
Complying with Ohio's
Qualifications-Based Selection Law
for Professional Engineers, Architects & Surveyors
(Ohio Revised Code §153.65-.73)

A Guide for Public Authorities



Why Qualifications-Based Selection?

Nothing is more critical to the success of a public works project than the design of the project performed by the professional engineer or architect. Not even the best contractor using the finest of construction materials and equipment can overcome the failings of a poor design.

A quality set of plans and specifications can make the difference between a construction project that runs smoothly and efficiently and one that is fraught with problems and cost overruns. The U.S. Government Accountability Office puts it this way: “Design costs represent a very small proportion, probably less than one percent, of the costs that will be incurred over the life of a building. Decisions made during the expenditure of this less-than-one-percent determine and freeze nearly all costs that follow.”

Public agencies often need the services of engineers or architects to provide construction plans and specifications, and they also frequently require engineering reports and studies to determine the extent of a problem or the feasibility of a public works project. Because public officials rely on such reports and studies to help them make critical decisions, it imperative that they receive the best possible technical advice.

Sometimes those unfamiliar with the construction process will attempt to retain the services of an engineer or architect on the basis of low price, employing the reasoning that, “We buy everything else by competitive bid, why should this be any different?”

The answer is that professional engineers and architects do not sell a commodity, like steel or concrete. Rather, they are licensed professionals, like doctors and lawyers, who provide their clients with specialized knowledge, technical expertise, analytical skills and experience – qualities that cannot be evaluated in a “low bid” process.

This is why Ohio and nearly every other state in the U.S. has a statute on its books that requires public agencies to use a competitive, “Qualifications-Based” process to retain the design professionals who are most qualified to provide the technical services they need. These state laws are patterned after the federal Brooks Law (Public Law 92-582), which was enacted in 1972.

Ohio’s Qualifications-Based Selection Law (Ohio Revised Code §153.65-.73) requires every “public authority” to use a procedure called “Qualifications-Based Selection” to award contracts for engineering, architecture and surveying services.

This publication is intended to assist public authorities in meeting the requirements of the law and, in the process, lay the groundwork for a successful public works project.

Ohio's Qualifications-Based Selection Law

Ohio's Qualifications-Based Selection Law is found in the Ohio Revised Code at §153.65-.73. The statute was first enacted in 1987 and has been amended several times, most recently in 2011 (Am. Sub. H.B. 153, 129th General Assembly). While the original statute applied only to the procurement of "professional design services" (engineering, architecture and surveying), the 2011 amendments extended the statute's scope to the procurement of design/build services by state and local governments.

The "QBS" statute applies to every "public authority," which is defined as meaning "the state, a state institution of higher education as defined in section 3345.011 of the Revised Code, a county, township, municipal corporation, school district, or other political subdivision, or any public agency, authority, board, commission, instrumentality, or special purpose district of the state or of a political subdivision."

When seeking to contract for professional design services, the statute requires public authorities to take three basic steps:

- Announce the availability of the contract and invite interested engineers and architects to submit a statement of qualifications;
- Evaluate the statements of qualifications submitted by interested engineers and architects and – using a specific set of scoring criteria – rank them in order of their qualifications for the project at hand;
- Negotiate a contract, including scope of services and fee, with the most highly ranked professional.

These three steps are examined in greater detail on the pages that follow.

Step 1: Contract Announcement

When a public authority has determined it needs the services of a professional engineer, architect or surveyor, an announcement of the project should be written and distributed. This helps interested design firms decide whether they are capable and qualified to perform the services needed.

The announcement must be made sufficiently in advance of any deadline so that interested professionals have the opportunity to respond by submitting their statements of qualifications.

