

HB 2474 -- Redline

Truly Agreed and Finally Passed to Perfected -- Modifies provisions governing design-build contracts

Deletions ~~struck~~ · Insertions underlined

SECOND REGULAR SESSION ~~[TRULY]~~[PERFECTED] ~~AGREED TO AND FINALLY PASSED~~ SENATE COMMITTEE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO.

2474 103RD GENERAL ASSEMBLY ~~5233S.05~~5233H.02P 2026 JOSEPH ENGLER, Chief Clerk AN ACT To repeal ~~sections~~section ~~34.046 and~~ 67.5060, RSMo, and to enact in lieu thereof ~~two~~one new ~~sections~~section relating to ~~public~~design-build contracts.

~~Sections~~Section ~~34.046 and~~ 67.5060, RSMo, ~~are~~is repealed and ~~two~~one new ~~sections~~section enacted in lieu thereof, to be known as ~~sections~~section ~~34.046 and~~ 67.5060, to read as follows:

~~34.046. 67.5060.~~

~~The commissioner of administration may contract directly with other governmental entities for the purchase of supplies.~~

~~The commissioner of administration may also participate in, sponsor, conduct or administer a cooperative purchasing agreement whereby supplies are procured in accordance with a contract established by another governmental entity provided that such contract was established in accordance with the laws and regulations applicable to the establishing governmental entity.~~

~~2.~~

~~The commissioner of administration may also participate in, sponsor, conduct, or administer a cooperative purchasing agreement with a contract established by a non-profit entity whose membership is exclusively made up of governmental entities and whose governing body is selected or elected exclusively by governmental entities, and where the contract was established in accordance with the laws and regulations applicable to the governmental entities.~~

~~Such cooperative purchasing agreement shall be utilized for the purchase of supplies including but not limited to upkeep and maintenance of physical infrastructure.~~

~~The commissioner of administration may permit political subdivisions to participate in any cooperative purchasing agreement.~~

~~EXPLANATION -- Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law.~~

~~Matter in bold-face type in the above bill is proposed language.~~

~~SCS HCS HB 2474 2 67.5060.~~

~~1.~~

and (b) Noncivil works projects, such as buildings, site improvements, and other structures, habitable or not, commonly designed by architects ~~in~~in excess of ~~[seven]seven~~ two million ~~five~~dollars; ~~hundred thousand dollars;~~

~~(4) EXPLANATION "Design-builder", -- any~~Matter ~~individual, enclosed partnership, joint venture, or corporation subject to a qualification-based selection that offers to provide or provides design services and general contracting services through a design-build contract or a progressive design-build contract in which~~bold-faced services~~brackets within~~[thus] ~~the scope of the practice of professional architecture or engineering are performed respectively by a licensed architect or licensed engineer and in which services within the scope~~above of~~bill generalis~~contracting~~not are~~enacted ~~performed by a general contractor or other legal entity that furnishes architecture or engineering services and construction~~is services~~intended either to directly be or omitted through from subcontracts~~the or law. ~~joint ventures;~~

Matter in bold-face type in the above bill is proposed language.

HCS HB 2474 2 (4) "Design-builder", any individual, partnership, joint venture, or corporation subject to a qualification-based selection that offers to provide or provides design services and general contracting services through a design-build contract or a progressive design-build contract in which services within the scope of the practice of professional architecture or engineering are performed respectively by a licensed architect or licensed engineer and in which services within the scope of general contracting are performed by a general contractor or other legal entity that furnishes architecture or engineering services and construction services either directly or through subcontracts or joint ventures;

(6) "Design criteria package", performance-oriented program, scope, and specifications for the design-build project sufficient to permit a design-builder to prepare a response to a political subdivision's request for proposals for a design-build project or a ~~SCS HCS HB 2474 3~~ progressive design-build project, which may include capacity, durability, standards, ingress and egress requirements, performance requirements, description of the site, surveys, soil and environmental information concerning the site, interior space requirements, material quality standards, design and construction schedules, site

development requirements, provisions for utilities, storm water retention and disposal, parking requirements, applicable governmental code requirements, preliminary designs for the project or portions thereof, and other criteria for the intended use of the project;

