

New Construction and Improvements to Existing BuildingsEducational Specifications, Facilities Studies, Construction Design and Delivery, Bids/Proposals and Bidding/Proposing, and Project Site Security

1. ***Education Specifications - Generally:*** The education specifications typically include the financial resources available for the project, the definition and character of classrooms, the functional use to be made of the rooms, description of specialized needs, the construction materials, quality and life cycle standards, and other pertinent information as the board deems necessary.

2. ***Facilities Studies:***

A. **Facilities Study Committee:** Prior to remodeling or other construction of buildings and sites, the board may appoint a committee of consultants, employees, citizens, or others to assist the board in developing the specifications and master plan for the construction of new educational facilities or additions to or improvement of existing buildings and sites, and the schedule and sequencing thereof. Any such specifications and/or master plan shall be consistent with the education program, and shall provide the architect and/or Construction Manager as Constructor (CMC), Construction Manager at Risk (CMR) or Design Builder (DB) (as defined more fully below) retained for such project(s), if any, with the information necessary to determine the expected scope of use of the facility. It shall be within the discretion of the board to determine whether a committee shall be appointed.

B. **Facilities Study and Master Planning Consultants:** The board may engage the services of consultants (including architects, engineer, and/or CMC, CMR or DBs) or other personnel to study the needs of the School District's buildings and sites in providing the education program. The results of these services will be considered in planning the education program and in making decisions about the construction of new facilities, the improvement of or additions to existing facilities, and the acquisition of additional buildings and sites. It shall be the responsibility of the superintendent and/or board of education facilities planning committee, if any, to make a recommendation to the board regarding the need for such services and who should perform such services for the board.

3. ***Building Construction Standards:*** New school buildings, additions or improvements to existing school buildings or facilities, existing buildings considered to be used for the education program of the School District must meet, or upon improvement be able to meet, the educational specifications and construction materials, quality and life cycle standards established by the Board of Education. The Board of Education may retain such consultants as deemed necessary from time-to-time to establish these building construction standards.

4. ***Retention of Design Services:*** The board of education may retain the services of design professionals for the development of plans and specifications for the new school buildings, additions or improvements to existing school buildings or facilities, and for existing buildings considered to be used for the education program of the School District.

5. ***Method of Construction Delivery:*** Prior to construction or renovation of buildings and sites the board shall make a determination of the construction delivery methods or methods allowed by law by which it will obtain construction services for a project or projects. If the board elects to use the Construction Management at Risk or Design-Build methods under the Political Subdivisions Construction Alternatives Act, Neb. Rev. Stat. 13-2901, et. seq., policies for the method chosen must first be established.

6. ***Method of Advertising for Bids/Proposals under CMC, CMR or DB as Constructor per Neb. Rev. Stat. § 73-106, or the Construction Management at Risk or Design-Build methods under the Political Subdivisions Construction Alternatives Act, Neb. Rev. Stat. 13-2901:*** All portions of any public project involving the expenditure of School District funds for the construction, remodeling, or repair of any school-owned building or for site improvements having a total project cost of forty thousand dollars (\$40,000) or more, must be competitively bid/proposed, including all portions of project using the construction delivery methods of design-bid-build, CMC, CMR or DB as Constructor per Neb. Rev. Stat. § 73-106, or the Construction Management at Risk or Design-Build methods under the Political Subdivisions Construction Alternatives Act, Neb. Rev. Stat. 13-2901, or projects using a multiple prime contract method of construction delivery managed by a Construction Manager as Agent (CMA). For such projects the School District shall advertise for bids/proposals in the regular manner established by the Board of Education which shall accept or reject bids/proposals pursuant to Neb. Rev. Stat. § 73-101. The regular manner for advertising for bids/proposals under the CMA, CMC, CMR or DB as Constructor (CMC) per Neb. Rev. Stat. § 73-106, or the Construction Management at Risk (CMR) or Design-Build (DB) methods of construction delivery pursuant to the Political Subdivisions Construction Alternatives Act, Neb. Rev. Stat. 13-2901, is as follows:

A. Advertisement for Competitive Bids/Proposals: As the Owner's representative, the CMA, CMC, CMR or DB shall advertise for competitive bids/proposals for all portions of the Work pursuant to the bid/proposal process adopted and designated by the Owner which may be placed in the Project Manual for each bid/proposal package, which shall provide as follows:

1. All contracts for work related to building construction, remodeling or repair or site improvements will be bid/proposed in accordance with state statutes in the regular manner established by the Board. All other contracts will be handled under current district policies and regulations.