This announcement should include:

- A general description of the project, including its intended function, size, capacity, and any other pertinent information. (If you are seeking services other than design services, such as a feasibility study, impact statement or investigation, describe the subject matter as specifically as possible.)
- Project budget and anticipated funding sources;
- Anticipated project schedule, including completion of design work, beginning of construction, and planned project completion date.
- Specific services to be provided by the engineer, such as feasibility studies, design, and construction observation or management.
- An invitation to interested firms to submit a Statement of Qualifications. (These statements will include the names of firm owners, number of years in business, the types of services offered, background on key technical personnel, similar projects designed by the firm, projects underway, etc.).
- The deadline by which interested firms must respond and the name and address of the person to whom firms are to send their statements of qualifications.

When soliciting statements of qualifications, public authorities are specifically prohibited from requiring submission of “any form of fee estimate, fee proposal, or other estimate or other measure of compensation. . . .” (Ohio Revised Code §153.691). From a practical standpoint, at this stage in the process the public authority and the design professional who ultimately will be retained have not yet had the opportunity to develop a detailed scope of services, so it is impossible for a design professional to quote an accurate fee.

A sample of an announcement of a contract for professional design services is attached as Appendix A.

Step 2: Evaluation, Ranking & Selection

When the deadline has passed for interested professionals to submit statements of qualifications, the public authority must evaluate and rank the firms in order, based on criteria such as the firm's experience on similar projects, expertise of its key professional staff, the firm's facilities and equipment, references, and other similar qualitative factors. [Ohio Revised Code §153.69]

As part of this evaluation, the public authority “may hold discussions with individual firms to explore further the firms' statements of qualifications, the scope and nature of the services the firms would provide, and the various technical approaches the firms may take toward the project.”

This evaluation can be conducted by one individual or by a committee. It is critical, however, that the person or persons performing the evaluation do so fairly and that they document the process. This can be accomplished easily by use of a standard evaluation form, such as the sample that is attached as Appendix B.

Occasionally, the person or persons performing the evaluation will consider one qualification factor to be more significant than others (for instance, experience in designing similar projects may be considered of paramount importance). To address this concern, the public authority can tailor its evaluation form by assigning a higher arithmetic weight to those factors that are of greatest importance.

Upon completion of the evaluation and ranking process, at least the top three firms are short-listed and the public authority notifies the top-ranked firm that it has been selected for contract negotiations.

On very large or complex projects, the public authority may choose to request detailed technical proposals from the three short-listed firms. In these proposals the firms will describe in detail their technical approach to the project, their plan for managing the project, the key people they will assign to the project and other project-specific information.

In lieu of, or in addition to, requesting technical proposals, the public agency may also choose to interview representatives of each short-listed firm before making a final selection. Interviews allow officials of the public authority to learn about each short-listed firm's conception of the project and to discuss various possible design alternatives.

Each firm should be expected to send to the interview those key personnel who will work on and manage the project. During the interview, it is reasonable to ask about the firm's experience with similar projects and how the firm will attempt to control design and construction costs, and to review tentative schedules for design and construction.

The technical proposal and interview performance of each short-listed firm should be rated, again using standard rating sheets, and the firm that receives the highest overall rating is selected for contract negotiations.

Step 3: Contract Negotiation

Once the most highly qualified firm has been identified, the public authority opens contract negotiations with that firm to establish the project scope of services and the fee for those services (Ohio Revised Code §153.69 (B)).

It is at this point that the public authority and the firm begin working together as a team. They start by sitting down together to discuss the project in detail and to establish a professional working relationship.

This discussion leads to the development of the detailed scope of service, the written document that specifies the services to be provided by the design firm. This document is the foundation of the contract between the two parties. When the detailed scope of service is agreed upon, the design firm then has sufficient information to develop a detailed fee proposal for submission to the owner.

If the fee proposed by the design firm is more than the public authority has budgeted, the firm and the agency review options for modifying the scope of services, in order to reduce the fee. The design firm will inform the public authority of any risks or problems that might result from a change in the scope of services and resultant reduction in fee. This kind of open communication greatly improves the potential for a successful project.

