

34-603. Procurement of professional services and construction-manager-at-risk, design-build and job-order-contracting construction services; definition

A. Except for services that are under a single contract and that an agent procures pursuant to section 34-103 or 34-606, an agent shall procure a single contract for the following services pursuant to this section:

1. Architect services.
2. Construction-manager-at-risk construction services.
3. Design-build construction services.
4. Engineer services.
5. Job-order-contracting construction services.
6. Landscape architect services.
7. Assayer services.
8. Geologist services.
9. Land surveying services.

B. An agent shall provide notice of each procurement of professional services or construction services specified in this section and shall award the single contract on the basis of demonstrated competence and qualifications for the type of professional services or construction services pursuant to the procedures prescribed in this section.

C. In a procurement of a single contract for professional services or construction services pursuant to this section:

1. The following requirements apply:

(a) The agent and the selection committee shall not request or consider fees, price, man-hours or any other cost information at any point in the selection process under this subsection or under subsection D of this section, including the selection of persons or firms to be interviewed, the selection of persons or firms to be on the final list, in determining the order of preference of persons or firms on the final list or for any other purpose in the selection process.

(b) In determining the persons or firms to participate in any interviews and in determining the persons and firms to be on the final list and their order on the final list, the selection committee shall use and shall consider only the criteria and weighting of criteria specified by the agent for that purpose as provided in this subsection. No other factors or criteria may be used in the evaluation, determinations and other actions.

(c) An agent is limited to one contract in each procurement under this section. Alternatively:

(i) For construction-manager-at-risk construction services, an agent may elect separate contracts for preconstruction services during the design phase, for construction during the construction phase and for any other construction services.

(ii) For design-build construction services, an agent may elect separate contracts for preconstruction services and design services during the design phase, for construction and design services during the construction phase and for any other construction services.

(iii) For professional services, an agent may enter into multiple contracts for different phases of a single project.

(d) All construction-manager-at-risk construction services or design-build construction services included in a procurement under this section shall be limited to construction services to be performed at a single location, a common location or, if the construction services are all for a similar purpose, multiple locations. For construction-manager-at-risk construction services and design-build construction services to be performed at multiple locations:

(i) At the time the request for qualifications is issued, the agent must intend to commence all construction at each location within thirty months after execution of the first contract for preconstruction services or other construction services at any of the locations.

(ii) The request for qualifications must include the information described in paragraph 2, subdivision (g) of this subsection.

(e) If the agent enters into the first contract for preconstruction services, construction services or professional services as the result of the procurement, the procurement under this section ends. After execution of that first contract the agent may not use the procurement or the existing final list in the procurement as the basis for entering into a contract with any other person or firm that participated in the procurement.

(f) Notwithstanding any other provision of this section specifying the number of persons or firms to be interviewed, the number of persons or firms to be on a final list or any other numerical specification in this section:

(i) If a smaller number of persons or firms respond to the request for qualifications or if one or more persons or firms drop out of the procurement so that there is a smaller number of persons or firms participating in the procurement, the agent may elect to proceed with the procurement with the participating persons or firms if there are at least

two participating responsive and responsible persons or firms. Alternatively, the agent may elect to terminate the procurement.

(ii) As to a request for qualifications for professional services or construction services to be negotiated pursuant to subsection E of this section only, if only one responsive and responsible person or firm responds to the request for qualifications or, if one or more persons or firms drop out of the procurement so that only one responsive and responsible person or firm remains in the procurement, the agent may elect to proceed with the procurement with only one person or firm if the agent determines in writing that the fee negotiated pursuant to subsection E of this section is fair and reasonable and that either other prospective persons or firms had reasonable opportunity to respond or there is not adequate time for a resolicitation.

(iii) If a person or firm on the final list withdraws or is removed from the procurement and the selection committee determines that it is in the best interest of the agent, the selection committee may replace that person or firm on the final list with another person or firm that submitted qualifications in the procurement and that is selected by the selection committee as the next most qualified.

