

Section III.D.2. Purchasing of Goods and Services

Purchasing of Construction Manager-At-Risk Services Procedures

These procedures supplement and clarify Section III.D.2. of the Lone Star College System District Policy Manual (“Policy Manual”) last revised by the Board of Trustees on **July 10, 2017**—setting out the College’s policies regarding the purchasing of Goods and Services. These procedures apply to the purchase of construction manager-at-risk services under Texas Government Code § 2269 *et seq.* The College contracts with an architect or engineer for design-phase and construction-phase services. The College separately contracts with a construction manager-at-risk serving as the general contractor and consultant during a facility’s design and construction, rehabilitation, alteration, or repair.

The Policy Manual controls when a conflict arises between it and the procedures below. These procedures were last updated on **August 27, 2018**. The notice and comment period was open online to the public from **August 10, 2017** through **September 11, 2017** and from **November 9, 2017** through **December 9, 2017**.

1. **Scope of Procedures.** These procedures govern the necessary timelines the Facilities and Construction Department must give the Procurement Department before awards may be made for construction manager-at-risk services. These procedures address the solicitation and evaluation of submittals by construction firms for construction projects. These procedures do not apply to the purchase or procurement of any other service or good other than construction manager-at-risk services.

2. **Timeline.** This is a solemn, important, and in many respects—legally required—process that should not be rushed. Failing to adequately plan does not cloak what would be a routine procurement process in the shroud of emergency. The Chancellor requires College employees to err on the side of thoroughness rather than speed should the two values ever conflict.

a. **Hard Submission Deadline.** The Financial Operations and Facilities Division issues a Planning Calendar every fiscal year (attached as an appendix). The columns on the far left side of that calendar outline the dates by which the Procurement Department must be notified of the intended project. The Facilities and Construction Department must faithfully and literally follow those deadlines. The Facilities and Construction Department’s failure to properly notify the Procurement Department of an intended project by the date required on the Planning Calendar requires delaying the project until the following board meeting’s notification deadline.

Proper notification—as the term is used in the last sentence—includes delivering a complete RFP or RFQ Package (collectively “Bid Package”) by the due date to the Procurement Department. Failing to deliver the Bid Package prevents the Procurement Department from maintaining its own schedule and ensuring a robust, thorough, predictable, and timely process for all involved parties.

- b. Advertisement Requirements.** The Bid Package Event (in most cases the deadline for submissions) must be advertised in the Houston Chronicle and African American News and Issues for at least fourteen calendar days before the deadline for submitting proposals expires. The College's employees involved in this process—or those wielding authority over the process or employees involved—should only meet with submitters as outlined in these procedures.
- c. Pre-submission Meetings.** The College has two pre-submission meetings. The first meeting is a Pre-Submittal Meeting and it can be held at any time after the 14-calendar-day advertising requirement is met. The second meeting is a teleconference (typically through the third-party software, WebEx) that can be held at any time after the Pre-Submittal Meeting.
1. The objective of the Pre-Submittal Meeting is providing the Procurement Department an opportunity to relay the Bid Package Event details while allowing attendees to review the physical site where construction will take place and ask questions. The Procurement Department will memorialize in writing all questions asked and provide them on an addendum that is provided to all prospective vendors. The Procurement Department is the presiding officer of the Pre-Submittal Meeting. The Procurement Department will provide at least three working days for the submission of additional questions after the Pre-Submittal Meeting's date.
 2. The objective of the teleconference is providing the public with instructions on how to use the College's procurement websites and software (iStar Vendor Portal) as well as answer any questions about the contents of the Submittal Package. The Procurement Department is the presiding officer of the teleconference.
- d. Addendum Posting and Vendor Submissions.** The Procurement Department will post an addendum to the Bid Package detailing all questions asked during either of the Pre-Submission Meetings as well as the respective answers. The Procurement Department will not require firms to submit proposals before the expiration of the sixth working day after the supplemental addendum is posted for the public's review. All submittals must be timely submitted through the iStar Vendor Portal by the deadline advertised for further consideration—no College employee is authorized to make an exception.
- e. Eligible Submittal Routing.** All submittals are directly routed to the Procurement Department. The Procurement Department makes no judgment or evaluation of the content of those submittals. The Supplier Recruitment and Diversity Manager provides the HUB score. If a section or information is missing in the materials firms submit, those incomplete submissions are routed to the Submission Review Committee and will nevertheless be measured against the objective standards.