On occasion, two parties negotiating in good faith will be unable to reach a contract agreement. This happens infrequently because, by its very nature, the QBS process fosters excellent communication and understanding between the owner and engineering firm. If an impasse is reached, however, the public authority should terminate discussions with the first-ranked firm and invite the firm ranked second on the short-list to enter into contract discussions (Ohio Revised Code §153.69(D)).

Given the important nature of the services, the public authority and the design firm should enter into a written contract. The parties may wish to use the standard forms of agreement that have been developed by the Engineers Joint Contract Documents Committee or the American Institute of Architects. These documents are widely used, time-tested, and drafted to fairly protect the interests of public authorities, designers and contractors. Copies of these standard documents can be obtained from most professional societies.

The contract between the public authority and design professional should also address the new professional liability insurance requirement enacted in House Bill 231. As a protection to the public, the law requires that any engineer, architect or land surveyor providing services to a public authority must be covered by professional liability insurance (Ohio Revised Code §153.70).

Small Project Selection Process

Public authorities can make use of an expedited “direct selection” process for awarding engineering and architectural contracts with an estimated value of less than \$50,000.

Since its inception, the QBS law has provided that public authorities planning to contract for professional design services “shall encourage professional design firms to submit statements of qualifications and update the statements at regular intervals.”

A provision enacted in 2011 (Ohio Revised Code §153.71 (A)) allows the public authority to select a single design professional or firm from among those that have submitted a current statement of qualifications within the immediately preceding year, “based on the public authority’s determination that the selected design professional or firm is the most qualified to provide the required professional design services.”

This “direct selection” option is available only if the public authority and the selected firm enter into contract negotiations in compliance with other sections of the law.

Exemptions

Any project “determined in writing by the public authority head to be an emergency requiring immediate action . . .” is exempt from the requirements of the QBS law (Ohio Revised Code §153.71 (B)).

Who Recommends Qualifications-Based Selection

The American Bar Association, in its Model Procurement Ordinance for Local Governments, recommends the use of QBS, saying:

“The principal reasons supporting this selection procedure for architect, engineer and land surveying services are the lack of a definitive scope of work for such services at the time the selection is made and the importance of selecting the best qualified firm. In general, the architect, engineer or land surveyor is engaged to represent the (Public Authority’s) interest and is, therefore, in a different relationship with the (Public Authority) from that normally existing in a buyer-seller situation. For these reasons, the qualifications, competence, and availability of the most qualified architect, engineer or land surveyor firms are considered initially, and price negotiated later.”

The American Public Works Association, agrees, observing:

“Competitive bidding for engineering and architectural services is not in the best public interest because it may lead to the employment of the least qualified rather than the best qualified, as should be the objective. The sole objective of bidding is low cost. Only when the services or a product can be described in exact detail, where all parties can bid on the same basis for comparison, should bidding be considered. Professional services in engineering, law, architecture, and medicine — to name a few — are not recognized as being amenable to detailed specifications.”

For more information about Ohio’s Qualifications-Based Selection Law, contact:

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Appendix A

(Sample Announcement of Contract for Professional Design Services)

PUBLIC ANNOUNCEMENT

The *(name of Public Authority)* intends to contract for *(engineering) (architectural) (surveying)* services in connection with the *(title or brief description of project)*. Firms interested in being considered for a contract to provide the required services should reply with a statement of qualifications no later than *(time)* on *(date)*. Statements received after this deadline will not be considered.

Statements of qualifications should include information regarding the firm's history; education and experience of owners and key technical personnel; the technical expertise of the firm's current staff; the firm's experience in performing engineering studies, design, construction administration and construction observation; availability of staff; the firm's equipment and facilities; references; and any previous work performed for *(name of Public Authority)*.

Statements of qualifications should be transmitted to: *(Name, title, and address of representative of Public Authority)*

As required by Ohio Revised Code §153.65-73, responding firms will be evaluated and ranked in order of their qualifications. Following this evaluation, the *(name of Public Authority)* will enter into contract negotiations with the most highly qualified firm.

