

## **Design-Build Forum Questions**

**January 21, 2021**

### **ACCO/Law:**

- 1. Will the procurement stages be posted on the web?** The slides from the presentation with the procurement stages are posted on the DDC website at <https://www1.nyc.gov/site/ddc/mwbe/mwbe-resources.page>
- 2. When do you expect the Design-Build Contract to be available for review? Will it be on DDC's website?** DDC provides a summary of select DBA commercial terms with the RFQs. Please note that the DBA is not DDC's Standard Construction Contract. In the future, DDC will provide a draft sample DBA on its website. In addition, DDC posts executed and registered contracts on its website.
- 3. Will the procurement be done through NYC PASSPort RFx?**  
Current procurement is not being run through PASSPort RFx. However, we do anticipate that we will begin using PASSPort for Design-Build Procurement in the late Spring.
- 4. How will REI be handled?** DDC is in the process of awarding contracts for owner's representative services for both the Divisions of Infrastructure and Public Buildings.
- 5. Are you required to be an approved DDC Vendor to be able to be on the Design-Build Team?** DDC does not have an "approved" vendor list. At this time, DDC does not anticipate creating a pre-qualification list. Please also check DDC's website for up-to-date information.
- 6. How do we get an accurate and up to date list of upcoming projects including Contract value, RFQ Date, RFP Date, Bid Date? Is there also a point of contact that we can reach out to on a regular basis for updates?** Visit DDC's website regularly. Requests for Qualifications (RFQs) will be published on the Design-Build section of DDC's Contracts page at <https://www1.nyc.gov/site/ddc/contracts/work-with-ddc.page>. Notices of Requests for Qualifications (RFQs) will also be posted in the City Record, which can be viewed online at <https://a856-cityrecord.nyc.gov/>. Additionally, questions can be sent to [Design\\_Build@ddc.nyc.gov](mailto:Design_Build@ddc.nyc.gov)
- 7. Where can we find future bid projects?** Information about contracting opportunities - Bids / RFQs / RFPs / PQLs / Design-Build, can all be found on DDC's website at <https://www1.nyc.gov/site/ddc/contracts/work-with-ddc.page>.
- 8. How many firms will be awarded a contract after the shortlist submission?** Following the RFQ stage, a best practice for Design-Build is to select three (3) firms, which are described as the Short-listed firms. If a project includes the potential for a Stipend, then the two (2) Short-listed firms that were not awarded the Design-build project, will enter into a contract for the Stipend. As for each Design-Build project, DDC will evaluate the Proposals received from the Short-listed proposers and will select one (1) Proposer to enter into a Design-Build agreement based on the Proposal that is deemed to provide

DDC the best value after considering the quality of the proposal's solution, qualifications and experience of the Proposer, and cost, among other factors deemed pertinent by DDC as described in the Request for Proposal (RFP).

- 9. How do you select an AE1?** DDC is in the process of awarding contracts for owner's representative services for both the Divisions of Infrastructure and Public Buildings. Typically, AE1 services will be assigned to the owner's representative consultant. However, DDC may also utilize its existing or future requirements contracts for design services in relation to Design-Build projects.
- 10. When you use an outside design consultant for predesign, is this an RFP process that is publicly advertised?** Please see the answer to Question No. 9. In terms of the selection process, DDC uses an RFP to procure design consultant services. DDC utilizes both stand-alone contracts and requirement contracts.
- 11. How will procurement work for the Special Inspection Agency and Material Testing Laboratory? Will they need to get on a Design-Build Team prior to submission?** DDC will utilize its owner's representative or existing or future requirements contracts for special inspections and materials testing and laboratory services whenever such services are not tasked to the Design-Builder.
- 12. If Design-Build experience is preferred and/or required, a large section of industry will be excluded, since this is new requirements.** DDC will not mandate Design-Build experience. Such experience will only be preferred. The evaluation criteria will include a number of other preferences and requirements. While Design-Build is not new in New York where the State has been using it for a number of years and the private sector has been using it even longer, DDC also recognizes that some vendors who only perform work for City agencies where Design-Build had not been an option may not have specific experience in this form of project methodology. At one time, DDC and other City agencies did not have LEEDs requirements. Once it became a standard part of the process, vendors sought out training in this new area. We would expect that firms will get up to speed on the differences in a Design-Build project as compared to a Design-Bid-Build contract. Experience can come from training, as well as being included on a Design-Build team, or working as a subcontractor on a Design-Build project.
- 13. Please define "in-market."** This is a new term in Design-Build. For DDC, we describe the "in-market" process as the period of time after selection of the three (3) Short-listed vendors. The in-market period will be from the release of the Request for Proposals (RFP), including draft versions, until the proposal due date.
- 14. For some of the projects that are smaller (approx. 10 million range) smaller builders may want to get involved. Is there a dollar threshold for experience or some similar metric going to be asked for?** DDC is looking forward to working with smaller design firms and smaller contractors as it pushes out more Design-Build projects. Financial capacity of any proposer is an important consideration.
- 15. How will DDC deal with change orders, if they are needed?** DDC understands that even a Design-Build project will have some change orders. As part of the new DBA, DDC has