2. Building construction, remodeling or repair or site improvement projects should be combined to the extent possible.

3. The regular manner established by the Board of Education for advertising for bids/proposals for all contracts for the construction of all improvements and work listed for the Project through the Superintendent of Schools, or his/her designee, shall be by: (a) preparing invitations for bids/proposals and proposed contract documents; (b) publishing public notice which includes the general nature of the proposed work, fixes the hour, date, time and place where such bids/proposals shall close, or be received or opened, and provides the name and telephone number of a person to be contacted by anyone interested in submitting a bid/proposal to contract for such work in a newspaper of general circulation in the School District at least

fourteen (14) days prior to bid/proposal opening and providing other public notice; (c) establishing evaluation criteria, interview and selection procedures which may include consultations with one or more Bidders/Proposers according to the requirements of any federal, state, and local laws applicable, with the board giving approval to and making the award of any final contracts; and (d) preparing, signing, executing and delivering all documents, and taking or causing to be taken all other necessary or appropriate action to complete the bidding/proposing and proposal process for each contract; and that the above shall and is hereby determined to be the regular manner established by the Owner for advertising for bids/proposals for all contracts for the Project.

4. The above regular manner established by the board relates to all forms of construction, remodeling, or repair and all contractors and subcontractors, including the various forms of construction delivery CMA, CMC, CMR or DB and any subcontracts thereunder.

5. In implementing the forgoing bid/proposal process the CMC, CMR or DB shall be generally responsible for, but not limited to:

a. **SCHEDULE FOR LETTING BIDS/PROPOSALS:** Establish a schedule for letting bids/proposals for each portion of the Work pursuant to a Critical Path Method Schedule (CPMS) established for the Project to be prepared by the CMA, CMC, CMR or DB and provided to the School District/Owner;

b. **DATES FOR ADVERTISEMENT OF BIDS/PROPOSALS:** Establish dates for advertising for and opening of bids/proposals;

c. **LOCATION OF BID/PROPOSAL OPENING:** Establish location for opening bids/proposals;

d. **PUBLICATION OF BIDS/PROPOSALS:** Arrange for publication of advertisement for bids/proposals, which publication shall fix the day and hour upon which the bids/proposals shall be returned or received, and the date, hour and location the bids/proposals will be opened, and that the bids/proposals shall be opened in the presence of the Bidders/Proposers, or representatives of the Bidders/Proposers, when the hour is reached for the bids/proposals to close;

e. **PROVISION OF CONSTRUCTION DOCUMENTS:** Provide to all prospective Bidders/Proposers the Plans and Specifications for the portion of the Work being let for bids/proposals;

f. **PRE-BID/PROPOSAL CONFERENCES:** Conduct pre-bid/proposal conferences with firms interested in submitting bids/proposals as Subcontractors following the GCPMS for the Project;

g. **SPECIFY REQUIRED INFORMATION FROM BIDDERS/PROPOSERS:** Confirm with all prospective Subcontract Bidders/Proposers that they

will provide all information requested of Bidders/Proposers on the Work required by the Owner in the bid/proposal documents;

h. PRESENCE AT BID/PROPOSAL OPENINGS: Be present at all bid/proposal openings;

i. EVALUATION OF BIDS/PROPOSALS: In consultation with the Owner and Architect, evaluate each bid/proposal and bidder/proposer, and assist the Owner in determining which bids/proposals will be accepted as the lowest responsible bid/proposal for portions of the Work being bid/proposed. For purposes of this Agreement, the term "lowest responsible bidder/proposer" shall mean financial responsibility, the general ability and capacity of the bidder/proposer to perform the Work, the bidder's/proposer's facilities and suitability for the task, and those qualities which the bidder/proposer must necessarily have in order to be able to perform the contract strictly in accordance with its terms;

j. BIDDING/PROPOSING BY CMC, CMR or DB: Should the CMC, CMR or DB or a construction contractor in any way affiliated with the CMC, CMR or DB as defined by the Owner submit a bid/proposal for a portion of the Work being let for bids/proposals, the same procedures and processes as required of all Bidders/Proposers shall be followed, and the bid/proposal of the CMC, CMR or DB or a construction contractor affiliated in any way with the CMC, CMR or DB may only be accepted if such bid/proposal is the lowest responsible dollar amount bid/proposed;

k. CONFORMANCE BY MATERIAL SUPPLIERS: Subcontracts and agreements with suppliers furnishing materials or equipment fabricated to a special design shall conform to the bidding/proposing provisions herein.