The preliminary project description is as follows:

Name of Project _____

Location _____

Description *(e.g., building design, environmental impact statement, etc.)* _____

Total Project Budget *(including studies, design, construction, etc.)* _____

Source of Funding *(e.g. bond issue, OPWC grant, etc.)* _____

Project Schedule

Anticipated dates for design startup/completion _____ / _____

Anticipated dates for construction startup/completion _____ / _____

Special Requirements or Restrictions _____

Appendix B

(Sample Evaluation Form for Statements of Qualifications)

Name of Project _____

Name of Design Firm _____

Name of Evaluator _____

Criteria	Rating*		Weight**		Score
1. Firm & Individual Qualifications					
• Firm's number of years in business		x	(0-5)	=	
• Firm's background & experience on similar projects		x	(0-5)	=	
• Experience of firm's current personnel on similar projects		x	(0-5)	=	
2. Proximity to Project Site		x	(0-5)	=	
3. Capacity to Perform Work					
• Availability to meet schedule		x	(0-5)	=	
• Firm's equipment & facilities		x	(0-5)	=	
4. References					
• Quality of design		x	(0-5)	=	
• Technical innovation		x	(0-5)	=	
• Meeting schedules & deadlines		x	(0-5)	=	
• Controlling costs/meeting budgets		x	(0-5)	=	
• Communication/cooperation		x	(0-5)	=	
5. Past Performance for this Public Authority		x	(0-5)	=	

Total Score = _____

*1 = Poor, 2 = Fair, 3 = Good, 4 = Excellent, 5 = Superior

** These weighting factors may be adjusted for each project, according to the needs and priorities of the public authority.

Appendix C

Ohio's Qualifications-Based Selection Law

Sec. 153.65. As used in sections 153.65 to 153.73 of the Revised Code:

(A)(1) "Public authority" means the state, a state institution of higher education as defined in section 3345.011 of the Revised Code, a county, township, municipal corporation, school district, or other political subdivision, or any public agency, authority, board, commission, instrumentality, or special purpose district of the state or of a political subdivision.

(2) "Public authority" does not include the Ohio turnpike commission.

(B) "Professional design firm" means any person legally engaged in rendering professional design services.

(C) "Professional design services" means services within the scope of practice of an architect or landscape architect registered under Chapter 4703. of the Revised Code or a professional engineer or surveyor registered under Chapter 4733. of the Revised Code.

(D) "Qualifications" means all of the following:

(1) (a) For a professional design firm, competence to perform the required professional design services as indicated by the technical training, education, and experience of the firm's personnel, especially the technical training, education, and experience of the employees within the firm who would be assigned to perform the services;

(b) For a design-build firm, competence to perform the required design-build services as indicated by the technical training, education, and experience of the design-build firm's personnel and key consultants, especially the technical training, education, and experience of the employees and consultants of the design-build firm who would be assigned to perform the services, including the proposed architect or engineer of record.

(2) Ability of the firm in terms of its workload and the availability of qualified personnel, equipment, and facilities to perform the required professional design services or design-build services competently and expeditiously;

(3) Past performance of the firm as reflected by the evaluations of previous clients with respect to such factors as control of costs, quality of work, and meeting of deadlines;

(4) Any other relevant factors as determined by the public authority;

(5) With respect to a design-build firm, compliance with sections 4703.182, 4703.332, and 4733.16 of the Revised Code, including the use of a licensed design professional for all design services.

(E) "Design-build contract" means a contract between a public authority and another person that obligates the person to provide design-build services.

(F) "Design-build firm" means a person capable of providing design-build services.

(G) "Design-build services" means services that form an integrated delivery system for which a person is responsible to a public authority for both the design and construction, demolition, alteration, repair, or reconstruction of a public improvement.

(H) "Architect or engineer of record" means the architect or engineer that serves as the final signatory on the plans and specifications for the design-build project.

