

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: S4/5/13

A Bill

SENATE BILL 1084

By: Senator Files

For An Act To Be Entitled

AN ACT TO *REGULATE* THE PROCUREMENT OF CONSTRUCTION MANAGEMENT CONTRACTS BY PUBLIC *ENTITIES EXCEPT IN CERTAIN CIRCUMSTANCES*; TO *REGULATE THE PROCUREMENT OF CERTAIN CONTRACTS BY PUBLIC ENTITIES*; AND FOR OTHER PURPOSES.

Subtitle

TO REGULATE THE PROCUREMENT OF CONSTRUCTION MANAGEMENT CONTRACTS BY PUBLIC ENTITIES EXCEPT IN CERTAIN CIRCUMSTANCES; AND TO REGULATE THE PROCUREMENT OF CERTAIN CONTRACTS BY PUBLIC ENTITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 14-58-1001(a), concerning municipal projects exceeding two million dollars, is amended to read as follows:

(a) ~~In the event~~ If funds from any sources for a municipal project other than revenues derived from a performance-based efficiency project exceed ~~two million dollars (\$2,000,000)~~ five million dollars (\$5,000,000), excluding the cost of land, ~~the provisions of this subchapter and all other provisions of the Arkansas Code of 1987 Annotated governing construction of public facilities, including, but not limited to, the provisions of~~ without limitation § 22-9-201 et seq., at the election of municipalities ~~shall not be applicable~~ do not apply to the project if the selection and contracting process ~~set forth~~ stated in this section is followed.



SECTION 2. Arkansas Code § 14-58-1001(b), concerning municipal projects exceeding two million dollars, is amended to add an additional subdivision to read as follows:

(4) A contract for a project between a municipality and a construction manager shall not be entered into without first obtaining review by the Legislative Council or the Joint Budget Committee.

SECTION 3. Arkansas Code § 14-58-1001(d), concerning municipal projects exceeding two million dollars, is amended to add additional subdivisions to read as follows:

(5)(A) The general contractor shall solicit sealed bids for all divisions of a project from a list of approved subcontractors prepared by the general contractor.

(B) The general contractor shall solicit a minimum of three (3) bids for each division of the project.

(C) If the general contractor is unable to obtain a minimum of three (3) bids for each division of the project, the general contractor shall provide written documentation of its efforts and submit the written documentation to the municipality for approval.

(D) If the general contractor desires to perform work in any division of the project, the general contractor shall submit a sealed bid in the same manner as a subcontractor.

(E) The municipality shall retain the right to approve or disapprove the general contractor's list of subcontractors for the project before the solicitation of sealed bids.

(6) The general contractor and a representative of the municipality shall be present when the sealed bids are opened for each division of the project.

(7)(A) The general contractor shall prepare and present a tabulated form to the municipality that accurately represents the range of bids for each division of the project.

(B) The tabulated form required under subdivision (d)(7)(A) of this section is a public record under the Freedom of Information Act of 1967, § 25-19-101 et seq., subject to any applicable exemptions.

(8) The construction contract for the project shall identify the

items that are included in the general conditions.

SECTION 4. Arkansas Code § 19-4-1415(f), concerning projects exceeding five million dollars, is amended to add additional subdivisions to read as follows:

(5)(A) The general contractor for a project for an institution of higher education shall solicit sealed bids for all divisions of a project from a list of approved subcontractors prepared by the general contractor.

(B) The general contractor shall solicit a minimum of three (3) bids for each division of the project.

(C) If the general contractor is unable to obtain a minimum of three (3) bids for each division of the project, the general contractor shall provide written documentation of its efforts and submit the written documentation to the institution of higher education for approval.

(D) If the general contractor desires to perform work in any division of the project, the general contractor shall submit a sealed bid in the same manner as a subcontractor.

(E) The institution of higher education shall retain the right to approve or disapprove the general contractor's list of subcontractors for the project before the solicitation of sealed bids.

(6) The general contractor and a representative of the institution of higher education shall be present when the sealed bids are opened for each division of the project.

(7)(A) The general contractor shall prepare and present a tabulated form to the institution of higher education that accurately represents the range of bids for each division of the project.

(B) The tabulated form required under subdivision (f)(7)(A) of this section is a public record under the Freedom of Information Act of 1967, § 25-19-101 et seq., subject to any applicable exemptions.

(8) The construction contract for the project shall identify the items that are included in the general conditions.

SECTION 5. Arkansas Code § 19-11-802(d), concerning restrictions on competitive bidding for professional services contracts, is amended to add an additional subdivision to read as follows:

(4) A contract between a public school district and a

construction manager for a project that exceeds five million dollars (\$5,000,000), excluding the cost of land, shall not be entered into without first obtaining review by the Legislative Council or the Joint Budget Committee.

SECTION 6. Arkansas Code § 19-11-802, concerning restrictions on competitive bidding for professional services contracts, is amended to add an additional subsection to read as follows:

(e)(1)(A) The general contractor for a public school district project that exceeds five million dollars (\$5,000,000), excluding the cost of land, shall solicit sealed bids for all divisions of a project from a list of approved subcontractors prepared by the general contractor.

(B) The general contractor shall solicit a minimum of three (3) bids for each division of the project.

(C) If the general contractor is unable to obtain a minimum of three (3) bids for each division of the project, the general contractor shall provide written documentation of its efforts and submit the written documentation to the state agency or political subdivision for approval.

(D) If the general contractor desires to perform work in any division of the project, the general contractor shall submit a sealed bid in the same manner as a subcontractor.

(E) The state agency or political subdivision shall retain the right to approve or disapprove the general contractor's list of subcontractors for the project before the solicitation of sealed bids.

(2) The general contractor and a representative of the state agency or political subdivision shall be present when the sealed bids are opened for each division of the project.

(3)(A) The general contractor shall prepare and present a tabulated form to the state agency or political subdivision that accurately represents the range of bids for each division of the project.

(B) The tabulated form required under subdivision (e)(3)(A) of this section is a public record under the Freedom of Information Act of 1967, § 25-19-101 et seq., subject to any applicable exemptions.

(4) The construction contract for the project shall identify the items that are included in the general conditions.

/s/Files