created some new approaches for change orders, if needed. For example, DDC will include appropriate allowances in the DBA to compensate the Design-Builder for uncertainties in quantity and/or site conditions, or changes by the sponsor agency. The DBA will allow for appropriate relief events, affording time and/or monetary relief, as applicable. When no allowance is available, DDC will work with the Design-builder to complete and process a change order.

- 16. How much of the Design-Build process is confidential and when will it become public information?** Requests for Qualifications (RFQs) will be issued publicly in all cases. The Requests for Proposals (RFPs) will be issued only to short-listed teams. The RFP process will be confidential. Once a Design-Build project is awarded, then the DBA will be treated in the same manner as awarded contracts for other types of services. DDC will post the final selection and final scores for all proposers on its website after registration.
- 17. Does DDC have a secured budget for 2021?** Information about the City's budget can be found at <https://www1.nyc.gov/site/omb/index.page>.
- 18. What is the intent for typical number of shortlisted teams and what will policy be for pursuit stipends?** Typical number of shortlisted teams for the RFP process will depend on the complexity and typology of the project, but generally will be no more than three (3). Stipends will be included whenever possible. If DDC intends to offer a stipend, the amount of the stipend will be provided at the first stage of the procurement, listed in the RFQ.
- 19. How are you going to encourage the participation of small firms, as it seems very likely that only larger contractors and those with extensive Design-Build experience will be successful bidders?** Small firms are encouraged to joint venture with larger firms to form a single Design-Build entity.
- 20. Will holding a current DDC CM On-Call contract, as an M/WBE, be of value to Design-Build project team?** Prior experience working with DDC is not a prerequisite to submitting qualifications for a Design-Build RFQ.

**Program Unit:**

- 1. How should the traditional CM/REI firms transition into Design-Build projects?** Traditional CM/REI services, when retained, will provide standard administrative and inspection services.
- 2. Does NYCDDC also plan to release P3 type projects?** DDC does not have New York State authorization for P3 contracts.
- 3. Please clarify the scope of Owner's Rep in Design-Build setting. Also, which entity provides the CM responsibility?** Owner's Rep may be assigned on a task order basis per project, and scope will include providing general consulting and advisory services relating to Design-Build program activities, AE-1 consulting services, and/or management, oversight, and coordination for specific Design-Build projects, depending on the project's needs. The Design-Builder will be responsible for managing their Design-Build work, and the Owner's Rep will provide oversight and support to DDC.

- 4. Can you detail the differences/overlap between this program and the Design Excellence program RFP that was published this summer?** The Design-Build Program and Project Excellence procurements are separate and distinct, though the principles and values of Project Excellence also apply to the Design-Build Program. Firms contracted through the Project Excellence contract can also participate as a member of a Design-Build team. There may be occasions where the Project Excellence contract is utilized to produce scoping or bridging documents for a Design-Build Program procurement, in which case the firm providing those documents will be excluded from participating as a member in a Design-Build team. As always, DDC remains committed to quality design across all contracts and delivery methods and seeks to partner with thoughtful and innovative architects and contractors.
- 5. Do you intend to utilize Design-Build for repair, renovation or restoration of existing buildings? In our experience, Design-Build is even more valuable for these types of projects.** Yes, DDC will be working towards utilizing Design-Build for renovation projects. In the current pilot program, we are including only new-build projects.
- 6. Will there be separate REI contracts let out for the Design-Build projects?** DDC is in the process of awarding contracts for owner's representative services for both the Divisions of Infrastructure and Public Buildings. There will be no separate REI contract for Design-Build projects.
- 7. I guess DDC will make a preliminary design and contractor/AE will make a complete design and then bid. How will we get paid for designing?** There will be one Design-Builder contracted with DDC for a project. The Design-Builder will determine when to bid out trade packages. Payment to the Designer will be part of the Design-Build contract between DDC and the Design-Builder.
- 8. Will all DDC Projects be Design-Build or some stay Design-Bid-Build?** The majority of DDC projects will remain Design-Bid-Build. The current legislation (NYC Public Works Investment Act) authorizes Design-Build project delivery for public works projects with an estimated value above \$10M, and for public works projects with an estimated value above \$1.2M that meet certain criteria. These include jurisdiction of Parks Department, NYCHA, cultural institutions and public libraries, as well as security infrastructure and right of way accessibility improvements.
- 9. Do you anticipate that the Marlboro Project will have a stipend?** No, the Marlboro project will not have a stipend. DDC will continue to advocate that all future projects are funded with a stipend.
- 10. Will environmental clearances be the responsibility of the Design-Builder?** Yes, to the extent specified in the contract.
- 11. What is Design and Builder relationship? Please specify.** The Design-Builder includes the architect, contractor, key subconsultants and trades.
- 12. Can the design firm also participate in CM services on the same project?** Design firms can partner with contractors to form a Design-Build entity, responsible for all design and construction services for a project.