(I) “Criteria architect or engineer” means the architect or engineer retained by a public authority to prepare conceptual plans and specifications, to assist the public authority in connection with the establishment of the design criteria for a design-build project, and, if requested by the public authority, to serve as the representative of the public authority and provide, during the design-build project, other design and construction administration services on behalf of the public authority, including but not limited to, confirming that the design prepared by the design-build firm reflects the original design intent established in the design criteria package.

(J) “Open book pricing method” means a method in which a design-build firm provides the public authority, at the public authority’s request, all books, records, documents, contracts, subcontracts, purchase orders, and other data in its possession pertaining to the bidding, pricing, or performance of a contract for design-build services awarded to the design-build firm.

Sec. 153.66. (A) Each public authority planning to contract for professional design services or design-build services shall encourage professional design firms and design-build firms to submit a statement of qualifications and update the statements at regular intervals.

(B) Notwithstanding any contrary requirements in sections 153.65 to 153.70 of the Revised Code, for every design-build contract, each public authority planning to contract for design-build services shall evaluate the statements of qualifications submitted by design-build firms for the project, including the qualifications of the design-build firm’s proposed architect or engineer of record, in consultation with the criteria architect or engineer before selecting a design-build firm pursuant to section 153.693 of the Revised Code.

Sec. 153.67. Each public authority planning to contract for professional design services or design-build services shall publicly announce all contracts available from it for such services. The announcements shall:

(A) Be made in a uniform and consistent manner and shall be made sufficiently in advance of the time that responses must be received from qualified professional design firms or design-build firms for the firms to have an adequate opportunity to submit a statement of interest in the project;

(B) Include a general description of the project, a statement of the specific professional design services or design-build services required, and a description of the qualifications required for the project;

(C) Indicate how qualified professional design firms or design-build firms may submit statements of qualifications in order to be considered for a contract to design or design-build the project;

(D) Be sent to any of the following that the public authority considers appropriate:

(1) Design-build firms, including contractors or other entities that seek to perform the work as a design-build firm;

(2) Architect, landscape architect, engineer, and surveyor associations;

(3) The news media;

(4) Any publications or other public media, including electronic media.

Sec. 153.68. Any public authority planning to contract for professional design services may institute prequalification requirements for professional design firms seeking to provide services to the public authority and may require that each prequalified firm maintain a current statement of qualifications on file with the public authority. The prequalification requirements shall be based on factors such as those set out in division (D) of section 153.65 of the Revised Code.

Sec. 153.69. For every professional design services contract, each public authority planning to contract for professional design services shall evaluate the statements of qualifications submitted by professional design firms specifically regarding the project, and may hold discussions with individual firms to explore further the firms' statements of qualifications, the scope and nature of the services the firms would provide, and the various technical approaches the firms may take toward the project. Following this evaluation, the public authority shall:

(A) Select and rank no fewer than three firms which it considers to be the most qualified to provide the required professional design services, except when the public authority determines in writing that fewer than three qualified firms are available in which case the public authority shall select and rank those firms;

(B) Negotiate a contract with the firm ranked most qualified to perform the required services at a compensation determined in writing to be fair and reasonable to the public authority. Contract negotiations shall be directed toward:

(1) Ensuring that the professional design firm and the agency have a mutual understanding of the essential requirements involved in providing the required services;

(2) Determining that the firm will make available the necessary personnel, equipment, and facilities to perform the services within the required time;

(3) Agreeing upon compensation which is fair and reasonable, taking into account the estimated value, scope, complexity, and nature of the services.

(C) If a contract is negotiated with the firm ranked to perform the required services most qualified, the public authority shall, if applicable under section 127.16 of the Revised Code, request approval of the board to make expenditures under the contract.

(D) Upon failure to negotiate a contract with the firm ranked most qualified, the public authority shall inform the firm in writing of the termination of negotiations and may enter into negotiations with the firm ranked next most qualified. If negotiations again fail, the same procedure may be followed with each next most qualified firm selected and ranked pursuant to division (A) of this section, in order of ranking, until a contract is negotiated.