2. An agent shall issue a request for qualifications for each procurement and publish notice of the request for qualifications. This notice shall be published by advertising in a newspaper of general circulation in the county in which the agent is located for two consecutive publications if it is a weekly newspaper or for two publications that are at least six but no more than ten days apart if it is a daily newspaper. The request for qualifications shall:

(a) State that one contract may or will be awarded, describe the services to be performed under the contract and state that one person or firm may or will be awarded the contract.

(b) In a procurement of a contract to be negotiated under subsection E of this section, state that there will be a single final list of at least three and not more than five persons or firms. In a procurement in which the contract will be awarded under subsection F of this section, the request for qualifications shall state that there will be a single final list and that the number of persons or firms on the final list will be three.

(c) As prescribed below, state the selection criteria and relative weight of the selection criteria to be used by the selection committee, except that for construction services one of the criteria shall be the person's or firm's subcontractor selection plan or procedures to implement the agent's subcontractor selection plan. All selection criteria under this subsection shall be factors that demonstrate competence and qualifications for the type of professional services or construction services included in the procurement. If:

(i) Interviews will be held, the request for qualifications shall state the selection criteria and relative weight of the selection criteria to be used in selecting the persons or firms to be interviewed and the request for qualifications may state the selection criteria and relative weight of the selection criteria to be used in selecting the persons or firms on the final list and in determining their order on the final list. The final list selection criteria and relative weights may be different than the selection criteria and relative weights used to determine the persons or firms to be interviewed. The request for qualifications shall also state whether the agent will select the persons or firms on the final list and their order on the final list solely through the results of the interview process or through the combined results of both the interview process and the evaluation of statements of qualifications and performance data submitted in response to the agent's request for qualifications.

(ii) Interviews will not be held, the request for qualifications shall state the selection criteria and relative weight of the selection criteria to be used in selecting the persons or firms on the final list and in determining their order on the final list.

(d) If the agent will hold interviews as part of the selection process, state that interviews will be held and that the interviews will be with at least three but not more than five persons or firms.

(e) For procurements of construction services, include either:

(i) A requirement that each person or firm submit a proposed subcontractor selection plan and a requirement that the proposed subcontractor selection plan must select subcontractors based on qualifications alone or on a combination of qualifications and price and shall not select subcontractors based on price alone.

(ii) A subcontractor selection plan adopted by the agent that applies to the person or firm that is selected to perform the construction services and that requires subcontractors to be selected based on qualifications alone or on a combination of qualifications and price and not based on price alone and a requirement that each person or firm must submit a description of the procedures it proposes to use to implement the agent's subcontractor selection plan.

(f) Include a description of the publicly available location of the agent's protest policy and procedures or, if the agent does not have a protest policy and procedures, a statement that the protest policy and procedures referred to in subsection J of this section apply to any protests in connection with the procurement.

(g) In a procurement of construction-manager-at-risk construction services or design-build construction services to be performed at multiple locations, include:

(i) A brief description of the construction services to be performed at each location.

(ii) The estimated budget for the construction services to be performed at each location.

(iii) A schedule for the construction services to be performed at each location that shows the agent's intent to commence all construction at each location within thirty months after execution of the first contract for preconstruction services or other construction services at any of the locations.

3. An agent shall initiate an appropriately qualified selection committee for each request for qualifications. The agent shall ensure that the selection committee members are competent to serve on the selection committee. Each selection committee must include one employee of the agent or an agent representative who is appointed by the agent. If the agent is procuring professional services, the agent shall determine the number and qualifications of the selection committee members. A selection committee for the procurement of construction services shall not have more than seven members, except that, if the contract involves the agent and additional governmental or private participants, the number of members of the selection committee shall be increased by one for each additional participant, except that the maximum number of members of the selection committee is nine. The selection committee for construction services shall include at least one person who is a senior management employee of a licensed contractor and one person who is an architect or an engineer who is registered pursuant to section 32-121. These members may be employees of the agent or outside consultants. Outside contractors, architects and engineers serving on a selection committee shall not receive compensation from the agent for performing this service, but the agent may elect to reimburse outside contractors, architects and engineers for travel, lodging and other expenses incurred in connection with service on a selection committee. A person who is a member of a selection committee shall not be a contractor under a contract awarded under the procurement or provide any professional services, construction, construction services, materials or other services under the contract. The selection committee and the agent shall do the following:

(a) If interviews are specified in the request for qualifications:

(i) The selection committee shall determine the persons or firms to be interviewed by evaluating the statements of qualifications and performance data that are submitted in response to the agent's request for qualifications based only on the selection criteria and relative weight of the selection criteria stated in the request for qualifications to be used to determine the persons or firms to be interviewed.

