

**OFFICE OF THE STATE ARCHITECT
STATE BUILDINGS PROGRAMS
POLICIES AND PROCEDURES**

SMALL CONSTRUCTION PURCHASES

Procurement Rules implementing the procurement of construction projects with values under \$150,000 also known as small construction purchases or projects became effective November 1, 2001. House Bill HB07-1282, CRS 38-26-107, enacted into law during the 2006/2007 legislative session and effective August 8, 2007 requires that construction contracts and purchase orders exceeding \$50,000 will publish a Notice for Final Settlement no later than ten days before the final settlement is made. House Bill HB13-1292 enacted into law during the 2012/2013 legislative session, amended various reporting requirements of small construction projects as highlighted in *italics* in the Procurement Code Sections 24-102-206 & 206.5 below and will apply to new contracts which the invitation for bids was issued on or after January 1, 2014.

Definitions

Discretionary Construction Procurement – As per Procurement Rules 24-103-204.02 (d) & (e), if the prices to be paid are fair and reasonable, all agencies may procure construction up to \$25,000 without benefit of competition.

Documented Quotes – As per Procurement Rule 24-103-204-03, a documented quotation is defined as a process of soliciting informally for fulfilling the State’s need for a specific product(s) or service(s) and receiving and evaluating vendor responses. The dollar limits for use of documented quotes for construction is found in Procurement Rule 24-204-03(a), i.e. less than \$150,000.

State Agency – As per CRS 24-30-1301(12), “State agency” means this state or department, institution, or other agency of the state, including institutions of higher education.

Director of State Buildings Program – Is synonymous with the Office of the State Architect

SBP – State Buildings Program within the Office of the State Architect within the Colorado Department of Personnel & Administration.

Excerpts From Procurement Rule 24-103-204-03 Documented Quotes

- Construction projects between \$25,000 and \$150,000 may be purchased using a documented quote process.
- For construction projects, the contractor’s response constitutes an “offer” and is binding if accepted by the State.
- For construction projects, the award must be made to the low acceptable quote.
- Requests for documented quotes must be placed on BIDS (Bid Information and Distribution System) in accordance with Rule 24-102-202.5-02 and –04. Solicitations must remain posted for at least three working days unless the director or head of a purchasing agency determines in writing that a lesser time is required in order to meet an immediate State need.
- The state agency may negotiate with any vendor or contractor to clarify its quote or to effect modifications that will: make the quote acceptable (including curing a defective bid bond) or make the quote more advantageous to the State. However, in the negotiation process, the terms of one vendor/contractor’s quote shall not be revealed to a competing vendor/contractor and quotes may be kept confidential until a commitment voucher is issued.
- Failure to provide a bid bond if required but not cured makes the quote unacceptable. State agencies should seek legal advice when bid bonds have been required and the terms of the quote are modified after receipt.

Excerpts From Fiscal Rules 4-1 Capital Construction Administration

- A purchase order may be used for construction not exceeding \$100,000 if the Director of State Buildings Programs or SBP delegate records written approvals on the face of the purchase order. Such approval by the Director of State Buildings Program or a SBP delegate shall require compliance with approved building codes. In addition, the purchase order shall be bilateral requiring written acknowledgment of acceptance by the contractor prior to the beginning of work.
- Formal contracts shall be required when expending funds in excess of \$100,000 appropriate for emergency maintenance projects including construction services or installation of fixed equipment unless previous approval has been obtained from the Office of the State Architect to use a purchase order.
- Approved formal contracts are available on the website of the Office of the State Architect.