(8) "Progressive design-build contract", a contract that is subject to a two-stage qualification-based selection process as described in subdivision (1) of subsection 13 of this section between a political subdivision and a design-builder to furnish the architectural, engineering, and related design services and the labor, materials, supplies, HCS HB 2474 3 equipment, and other construction services required for a progressive design-build project;

In using a design-build contract or a progressive design-build contract, the political subdivision shall determine the scope and level of detail required to permit qualified ~~SCS HCS HB 2474 4~~ persons to submit proposals in accordance with the request for proposals given the nature of the project.

~~(1) A design criteria consultant [shall] may be employed or retained by the political subdivision using to assist progressive in design-build preparation contract of under the this design section criteria shall package be and required request for proposal, perform periodic site visits to include, observe as adherence to condition the design criteria, prepare progress reports, review and approve progress and final pay applications of eligibility, the design-builder, review shop drawings and submissions, provide input in disputes, help interpret the following: construction documents, perform inspections upon substantial and final completion, assist in warranty inspections, and provide any other professional service assisting with the project administration of a design-build project or a progressive design-build project.~~

~~evaluations, awards, or points based upon any requirement, certification, standard, or policy that is not directly related to the construction, safety, durability, permitting, or operation of the project.~~

~~(2) The provisions in subdivision (1) of this subsection shall include, but not be limited to:~~

~~(a) Green building certification or rating systems;~~

~~(b) Sustainable development goals, plans, or climate-related goals;~~

~~(c) Environmental, social, political, ideological, and governance standards, or similar nonpecuniary standards;~~

~~(d) Environmental justice, social justice, diversity, equity, or inclusion objectives;~~

~~and (e) Any preference for materials, designs, contractors, subcontractors, consultants, or vendors based on political, social, environmental, or ideological criteria rather than cost, quality, safety, durability, lawful permitting, or ability to perform the work.~~

~~4.~~

~~Nothing in subsection 3 of this section shall be construed to prohibit a political subdivision from requiring compliance with applicable federal law, state law, local building codes, health and safety standards, engineering standards, environmental permits, site remediation requirements, stormwater requirements, flood control requirements, utility requirements, or other lawful project-specific requirements directly related to the construction, safety, durability, permitting, or ordinary operation of the project.~~

~~[3.] 5.~~

~~A design criteria consultant shall be employed or retained by the political subdivision to assist in preparation of the design criteria package and request for proposal, perform periodic site visits to observe adherence to the design criteria, prepare progress reports, review and approve progress and final pay applications of the design-builder, review shop drawings and submissions, provide input in disputes, help interpret the construction documents, perform inspections upon substantial and final completion, assist in warranty inspections, and provide any other professional service assisting with the project administration of a design-build project or a progressive design-build project.~~

~~SCS 4. HCS HB 2474 5 [4.] 6.~~

Notice of requests for proposals shall be advertised by publication in a newspaper of general circulation HCS HB 2474 4 published in the county where the political subdivision is located once a week for two consecutive weeks prior to opening the proposals, or by a virtual notice procedure that notifies interested parties for at least twenty various purchases, design contracts, construction contracts, or other contracts each year for the political subdivision.

~~[5.] 5.-7.~~

~~[6.] 6.-8.~~

Phase II shall be ~~SCS HCS HB 2474 6~~ the solicitation of a technical proposal including conceptual design for the project.

HCS HB 2474 5 [9.] (4) Phase I shall require all design-builders to submit a statement of qualification that shall include, but not be limited to:

~~[(2)] [(2)] (b) - (b)~~ References of owners for whom design-build projects, construction projects, or design projects have been performed;

[10.] 9.-7.

