

**Resolution to Approve Revisions to the Approval Process for Construction
Manager at Risk and Design-Build Capital Project Delivery Methods**

BUILDINGS AND GROUNDS COMMITTEE

Tuesday, August 27, 2024

The Committee will review for approval a resolution to revise the approval process for Construction Manager at Risk and Design-Build Capital Project Delivery Methods.

Pursuant to the Restructuring Act and in accordance with Chapter 780 (2016) Item 4-4.01 #1c and Code of Virginia §2.2-4378, 2.2.-4379, 2.2-4381 and 2.2-4383; the current applicable Virginia Tech Construction and Professional Services Manual; the current applicable Construction Management Procedures as adopted by the Secretary of Administration; and the current applicable Design-Build Procedures as adopted by the Secretary of Administration, the proposed university process is to be revised and adopted in response to the passage of Senate Bill 18 for use of these methods.

RESOLUTION TO APPROVE REVISIONS TO THE APPROVAL PROCESS FOR CONSTRUCTION MANAGER AT RISK AND DESIGN-BUILD CAPITAL PROJECT DELIVERY METHODS

WHEREAS, effective July 1, 2006, Virginia Polytechnic Institute and State University (Virginia Tech) operates as a Tier III institution in accordance with its Management Agreement and operational policies; and,

WHEREAS, pursuant to the Management Agreement, Virginia Tech has delegated authority relating to the procurement of goods, services, insurance, and construction services; and,

WHEREAS, a resolution for approval of the construction procurement approval process for capital project delivery was approved by the Board of Visitors June, 6, 2016 and August, 25, 2020;

WHEREAS, the Commonwealth of Virginia 2024 General Assembly passed legislation (Title 2.2 Chapter 43.1) regulating the types of construction procurement methods available for public institutions of higher education; and,

WHEREAS, the Department of General Services has reviewed and provided recommendations, which have been incorporated into the university's updated Approval Process for Construction Manager at Risk and Design-Build Capital Project Delivery Methods; and,

WHEREAS, the Virginia Tech Construction and Professional Services Manual (VT CPSM) will be updated to reflect the approved procedures; and,

WHEREAS, the university submits for Board of Visitors approval the updated Approval Process for Construction Manager at Risk and Design-Build Capital Project Delivery Methods; and,

WHEREAS, with the approval of these updated procedures, Virginia Tech confirms that all of the required Board-level policies and procedures are in place to comply with the changes to Title 2.2 Chapter 43.1;

NOW, THEREFORE, BE IT RESOLVED, that the university adopts the proposed Approval Process for Construction Manager at Risk and Design-Build Capital Project Delivery Methods.

RECOMMENDATION:

That the above resolution approving revisions to the Capital Construction Delivery Method Approval Process be approved.

August 28, 2024

Virginia Polytechnic Institute and State University
Division of ~~Campus Planning, Infrastructure and~~ Facilities Procedures

Approval Process for Construction Manager at Risk (~~CMAR~~) and Design-Build (~~D-B~~) Capital Project Delivery Methods

Date: ~~August 25, 2020~~

Revision: ~~32~~

Purpose:

Pursuant to the Restructuring Act and in accordance with Chapter 780 (2016) Item 4-4.01 #1c and *Code of Virginia* §2.2-4378, 2.2-4379, 2.2-4381 and 2.2-4383, ~~and~~ the Virginia Tech Construction and Professional Services Manual dated July 1, 2024 ("VT CPSM"); the current applicable Construction Management (CM) Procedures as adopted by the Secretary of Administration ("CM Procedure"); and the current applicable Design-Build (D-B) Procedures as adopted by the Secretary of Administration ("D-B Procedure"), the following process is revised and adopted in response to the passage of Senate Bill 18 for use of (VT CPSM, January 24, 2020), the following process is adopted for use of the Construction Manager at Risk (CMAR) and Design-Build (D-B) Capital Project Delivery Methods.

Responsible Staff:

Capital Construction ("CapCon") – the university unit responsible for administration, management and implementation of Major Capital Outlay Projects.

CapCon Project Manager ("PM") – coordinates with CapCon management and project stakeholders to recommend a project delivery method.