(ii) If the selection criteria and relative weight of the selection criteria to be used by the selection committee to select the persons or firms on the final list and to determine their order on the final list are not included in the request for qualifications, before the interviews are held the agent shall distribute to the persons or firms to be interviewed the selection criteria and relative weight of the selection criteria to be used to select the

persons or firms on the final list and to determine their order on the final list. These selection criteria and relative weight may be different than the selection criteria and relative weight used to determine the persons or firms to be interviewed.

(iii) The selection committee shall conduct interviews with the number of persons or firms to be interviewed as stated in the request for qualifications regarding the professional services or construction services and the relative methods of approach for furnishing the required professional services or construction services.

(b) Based only on the selection criteria and relative weight of the selection criteria specified as provided in this subsection for selection of the persons or firms on the final list and their order on the final list, the selection committee shall select the persons or firms for the final list and, in the case of a final list for a contract that will be negotiated under subsection E of this section, rank the persons or firms on the final list in order of preference.

(c) If the contract will be negotiated under subsection E of this section, before or at the same time as the agent notifies the highest ranking person or firm on the final list that it is the highest ranking person or firm, the agent shall send actual notice to each of the following that it is not the highest person or firm on the final list or that another person or firm is the highest ranking person or firm on the final list:

(i) If interviews were held, the other persons and firms interviewed.

(ii) If interviews were not held, the other persons and firms that made submittals.

(d) If the contract will be awarded under subsection F of this section, before or at the same time as the agent notifies the persons or firms on the final list that they are on the final list, the agent shall send actual notice to each of the following persons or firms that they are not on the final list or that other persons or firms are on the final list:

(i) If interviews were held, the other persons or firms interviewed.

(ii) If interviews were not held, the other persons or firms that made submittals.

D. An agent shall award the single contract under the procurement as provided in subsection E or F of this section.

E. The agent shall conduct negotiations with persons or firms on the final list as follows:

1. The procurement is for a single contract for construction services or professional services, and there is one final list.

2. The negotiations shall include consideration of compensation and other contract terms that the agent determines to be fair and reasonable to the agent. In making this decision, the agent shall take into account the estimated value, the scope, the

complexity and the nature of the professional services or construction services to be rendered.

3. The agent shall enter into negotiations with the highest qualified person or firm on the final list.

4. If the agent is not able to negotiate a satisfactory contract with the highest qualified person or firm on the final list, at compensation and on other contract terms the agent determines to be fair and reasonable, the agent shall formally terminate negotiations with that person or firm. The agent shall then undertake negotiations with the next most qualified person or firm on the final list in sequence until an agreement is reached or a determination is made to reject all persons or firms on the final list.

5. If in a procurement under this section the agent terminates negotiations with a person or firm on the final list and commences negotiations with another person or firm on the final list, the agent shall not in that procurement recommence negotiations or enter into a contract for the construction services or professional services covered by the final list with any person or firm on the final list with whom the agent has terminated negotiations.

F. As an alternative to subsection E of this section, an agent may award a single contract for design-build construction services or job-order-contracting construction services as follows:

1. The agent shall use the selection committee appointed for the request for qualifications pursuant to subsection C of this section.

2. The agent shall issue a request for proposals to the persons or firms on the final list developed pursuant to subsection C of this section.

3. The request for proposals shall include:

(a) The agent's project schedule and project final budget for design and construction or life cycle budget for a procurement that includes maintenance services or operations services.

