

FIRST REGULAR SESSION

HOUSE BILL NO. 714

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KOLLER.

Read 1st time February 8, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

1739L.011

AN ACT

To amend chapter 227, RSMo, by adding thereto one new section relating to contracts for construction of the state highway system, with an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 227, RSMo, is amended by adding thereto one new section, to be
2 known as section 227.107, to read as follows:

227.107. 1. As used in this section, the following terms shall mean:

2 **(1) "Design-build highway project contract", the procurement of all materials and**
3 **services necessary for the design, construction, reconstruction, improvement or**
4 **maintenance of a highway project in a single contract with a person or persons capable of**
5 **providing the necessary materials and services;**

6 **(2) "Design-build prequalification review team" or "review team", a team**
7 **authorized by the commission to make recommendations to the commission on persons**
8 **who are qualified to bid on a design-build project. The review team shall be comprised of**
9 **four representatives from the department of transportation, one representative from the**
10 **Associated General Contractors of Missouri and one representative from the Consulting**
11 **Engineers Council of Missouri;**

12 **(3) "Highway project", the construction, establishment or maintenance of highways**
13 **or bridges;**

14 **(4) "Person", individuals, corporations, partnerships, joint ventures, limited**
15 **liability companies, or other business organizations.**

16 **2. As an alternative to the requirements and procedures specified in sections**
17 **227.040 to 227.100, the state highways and transportation commission may enter into**
18 **design-build highway project contracts. The first design-build highway project shall be**

19 a pilot project located on the interstate highway system. Subsequent design-build highway
20 projects will be selected from interstate highway and bridge projects in the five-year plan
21 or any highway or bridge project that is deemed by the commission to be an emergency
22 project.

23 3. In using a design-build highway project contract, the commission shall
24 prequalify persons based on recommendations submitted by the design-build
25 prequalification review team before the persons will be allowed to bid on a project. Such
26 prequalification shall be conducted as follows:

27 (1) The commission shall give public notice of a request for qualifications in at least
28 two public newspapers that are distributed wholly or in part in this state and in at least one
29 construction industry trade publication that is distributed nationally;

30 (2) The commission shall issue a request for qualifications to all persons requesting
31 one in accordance with the instructions in the public notice. In the request for
32 qualifications, the commission may require that all persons submit information in a
33 prescribed format demonstrating their relevant design and construction qualifications and
34 experience, financial capacity, and capability of obtaining performance and payment
35 bonds and insurance coverage specified by the commission, ability to comply with all
36 applicable federal, state and local laws and regulations and such other qualifications that
37 the commission considers to be in the best interest of the state;

38 (3) The commission may investigate and verify all information submitted. All
39 financial information, trade secrets or other information customarily regarded as
40 confidential business information submitted to or obtained by the commission during the
41 contracting process set forth in this section shall be protected from disclosure pursuant to
42 the provisions of section 227.107 and section 610.021, RSMo;

43 (4) The review team shall evaluate and rate all persons submitting responsive
44 statements of qualifications. Based upon such ratings, the review team shall make a
45 recommendation to the commission as to which persons should be selected to receive
46 requests for proposals;

47 (5) The review team may recommend any number of persons to receive requests
48 for proposals, provided that if the review team fails to receive at least three responsive
49 submissions from persons considered qualified by the review team, the review team shall
50 notify the commission. The commission may then readvertise the project.

51 4. The commission shall issue a request for proposals to all persons prequalified in
52 accordance with subsection 3 of this section. The request for proposals shall set forth:

53 (1) The scope of work, contract specifications, work requirements and other
54 requirements that have a substantial impact on the cost of the work as determined by the

55 commission; and

56 (2) Criteria to be used by the commission to determine whether proposals are
57 responsive and a description of the criteria and procedures to be used to evaluate
58 proposals.

59 5. Proposals must consist of two separate components to be submitted to the
60 commission simultaneously but separately:

61 (1) A sealed design-build proposal; and

62 (2) A sealed lump sum price proposal.

63

64 The commission shall evaluate and score responsive design-build proposals based upon
65 criteria that may include proposed design, constructability, long-term maintenance costs,
66 aesthetics, local impact, travel and other user costs and other factors that the commission
67 considers to be in the best interest of the state. The commission shall then publicly open
68 and read responsive lump sum price proposals and divide each price by the score of that
69 person's design-build proposal, yielding an overall value rating for each person. The
70 commission may award the contract to the person with the lowest responsive overall value
71 rating and the commission's award decision is final and is not subject to review or appeal.
72 The commission may also reject any or all proposals for design-build highway project
73 contracts for any reason.

74 6. The commission may require approval of any person performing subcontract
75 work on a design-build highway project contract.

76 7. The bid bond and performance bond requirements of section 227.100 and the
77 payment bond requirements of section 107.170, RSMo, shall apply to a design-build
78 highway project contract.

79 8. A design-build project contract may be for construction or work of greater than
80 ten miles of road.

81 9. The commission shall prescribe the form of the contracts for the work.

82 10. The commission is empowered to make all final decisions concerning the
83 performance of the work under its contracts, including claims for additional time and
84 compensation.

85 11. The provisions of sections 8.285 to 8.291, RSMo, shall not apply to the
86 procurement of architectural, engineering, or land surveying services for a design-build
87 highway project contract; except that any person providing architectural, engineering or
88 land surveying services for a design-build highway project contract must be licensed in
89 Missouri to provide such services.

90 12. The commission is authorized to pay a fee to all responsive bidders who are not

91 **awarded a design-build highway project. The fee and criteria for responsiveness shall be**
92 **set forth in the request for qualification and request for proposals issued by the**
93 **commission. In the event the commission rejects all bid proposals for a design-build**
94 **highway project, the commission may subsequently submit a new request for proposal on**
95 **the previously rejected design-build highway project. Any person who receives a fee**
96 **pursuant to this section for a responsive bid on the rejected design-build highway project**
97 **is prohibited from receiving a fee for a responsive bid on the subsequent design-build**
98 **highway project.**

Section B. Because there is a serious and immediate need for transportation projects for
2 this state, section A of this act is deemed necessary for the immediate preservation of the public
3 health, welfare, peace and safety and is hereby declared to be an emergency act within the
4 meaning of the constitution. Therefore, section A of this act shall be in full force and effect upon
5 its passage and approval.