[11.] ~~10.8.~~

[12.] ~~11.9.~~

[13.] ~~12.10.~~

~~SCS HCS HB 2474 7~~ (1) The political subdivision shall invite the top qualified design-builders to participate in phase II of the process;

HCS HB 2474 6 (3) The ability of the design-builder to meet the schedule for completing a project as specified by the political subdivision may be considered as an element of evaluation in phase II;

[14.] ~~13.11.~~

~~SCS HCS HB 2474 8~~ (5) If the political subdivision determines that it is not in the best interest of the political subdivision to proceed with the project pursuant to the proposal offered by the design-builder with the highest total number of points, the political subdivision shall reject all proposals.

In this event, all qualified and responsive design-builders with lower point totals shall receive a stipend and the responsive design-builder with the highest total number of HCS HB 2474 7 points shall receive an amount equal to two times the stipend.

[15.] ~~14.12.~~

~~15.13.~~

and (h) Any other information that the political subdivision in its discretion chooses to supply including, but not limited to, surveys, soil reports, drawings of existing ~~SCS HCS HB 2474 9~~ structures, environmental studies, photographs, references to public records, or affirmative action and minority business enterprise requirements consistent with state and federal law.

Phase HCS HB 2474 8 II shall be the solicitation and evaluation of proposals describing the design-builder's approach to design development, preconstruction services, and construction of the project.

This process of ~~short-short-listing-listing~~ shall narrow the number of qualified design-builders to not more than three but not less than two.

~~SCS HCS HB 2474 10~~ (6) The political subdivision shall have discretion to disqualify any design-builder who, in the political subdivision's opinion, lacks the minimum qualifications required to perform the work.

HCS HB 2474 9 (8) Phase II of the process shall be conducted as follows:

Any innovations, sustainability measures, or risk-management strategies proposed for the project;

(d) Evaluation of ~~phase~~Phase II proposals shall be qualifications-based.

(e) The political subdivision shall rank the ~~phase~~Phase II proposals according to the criteria and weighting established in the request for proposals and may conduct interviews as part of the evaluation;

and (g) During the preconstruction phase, the design-builder and the political subdivision shall collaborate to advance the design to a level sufficient to establish a fixed contract amount or guaranteed maximum price, consistent with agreed-upon ~~SCS HCS HB 2474 11~~ milestones and deliverables.

~~(9) [16.] The 14. provisions of this subsection shall expire on August 28, 2036.~~

16. (1) As used in this subsection, "wastewater or water contract" means any design-build contract or progressive design-build contract that involves the provision of engineering and construction services either directly by a party to the contract or through HCS HB 2474 10 subcontractors retained by a party to the contract for a wastewater or water storage, conveyance, or treatment facility project.

~~(1) (2) AsAny used political insubdivision thismay subsection, enter "wastewater into a wastewater or water contract" means any design-build contract orfor progressive design-build contract that involves the provision of engineering and construction services either directly by a party to the contract or through subcontractors retained by a party to the contract for a wastewater or water storage, conveyance, or treatment facility project.~~

~~(2) Any political subdivision may enter into a wastewater or water contract for design-build or progressive design-build of a wastewater or water project.~~

(5) A political subdivision planning a wastewater or water design-build project or progressive design-build project shall retain an engineer duly licensed in this state to assist in preparing any necessary documents and specifications and evaluations of design-build ~~or progressive design-build~~ proposals.

~~17. [17.] 15.~~

The payment bond requirements of section 107.170 shall apply to [the] ~~design design-build-build~~ [project] projects and progressive design-build projects.

~~18. [18.] 16.~~

~~19. [19.] 17.~~

~~20. [20.] 18.~~

Under section 327.465, any design-builder that enters into a design-build contract or progressive design-build contract with a political subdivision is exempt from the requirement that such person or entity hold a license or that such corporation hold a certificate ~~SCS HCS HB 2474 12~~ of authority if the architectural, engineering, or land-surveying services to be performed under the design-build contract

are performed through subcontracts or joint ventures with properly licensed or authorized persons or entities, and not performed by the design-builder or its own employees.

~~21.~~ [21.] 19.

HCS HB 2474 11 (1) Any metropolitan sewer district established under Article VI, Section 30(a) of the Constitution of Missouri;