(b) A statement that the contract will be awarded to the offeror whose proposal receives the highest number of points under a scoring method.

(c) A description of the scoring method, including a list of the factors in the scoring method and the number of points allocated to each factor. The factors in the scoring method may include:

(i) For design-build construction services only, demonstrated compliance with the design requirements.

(ii) Offeror qualifications.

(iii) Offeror financial capacity.

(iv) Compliance with the agent's project schedule.

(v) For design-build construction services only, if the request for proposals specifies that the agent will spend its project budget and not more than its project budget and is seeking the best proposal for the project budget, compliance of the offeror's price or life cycle price for procurements that include maintenance services, operations services or finance services with the agent's budget as prescribed in the request for proposals.

(vi) For design-build construction services if the request for proposals does not contain the specifications prescribed in item (v) of this subdivision and for job-order-contracting construction services, the price or life cycle price for procurements that include maintenance services, operations services or finance services.

(vii) An offeror quality management plan.

(viii) Other evaluation factors that demonstrate competence and qualifications for the type of construction services in the request for proposals as determined by the agent, if any.

(d) For design-build construction services only, the design requirements.

(e) A requirement that each offeror submit separately a technical proposal and a price proposal and that the offeror's entire proposal be responsive to the requirements in the request for proposals. For design-build construction services, the price in the price proposal shall be a fixed price or a guaranteed maximum price.

(f) A statement that in applying the scoring method the selection committee will separately evaluate the technical proposal and the price proposal and will evaluate and score the technical proposal before opening the price proposal.

(g) If the agent conducts discussions pursuant to paragraph 5 of this subsection, a statement that discussions will be held and a requirement that each offeror submit a preliminary technical proposal before the discussions are held.

4. If the agent determines to conduct discussions pursuant to paragraph 5 of this subsection, each offeror shall submit a preliminary technical proposal to the agent before those discussions are held.

5. If determined by the agent and included by the agent in the request for proposals, the selection committee shall conduct discussions with all offerors that submit preliminary technical proposals. Discussions shall be for the purpose of clarification to ensure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be

accorded fair treatment with respect to any opportunity for discussion and for clarification by the owner. Revision of preliminary technical proposals shall be permitted after submission of preliminary technical proposals and before award for the purpose of obtaining best and final proposals. In conducting any discussions, information derived from proposals submitted by competing offerors shall not be disclosed to other competing offerors.

6. After completion of any discussions pursuant to paragraph 5 of this subsection or if no discussions are held, each offeror shall submit separately the offeror's final technical proposal and its price proposal.

7. Before opening any price proposal, the selection committee shall open the final technical proposals, evaluate the final technical proposals and score the final technical proposals using the scoring method in the request for proposals. No other factors or criteria may be used in the evaluation and scoring.

8. After completion of the evaluation and scoring of all final technical proposals, the selection committee shall open the price proposals, evaluate the price proposals, score the price proposals and complete the scoring of the entire proposals using the scoring method in the request for proposals. No other factors or criteria may be used in the evaluation and scoring.

9. The agent shall award the contract or contracts to the responsive and responsible offeror whose proposal receives the highest score under the method of scoring in the request for proposals. No other factors or criteria may be used in the evaluation. Before or at the same time as the agent notifies the winning offeror that it has won, the agent shall send actual notice to each other offeror either that the offeror has not won or that another offeror has won.

10. The contract or contracts file shall contain the basis on which the award is made, including at a minimum the information and documents required under subsection G of this section.

11. For design-build construction services only, the agent shall award a stipulated fee equal to a percentage, as prescribed in the request for proposals, of the agent's project final budget for design and construction, as prescribed in the request for proposals, but at least four-tenths of one percent of the project final budget for design and construction to each final list offeror who provides a responsive, but unsuccessful, proposal. If the agent does not award a contract, all responsive final list offerors shall receive the stipulated fee based on the owner's project final budget for design and construction as included in the request for proposals. The agent shall pay the stipulated fee to each offeror within ninety days after the award of the initial contract or the decision not to award a contract. In consideration for paying the stipulated fee, the agent may use any

ideas or information contained in the proposals in connection with any contract awarded for the project, or in connection with a subsequent procurement, without any obligation to pay any additional compensation to the offerors. Notwithstanding the other provisions of this paragraph, an offeror may elect to waive the stipulated fee. If an offeror elects to waive the stipulated fee, the agent may not use ideas and information contained in the offeror's proposal, except that this restriction does not prevent the agent from using any idea or information if the idea or information is also included in a proposal of an offeror that accepts the stipulated fee.

