

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 1989 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: S3/15/05 S3/18/05

A Bill

SENATE BILL 925

5 By: Senator Altes
6 By: Representative Glidewell
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9 For An Act To Be Entitled

10 AN ACT TO CREATE ALTERNATIVE NEGOTIATED
11 PURCHASING FOR MUNICIPALITIES; AND FOR OTHER
12 PURPOSES.
13

14 Subtitle

15 AN ACT TO CREATE ALTERNATIVE NEGOTIATED
16 PURCHASING FOR MUNICIPALITIES.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code Title 14, Chapter 58 is amended to add an
22 additional subchapter to read as follows:

23 14-58-1001. Projects exceeding two million dollars.

24 (a) In the event funds from any sources for a municipal project, other
25 than revenues derived from a performance-based efficiency project, exceed two
26 million dollars (\$2,000,000), excluding the cost of land, the provisions of
27 this subchapter and all other provisions of the Arkansas Code governing
28 construction of public facilities, including, but not limited to, the
29 provisions of §§ 22-9-201 through 22-9-213 at the election of municipalities
30 shall not be applicable to the projects if the selection and contracting
31 process set forth in this section is followed.

32 (b)(1) The selection procedures for the construction manager, general
33 contractor, architect, or engineer shall provide for solicitation for
34 qualified, licensed professionals to submit proposals.

35 (2) The procedures shall assure the design and completion of the



1 project in an expeditious manner while adhering to high standards of design
2 and construction quality.

3 (3) The municipality shall:

4 (A) Publish notice of its intention to receive written
5 proposals three (3) consecutive days in a newspaper of local distribution;

6 (B) Allow a minimum of ten (10) working days from the
7 first date of publication for the professionals to send letters or resumes in
8 response to the newspaper advertisement; and

9 (C) Provide additional means of notification, if any, as
10 the municipality shall determine is appropriate.

11 (c)(1)(A) A preselection committee, which shall be composed of at
12 least three (3) members from the municipality, shall review the proposals.

13 (B) The preselection committee shall select a maximum of
14 five (5) applicants and schedule interviews.

15 (C) The municipality shall notify the finalists of their
16 status.

17 (2)(A) The final selection committee shall be composed of the
18 members on the preselection committee.

19 (B) The final interviews shall be held at the time and
20 date as designated by the final selection committee.

21 (C) In selecting a general contractor, construction
22 manager, architect, or engineer, the municipality shall consider their
23 established criteria which shall include, but are not limited to, the
24 following:

25 (i) The experience of the professional or
26 professionals in similar projects;

27 (ii) The record of the professional or professionals
28 in timely completion of the projects with high quality workmanship; and

29 (iii) Other similar matters to determine that the
30 professional or professionals will complete the project within the time and
31 budget and to the specifications set by the municipality.

32 (3)(A) The final selection committee shall make a formal
33 recommendation to its governing body of the professional or professionals
34 which it determines to be in the best interest of the municipality.

35 (B) Contracts for architectural, engineering, and land
36 surveying professional consultant services shall be negotiated on the basis

1 of demonstrated competence and qualifications for the type of services
2 required and at fair and reasonable prices without the use of competitive
3 bidding, and no rule or regulation shall inhibit the municipality's authority
4 to negotiate fees for the services.

5 (d)(1) Construction contracts for the projects shall not be entered
6 into without a payment and performance bond in the amount of the contract and
7 any amendments thereto and shall provide for the manner in which the
8 construction shall be managed and supervised.

9 (2) All project architects and engineers shall be properly
10 licensed in accordance with the Arkansas State Board of Architects and the
11 Arkansas State Board of Engineers.

12 (3) The construction manager or general contractor shall be
13 properly licensed by the Contractors Licensing Board.

14 (4)(A) All subcontractors on the project shall be properly
15 licensed by the Contractors Licensing Board.

16 (B) Any person who is not considered a contractor under §§
17 17-25-101 through 17-25-105 may continue to perform subcontracting work under
18 the provisions of this subchapter.

19 (e) The funds may be represented in whole or in part by a written
20 pledge or commitment from a donor, provided that the municipality shall
21 assure itself of the financial stability of the donor to fulfill the pledge
22 or commitment.

23 (f)(1) All projects constructed pursuant to this section, to the
24 extent applicable, shall be in accordance and compliance with:

25 (A) Sections 17-38-101 through 17-38-105 regulating
26 plumbers;

27 (B) Sections 17-33-101 through 17-33-106 regulating the
28 heating, ventilation, air conditioning, and refrigeration industry;

29 (C) The Fire Prevention Act, § 12-13-101 et seq.;

30 (D) Sections 12-80-101 through 12-80-107 regarding
31 earthquake resistant design for public structure;

32 (E) Americans with Disabilities Act Accessibility
33 Guidelines, 28 C.F.R. pt. 36, App. A, adopted by the authority; and

34 (F) The minimum standards of the authority and criteria
35 pertaining to projects constructed under this section.

36 (2) Notwithstanding anything in this section to the contrary,

1 the provisions of §§ 19-11-801, 22-9-101, 22-9-103, 22-9-104, 22-9-213, §§
2 22-9-301 through 22-9-315, §§ 22-9-401 through 22-9-405, §§ 22-9-501 through
3 22-9-505, §§ 22-9-601 through 22-9-604, §§ 22-9-701 through 22-9-702, and all
4 competitive bidding statutes shall remain in full force and effect and not be
5 affected hereby.

6 (3) This section shall not be construed to authorize a design-
7 build project contract.

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9 /s/ Altes

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12 APPROVED: 04/11/2005
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