Procurement Department – university unit responsible for the procurement and contract administration of all Major Capital Outlay Projects.

Procurement Department Capital Construction Contracting Officer ("CCCO") – administers the capital outlay procurement process, reviews delivery method options, and manages contract development, approval and execution.

Assistant Vice President for ~~Capital Design and~~ Construction (AVPD&C) – provides CapCon leadership, manages operations, and recommends project delivery methods to meet university goals.

Vice President for ~~Campus Planning, Infrastructure and~~ Facilities (VPCPIF "VP Facilities") – approves project delivery methods and recommends contracts for execution.

Procedure:

- A. Except for projects that use Design-Bid-Build delivery method, the construction delivery method for a capital outlay project shall be approved in writing by the ~~university's Vice~~

~~President for Campus Planning, Infrastructure, and Facilities (VPCPIF), Virginia Department of General Services (DGS) via the university's VP Facilities.~~

~~A.B. In order to obtain the VPCPIF approval and document the university's this determination, a written recommendation for the CMAR or D-B project delivery method will be provided to the VPCPIF VP Facilities through the Assistant Vice President for Capital Construction (AVPCG) AVPDC, and from the Capital Construction Project Manager (PM) in consultation with the Capital Construction Contracting Officer (CCCO). The written recommendation will justify why sealed bidding the design-bid-build delivery method, utilizing competitive sealed bidding, is not practicable and/or fiscally advantageous to the university. Such justification shall consider cost, schedule, complexity, and building use. Procurement procedures associated with these delivery methods shall be in accordance with the current applicable VT CPSM, which is in accordance with Code of Virginia §2.2-4378, 2.2.-4379, 2.2-4381 and 2.2-4383. (Note: Specific procedures addressing procurement process requirements and associated guidance are provided within the VT CPSM dated July 1, 2024. In addition, the following will be considered in recommending the CMAR and D-B construction delivery method for each project:~~

~~Considerations for Adopting the CMAR Delivery Method~~

~~Construction Costs~~

~~Project Complexity (difficult site location, unique equipment, specialized building systems, multi-faceted program, accelerated schedule, historic designation, intricate phasing or other aspect that makes competitive sealed bidding impractical)~~

~~Building Use~~

~~Project Timeline~~

~~Need to perform Value Engineering and/or Constructability Analysis concurrent with design~~

~~Need for Quality Control and/or vendor pre-qualification~~

~~Need for Cost/Design Control~~

~~Need for Project phasing~~

~~Prior to using CMAR, the University shall request review and recommendations from Virginia Department of General Services, Division of Engineering and Buildings (DEB) regarding the proposed procurement method. The request for review shall be submitted utilizing the CMAR Procurement Review Submittal Form (-) and shall include the proposed project schedule and University's written determination that competitive sealed bidding is not practicable or fiscally advantageous. (VT-CPSM, 7.2)~~

~~Considerations for Adopting the Design-Build Delivery Method~~

~~Construction Costs~~

~~Project Complexity (simplicity)~~

~~Building Use~~

~~Project Timeline~~

~~Need for a Single Point of Contact (DGS 30-901)~~

~~a.~~

~~B. General Guidelines for Both CMAR and D-B Projects~~

~~A Building Committee shall be approved by the VPCPIF to interview and recommend CMAR or D-B Team for a Capital Project. (VT CPSM, 7.0.2)~~

C. The following general guidelines shall apply to university CMAR and D-B Projects:

1. At least five working days prior to the release of a CMAR or D-B Request for Qualifications ("RFQ"), the university will provide to DGS for review and approval a copy of its written determination for using either delivery method together with the appropriate relevant DGS Procurement Review Submittal Form signed by the VP Facilities or his/her designee.

DIVISION OF ENGINEERING & BUILDINGS (DEB) APPROVAL: Upon DEB approval of the use of the CMAR or D-B delivery method, Virginia Tech will proceed with issuance of the RFQ.