(E) Should the public authority fail to negotiate a contract with any of the firms selected pursuant to division (A) of this section, the public authority may select and rank additional firms, based on their qualifications, and negotiations may continue as with the firms selected and ranked initially until a contract is negotiated.

(F) Nothing in this section affects a public authority's right to accept or reject any or all proposals in whole or in part.

Sec. 153.691. No public authority planning to contract for professional design services under section 153.69 of the Revised Code shall require any form of fee estimate, fee proposal, or other estimate or measure of compensation prior to selecting and ranking professional design firms, except in instances when firm are selected and ranked by a state agency from a list of prequalified firms created under section 153.68 of the Revised Code and the state agency's payment of funds for the professional design services has been preapproved by the controlling board.

Sec. 153.692. For every design-build contract, the public authority planning to contract for design-build services shall first obtain the services of a criteria architect or engineer by doing either of the following:

(A) Contracting for the services consistent with sections 153.65 to 153.70 of the Revised Code;

(B) Obtaining the services through an architect or engineer who is an employee of the public authority and notifying the department of administrative services before the services are performed.

Sec. 153.693. (A) For every design-build contract, the public authority planning to contract for design-build services, in consultation with the criteria architect or engineer, shall evaluate the statements of qualifications submitted by design-build firms specifically regarding the project, including the design-build firm's proposed architect or engineer of record. Following this evaluation, the public authority shall:

- (1) Select and rank not fewer than three firms which it considers to be the most qualified to provide the required design-build services, except that the public authority shall select and rank fewer than three firms when the public authority determines in writing that fewer than three qualified firms are available;
 - (2) Provide each selected design-build firm with all of the following:
 - (a) A description of the project and project delivery;
 - (b) The design criteria produced by the criteria architect or engineer under section 153.692 of the Revised Code;
 - (c) A preliminary project schedule;
 - (d) A description of any preconstruction services;
 - (e) A description of the proposed design services;
 - (f) A description of a guaranteed maximum price, including the estimated level of design on which such guaranteed maximum price is based;
 - (g) The form of the design-build services contract;
 - (h) A request for a pricing proposal that shall be divided into a design services fee and a preconstruction and design-build services fee. The pricing proposal of each design-build firm shall include at least all of the following:
 - (i) A list of key personnel and consultants for the project;
 - (ii) Design concepts adhering to the design criteria produced by the criteria architect or engineer under section 153.692 of the Revised Code;
 - (iii) The design-build firm's statement of general conditions and estimated contingency requirements;
 - (iv) A preliminary project schedule.
 - (3) Evaluate the pricing proposal submitted by each selected firm and, at its discretion, hold discussions with each firm to further investigate its pricing proposal, including the scope and nature of the firm's proposed services and potential technical approaches;
 - (4) Rank the selected firms based on the public authority's evaluation of the value of each firm's pricing proposal, with such evaluation considering each firm's proposed costs and qualifications;
 - (5) Enter into contract negotiations for design-build services with the design-build firm whose pricing proposal the public authority determines to be the best value under this section.
- (B) In complying with division (A)(5) of this section, contract negotiations shall be directed toward:

(1) Ensuring that the design-build firm and the public authority mutually understand the essential requirements involved in providing the required design-build services, the provisions for the use of contingency funds, and the terms of the contract, including terms related to the possible distribution of savings in the final costs of the project;

(2) Ensuring that the design-build firm shall be able to provide the necessary personnel, equipment, and facilities to perform the design-build services within the time required by the design-build construction contract;

(3) Agreeing upon a procedure and schedule for determining a guaranteed maximum price using an open book pricing method that shall represent the total maximum amount to be paid by the public authority to the design-build firm for the project and that shall include the costs of all work, the cost of its general conditions, the contingency, and the fee payable to the design-build firm.

