

SECOND REGULAR SESSION

HOUSE BILL NO. 1212

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GUERNSEY.

4845H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 67, RSMo, by adding thereto one new section relating to the authority of political subdivisions to enter into design-build contracts.

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

Section A. Chapter 67, RSMo, is amended by adding thereto one new section, to be known as section 67.5050, to read as follows:

67.5050. 1. As used in this section, the following terms mean:

(1) “Design-build”, a project for which the design and construction services are furnished under one contract;

(2) “Design-build contract”, a contract between a political subdivision and a design-build contractor to furnish the architecture, engineering, and related design services and the labor, materials, and other construction services required for a specific construction project;

(3) “Design-build contractor”, any individual, partnership, joint venture, corporation, or other legal entity that furnishes architecture or engineering services and construction services either directly or through subcontracts;

(4) “Design-build project”, the design, construction, alteration, addition, remodeling, or improvement of any buildings or facilities under contract with a political subdivision. Contracts for design-build projects that involve the construction, replacement or rehabilitation of a political subdivision property such that, in all cases, the project must exceed an expenditure of one million dollars;

(5) “Design criteria package”, performance-oriented specifications for the design-build project sufficient to permit a design-build contractor to prepare a response to the

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.

18 political subdivision's request for proposals for a design-build project, which may include
19 preliminary designs for the project or portions thereof.

20 2. (1) Notwithstanding any other provision of law to the contrary, any political
21 subdivision is authorized to enter into design-build contracts for design-build projects that
22 exceed an expenditure of one million dollars.

23 (2) In using a design-build contract, the political subdivision shall establish a
24 written procedure by rule for prequalifying design-build contractors before such design-
25 build contractors will be allowed to make a proposal on the project.

26 (3) The political subdivision shall adopt procedures for:

27 (a) The prequalification review team;

28 (b) Specifications for the design criteria package;

29 (c) The method of advertising, receiving, and evaluating proposals from design-
30 build contractors;

31 (d) The criteria for awarding the design-build contract based on the design criteria
32 package and a separate proposal stating the cost of construction; and

33 (e) Other methods, procedures, and criteria necessary to administer this section.

34 (4) The political subdivision is authorized to issue a request for proposals to a
35 maximum of five design-build contractors who are prequalified in accordance with this
36 section.

37 (5) The political subdivision may require approval of any person performing
38 subcontract work on the design-build project including, but not limited to, those furnishing
39 design and construction services, labor, materials or equipment.

40 3. (1) Before the prequalification process specified in this section, the political
41 subdivision shall publicly advertise, once a week for two consecutive weeks, in a newspaper
42 of general circulation, qualified under chapter 493, located within the political subdivision,
43 or, if there is no such newspaper, in a qualified newspaper of general circulation in the
44 county, or, if there is no such newspaper, in a qualified newspaper of general circulation
45 in an adjoining county, and may advertise in business, trade, or minority newspapers, for
46 qualification submissions on said design-build project.

47 (2) If the political subdivision fails to receive at least two responsive submissions
48 from prequalified design-build contractors, submissions shall not be opened and the
49 political subdivision shall re-advertise the project.

50 (3) The political subdivision shall have the right to reject any and all submissions
51 and proposals.

52 (4) The proposals from prequalified design-build contractors shall be submitted
53 sealed and in writing, to be opened publicly at the time and place of the political

54 subdivision's choosing. Technical proposals and qualifications submissions shall be
55 submitted separately from any cost proposals. No cost proposal shall be opened until the
56 technical proposals and qualifications submissions are first opened, evaluated, and ranked
57 in accordance with the criteria identified by the request for proposals.

58 (5) The design-build contract shall be awarded to the design-build contractor whose
59 proposal represents the best overall value to the political subdivision in terms of quality,
60 technical skill, schedule, and cost.

61 (6) No proposal shall be entertained by the political subdivision that is not made in
62 accordance with the request for proposals furnished by the political subdivision.

63 4. (1) The payment bond requirements of section 107.170 shall apply to the design-
64 build project. All persons furnishing design services shall be deemed to be covered by the
65 payment bond the same as any person furnishing labor and materials; however, the
66 performance bond for the design-build contractor does not need to cover the design
67 services as long as the design-build contractor or its subcontractors providing design
68 services carry professional liability insurance in an amount established by the political
69 subdivision in the request for proposals.

70 (2) Any person or firm providing architectural, engineering, or land-surveying
71 services for the design-build contractor on the design-build project shall be duly licensed
72 or authorized in this state to provide such services as required by chapter 327.

73 5. (1) A political subdivision planning a design-build project shall retain an
74 architect or engineer, as appropriate to the project type, under sections 8.285 to 8.291, to
75 assist with programming, site selection, master plan, the design criteria package,
76 preparation of the request for proposals, prequalifying design-build contractors,
77 evaluation of proposals, and preparation of forms necessary to award the design-build
78 contract. The political subdivision shall also retain either that same architect or engineer
79 or another to perform contract administration for the political subdivision functions on
80 behalf of the political subdivision during the construction phase and after project
81 completion. If the political subdivision has an architect or engineer capable of fulfilling
82 the functions described in this section, the political subdivision is exempt from being
83 required to retain another such professional.

84 (2) Any architect or engineer who is retained by a political subdivision under this
85 section shall be ineligible either to act as the design-build contractor, or to participate as
86 part of the design-build contractor's team as a subcontractor, joint venturer, partner, or
87 otherwise for the same design-build project for which the architect or engineer was hired
88 by the political subdivision.

89 **6. Under section 327.465, any design-build contractor that enters into a design-**
90 **build contract for a political subdivision is exempt from the requirement that such person**
91 **or entity hold a certificate of registration or that such corporation hold a certificate of**
92 **authority if the architectural, engineering, or land-surveying services to be performed**
93 **under the contract are performed through subcontracts with properly licensed and**
94 **authorized persons or entities, and not performed by the design-build contractor it is own**
95 **employees.**

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