- 13. Can a sub be in multiple Design-Build contracts?** This is in the RFQ, Section 3.1. A subcontractor can participate in multiple Design-Build contracts as long as they are not considered a major participant.
- 14. Can architects be on multiple teams?** This is in the RFQ, Section 3.1. No Major Participant or Key Personnel may be a member of, or participant in, more than one Design-Build Team.
- 15. Can a contractor hire Design Engineer and Architect to qualify in shortlist?** On a Design-Build project, major participants are required at the RFQ stage, including the Designer and the Builder.
- 16. Is DDC considering other alternative delivery methods allowed per the law, such as, Progressive Design-Build and CMar options?** A Progressive Design-Build is not currently allowable under the enabling legislation.
- 17. How will private utilities be addressed?** Updated version of Joint Bid will be specified.
- 18. In addition to Envision, do you see a need for WEDG and SITES certification, e.g., Orchard Beach, Rockaway, or Marlboro Greenhouse projects?** We welcome the opportunity for our design and construction partners to pursue innovative design solutions, especially those that relate to resiliency and sustainability.
- 19. When publishing the shortlist of teams selected to respond to the RFP phase, can NYCDDC publish the firm name of the lead contractor and lead designer of each team? This would greatly increase sub-consulting/subcontracting opportunities for firms not on a selected shortlist team by providing the list of shortlisted firms to contact.** DDC will publish the name of the selected Design-Builder. We will update our website with contact information shortly after posting the selected vendor's name and will include the lead designer.

**ODIR:**

- 1. At what stage will you establish M/WBE goals for a specific project?** The M/WBE goals for all Design-Build projects are established at the outset of the procurement process.
- 2. How will the Design-Build process consider the use of M/WBE design firms? is there a split in goals for Design and goals for Construction?** The goals for all Design-Build Procurements will be 30% of the cost Construction Services (Including CM Services) and 30% of the cost Design Services.
- 3. The contract values you propose will exceed the allowable ceiling of dollars to remain a certified minority company. How will you address this when the dollars for a contract exceed the M/WBE limit per NYC SBS requirements? Will the ceiling be raised?** DDC does not determine whether M/WBEs graduate out of the City's M/WBE Program. The New York City Department of Small Business Services administers the City's M/WBE Program and makes those considerations if an M/WBE vendor exceeds revenue thresholds as specified in the local law. Additionally, Design-Build projects are not subject to NYC Admin. Code 6-129 (Local Law 129/1).

- 4. What incentive does a Design-Build team have to include M/WBE firms that provide CM services if they can satisfy their goals using contractors and other firms like cleaning, office supplies, etc.?** There are no direct incentives to meet the M/WBE goals for Design-Build projects. However, proposer will be evaluated on the comprehensiveness/information of their Utilization Plans in their proposals.
- 5. Due to the pandemic, the NYC M/WBE Certifying Agency has had extensive delays renewing certifications that were due to renew over the past 10 months. Will NYC DDC afford extensions for expired certifications awaiting recertification? Or email confirmations from the department in lieu of the actual certification?** Credit can be applied for firms that become certified during the fiscal year in which the vendor performs the work. Any M/WBE vendor that has a pending certification should notify the Design-Build Team and DDC.

**General Questions:**

- 1. Will the slides be available for download?** The slides from the presentation are posted on the DDC website at <https://www1.nyc.gov/site/ddc/mwbe/mwbe-resources.page>
- 2. Can you share the presenters' contact information please?** The contact information for Jennifer Vega, DDC's designated representative, is Design\_Build@ddc.nyc.gov.
- 3. Will you be making the sign-in sheets available so that we can communicate with the other attendees?** The sign-in sheet can be found on our website:  
<https://www1.nyc.gov/site/ddc/mwbe/mwbe-resources.page#attendance>
- 4. Do you have SVDOB participation?** SVDOB (Service-Disabled Veteran Owned Business) will not receive participation credit.
- 5. How many participants attended this event?** 731 participants attended the Design-Build virtual forum on January 21, 2021.