



May 25, 2016

Mr. Kurt Staller, PE
Upper Trinity Regional Water District
900 North Kealy Street
P.O. Box 305
Lewisville, Texas 75067

SENT VIA ELECTRONIC AND CERTIFIED MAIL

RE: Riverbend CMAR Project RFP

Dear Mr. Staller,

The Texas Water Infrastructure Network (TxWIN) is a 501-C6 non-for profit construction trade association representing general contractors, specialty contractors, suppliers and law firms engaged in the Texas water infrastructure industry. I am writing you today with regard to the RFP for the Riverbend Water Reclamation Plant Project that UTRWD is currently soliciting proposals for utilizing the Construction Manager at Risk or CMAR delivery method.

One of our primary goals as an organization is to engage in dialogues with the owner and engineering community to promote a strong, fair and inclusive competitive environment for the Texas water construction industry. The Upper Trinity Regional Water District and its governing board may or may not be aware that there has been a great deal of discussion during the most recent legislative session regarding alternative project delivery methods relative to their use on water infrastructure projects, including perceived and actual artificial barriers to market entry in the procurement, selection and award process which have been well documented.

TxWIN does not specifically support or oppose use of the CMAR method, and our membership recognizes the potential benefits of non-traditional delivery methods and selection processes. Unfortunately, we have seen a number of CMAR procurements that have effectively stifled competition in the procurement process by weighting of certain evaluation criteria, which has the end effect of discouraging competition and participation by Texas owned and operated general contractors. Prior to the official formation of TxWIN I had previously contacted UTRWD regarding the Doe Branch CMAR project in an effort to alert you to industry concerns that were subsequently ignored resulting in a lack of competition on your previous CMAR project.

With regard to the Riverbend CMAR project, TxWIN maintains specific concerns with your RFP in section 8.1, which assigns 20% of the evaluation criteria points to previous CMAR experience. There are other elements of the RFP that are of concern such as section 3F regarding previous design awards and/or CM recognition, but Section 8.1 will effectively eliminate the vast majority of Texas based general contractors with expertise in the WTP/WWTP industry who have not participated in projects as prime CMAR contractors, or have done so on a limited basis.

Unfortunately, since the CMAR process has been allowed for water projects we continue to see instances where evaluation factors exclude qualified and experienced contractors due to heavily weighted RFQ scoring based on previous CMAR experience. While the CMAR process does allow some benefits and flexibility, the benefits of CMAR are lost when competition is limited and selection processes are overly subjective.

Respectfully, I would like to request that UTRWD consider the competitive implications of the concerns we have identified, and consider amending your RFP to be more inclusive and competitive by eliminating section 8.1 and re-allocating evaluation criteria to experience on projects of similar size and scope. By doing so UTRWD will have a better opportunity to evaluate actual company capabilities rather than narrowing the competitive field as was the case on the Doe Branch project in 2013 where only two contractors were selected to propose on the project, one of which was related to the consulting engineer which is a practice that is now illegal due to passage of House Bill 2634.

Additionally, according to the minutes of your [May 5, 2016 Board Meeting](#) you are soliciting the CMAR contractor at eighty to ninety percent design. According to accepted industry best practices, utilizing the CMAR delivery method at this late stage in the design provides virtually no benefit in the pre-construction process, which is a fundamental characteristic and benefit of the CMAR method. At this point in the design you would likely receive a more cost effective project by completing design, pre-qualifying contractors and soliciting competitive bids or using the competitive sealed proposal procurement method.

UTRWD should endeavor to promote full, open and fair competition on your projects, and presently your CMAR RFP fails to do so. If UTRWD does not respond or take steps to address these issues we will reserve the right to conduct open records requests for all correspondence, meetings and required HB 23 filings with short-listed CMAR contractors for the benefit of our future policy and legislative efforts.

I appreciate your time and consideration of our concerns and look forward to discussing this issue with you in the near term at your convenience. I can be contacted via email at plf@txwin.org or (512) 810-3969.

Sincerely,



Perry L. Fowler
Executive Director

Cc: Mr. Lance Vanzant, President UTRWD
Mr. Chris Boyd, Vice President UTRWD
Mr. Thomas Taylor, P.E., Executive Director UTRWD
Mr. Sam Barraco, Carrollo Engineers

Attachment:

August 14, 2013 Letter from Fowler to UTRWD re: Doe Branch CMAR Project