



**DFCM Construction Managers/General Contractors (CMGC)
Subcontractor Procurement Manual**

June 1, 2025

Issued by the Division of Facilities Construction and Management to assist Construction Managers/General Contractors in fulfilling their procurement requirements under Utah law.

General Instructions

1. Procurement Goal

The goal of procurement is to treat all entities fairly and equally, streamline procurement activities and have effective broad-based competition. DFCM requires the best value for its projects in order for projects to be on-time, on-budget, of high quality and safely constructed.

2. Matching the DFCM Procurement Method

The Utah Procurement Code, 63G-6a-1302(5)(b) requires that “when entering into a subcontract that was not specifically included in the construction manager/general contractor's cost proposal, the construction manager/general contractor shall procure the subcontractor by using a standard procurement process, or an exception to the requirement to use a standard procurement process, described in Part 8, Exceptions to Procurement Requirements, in the same manner as if the subcontract work was procured directly by the procurement unit” (DFCM). This means that the first-tier Subcontractors must be procured using one of the following procurement methods:

- direct award (Subcontracts less than \$50K);
- 2+ competitive quotes (Subcontracts less than \$150K);
- Low Bid;
- Request for Proposals;
- Sole source, 63G-6a-802; or
- Emergency procurement, 63G-6a-803.

Several selection methods are listed above to consider when selecting Subcontractors. For any aforementioned procurements outside of a low Bid method, DFCM approval is required prior to procurement by the CM/GC.

3. Terminology Clarification: Bid vs. Proposal

Under ordinary construction practices, the words “Bid” and “Proposal” are often interchangeable. However, the two terms refer to very different procurement methods under the Utah Procurement Code. The bidding process is described in Part 6 of the Utah Procurement Code. The request for proposals process is described in Part 7 of the Utah Procurement Code.

CM/GC to provide Subcontractor prequalification requirements as well as procurement methodology to DFCM for approval.

4. Responsibility for Subcontractors and Suppliers

The CM/GC is fully responsible for the performance of all of its Subcontractors and suppliers at any tier.

5. Unlawful Conduct

Part 24 of the Utah Procurement Code defines legal and illegal activities. All CM/GCs and their Subcontractors shall comply with all applicable procurement laws of the State of Utah and all applicable procurement rules and policies of DFCM.

6. Questions

All questions regarding the procurement process shall be directed to the DFCM representative.

Low Bid Procurement Process

Part 6 of the Utah Procurement Code provides the requirements for invitation for Bid (low Bid) solicitations. Outlined below are these requirements, as well as DFCM requirements, and the process the CM/GC shall follow.

1. Prepare the Invitation for Bids solicitation document.

- The CM/GC shall include in the solicitation:
 - the point of contact of the CM/GC for potential bidders;
 - directions for obtaining the bidding documents;
 - a minimum of seven days from the date of publication to the first action by the bidder is required by procurement law, however ten days is preferred;
 - a bidding schedule inclusive of deadlines for any mandatory meeting, questions, addendums, and other action items;
 - instructions for submitting a Bid and the email address, website, or physical location the Bids shall be submitted to;
 - a description of the project and scope of work;
 - the objective criteria that the CM/GC will use to evaluate Bids;
 - the terms and conditions that the CM/GC intends to include in a Subcontract resulting from the bidding process;
 - information about the manner of opening Bids.

2. The CM/GC shall publish an invitation for Bids in accordance with the following requirements:

- a minimum of seven days before the day of the deadline for submission of a solicitation response;
- on the CM/GC's website for public viewing or, at the CM/GC's request, by DFCM as a courtesy posting on the State of Utah public procurement website;
- the following methods of public notification may also be used *in addition to* the website notification with the intent of generating as much interest as possible:
 - a newspaper having general circulation in the area in which the project is located;
 - appropriate trade publications having general circulation within the state;
 - any other method deemed appropriate by DFCM.
- A copy of the public notice shall be available for public inspection at the principal office of the CM/GC.