(C) If the public authority fails to negotiate a contract with the design-build firm whose pricing proposal the public authority determines to be the best value as determined under this section, the public authority shall inform the design-build firm in writing of the termination of negotiations. The public authority may then do the following:

(1) Negotiate a contract with a design-build firm ranked next highest under this section following the negotiation procedure described in this section;

(2) If negotiations fail with the design-build firm under division (C)(1) of this section, negotiate a contract with the design-build firm ranked next highest under this section following the negotiation procedure described in this section and continue negotiating with the design-build firms selected under this section in the order of their ranking until a contract is negotiated.

(D) If the public authority fails to negotiate a contract with a design-build firm whose pricing proposal the public authority determines to be the best value as determined under this section, it may select additional design-build firms to provide pricing proposals to the public authority pursuant to this section or may select an alternative delivery method for the project.

(E) The public authority may provide a stipend for pricing proposals received from design-build firms.

(F) Nothing in this section affects a public authority's right to accept or reject any or all proposals in whole or in part.

Sec. 153.694. If a professional design firm selected as the criteria architect or engineer creates the preliminary criteria and design criteria for a project and provides professional design services to a public authority to assist that public authority in evaluating the design-build requirements provided to the public authority by a design-build firm pursuant to section 153.692 of the Revised Code, that professional design firm shall not provide any design-build services pursuant to the design-build contract under section 153.693 of the Revised Code for the project for which the professional design firm was selected as the criteria architect or engineer.

Sec. 153.70. (A) Except for any person providing professional design services of a research or training nature, any person rendering professional design services to a public authority or to a design-build firm, including a criteria architect or engineer and person performing architect or engineer of record services, shall have and maintain, or be covered by, during the period the services are rendered, a professional liability insurance policy or policies with a company or companies that are authorized to do business in this state and that afford professional liability coverage for the professional design services rendered. The insurance shall be in amount considered sufficient by the public authority. At the public authority's discretion, the design-build firm shall carry contractor's professional liability insurance and any other insurance the public authority considers appropriate.

(B) The requirement for professional liability insurance set forth in division (A) of this section may be waived by the public authority for good cause, or the public authority may allow the person providing the professional design services to provide other assurances of financial responsibility.

(C) Before construction begins pursuant to a contract for design-build services with a design-build firm, the design-build firm shall provide a surety bond to the public authority in accordance with rules adopted by the director of administrative services under Chapter 119. of the Revised Code.

Sec. 153.71. Any public authority planning to contract for professional design services or design-build services may adopt, amend, or rescind rules, in accordance with Chapter 119. of the Revised Code, to implement sections 153.66 to 153.70 of the Revised Code. Sections 153.66 to 153.70 of the Revised Code do not apply to either of the following:

(A) Any project with an estimated professional design fee of less than fifty thousand dollars if both of the following requirements are met:

(1) The public authority selects a single design professional or firm from among those that have submitted a current statement of qualifications within the immediately preceding year, as provided under section 153.68 of the Revised Code, based on the public authority's determination that the selected design professional or firm is the most qualified to provide the required professional design services;

(2) The public authority and the selected design professional or firm comply with division (B) of section 153.69 of the Revised Code with respect to the negotiation of a contract.

(B) Any project determined in writing by the public authority head to be an emergency requiring immediate action including, but not limited to, any projects requiring multiple contracts let as part of a program requiring a large number of professional design firms of the same type.

Sec. 153.72. A design-build firm contracted for design-build services by a public authority may do either of the following:

(A) Perform design, construction, demolition, alteration, repair, or reconstruction work pursuant to such contract;

(B) Perform professional design services when contracted by a public authority for design-build services even if the design-build firm is not a professional design firm.

Sec. 153.73. The requirements set forth in sections 153.65 to 153.72 of the Revised Code for the bidding, selection, and award of a contract for professional design services or design-build services by a public authority prevail in the event of any conflict with any other provision of this chapter.