G. At a minimum, the agent shall retain the following for each procurement under this section:

1. For each request for qualifications procurement process under subsection C or subsection K, paragraph 2 of this section:

(a) If interviews were not held:

(i) The submittal of the person or firm listed first on the final list and, if different, the submittal of the person or firm with which the agent enters into a contract.

(ii) The final list.

(iii) A list of the selection criteria and relative weight of selection criteria used to select the persons or firms for the final list and to determine their order on the final list.

(iv) A list that contains the name of each person or firm that submitted qualifications and that shows the person's or firm's final overall rank or score.

(v) A document or documents that show the final score or rank on each selection criterion of each person or firm that submitted qualifications and that support the final overall rankings and scores of the persons or firms that submitted qualifications. At the election of the agent, this documentation may be in the form of a consolidated scoring sheet for the entire selection committee, in the form of individual scoring sheets for individual selection committee members or any other form as determined by the agent.

(b) If interviews were held:

(i) All submittals of the person or firm listed first on the final list and, if different, all submittals of the person or firm with which the agent enters into a contract.

(ii) The final list.

(iii) A list of the selection criteria and relative weight of selection criteria used to select the persons or firms for the final list and to determine their order on the final list.

(iv) A list that contains the name of each person or firm that was interviewed and that shows the person's or firm's final overall rank or score.

(v) A document or documents that show the final score or rank on each selection criterion of each person or firm that was interviewed and that support the final overall rankings and scores of the persons or firms that were interviewed. At the election of the agent, this documentation may be in the form of a consolidated scoring sheet for the entire selection committee, in the form of individual scoring sheets for individual selection committee members or any other form as determined by the agent.

(vi) A list of the selection criteria and relative weight of the selection criteria used to select the persons or firms for the short list to be interviewed.

(vii) A list that contains the name of each person or firm that submitted qualifications and that shows the person's or firm's final overall rank or score in the selection of the persons or firms to be on the short list to be interviewed.

(viii) A document or documents that show the final score or rank on each selection criterion of each person or firm that submitted qualifications and that support the final overall rankings and scores of the persons or firms that submitted qualifications in the selection of the persons or firms to be on the short list to be interviewed. At the election of the agent, this documentation may be in the form of a consolidated scoring sheet for the entire selection committee, in the form of individual scoring sheets for the individual selection committee members or any other form as determined by the agent.

2. For each request for proposals procurement process under subsection F or subsection K, paragraph 3 of this section:

(a) The entire proposal submitted by the person or firm that received the highest score in the scoring method in the request for proposals and, if different, the entire proposal submitted by the person or firm with which the agent enters into a contract.

(b) The description of the scoring method, the list of factors in the scoring method and the number of points allocated to each factor, all as included in the request for proposals.

(c) A list that contains the name of each offeror that submitted a proposal and that shows the offeror's final overall score.

(d) A document or documents that show the final score on each factor in the scoring method in the request for proposals of each offeror that submitted a proposal and that support the final overall scores of the offerors that submitted proposals. At the election of the agent, this documentation may be in the form of a consolidated scoring sheet for the entire selection committee, in the form of individual scoring sheets for individual selection committee members or in any other form as determined by the agent.

H. Information relating to each procurement under this section shall be made available to the public as follows:

1. Notwithstanding title 39, chapter 1, article 2, until the agent awards a contract or terminates the procurement, only the name of each person or firm on the final list developed pursuant to subsection C or subsection K, paragraph 2 of this section may be made available to the public. All other information received by the agent in response to the request for qualifications pursuant to subsection C or subsection K, paragraph 2 of this section or contained in proposals submitted pursuant to subsection F or subsection K, paragraph 3 of this section shall be confidential in order to avoid disclosure of the contents that may be prejudicial to competing submitters and offerors during the selection process.