3. Subcontractor Prerequisites/Prequalification for Bidding.

- CM/GC shall disclose, for approval by DFCM:
 - any prerequisites the CM/GC may require of the Subcontractor in order for the Subcontractor to be eligible to Bid the project. If DFCM objects to any of the proposed prerequisites, the CM/GC shall remove that item;
 - a copy of the form of Subcontract prior to publishing the solicitation;
 - copy of the CM/GC's Subcontractor master list, if any, and any Subcontractors within the same trade that the CM/GC is eliminating from that list to participate in the bidding process and the reason for such elimination.

4. Bidding Time - Minimum Time to Receive Bids.

- The "Bidding Time" is the period of time between the publication or posting date and the deadline for Bid submission to the CM/GC. The "Bidding Time" shall provide a reasonable amount of time for Subcontractors to prepare their Bids and shall be not less than seven calendar days, unless a shorter time is deemed necessary on a per-project basis and determined in writing by the CM/GC with approval by DFCM.

5. Bid Records Requirements.

- The amount of each Bid, together with the name of each bidder, shall be recorded on a Subcontractor leveling sheet by the CM/GC. A copy shall be provided to DFCM with the Bid package and shall be open to public inspection.
- In the event that only one Bid is submitted for any scope of work, the following actions shall be taken:
 - The CM/GC shall notify DFCM of the single Bid received and seek approval to move forward with the Bid or to seek additional Bids through re-solicitation;
 - The CM/GC shall keep the following documentation with the bidding documents;
 - Documentation showing the solicitation went to multiple Subcontractors within the same trade,
 - Written documentation from Subcontractors declining to Bid,
 - Documentation of communications to specific Subcontractors from the CM/GC requesting Bids outside of the original solicitation.

6. Pre-Bid Opening Modifications and Withdrawals.

- Bids may be modified or withdrawn by bidders by written notice to the CM/GC prior to the time set for the opening of Bids.
- All documents relating to the modification or withdrawal of Bids shall be maintained as part of the CM/GC's project file.

7. Bid Shopping, Discussions, and Clarifications.

- A submitted Bid may be discussed with a bidder to provide clarifications, and to verify scope and exclusions. In no instance shall a CM/GC discuss in any manner any individual Bid with other bidders.
- Bid shopping is the disclosure of the low Bid with other bidders in an attempt to match or obtain an even lower Bid for a select bidder.

8. Mistakes Discovered Post Bid Opening.

- After the Bid opening, mistakes in judgment may not be corrected. However, if a CM/GC believes that a Bid is not responsive or responsible, the CM/GC may permit the withdrawal of the Bid after the Bid opening.
- Immaterial mistakes may be corrected at the discretion of the CM/GC only if they are in the best interest of the State of Utah and fair to the other bidders. These mistakes include, but are not limited to typos, mathematical errors on the face of the Bid, failure to sign the Bid form or acknowledge receipt of addenda provided the Subcontractor acknowledges being bound by such.
- If the CM/GC believes from the face of the Bid that the price seems too low, the CM/GC may request written confirmation of the Bid from the bidder. If confirmed by the bidder and the CM/GC still believes that the Bid is not "responsible," the CM/GC may disqualify the Bid.
- The CM/GC, after consultation with DFCM, shall approve or deny in writing all requests to correct, withdraw, modify or disqualify any Bid.
- The CM/GC shall keep the DFCM Representative informed of all requests to correct, withdraw, modify or disqualify any Bid.

9. Bid Evaluation and Award

- A Subcontract shall be awarded promptly to the lowest responsible and responsive bidder who meets the requirements of the invitation for Bids for a specific scope of work. An exception is when a reciprocal preference under the Utah Procurement Code applies. Contact the DFCM Representative if such a preference has been requested.
- Only criteria in the invitation for Bid shall apply when a Subcontract is being awarded.
- Promptly provide a written notice to the DFCM Representative once the Subcontract has been awarded.

10. Cancellation of Invitations for Bids

- The CM/GC may cancel the invitation for Bid when cancelation is in the best interest of the State of Utah. The reason for the cancelation shall be stated in writing, and a copy shall be provided to the DFCM Representative.