DIVISION OF ENGINEERING & BUILDINGS (DEB) DENIAL: In the event DEB denies the CMAR or D-B Request and if Virginia Tech elects to proceed with the project using a CMAR or D-B delivery method despite denial by DEB, the following approval process shall be followed:

a. Projects greater than \$65 million:

1) Funded in whole or in part from state general funds

- i. DGS shall present the written denial to the BOV.
- ii. Virginia Tech shall obtain approval by a majority vote of the BOV.
- iii. Upon obtaining approval from the BOV, a representative from DEB/DGS to the extent DGS deems practicable, shall be included in the process for the selection of a contractor following such approval by the BOV.

2) Funded in whole from non-general funds

- i. DGS shall present the written denial to the BOV.
- ii. Virginia Tech shall obtain approval by a majority vote of the BOV.

b. Projects less than \$65 million:

1) Funded in whole or in part from state general funds

i. In this unique instance, Virginia Tech shall obtain approval from the Chairman of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations, or their designees, and a representative of the Department of General Services. (VT CPSM, 7.0.10).

2) Funded in whole from non-general funds

i. DGS shall present the written denial to the BOV.

ii. Virginia Tech shall obtain approval by a majority vote of the BOV.

3) Upon obtaining approval by a majority vote by the BOV, the following shall be maintained in the procurement file: a written statement of Virginia Tech's decision not to follow the DEB decision, its reasons therefor, and the vote of the BOV shall be maintained in the procurement file. (VT CPSM, 7.0.10)

~~1. a signed Procurement Review Submittal Form (Department of General Services [DGS] 30-456 or DGS 30-471) to DGS for review. Upon receipt of DGS' recommendation, the university shall consider DGS comments and document the university's final determination and planned course of action in the project file and provide a copy to DGS for information.~~

~~2. The university shall have in its employ or under contract a licensed architect or engineer with professional competence appropriate to the project who shall i.) advise regarding the use of CMAR or D-B for that project and will ii.) assist with the preparation of the Request for Proposal (RFP) and evaluation of proposals.~~

~~3. The RFQ and RFP will include criteria for contractor selection and will establish a two-step (RFQ/RFP) contractor selection method.~~

~~4. The CCCO shall issue a RFQ in accordance with the Manual.~~

~~5. The RFQ will be posted for no less than 30 calendar days on eVA, the Commonwealth statewide electronic procurement system. It will include a CMAR or D-B justification to support why sealed bidding is not practicable and/or fiscally advantageous.~~

~~6. The selection committee shall evaluate the firms' RFQ responses and any other relevant information and shall determine three to five offerors deemed best qualified with respect to the criteria established for the project in the RFQ to then receive the RFP. Prior CMAR or D-B experience or experience with DEB shall not be required as a prerequisite for award of a contract. However, in the selection of a contractor, the university may consider the experience of each contractor on comparable projects.~~

~~7. The RFQ evaluation process shall evaluate an offeror's experience for a period of ten prior years to determine whether the offeror has constructed, by any method of project delivery, at least three projects similar in program and size. (CMAR 2020, C.3.e and D-B 2020, C.3.e)~~

~~8. The RFQ evaluation process shall result in a short list of three to five offerors to receive the RFP. If available, the short list shall include a minimum of one DSBSD-Certified Small Business that meets the minimum requirements for prequalification. (CMAR 2020, C.3.d and D-B 2020, C.3.d)~~

~~9. For CMAR Projects~~

~~a. At least 90 percent of the construction work shall be subcontracted by the Construction Manager through publicly advertised competitive sealed bidding to the maximum extent practicable.~~

~~b. The contract with the Construction Manager at Risk shall be entered into no later than the completion of the Schematic Design Phase unless prohibited by authorization of funding restrictions.~~

~~c. The establishment of interim GMP contracts for early release packages of construction work are permitted.~~

~~d. GMP early release packages are limited to clearly identifiable, scheduled foundation/site preparation and long lead material procurement. Ideally, they should be for work to be performed during the initial phase of the project and billable at 100 percent before the next phase of the project. (VT CPSM, 7.2)~~

~~e. The GMP for the project shall be established based on Working Drawings, unless waived by the VPCPIF.~~

~~f. The criteria for the use of CMAR as set forth in the Chapter is germane and shall be limited to projects with a construction value that is in excess of \$26,000,000. With proper justification for complex projects, the Director of the Department of General Services may grant a waiver of this requirement. (CMAR 2020, B.)~~

