**NC DEQ Division of Water Infrastructure**

**Design-Build Services Procurement**

This Certification is only required for drinking water, wastewater and stormwater projects administered by the Division of Water Infrastructure (Division) in the form of American Rescue Plan Act (ARPA) State Fiscal Recovery Fund grants. The Uniform Guidance 2 CFR 200.317 through 2 CFR 200.327 gives minimum requirements for procurement, with 2 CFR 200.320(b)(2)(iv) establishing that qualification-based selection (without price consideration) can only be used in A/E procurement. By contrast, according to Uniform Guidance, Design-Build procurement must additionally include price in the procurement process. See Division of Water Infrastructure’s *Guidance on ARPA-Funded Projects and Engineering Services Procurement*.

North Carolina General Statute § 143-128.1A authorizes a local government unit to contract with a single-entity Design-Builder to perform both engineering services and general contracting services. This procurement selection process is qualification-based. SECTION 1.6. Part V of S.L. 2021-180 amended NCGS § 143-128.1A(c)(5) to additionally add pricing into the selection criteria for Design-Builders (see table below). This new amendment thereby aligns NCGS Design-Build procurement with Uniform Guidance. For ARPA-funded projects in North Carolina the procurement process, while including qualifications-based selection, must also include price.

Complete and sign this form and provide the information indicated to ensure that the Design-Builder for your project is eligible for reimbursement.

**Applicant:** Click or tap here to enter text.

**Project Name:** Click or tap here to enter text.

**Division Funding Number:** Click or tap here to enter text.

1. List the basic services being provided: (planning, design, construction, inspection etc.)

Click or tap here to enter text.

1. Describe the method of announcement for the project.

Click or tap here to enter text.

1. List the firms the announcement was discussed with or that proposals were received from in order of quality.

Click or tap here to enter text.

1. Was a contract negotiated with the best qualified firm?  Yes  No (Check one)

If no, explain why.

Click or tap here to enter text.

**NOTE:** Documentation of the Design-Builder selection process shall be provided to the Division upon request (to include announcement and qualifications/pricing requested).

By signing below, I Click or tap here to enter text., the Authorized Representative designated for this project in the project application, attest that the contract pricing, as seen in the attached contract(s), contains pricing that is fair and reasonable based on scope, complexity, professional nature, and the estimated value of the services being provided and the firm selected, was selected based on their qualifications.

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(signed name, title and date)

DWI staff use only – Check & initial here if debarment status checked and firm is NOT debarred  \_\_\_\_\_

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| **Uniform Guidance**  **2 CFR 200.320(b)** | **Methods of procurement to be followed.**  **(2) Proposals**   1. Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical; 2. The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and making selections; 3. Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the non-Federal entity, with price and other factors considered; and 4. The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms that are a potential source to perform the proposed effort. |
| **SECTION 1.6. Part V of S.L. 2021-180 is amended by adding a new section to read as follows:** | **DESIGN-BUILD CONTRACTS USING CERTAIN FEDERAL FUNDS**  **SECTION**  5.17.(a) Notwithstanding any other provision of law, any unit of local government (unit) that contracts for design-build services using federal funds subject to the procurement standards set forth in 2 CFR Part 200 (Uniform Guidance), in whole or in part, shall comply with either:  (1) G.S. 143-128.1A in its entirety and all applicable federal requirements related to the use of the federal funds.  (2) All of the following:  a. G.S. 143-128.1A(a), (b), (c), and (f). In satisfying the requirements of G.S. 143-128.1A(c)(5), the public notice of the request for qualifications shall be issued at least 7 days before the date of the opening of proposals. The public notice shall identify all selection criteria, including price, and the relative weight of the selection criteria.  b. If after the solicitation for design-builders not as many as three responses have been received from qualified design-builders, the unit shall again solicit for design-builders. If as a result of the second solicitation not as many as three responses are received, the unit may make a selection as provided in sub-subdivision c. of this subdivision even though fewer than three responses were received.  c. The unit shall select and commence contract negotiations with the design-builder whose response is ranked most advantageous to the unit based on the selection factors identified as provided in sub-subdivision a. of this subdivision. If a contract cannot be negotiated with the highest ranked design-builder, negotiations with that design-builder shall be terminated and negotiations shall be initiated with the next-highest ranked design-builder.  d. All applicable federal requirements related to the use of the federal funds.  SECTION 5.17.(b) This section expires on December 31, 2025; provided, however, any design-build contract executed pursuant to this section prior to December 31, 2025, shall be valid and the unit may continue to make payments under the contract entered into prior to December 31, 2025, so long as the contract was executed as provided in subsection (a) of this section. |