l. REBIDDING/PROPOSING OF WORK: In cooperation with the Architect and Owner, the CMC, CMR or DB shall assist with the rebidding/proposing of any portion of the Work for which no satisfactory bid/proposal has been received;

m. BID/PROPOSAL BONDS: The CMC, CMR or DB shall require Bidders/Proposers to submit bid/proposal bonds or other bid/proposal security and, as applicable, payment and performance bonds and certificates of insurance acceptable to the CMC, CMR or DB and Owner as a prerequisite to bidding/proposing on portions of the Work to be performed by Subcontract.

7. *Project Site Security Plan:*

A. General Conditions of Contract: The General Conditions of Contract for any School District project shall be the AIA A201, 1997 or AIA A201 CMA - 1992, as applicable, which shall be supplemented to include the following provision:

§ 3.4.2.3 If selected, the Contractor shall not assign any individual or agent to any work on an awarded project with a criminal record of a serious nature as defined by the School District/Owner's policy, regulations, practices or directives, including but not limited to any of the following: (a) a felony; (b) rape, including statutory rape, or any other sexual assault; (c) sexual conduct with a minor of any kind; (d) abuse of a minor or child of any kind; (e)

endangerment of a child or debauching a minor; (f) public indecency; (g) prostitution, pandering, or keeping a place of prostitution; (h) assault or battery (i) kidnapping, false imprisonment or abduction; (j) child pornography; or (k) any offense in which a minor was a victim or a witness. The Contractor shall authorize and give consent, and agrees to cooperate in obtaining any additional authorization or consent necessary to assure compliance with this requirement.

B. Project Site Security Protocol:

1. Prior to performing any work or entering on the Project Site, all contractors and subcontractors, and suppliers and materialmen shall sign a "Contractor/Supplier Criminal Records Certification", a copy of which is attached hereto, certifying that such contractor shall not assign to work on any Seward Public School District building project an employee having a criminal record as defined by the School District/Owner's policy, regulations, practices or directives, including but not limited to any of the following: (a) a felony; (b) rape, including statutory rape, or any other sexual assault; (c) sexual conduct with a minor of any kind; (d) abuse of a minor or child of any kind; (e) endangerment of a child or debauching a minor; (f) public indecency; (g) prostitution, pandering, or keeping a place of prostitution; (h) assault or battery; (i) kidnapping, false imprisonment or abduction; (j) child pornography; or (k) any offense in which a minor was a victim or a witness. Such certification shall remain on file at all times during the contractor's presence on the site.

2. The CMC, CMR or DB shall establish a school building construction site security protocol which shall include providing all employees of the contractors, employees of sub-contractors to the contractors, and other project related personnel with a "Project" badge or sticker created by the CMC, CMR or DB; each badge or sticker shall have a unique identifier number. This unique identifier number must be logged by the CMC, CMR or DB's Site Superintendent or Project Manager so as to associate each individual's name and company with the number on the badge. A copy of the log shall be kept at all times in the office of the CMC, CMR or DB's Site Superintendent and must be submitted to the Superintendent's Office at the end of each week. If wearing the CMC, CMR or DB provided "Project" badge is not desirable and will interfere with the work being performed by that individual, the CMC, CMR or DB shall provide a sticker with the necessary information for identification for affected personnel, which shall include the unique number on the identification. This sticker may be affixed to the individual worker's hard hats. All means of identification other than what is provided by the CMC, CMR or DB must be approved by the CMC, CMR or DB's on-site Superintendent or Project Manager prior to implementation by the contractor. Identification must be visible at all times. Personnel failing to comply with the job-site security requirements may be required by the CMC, CMR or DB or School District personnel to leave the job-site.

3. A copy of the list of properly certified workers and other personnel authorized to be on the work site shall be provided by each contractor to the CMC, CMR or DB for the Project and kept in the on-site offices.

Legal Reference: Neb. Rev. Stat. § 73-101; Neb. Rev. Stat. § 73-106; Political Subdivisions Construction Alternatives Act, Neb. Rev. Stat. 13-2901, et. seq.

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