2. After the agent awards the contract or terminates the procurement, the agent shall make available to the public pursuant to title 39, chapter 1, article 2 at a minimum all of the items that the agent is required to retain under subsection G of this section, except the proposals submitted in response to a request for proposals under subsection F or subsection K, paragraph 3 of this section and the document or documents prescribed in subsection G, paragraph 1, subdivision (a), item (v) and subdivision (b), items (v) and (viii) and paragraph 2, subdivision (d) of this section.

3. The proposals submitted under subsection F or subsection K, paragraph 3 of this section shall not be made available to the public until after the agent has entered into a contract or terminated the procurement. At a minimum the proposals submitted under subsection F or subsection K, paragraph 3 of this section that the agent is required to retain under subsection G of this section shall be made available to the public after the agent has entered into a contract or terminated the procurement.

4. To the extent that the offeror designates and the agent concurs, trade secrets and other proprietary data contained in a proposal remain confidential.

5. The document or documents prescribed in subsection G, paragraph 1, subdivision (a), item (v) and subdivision (b), items (v) and (viii) and paragraph 2, subdivision (d) of this section are available to the extent provided in title 39, chapter 1, article 2.

I. An agent may cancel a request for qualifications or a request for proposals, reject in whole or in part any or all submittals or proposals, or determine not to enter into a contract as specified in the solicitation if the agent determines in the agent's absolute and sole discretion that the action is in the best interest of the agent. The agent shall make the reasons for cancellation, rejection or determination not to enter into a contract part of the contract file.

J. If the agent does not have a procurement protest policy and procedures that have been formally adopted and published by the agent, for protests relating to procurements under this section the agent shall follow the procurement protest policy and procedures

of the department of administration. The agent shall process all protests relating to procurements under this section.

K. Notwithstanding any other law, in a procurement of a single contract for construction-manager-at-risk construction services for horizontal construction under this section when the federal aviation administration or the federal transit administration is a source of monies for the project and price competition is required by the funding federal agency or applicable federal law, rules or regulations, an agent that is a city with a population in excess of one million persons or an agent that is a separate legal entity formed under section 11-952 by a city with a population in excess of one million persons and that is designated as a subgrantee by a city with a population in excess of one million persons may do a two-step competition in accordance with the following:

1. Except as provided in paragraphs 2 and 3 of this subsection, all provisions of law applicable to construction-manager-at-risk construction services apply to construction-manager-at-risk construction services for horizontal construction procured under this subsection, including the provisions applicable to horizontal construction. The requirements in section 34-605, subsection B apply only if the contractor provides preconstruction services. Bid security is not required under section 34-608 for construction-manager-at-risk construction services for horizontal construction procured under this subsection, but an agent may elect to require bid security in which event the bid security process and requirements shall be as set forth in section 34-608.

2. In the first step of the two-step competition for procurement of construction-manager-at-risk construction services for horizontal construction, the agent shall follow the request for qualifications process and the requirements in subsection C of this section. For purposes of applying the requirements in subsection C, paragraph 1, subdivision (f), item (ii), paragraph 2, subdivision (b) and paragraph 3, subdivisions (b), (c) and (d) of this section only, a procurement under this subsection shall be deemed to be procurement of a contract to be awarded under subsection F of this section and not of a contract to be negotiated under subsection E of this section.

3. In the second step of the two-step competition:

(a) The agent shall use the selection committee appointed for the request for qualifications pursuant to subsection C of this section.

(b) The agent shall issue a request for proposals to the offerors on the final list developed pursuant to subsection C of this section.

(c) The request for proposals shall include:

(i) A statement that one contract may or will be awarded and that one offeror may or will be awarded the contract.

(ii) A description of the construction-manager-at-risk construction services for horizontal construction to be performed under the contract.