11. Rejection of Bids in Whole or In Part.

- The CM/GC may reject any or all Bids for the following reasons or when it is in the best interest of the State of Utah:
 - **Non-Responsible and Non-Responsive Bidders:** The CM/GC may reject any or all Bids based on the determination of a non-responsible or non-responsive bidder(s) as defined by section 63G-6a-103 of the Utah Procurement Code.
 - **Responsible:** A bidder being capable of meeting all requirements of the solicitation and being capable of performing all requirements of the Subcontractor's contract resulting from the solicitation.
 - **Responsive:** A bidder conforming to all material requirements of a solicitation.
 - If a bidder is found to be non-responsible or non-responsive, the CM/GC shall provide a written notice to the DFCM Representative prior to sending the written notice to the bidder.

12. Tie Bids

- **Definition:** Tie Bids are defined as two or more low responsive Bids from responsible bidders that are identical in price.
- **Award:** Award shall be determined through a coin toss or the drawing of lots as determined by the CM/GC. The coin toss or drawing of lots shall be open to the public, including the bidders who submitted the tie Bids.
- **Record.** Documentation of the tie Bids and the procedure used to resolve the award of the Subcontract shall be placed in the Subcontract file with a copy sent to the DFCM Representative.

Request for Proposals

Part 7 of the Utah Procurement Code provides the requirements for the Request for Proposals Process. Outlined below are these requirements, as well as DFCM requirements, and the process the CM/GC shall follow.

1. When to use the Request for Proposals Process

The CM/GC should use the Request for Proposals Process when the low Bid process is not desirable, and the Request for Proposals Process is advantageous to the State of Utah.

2. Public Notice

- The CM/GC shall publish a Request for Proposals in accordance with the following requirements:
 - The CM/GC may request the Request for Proposals to be published on DFCM’s website as a courtesy posting directing interested offerors to the CM/GC’s website;
 - Any of the following methods may be used in addition to the website notice;
 - In a newspaper having general circulation in the area in which the project is located,
 - In appropriate trade publications; or in a newspaper having general circulation in the State, or
 - By any other method deemed appropriate by the DFCM Representative.
- A copy of the public notice shall be available for public inspection at the principal office of the CM/GC, and it shall be submitted with any bid package or GMP proposal.

3. Content of the Public Notice

The public notice of the Request for Proposals (Notice to Subcontractors) shall include the following:

- The closing time and date for the submission of proposals;
- The location to which proposals are to be delivered (please be specific as to the exact location within an office, email or software program);
- Directions for obtaining the Request for Proposal documents;
- A brief description of the project;
- Notice of any mandatory meetings; and
- Scoring criteria and associated point allocation for the evaluation of proposals.

4. Proposal Time

The “Proposal Time” is the period of time between the date of the first publication of the public notice and the final date and time set for the first receipt of information, any mandatory meeting or receipt of proposals by the CM/GC, whichever is earlier. The Proposal Time shall be set to provide offerors with reasonable time to prepare their proposals and shall be not less than fourteen calendar days. DFCM recommends proposals be due on a Tuesday, Wednesday or Thursday when possible.

5. Addenda

After the deadline for submitting proposals, the CM/GC may issue a request for proposals addendum that has limited application only to offerors that have submitted proposals, if the addendum does not change the request for proposals in a way that would likely have affected the number of proposals submitted in response to the request for proposals had the addendum been included in the original request for proposals.

6. Receipt and Registration of Proposals

After the date established for the first receipt of proposals or other required information, an Initial Proposal List shall be prepared and open to public inspection at the office of the CM/GC. Upon request, a copy of this form shall be sent promptly to the DFCM Representative. Any review or comments by the DFCM Representative regarding the list does not release the CM/GC from responsibility for the performance of selected Subcontractors or suppliers at any tier.

7. Restrictions on Disclosure Prior to Award

Prior to award, proposals and modifications shall be shown only to the CM/GC, procurement and other officials involved with the review and selection of proposals. Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation.

8. Restrictions on Disclosure After Award

Except as otherwise provided by the Utah Government Records Access and Management Act ("GRAMA"), proposals shall be open to public inspection after award of the Subcontract. A register of proposals, including the amount of each offeror's cost proposal shall be prepared after the award and shall be open for public inspection after the Subcontract is awarded. The Final Registry of Proposals shall be maintained by the CM/GC with a copy promptly delivered to the DFCM Representative.

