

**Memorandum of Understanding Between
The Minnesota Department of Transportation
and The Association of General Contractors Regarding
Technical Review of Design-Build Proposals**

This Memorandum of Understanding (MOU) is made and entered into by the State of Minnesota through its Commissioner of Transportation (Commissioner) and the Minnesota chapter of the Association of General Contractors (AGC), for AGC representation on technical review committees for design-build projects.

Background

When the Commissioner determines that the design-build best value method of project delivery is appropriate for a project, the Commissioner must establish a two-phase procedure for awarding the design-build contract, as described in Minnesota Statutes, sections 161.3420 and 161.3422.

As part of the two-phase procedure, the Commissioner must appoint a technical review committee, of at least five individuals, to review and evaluate Statements of Qualifications (submitted in response to a Request For Qualifications during phase 1) and the technical proposals (submitted in response to a Request For Proposal during phase 2). One member of the technical review committee must be an individual whose name and qualifications are submitted to the Commissioner by the Minnesota chapter of the AGC, after consultation with other commercial contractor associations in Minnesota. The State and AGC had a previous Memorandum of Agreement to pay AGC for the services of this individual on the technical review committee, which expired on January 1, 2009. Because the Commissioner is required by statute to appoint an individual whose name and qualifications are submitted by the AGC, and because the Commissioner believes that it is in the best interest of the public to have qualified technical experts serve on the technical review committee, the Commissioner has agreed in principle to defray the costs of these services of a qualified AGC-designated member of the technical review committee.

The purpose of this MOU is to set forth terms and conditions for AGC representation on design-build project technical review committees.

Minimum Qualifications

The State will defray the cost of an individual whose name is submitted by the AGC for placement on the technical review committee only if that individual is a licensed Professional Engineer and only if that individual has a minimum of seven years of applicable experience in the civil construction industry. Satisfaction of these minimum requirements will be determined by the Minnesota Department of Transportation (Mn/DOT) at its sole discretion.

A technical review committee member may not participate in the review or discussion of responses to a Request for Qualifications (RFQ) or Request for Proposals (RFP) when the member has a financial interest in any of the design-build firms that respond to that RFQ or RFP. "Financial interest" includes, but is not limited to, being or serving as an owner, employee, partner, limited liability partner, shareholder, joint venturer, family member, officer, or director of a design-build firm responding to an RFQ or RFP for a specific project, or having any other economic interest in that design-build firm (including any

relationships on any other active contracts) or any other economic interest in the project. A technical review committee member can not have been employed by any of the firms it is evaluating within the past five years, and shall not become employed either directly or as a consultant, with any firm they have evaluated for a minimum of three years after that evaluation. The AGC designee must also not accept any honorarium or other valuable gift from such firm during such three-year period. The AGC designee will be required to complete a conflict of interest disclosure form prior to participation in the process.

Compensation

Mn/DOT will pursuant to applicable laws enter into separate contracts as appropriate to pay for the services of the technical review committee member whose name and qualifications have been submitted by the AGC, and who meet the Minimum Qualifications stated above, as follows:

1. No more than \$400 per Statement of Qualification reviewed and scored by that individual during phase 1 of any one project;
2. No more than \$1500 per technical proposal reviewed and scored by that individual during phase 2 of any one project.

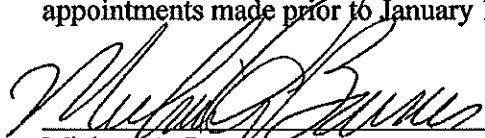
Under no circumstances will the total amount paid exceed \$12,000.00 for any one project. This payment will be made directly to the AGC designee and may not cover all of their expenses. The AGC designee is expected to complete all services even if their expenses exceed the lump sum payment structure listed above. AGC may at its own expense, enter into a separate agreement to provide additional compensation to the AGC designee. The services of the technical review committee member will include, but are not limited to, attending training, discussion, interviews, and scoring meetings, as well as reviewing and scoring both the SOQs and technical proposals.

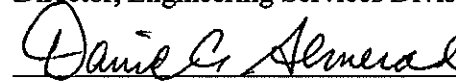
Effect of this MOU

This MOU is a non-binding statement of the parties' intent, including the intent to enter in to separate contracts pursuant to Minnesota Statutes section 16C.08 to provide compensation for the services described herein. To be binding, contracts for such services must comply with the requirement of such statute. The understanding of the parties expressed herein, will not be enforceable on a contract or quasi-contract (e.g. "reliance") basis.

Expiration

This MOU will remain in effect for all design-build technical review committee appointments made prior to January 1, 2011.

 Date: 2/26/09
Michael A. Barnes
Director, Engineering Services Division

 Date: 3/2/09
David C. Semerad
AGC Chief Executive Officer