~~10. For D-B Projects~~

~~a. At the RFP stage, separate technical and cost proposals are required. (VT CPSM, 7.3)~~

~~b. Sealed Technical Proposals as described in the RFP shall be submitted to the Building Committee.~~

~~c. The Committee will evaluate the Technical Proposals based on the criteria contained in the RFP. D-B offerors will be informed of any adjustments necessary to make their Technical Proposals fully compliant with the requirements of the RFP. (VT CPSM, 7.3.1)~~

~~d. Separately sealed Cost Proposals shall remain sealed until evaluation of the Technical Proposals and the design adjustments are completed.~~

~~e. After evaluation and ranking the committee shall conduct negotiations with two or more offerors submitting the highest ranked proposals. Cost shall be a critical component in evaluations.~~

~~f. The Committee shall evaluate and rank the Technical Proposals. The University will then open the cost proposals and apply the criteria for award as specified in the RFP. (VT CPSM, 7.3.1)~~

~~g. The University may require that offerors make design adjustments necessary to incorporate project improvements and/or additional detailed information identified during design development. (VT CPSM, 7.3.1)~~

~~h. The University shall award the contract to the offeror who is fully qualified and has been determined to have provided the best value in response to the RFP. (VT CPSM, 7.3.1)~~

Reporting:

~~The University~~ Virginia Tech shall report on completed projects that employ the CMAR or D-B delivery methods annually or as needed upon request by DGS.

References:

- Construction Management (CM) Procedures as adopted by the Secretary of Administration effective January 1, 2020
- Design-Build (D-B) Procedures as adopted by the Secretary of Administration effective, January 1, 2020.
- Virginia Tech Management Agreement.
- Virginia Tech Construction and Professional Services Manual, ~~January 24~~ July 1, 2024.

Approval and Revisions:

Initial Adoption

Approved by the Board of Visitors on June 6, 2016

Revision 1

Update Approved by the Board of Visitors on September 11, 2017

Revision 2

Update Approved by the Board of Visitors on August 25, 2020

Revision 3

Update Approved by the Board of Visitors on August 28, 2024

**Virginia Polytechnic Institute and State University
Division of Facilities Procedure**

**Approval Process for Construction Manager at Risk and Design-Build
Capital Project Delivery Methods**

Date:

Revision: 3

Purpose:

Pursuant to the Restructuring Act and in accordance with Chapter 780 (2016) Item 4-4.01 #1c and *Code of Virginia* §2.2-4378, 2.2.-4379, 2.2-4381 and 2.2-4383; the current applicable Virginia Tech Construction and Professional Services Manual (“VT CPSM”); the current applicable Construction Management (CM) Procedures as adopted by the Secretary of Administration (“CM Procedure”); and the current applicable Design-Build (D-B) Procedures as adopted by the Secretary of Administration (D-B Procedure), the following process is revised and adopted in response to the passage of Senate Bill 18 for use of Construction Manager at Risk (“CMAR”) and Design-Build (“D-B”) Capital Project Delivery Methods.

Responsible Staff:

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CapCon Project Manager (“PM”) – coordinates with CapCon management and project stakeholders to recommend a project delivery method.

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Vice President for Facilities (“VP Facilities”) – approves project delivery methods and recommends contracts for execution.

Procedure:

- A. Except for projects that use Design-Bid-Build delivery method, the construction delivery method for a capital outlay project shall be approved in writing by the Virginia Department of General Services (DGS) via the university’s VP Facilities.

- B. To obtain approval and document this determination, a written recommendation for the CMAR or D-B project delivery method will be provided to VP Facilities through the AVPDC, and from the PM in consultation with the CCCO. The written recommendation will justify why the design-bid-build delivery method, utilizing competitive sealed bidding, is not practicable and/or fiscally advantageous to the university. Such justification shall consider cost, schedule, complexity and building use. Procurement procedures associated with these delivery methods shall be in accordance with the current applicable VT CPSM, which is in accordance with *Code of Virginia* §2.2-4378, 2.2-4379, 2.2-4381 and 2.2-4383.
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- Virginia Tech Management Agreement.
- Virginia Tech Construction and Professional Services Manual, July 1, 2024.

Approval and Revisions:

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