

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

1 State of Arkansas As Engrossed: H2/26/15 H3/5/15 H3/25/15

2 90th General Assembly

A Bill

3 Regular Session, 2015

HOUSE BILL 1009

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5 By: Representative Murdock

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For An Act To Be Entitled

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AN ACT TO CLARIFY ARKANSAS LAWS CONCERNING

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CONSTRUCTION MANAGEMENT; AND FOR OTHER PURPOSES.

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Subtitle

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TO CLARIFY ARKANSAS LAWS CONCERNING

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CONSTRUCTION MANAGEMENT.

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

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19 SECTION 1. Arkansas Code § 19-11-801(d), concerning the definitions
20 used for procurement of professional services, is amended to read as follows:

21 (d)(1) As used in this section, "construction management" means a
22 project delivery method based on an agreement in which a state agency,
23 political subdivision, public school district, or institution of higher
24 education acquires from a construction ~~entity~~ manager a series of
25 professional services that include, but are not limited to, without
26 limitation:

27 (A) ~~design~~ Design review;_i

28 (B) ~~scheduling~~ Scheduling;_i

29 (C) ~~cost~~ Cost control;_i

30 (D) ~~value~~ Value engineering;_i

31 (E) ~~constructability~~ Constructability evaluation;_i

32 (F) ~~preparation~~ Preparation and coordination of bid
33 packages for all trade contracts and purchase orders;_i and

34 (G) ~~construction~~ Construction administration.

35 (2) ~~Construction~~ As used in this section, "construction
36 management" includes, but is not limited to without limitation:



1 (A)(i) "Agency construction management", in which a public
 2 school district selects a construction manager to serve as an agent ~~for the~~
 3 ~~purpose of providing~~ to provide administration and management services.

4 (ii) The construction manager shall not hold
 5 ~~subcontracts~~ trade contracts or purchase orders for the project or provide
 6 project bonding for the project;

7 (B)(i) "At-risk construction management", in which the
 8 construction ~~entity, after providing~~ manager provides agency services during
 9 the preconstruction period, and serves as the general contractor ~~and the~~
 10 ~~following conditions are met:~~

11 ~~(i)~~ (ii) The construction manager shall:

12 (a) ~~provides~~ Provide a ~~maximum~~ guaranteed
 13 maximum price for work performed as the general contractor; and

14 (b) Bond and guarantee the part of the project
 15 not covered by the trade contracts, vendor contracts, and purchase orders;

16 ~~(ii) The public school district holds all trade~~
 17 ~~contracts and purchase orders; and~~

18 ~~(iii) The portion of the project not covered by the~~
 19 ~~trade contracts is bonded and guaranteed by the construction manager; and~~

20 (iii) The public school district shall hold all
 21 trade contracts and purchase orders; and

22 (C)(i) "General contractor construction management", in
 23 which the construction ~~entity~~ manager, after providing agency services during
 24 the preconstruction period, serves as the general contractor.

25 (ii) The ~~general contractor~~ construction manager
 26 shall:

27 (a) Provide a guaranteed maximum price;

28 (b) ~~shall hold~~ Hold all trade contracts and
 29 purchase orders; and

30 (c) ~~shall bond~~ Bond and guarantee the project.

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 32 SECTION 2. Arkansas Code § 19-11-801(e), concerning the definitions
 33 used for procurement of professional services, is amended to add an
 34 additional subdivision to read as follows:

35 (3) "Bid package" means a defined scope of trade work as
 36 determined by the construction manager to receive bids from trade contractors

1 and vendors.

2
3 SECTION 3. Arkansas Code § 19-11-801, concerning the competitive
4 bidding practices used for procurement of professional services, is amended
5 to add additional subsections to read as follows:

6 (f) A construction manager shall:

7 (1) Comply with this section for the solicitation and submission
8 of all bid packages regardless of the type of construction management
9 services;

10 (2)(A) Secure at least three (3) bids on all bid packages for
11 trade work and vendor contracts or purchase orders under the applicable
12 procurement laws.

13 (B)(i) If the construction manager is unable to obtain a
14 minimum of three (3) bids on all bid packages for trade work and vendor
15 contracts or purchase orders, the construction manager shall document its
16 efforts and submit the written documentation to the owner.

17 (ii) The owner may waive the requirement of a
18 minimum of three (3) bids;

19 (3) Prepare and present a tabulated form to the owner that
20 accurately represents the range of bids for each bid package for trade work
21 and vendor contracts or purchase orders; and

22 (4)(A) Be present when the sealed bids are opened for each bid
23 package for trade work and vendor contracts or purchase orders.

24 (B) An owner or the owner's representative may be present
25 when the sealed bids are opened under subdivision (f)(4)(A) of this section.

26 (g) A construction manager may perform work for a bid package for
27 trade work if the construction manager submits a sealed bid in the same
28 manner as a trade contractor.

29 (h) An owner has the right to approve or disapprove:

30 (1) A list of trade contractors submitted by the construction
31 manager for the project before the solicitation of sealed bids; and

32 (2) Any trade contractor or vendor before a final decision is
33 made to award a trade contract, vendor contract, or a purchase order.

34
35 SECTION 4. Arkansas Code § 19-11-802(d)(1), concerning public school
36 districts' use of construction management services, is amended to read as

1 follows:

2 (d)(1) A public school district that utilizes construction management
3 services shall:

4 (A)(i) ~~encourage~~ Annually publish a public notice of its
5 intention to receive written requests for qualifications for professional
6 construction management firms to submit to services or may request such
7 information as needed for a particular public project.

8 (ii) The notice under subdivision (d)(1)(A)(i) of this section shall
9 be published for three (3) consecutive days in a newspaper of local
10 distribution.

11 (iii) The public school district shall allow a
12 minimum of ten (10) working days from the first date of publication of the
13 notice under subdivision (d)(1)(A)(i) of this section for the professional
14 firms to send letters of interest or resumes in response to the newspaper
15 advertisement; and

16 (B) Provide additional means of notification, if
17 appropriate, as determined by the public school district ~~annual statements of~~
18 ~~qualifications and performance data or may request such information as needed~~
19 ~~for a particular public project.~~

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21 SECTION 5. Arkansas Code § 19-11-805(b)(1)(B), concerning the
22 procedure to select a firm if negotiations are unsuccessful with the initial
23 firm selected, is amended to read as follows:

24 (B) The state agency or political subdivision shall ~~then~~
25 ~~undertake negotiations~~ negotiate with ~~another~~ of the second qualified ~~firms~~
26 firm selected.

27 /s/Murdock

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