3. **Committee Structure.** These procedures establish two committees. The first-round committee is the Submission Review Committee (SRC). The SRC independently reviews the written proposal packets submitted by the construction firms during a first round of evaluations. The second-round committee is the Interview Review Committee (IRC). The IRC independently interviews all firms forwarded to it by the SRC as finalists for interviews. SRC members cannot serve as IRC members. IRC members cannot serve as SRC members.

- a. **Submission Review Committee Composition.** The Submission Review Committee (SRC) is a standing committee with fixed membership based solely on job positions. It is convened and composed of the College's Seven Senior Project Directors. The Chancellor may approve a Variance, using the attached Form III.D.2., to reduce this number if (1) a Project Director vacancy exists or (2) a Project Director is out on approved leave.

No individual may sit on the SRC during a submittal evaluation process without having gone through the required training and signed an acknowledgement on file with the Office of the General Counsel. Because the process cannot continue in the absence of one SRC member, a member who fails to complete the training, sign, and file the attestation has the potential to stall the entire process. The Executive Director of Construction is responsible for ensuring that every SRC member—all of which are his or her subordinates—takes the training within ten working days of commencing employment or before a Senior Project Director participates on an SRC—whichever is earlier.

- b. **Interview Review Committee Composition.** The Interview Review Committee (IRC) is also a standing committee with fixed membership comprised of the incumbents of particular job positions. It is convened and composed of five members. The IRC will nonetheless convene with less than five members if the Chancellor approves and (1) a vacancy exists or (2) an IRC member is out on approved leave. The first member is the cabinet member that will oversee the finished construction project. The second member is the cabinet member's deputy over that particular area. For example, an instructional building at a college would require the Vice President of Instruction from that college to sit on the IRC for that project. Similarly, a student services building at a college would require the Vice President of Student Services to sit on the IRC. The third member is the Associate Vice Chancellor Real Estate. The fourth member is the Executive Director of Construction. The fifth member is a Director of Business Operations or Vice President of Administrative Services (VPAD)—whenever a cabinet member has a VPAD, the VPAD must serve. These assignments cannot be delegated or further assigned. Each IRC member casts one vote.

- c. The construction procurement commodity manager overseeing the purchase of these construction manager-at-risk services is responsible for ensuring that every IRC member takes the training within ten working days of commencing employment or before the IRC member participates in an IRC interview—whichever is earlier.

4. **Submission Review Process.** All submissions must be submitted online through iStar by the date and time announced in the corresponding Bid Package. The SRC must submit its evaluations in electronic format by no later than seven working days and no

earlier than six working days after receipt of the submittals from the Procurement Department. Access to these returned evaluation forms should be on a professional need-to-know basis—especially during an ongoing, evaluative process.

- a. SRC Members Discussing Proposals with IRC Members.** The integrity of this process is paramount and both IRC and SRC members have a solemn responsibility to ensure the integrity of this process remains beyond reproach or reasonable suspicion. Members of both groups shall endeavor to avoid creating even the appearance of impropriety regarding their interactions and scores. Specifically, IRC members should take steps to ensure they do not influence SRC members and SRC members should ensure they do not influence IRC members outside of these procedures. IRC and SRC members should also be especially sensitive to gifts and overtures from proposing firms and vendors.
- b. Selection of Finalists.** At the documented and substantiated discretion of the Associate Vice Chancellor Facilities and Construction, the Facilities and Construction Department will utilize either a One-Step Process or Two-Step Process in selecting a construction manager-at-risk, per the Texas Government Code. The CFO will make the decision regarding the process if (1) an Associate Vice Chancellor Facilities and Construction vacancy exists or (2) the Associate Vice Chancellor Facilities and Construction is out on approved leave. The Vice Chancellor Financial Operations and Facilities/CFO will elect between the two finalist selection processes within ten working days of receiving the SRC's evaluations.
 - i. Selection of Finalists– One-Step Process.** If the Facilities and Construction Department uses a one-step process for selection of the construction manager-at-risk, as set forth in Texas Government Code § 2269.253, then the SRC's individual member recommendations will be averaged to the nearest one hundredth of a whole number (e.g., 69.55). The number of finalists will be fixed at 33 percent of the total submissions—rounding up fractions to include one more finalist if necessary. For example, if a particular project has 23 proposals, 33 percent of those submissions would yield 7.59 finalists. Because the College cannot have 0.59 of a finalist, these procedures require the Procurement Department to forward eight finalists to the IRC for their consideration under this example.
 - ii. Selection of Finalists– Two-Step Process.** If the Facilities and Construction Department uses a two-step process for selection of the construction manager-at-risk, as set forth in Texas Government Code § 2269.253, then SRC individual member recommendations will be averaged to the nearest hundredth of a whole number (e.g., 69.55). The number of finalists will be fixed at five or fewer solely on the basis of their qualifications using the highest scores. These finalists will be asked to provide additional information, such as proposed fee and pricing for fulfilling the general conditions,¹ for

¹ Tex. Gov't Code § 2269.253; §2269.253(e).

consideration by the Procurement Department. The Procurement Department will forward these finalists to the IRC for their consideration.

