i.** Project name – brief description of relevance to the project of this RFP
      - **ii.** Address
      - **iii.** Owner, contact name , title, address and phone
      - **iv.** Design Professional – firm name, contact name, address and phone

v. Type of project delivery (CM@Risk, design-build, design-bid-build)
vi. Project performance
    1. Budget
    2. Schedule (days/months)
    3. List 3 specific problems and how they were resolved
    4. Claims made by owner regarding budgets, schedule or performance

7. Ability of the Construction Manager at Risk to Perform Within the Time Specified (Percentage of Total Points Available – 30%)

a. Provide detailed information on the five (5) listed projects above with respect to:
    i. Design schedule – in working with the design professional, the proposed and actual (number of calendar days total for programming, preliminary design and final design)
    ii. Construction schedule – proposed and actual
        1. Date of Substantial Completion
        2. Date of Final Completion
        3. Post-construction warranty work required
        4. Was the client inconvenienced by the delivery dates of any of the services provided by the Construction Manager at Risk?

8. Previous and Existing Compliance of the Construction Manager at Risk with Laws Relating to the Contract (Percentage of Total Points Available – 10%)

a. Has the Construction Manager at Risk's team been cited for failure to comply with local, state or federal law of any nature in the last five (5) years? ____Yes, ____No
    i. If yes, explain in detail

b. Are there any civil or criminal actions pending against the Construction Manager at Risk or any proposed member of the team? ____Yes _____No
    i. If yes, explain in detail

9. Such Other Information as May be Secured Having a Bearing on the Selection (Percentage of Total Points Available – 20%)

a. Subcontractors: List the work on this project you expect to subcontract
b. Current capacity: provide a list of your firm's and your subconsultant's current contracted projects and the scope of those projects.

3.1: Project Scope, Budget and Schedule parameters and Bond and Insurance required by law or [Owner]

List here in summary form, yet with enough detail for Construction Manager at Risk to properly respond to the questions of the RFP, the Project objectives, the facility program statement, performance criteria, site information, and such graphic plans (site and building) as may have been prepared.

List the budget parameters established by [Owner]

The Owner may want to list bonds and insurance requirements of the Construction Manager at Risk.

3.2: Process for Receipt and Evaluation of Proposals for the Construction Management at Risk Contract

[Owner] shall receive and evaluate proposals for a construction manager at risk contract in accordance with the following:

1. Proposals shall be sealed and shall not be opened until expiration of the time established for making proposals as set forth in the request for proposals.
2. Proposals may be withdrawn at any time prior to acceptance. **[Owner]** shall have the right to reject any and all proposals. **[Owner]** may thereafter solicit new proposals using the same or different project performance criteria.
3. In evaluating proposals in accordance with criteria in Exhibit 3.3 of the request for proposals, **[Owner]** shall refer the proposals for recommendation to him/herself or a selection committee designated by **[Owner]**.
4. **[Owner]** shall evaluate and rank each proposal on the basis of best meeting the criteria in the request for proposals and taking into consideration the recommendation of the selection committee, if any.
5. **[Owner]** shall attempt to negotiate a construction management at risk contract with the highest ranked construction manager and may enter into a construction management at risk contract after negotiations. The negotiations shall include a final determination of the manner by which the construction manager selects a subcontractor. If **[Owner]** is unable to negotiate a satisfactory contract with the highest ranked construction manager, the **[Owner]** may terminate negotiations with that construction manager. The **[Owner]** may then undertake negotiations with the second highest rated construction manager and may enter into a construction manager at risk contract after negotiations. If **[Owner]** is unable to negotiate a satisfactory contract with the second highest ranked construction manager, **[Owner]** may undertake negotiations with the third highest ranked construction manager, if any, and may enter into a construction management at risk contract after negotiations.
6. If **[Owner]** is unable to negotiate a satisfactory contract with any of the ranked construction managers, **[Owner]** may either revise the request for proposals and solicit new proposals or cancel the construction management at risk.

3.3: Criteria for Evaluation of Proposals and the Relative Weights of each Criterion and Other Criteria Required by [Owner]

The selection committee and the owner shall evaluate proposals taking into consideration the criteria enumerated below with the maximum percentage of total points for evaluation which may be assigned to each criterion. [**The following criteria shall be evaluated, when applicable.]**

Item	Criterion	Weight (points)
1	The financial resources of the construction manager to complete the project	10
2	The ability of the proposed personnel of the construction manager to perform	30
3	The character, integrity, reputation, judgment, experience and efficiency of the construction manager	30
4	The quality of performance on previous projects	30
5	The ability of the or construction manager to perform within the time specified	30
6	The previous and existing compliance of the construction manager with laws relating to the contract	10
7	Such other information as may be secured having a bearing on the selection	20

Other Criteria Items for Evaluation Required by [Owner]

Owner to list any other criterion and weight points where applicable

3.4: Terms and Conditions of the Construction Manager at Risk Contract

Identify the document here (the proposed general terms and conditions shall be consistent with nationally recognized model general terms and conditions which are standard in the design and construction industry in Nebraska. Complete all terms such exclusive of project cost.

A draft copy of AIA documents may be obtained from:

American Institute of Architects – Nebraska
P.O. Box 8045
Lincoln, Nebraska 68501 402-472-1476 http://www.aiane.org/

A draft copy of ConsensusDOCS documents may be obtained from:

Associated General Contractors-Nebraska Building Chapter
1327 H Street #202
Lincoln, Nebraska 68508 402-438-0400 http://www.agcnebuilders.com

A draft copy of EJCDC documents may be obtained from:

American Council of Engineering Companies-Nebraska
301 South 13th Street, #101
Lincoln, Nebraska 68508 402-476-2572 http://www.acecnebraska.org

3.5: Policies Adopted by [Owner] Relevant to the Project

1. Procedures for the preparation and content of requests for proposals
2. Procedures for preparing and submitting proposals
3. Procedures for evaluating proposals
4. Procedures for negotiations between [Owner] and the construction manager at risk submitting proposals prior to the acceptance of a proposal