Process for State Agencies

- SBP Delegate at all state agencies will review scope of work for all small construction projects to determine if code review and the services of an Architect/Engineer are required.
- Projects < \$25,000
 - No competition required as per discretionary construction project definition.
 - No BIDS notice required.
 - No newspaper advertisement required.
 - Purchase order may be used as commitment voucher. Contractor must indicate acceptance of the terms of the purchase order by signing the face of the purchase order and faxing it back to agency prior to the beginning of work.
- Projects \geq \$25,000 and < \$50,000
 - BIDS notice as Documented Quote required.
 - No newspaper advertisement required.
 - Purchase order may be used as commitment voucher. Contractor must indicate acceptance of the terms of the purchase order by signing the face of the purchase order and faxing it back to agency prior to the beginning of work.
- Project \geq \$50,000 and < \$150,000
 - BIDS notice as Documented Quote is required and advertisement of Final Settlement is required per SB07-1282, CRS 38-26-107. Use NOTICE OF CONTRACTOR'S FINAL SETTLEMENT form as provided in the Documented Quotes process and publish once no later than ten days before final settlement is made. (It is recommended that a minimum of five percent (5%) of the contract sum be retained for final payment until the notice requirement is satisfied.)
 - No newspaper advertisement required.
 - Purchase order may be used for project <\$100,000. Contract required for project \geq \$100,000 as commitment voucher.
 - Bid bond required.
 - For projects > \$100,000 performance bond required.
 - For projects > \$100,000 labor and material payment bond required.
 - State agencies may also, with the approval of State Buildings Program, utilize a Standing Order process for projects less than \$150,000. An approved process must include open public solicitation (including advertising on BIDS) for eligible contractors at least once per year, a process for obtaining at least three quotes before awarding a contract to an eligible contractor, and an equitable process for determining which contractors will be given an opportunity to provide quotes.
- Project \geq \$150,000 and < \$500,000
 - BIDS notice as Advertisement for Bids (AFB) is required and contracts are to be awarded by competitive sealed bidding per CRS 24-92-103. Exception: as per CRS 24-30-1303.(5)(c), the Office of the State Architect may exempt a state institution of higher education from the procedural requirements of Article 92, Construction Bidding if the institution adopts procedures to adequately meet the safeguards of the requirements of Article 92 and in doing so will be permitted to utilize the Documented Quote process listed below:
 - BIDS notice as Documented Quote is permitted (as described above) and advertisement of Final Settlement is required per SB07-1282, CRS 38-26-107. Use NOTICE OF CONTRACTOR'S FINAL SETTLEMENT form as provided in the Documented Quotes process and publish once no

later than ten days before final settlement is made. (It is recommended that a minimum of five percent (5%) of the contract sum be retained for final payment until the notice requirement is satisfied.)

- No newspaper advertisement required.
- Contract required as commitment voucher.
- Bid bond required.
- Performance bond required.
- Labor and material payment bond required.
- State agencies may also, with the approval of State Buildings Program, utilize a Standing Order process for projects greater than \$150,000 and less than \$500,000. An approved process must include open public solicitation (including advertising on BIDS) for eligible contractors at least once per year, a process for obtaining at least three quotes before awarding a contract to an eligible contractor, and an equitable process for determining which contractors will be given an opportunity to provide quotes and a public bid opening.

Excerpts from Procurement Code 24-102-206 & 206.5 Contract Performance Outside the United States or Colorado (effective January 1, 2014) Does not apply to any project that receives federal moneys

- *Each solicitation by a state agency for construction services will contain a clause requiring the contractor to disclose in a written statement of work to the state agency whether it anticipates subcontracting any services outside the United States or state and the reason why it is necessary or advantages to do so. The statement will become a requirement of the bid or proposal submittal.*
- *Each contract for construction services entered into by a state agency will contain a clause requiring the contractor to disclose in writing to the state agency within twenty days of decision to perform or subcontract services outside the United States or state.*
- *Each state agency is required to provide written notice to the Department of Personnel & Administration/Division of Finance and Procurement for each contract it awards with services performed outside the United States or state to be posted on the State Purchasing Website.*
- *Each state agency is required to submit an annual report to the general assembly of contracts from the previous year that were awarded for any work performed outside the United States or state separating data by type of contract, percentage of total services performed by contractor and or subcontractor and initiatives that the state agency has taken to actively reduce services performed outside the United States or state.*

References

Fiscal Rules

Procurement Code and Rules

C.R.S. 24-105-201 Bid Security

C.R.S. 24-105-202 Contract Performance and Payment Bonds

C.R.S. 24-91-103 Partial Payments (Retainage)

Basic Steps Checklist (Office of the State Architect)

End of Policy

SBP/SCP

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