- c. **SRC Evaluation Weight.** The SRC's individual member's scores are not shared with the IRC's members before the IRC convenes for interviews. The SRC's scores are also not shared with the IRC's members during the interview day(s). The SRC's individual member scores are averaged to a seven-person average that represents every SRC committee member. The average will be rounded to the nearest one hundredth of a whole number (e.g., 69.55). The resulting seven-person average becomes 65 percent of firm's final score.
5. **Interview Review Process.** The Interview Review Committee convened for a particular project shall not meet except in accordance with these procedures (or where required for formal training sessions). IRC members will all meet to interview and evaluate finalist firms. The absence of any one member precludes the interviews from commencing or continuing.

Interviews shall occur and be conducted in sufficiently spacious rooms to allow presenters the full range of presentation tools and audio-visual equipment needed. The room should also allow all IRC members to sit sufficiently spread apart to allow each individual IRC member to vote his or her conscience without even the appearance of influence from other IRC members present during the interviews.

Each IRC member will be provided a college-issued laptop with Microsoft Word/Excel to complete their evaluation (with no communication/Internet abilities). After every presentation, the College will provide every IRC member with a flash/jump/USB drive on which to save the presenting firm's evaluation. The firm's evaluation file will be saved on the provided drive after each presentation. A reviewer may not "go back" and change, edit, modify, or alter any evaluations based on subsequent evaluations. Each firm must be measured on their own merit against the objective standards independent of the performance of other presentations. Once the College collects the drive from the interviewer/evaluator, it cannot be retrieved by the interviewer/evaluator for any reason.

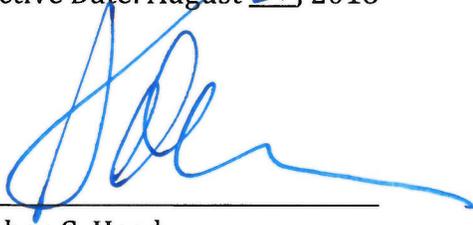
After each presentation, IRC members will have no more than fifteen minutes to electronically submit a score. Once an IRC member submits an electronic score, if earlier than fifteen minutes, they may leave the room or sit quietly waiting for the next interview. The next interview cannot begin until each IRC member has submitted their electronic score. These procedures specifically direct IRC members to not communicate with one another regarding the interviewees being evaluated during the interviews. Paper for notes will be provided at the IRC's interview meeting(s), but IRC members should not keep running scores of individual performances beyond the interviewer in question.

- a. **IRC Members Discussing Proposals with SRC Members.** The integrity of this process is paramount and both IRC and SRC members have a solemn responsibility to ensure its integrity remains beyond reproach. Members of both groups shall endeavor to avoid creating even the appearance of impropriety

regarding their interactions with one another and with submitting firms and vendors. Specifically, IRC members should take steps to ensure they do not influence SRC members and SRC members should ensure they do not influence IRC members outside of these procedures. IRC and SRC members should also be especially sensitive to gifts and overtures from proposing firms and vendors. Please refer to the College's Policy on Receipt of Gifts contained in the Policy Manual for clarification.

- b. Scoring the Interviews.** The IRC's individual member recommendations will be averaged. The five-person average will be rounded up to the nearest one hundredth of a whole number (e.g., 69.55).
 - c. IRC Evaluation Weight.** The score identified above in Subsection 5(b) becomes 35 percent of the firm's final score.
6. **Selecting Award Winner.** The SRC produces a final score for its portion of the process that accounts for 65 percent of the final score. The IRC produces a final score for its portion of the process that accounts for 35 percent of the final score. The SRC and IRC scores, combined, are the firm's final score. The firm with the combined score after the SRC and IRC scores are added is the winner and should be recommended to the Board of Trustees for a contract negotiation. In the event of a tie, the firms in a tie will be invited for a second round of interviews—governed by these procedures as though they were first round interviews—repeated until such time as a sole winner remains.
7. **Non-Disclosure.** Committee members will sign a Non-Disclosure Agreement to ensure the integrity of the process remains beyond reproach.
8. **Work Commenced Before the Chancellor Executes the Contract.** A successful submittal does not entitle the presumptively selected firm to commence work. The College will not pay—because it cannot pay—any contract requiring work commenced before the Board of Trustees approves the selection of the recommended firm and the contract is executed under governing Board Policy.
9. **Procurement Department.** Unless otherwise specified, the Procurement Department, within the Financial Operations and Facilities Division, is responsible for shepherding and organizing this process. The Office of Governance, Audit, and Compliance will ensure process fidelity through audits and investigations where appropriate. All participants are required to fully cooperate with both offices.