(iii) A requirement that each offeror submit separately a qualitative and technical proposal and a price proposal and that the offeror's entire proposal be responsive to the requirements in the request for proposals.

(iv) The required contents of the qualitative and technical proposals and the price proposals.

(v) Information to be used by offerors to prepare the qualitative and technical proposals and the price proposals.

(vi) A statement that in applying the scoring method the selection committee will evaluate and score the qualitative and technical proposals before opening the price proposals.

(vii) A statement that the agent will use the scoring method described in the request for proposals to determine the winning offeror and that the winning offeror will be the offeror whose proposal receives the highest number of points under the scoring method.

(viii) A description of the scoring method. The scoring method shall be a best-value method in which the agent establishes criteria to score the qualitative and technical proposal and separate criteria to score the price proposal and the number of points assigned to each criteria. The number of points assigned to price criteria shall not exceed ten percent of the total number of points in the scoring method.

(ix) If the agent elects to conduct discussions pursuant to subdivision (e) of this paragraph, a statement that discussions will be held and a requirement that each offeror submit a preliminary qualitative and technical proposal before the discussions are held.

(d) If the agent determines to conduct discussions pursuant to subdivision (e) of this paragraph, each offeror shall submit a preliminary qualitative and technical proposal to the agent before those discussions are held.

(e) If determined by the agent and included by the agent in the request for proposals, the selection committee shall conduct discussions with all offerors solely about their preliminary qualitative and technical proposals. Discussions shall be for the purpose of clarification to ensure full understanding of, and responsiveness to, the solicitation requirements, other than price. Offerors shall be accorded fair treatment with respect to any opportunity for discussion and for clarification by the selection committee. Revision of preliminary qualitative and technical proposals shall be permitted after submission of preliminary qualitative and technical proposals and before scoring of proposals for the purpose of obtaining best and final proposals. In conducting any discussions, information derived from the preliminary qualitative and technical proposals submitted

by competing offerors shall not be disclosed to other competing offerors. Price shall not be part of the discussions.

(f) After completion of any discussions pursuant to subdivision (e) of this paragraph or if no discussions are held, each offeror shall submit separately the offeror's final qualitative and technical proposal and its price proposal.

(g) In evaluating and scoring the offerors' proposals the selection committee shall use the scoring method specified in the request for proposals.

(h) Before opening any price proposal, the selection committee shall open the final qualitative and technical proposals, evaluate the final qualitative and technical proposals and score the final qualitative and technical proposals using the qualitative and technical criteria and assigned points in the scoring method in the request for proposals. No other factors or criteria may be used in the evaluation and scoring.

(i) After completion of the evaluation and scoring of all final qualitative and technical proposals, the selection committee shall open the price proposals and score the price proposals using the price criteria and assigned points in the scoring method in the request for proposals. No other factors or criteria may be used in the evaluation and scoring.

(j) After evaluating and scoring the price proposals, the selection committee shall add the qualitative and technical proposal score and the price proposal score of each offeror together for a total score. The responsive and responsible offeror with the highest total score is the winning offeror.

(k) The agent shall promptly notify the winning offeror that it is the winner. Before or at the same time as the agent notifies the winning offeror that it is the winner, the agent shall send actual notice to each other offeror either that the offeror is not the winner or that another offeror is the winner.

(l) The contract or contracts file shall contain the basis on which the award is made, including at a minimum the information and documents required under subsection G of this section.

4. Notwithstanding this subsection, an agent shall not procure any construction-manager-at-risk construction services for horizontal construction pursuant to this subsection after December 31, 2030. For the purposes of this paragraph, an agent procures construction-manager-at-risk construction services for horizontal construction pursuant to this subsection when the contract for the construction-manager-at-risk construction services for horizontal construction is executed by the agent and the contractor. If a contract is executed for construction-manager-at-risk construction services for horizontal construction procured pursuant to this subsection on or before

December 31, 2030, construction services under the contract may be rendered in whole or in part after December 31, 2030.

L. For the purposes of this section, "professional services" includes architect services, engineer services, landscape architect services, assayer services, geologist services and land surveying services and any combination of those services.