9. Trade Secrets and Commercial Information

The Request for Proposals may provide that trade secrets and commercial information required to be submitted by the offeror may be classified as a protected record provided the offeror complies with the requirements of 63G-2-304 and R23-1-703.

10. Non-Disclosure or Trade Secrets and Commercial Information

If the offeror selected for award has requested in writing the non-disclosure of trade secrets or commercial information pursuant to 63G-2-304 and R23-1-703, the CM/GC and DFCM Representative shall examine the request to determine its validity prior to award of the Subcontract. If DFCM does not agree that the information for which protection has been requested qualifies for classification as a protected record under GRAMA, the CM/GC shall inform the offeror in writing.

11. Request for Proposals Evaluation Factors

The Request for Proposals shall state all of the evaluation factors and the relative importance of price and other evaluation factors.

12. Withdrawals and Modifications Before Deadline

Proposals may be modified or withdrawn before the established due date and time for responding.

13. Late Proposals and Modifications

Proposals and modifications to a proposal submitted electronically or by physical delivery, after the established due date and time, will not be accepted for any reason.

14. Evaluation and Award

Award shall be made to the responsible offeror, whose proposal for a specific scope of work is determined in writing to be the most advantageous to the State of Utah, taking into consideration price and the evaluation factors set forth in the Request for Proposals.

- The evaluation of proposals shall be conducted by an evaluation committee appointed by the CM/GC. The DFCM Representative may recommend committee members for the CM/GC's consideration. The CM/GC shall have the appropriate number of persons on the committee based on the magnitude of the scope of work. The DFCM Representative shall be a voting member of such a committee. Each committee member shall certify as to his/her lack of conflicts of interest.
- The evaluation shall be based on the evaluation factors set forth in the Request for Proposals. Numerical rating systems in accordance with the Request for Proposals Process may be used but are not required. Factors or criteria not specified in the Request for Proposals shall not be considered.
- Proposals may be initially classified as potentially acceptable or unacceptable. Offerors whose proposals are unacceptable shall be notified by the CM/GC, in writing, and they may not continue to participate in the selection process.
- This classification of proposals may occur at any time during the selection process once sufficient information is received to consider the potential acceptability of the proposal.
- The request for proposals may provide for a minimum number of three offerors who may be classified as potentially acceptable. Evidence must be provided if less than three proposals are received that

multiple Subcontractors have been solicited. In such case, the offerors considered to be most acceptable, up to the number of proposals allowed, shall be considered acceptable.

- Unless only one proposal is received, proposal discussions with individual proposers, if held, shall be conducted with no less than the proposers submitting the three best proposals. Discussions are held for the purpose of assuring full understanding of, and responsiveness to, the project requirements; and to facilitate arriving at a Subcontract that will be most advantageous to the State of Utah taking into consideration price and the other evaluation factors set forth in the Request for Proposals.
- Offeror's shall be accorded fair and equal treatment with respect to any opportunity for discussions. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors. Any oral clarification or change of a proposal shall be reduced to writing by the offeror.

15. Errors in Proposals

- After the deadline for receipt of proposals, mistakes in judgment may not be corrected. However, if it is clear to the CM/GC, the CM/GC may permit the withdrawal of the proposal when the CM/GC believes that the proposal is not responsive or responsible.
- After the deadline for the receipt of proposals, non-judgment forms of mistakes may be corrected at the discretion of the CM/GC but only if it meets the interests of the State of Utah and is still fair to the other offerors. These mistakes include, but are not limited to typos, mathematical errors on the face of the proposal, failure to sign the proposal or acknowledge receipt of addenda provided the Subcontractor acknowledges being bound by such.
- If the CM/GC believes from a review of the proposal before award, that a mistake has been made, the offeror may be asked to confirm the proposal. Situations in which confirmation may be requested include obvious, apparent errors on the face of the proposal or a proposal amount that is substantially lower than the other proposals submitted. If the proposer alleges a mistake, the proposal may be corrected or withdrawn as stated in section 14 above.

16. Mistakes discovered after the award

Proposers shall be bound to all terms, conditions and statements in the proposal and construction documents after award of the Subcontract.