Effective Date: August 27, 2018



Stephen C. Head
Chancellor



Variance Request (Form III.D.2.)

Please complete this form to request a one-time member reduction in the Submission Review Committee (SRC) or Interview Review Committee (IRC) because of a vacancy or approved leave.

Submit to the Chancellor's Office once complete.

Requestor: _____

RFQ Number: _____

Review Committee: The Review Committee presently consists of _____ members. The mandatory number of Review Committee members is seven (7) for the Submission Review Committee (SRC) and five (5) for the Interview Review Committee(IRC).

Request: Explain the reason the SRC or IRC is requesting a Variance (e.g., a vacancy exists at the Project Director level):

OFFICE OF THE CHANCELLOR

- Approved
- Not Approved

Stephen C. Head
Chancellor

Date

**EVALUATION COMMITTEE NON-DISCLOSURE STATEMENT
REQUEST FOR PROPOSAL NUMBER _____
FOR CONSTRUCTION MANAGER-AT-RISK SERVICES**

To protect the integrity, propriety, and fair play of procurement processes of Lone Star College (“College”) and to obtain the best value for the College—

I, _____, the undersigned, a member of the Evaluation Committee for the competitive solicitation referenced above (“Solicitation”), certify to the College that the following statements are true and correct and that I understand and agree to be bound by the commitments contained herein.

I am not currently employed by, nor am I receiving any compensation from any proposer, offeror, bidder, or vendor involved with this Solicitation (each, a “Proposer”), with any disclosed or identified subcontractor or supplier to any Proposer (each, a “Subcontractor”), with any parent entity, subsidiary, or other affiliate of any Proposer or Subcontractor (each, a “Affiliate”), or with any agent, broker, officer, director, shareholder, manager, member, partner, executive, owner, or other person or entity acting in conjunction with any Proposer, Subcontractor, or Affiliate (each, a “Proposer Party”). I have not received nor been promised any present or future economic opportunity, employment, gift, loan, trip, favor, special discount, special treatment, special service, or any other gratuity or benefit in return for favorable consideration of any proposal, response, or bid of any Proposer in connection with this Solicitation (each, a “Proposal”). I am not closely related by blood or marriage to any Proposer, Subcontractor, Affiliate, or Proposer Party.

Until the Solicitation ends—through an executed contract or the College’s decision not to procure the solicited goods or services—I agree to keep confidential, and to not to disclose or otherwise divulge, any information or materials pertaining to the contents, cost or price information, or status or ranking of any Proposal to anyone except the Evaluation Committee leader, other Evaluation Committee members, the Executive Director of Procurement, any College-retained consultant for this Solicitation, or College legal counsel, unless otherwise directed by the Board of Trustees as a whole, the Chancellor, the Executive Director of Procurement, or College legal counsel. I agree to comply with all present and future non-disclosure agreements applying to the College.

I understand that loss, misplacement, or mishandling of any portion of a Proposal provided to me as an Evaluation Committee member may fall within the phrase “disclose or otherwise divulge”.

I agree to comply with all applicable laws and College policies and procedures on conflicts of interest in connection with this Solicitation. I understand that violating applicable laws, policies, or procedures may be a breach of ethical standards under Board Policy Manual Section IV.D.3.01., which may subject violator(s) to immediate employment termination under Board Policy Manual Section IV.F.13.03.

I agree to immediately and fully inform the Executive Director of Procurement if I witness or learn of any communication or conduct relating to this Solicitation by any Proposer, Subcontractor, Affiliate, Proposer Party, College employee, or third party that reasonably appears to violate this Non-Disclosure Statement, applicable laws, policies, procedures, or any non-contact provision under the Solicitation, even if the communication or conduct only creates an appearance of impropriety. I agree that this duty remains in effect during the Solicitation and for up to four years after the contract is awarded.

I have no preconceived position on any Proposal’s relative merits. I agree to evaluate all Proposals without bias, to the best of my ability, and with the College’s best interests paramount in all decisions.

Signature

Date