- The CM/GC, after consultation with the DFCM Representative, shall approve or deny in writing all requests to correct, withdraw, modify or disqualify a proposal.
- The CM/GC shall keep the DFCM Representative informed of all requests to correct, withdraw, modify or disqualify a proposal.

17. Award

- *Award Documentation.* A written determination shall be made showing the basis on which the award was found to be most advantageous to the State of Utah based on the evaluation factors set forth in the Request for Proposals. This requirement may be satisfied through documentation of a scoring of the proposals including a written statement of justification explaining the award based on the evaluation factors and associated points as identified in the Request for Proposals. PRIOR TO ISSUANCE OF THE NOTIFICATION OF AWARD OF THE SUBCONTRACT, THE DFCM REPRESENTATIVE SHALL BE PROVIDED A COPY OF THE FINAL REGISTRY OF PROPOSALS FOR REVIEW AND COMMENTS. Any review or comments by the DFCM Representative does not release the CM/GC from responsibility for the performance of selected Subcontractors or suppliers at any tier.
- *One Proposal Received.* If only one proposal is received in response to a Request for Proposals, the CM/GC with concurrence of the DFCM Representative may, as they deem appropriate, make an award or re-solicit for the purpose of obtaining additional competitive proposals.
- *Publicizing Awards.* After a Subcontract is entered into, notice of award shall be available in the principal office of the CM/GC. The Contract file of the CM/GC shall contain the basis on which the award is made.

Small Purchase, Sole Source & Emergency Procurement Processes

1. Small Purchases - Procurements of \$150,000 or less.

- The CM/GC may direct award procurements of construction estimated to Cost \$50,000 or less. Documentation of such purchases shall be provided to the DFCM Representative.
- The CM/GC may procure construction that costs more than \$50,000 up to a maximum of \$150,000 by obtaining a minimum of two competitive quotes that include minimum specifications and shall award to the Subcontractor with the lowest quote that meets the specifications after documenting that all applicable building code approvals, licensing requirements, permitting and other construction related requirements are met.
- The names of the Subcontractors submitting quotations and the date and amount of each quotation shall be recorded and maintained by the CM/GC and promptly provided to the DFCM Representative to be maintained as a public record by DFCM.
- Procurements shall not be divided in order to qualify for these “Small Purchase” processes.

2. Sole Source Procurements - Circumstances justifying award of Contract without competition.

- The CM/GC may use the “sole source” method of procurement of a procurement item when directed to do so in the specifications (Contract Documents prepared by the A/E and approved by DFCM) or by the DFCM Director in accordance with applicable law.
- **General Statutory Requirements.** A Subcontract may be awarded for a procurement item without competition when the CM/GC in conjunction with the DFCM Representative determines in writing that:
 - there is only one source for the procurement item; or
 - the award to a specific supplier, service provider, or Subcontractor is a requirement imposed by the source of the funds used to procure the procurement item.
- **Examples.** Examples of circumstances which could also necessitate sole source procurement are:
 - where the compatibility of product design, equipment, accessories, or replacement parts is the paramount consideration;
 - where a procurement item is needed for trial use or testing; or
 - procurement of public utility services.
- **Written Determination.** The determination as to whether a procurement shall be made as a sole source shall be made by the CM/GC and the DFCM Representative jointly in writing and may cover more than one procurement. In cases of doubt, a standard procurement process shall be used.
- **Negotiation in Sole Source Procurement.** The CM/GC shall negotiate with the sole source Subcontractor to ensure that the terms of the Subcontract, including price and delivery, are in the best interest of the State of Utah.

3. Emergency Procurements

- **Application.** This section shall apply to every procurement of construction made under emergency conditions that will not permit other source selection methods to be used. An emergency condition is a situation which creates a threat to public health, welfare, or safety such as may arise by reason of explosion, fire, flood, a storm, a tornado, winds, an earthquake, lightning, or other adverse weather event and the president of the United States has declared an emergency or major disaster in the state, or the governor has declared a state of emergency.
- **Authority to Make Emergency Procurements.** Emergency procurements of procurement items from Subcontractor by the CM/GC must be authorized in advance in writing by the Director of DFCM and must comply with all applicable requirements for such procurements as set forth in 63G-6a-803 and R25-1-804.