

COMMISSION FOR ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES AND TRANSPORTATION RULES GOVERNING SELF-CONSTRUCTION PROJECTS BY PUBLIC EDUCATION ENTITIES
March 16, 2010 Effective

RECEIVED

DEC 14 2018

BUREAU OF LEGISLATIVE RESEARCH

1.00 REGULATORY AUTHORITY

1.01 These regulations shall be known as the Commission for Arkansas Division of Public School Academic Facilities and Transportation Rules Governing Self-Construction Projects by Public Entities.

1.02 The Commission's for Arkansas Public School Academic Facilities and Transportation's (Commission) authority for promulgating these rules is pursuant to Ark. Code Ann. §§ 6-21-109, 6-21-301, 6-21-304, 17-25-101, 18-44-503, 18-44-507, 19-14-259, 22-9-101, 22-9-203, and 25-15-201 et seq., Act 1472 of 2009.

2.00 PURPOSE

2.01 The purpose of these rules is to establish how the *Arkansas* Division of Public School Academic Facilities and Transportation (Division) will assess, identify, assist, monitor, and address public educational entities that self-construct.

3.00 DEFINITIONS

3.01 "Public educational entities" (Entities) is defined to mean ~~an~~ Arkansas public school districts, charter schools, educational cooperatives, or any publicly supported entity having supervision over public educational entities.

3.02 "Self-construction" is defined to mean any construction where the public educational entity uses its own employees, acts as a general contractor, uses a construction manager while acting as a general contractor, or acts as its own construction manager using contracted construction services.

3.03 "Construction project" is defined to mean making or forming an improvement by combining parts, labor, or materials; the erection or alteration that exceeds a cost of ~~\$20,000~~ \$35,000 of a structure ~~of or~~ physical object under the supervision or ownership of a public educational entity.

3.04 "Design professional" is defined to mean a person or firm who provides professional expertise in order to carry out a capital erection, repair, or improvement project. Design professionals may include, but may not be

limited to, the following professionals: planners (land, city, utilities, etc.), architects, landscape architects, surveyors (land), engineers (consulting and professional engineers providing expertise in various licensed fields such as civil, electrical, mechanical, structural, sanitary, etc.).

- 3.05 "Maintenance work" is defined to mean the repair but not the replacement or alterations that exceed a cost of ~~\$20,000~~ \$35,000 of existing facilities when the size, capacity, and type of the existing facility or equipment is not thereby substantially changed or increased
- 3.06 "Commodities" is defined to mean all supplies, goods, material, equipment, machinery, facilities, and personal property purchased for or on behalf of an Entity.
- 3.07 "Open market purchases" is defined to mean those purchases of commodities by any purchasing official in which competitive bidding is not required.
- 3.08 "Administrator" is defined to mean a school Entity superintendent, an educational cooperative director, the Administrator, Director, Chairman, or President of a charter school, or other educational entity.
- 3.09 "Commission" is defined to mean the Commission for Arkansas Public School Academic Facilities and Transportation.
- 3.10 "Division" is defined to mean the Arkansas Division of Public School Academic Facilities and Transportation.

4.00 NOTIFICATION OF INTENT

4.01 ~~When~~ If an Entity board votes to self-construct, the Administrator of the Entity shall submit Part A and B of the Construction Approval Form ~~to the Division, which Form is attached as Appendix "A" to these rules, to the Division annotating indicating~~ that the project is "Self Construction". (The form may be found on the Division website at: <http://arkansasfacilities.arkansas.gov>). ~~and which is hereby incorporated into and made part of these rules, as "Appendix A" to these rules, This notification submission shall~~ must include all items required by Appendix "A."

~~4.01.1 A description of the proposed construction project;~~

~~4.01.2. A written detailed project justification;~~

~~4.01.3 A written Assurance Impact Statement regarding segregative activities and/or policies.~~

~~4.01.4 An assurance statement of non violation of Federal Court Order or Federal or State law.~~

~~Approval may be granted by the Division at that time.~~

~~4.02 The Administrator of the Entity also must submit the written Assurance Impact Statement (see Item 3 of Part A in Appendix A) and the annual Equity Compliance Report (see Item 4 of Part A in Appendix A) to the Arkansas Department of Education, LEA State Funding—Loans and Bonds, Four Capitol Mall, Mail Slot 9, Little Rock, AR 72201.~~

~~4.023 Upon receiving an Entity's notification of intent to self-construct, the Division shall provide a written assessment of review the Entity's decision to self-construct proposed self-construction project.~~

5.00 APPROVAL PROCEDURES

5.01 When an Entity develops plans for a self-construction project to be submitted to the Division for approval, the Entity shall ensure that the design and specifications satisfy all Arkansas legal requirements including, but not limited to, the following:

A. All construction plans, specifications, and estimates shall be made by and the construction executed under the observation of ~~the an~~ appropriate design professional. (Ark. Code Ann. § 22-9-101).

B. If the total cumulative and fair market value of construction or capital improvement is greater than \$25,000, an engineer, registered or licensed in the State of Arkansas, shall provide the required engineering services. (Ark. Code Ann. § 22-9-101(b)(1)).

C. If the total cumulative and fair market value of construction or capital improvement is greater than \$100,000, an architect, registered or licensed in the State of Arkansas, shall provide the required architectural services. (Ark. Code Ann. § 22-9-101(b)(2)).

~~5.02 Upon review of the foregoing requirements, the Division may approve or deny the self-construction project~~

6.00 BID, BOND, AND LICENSING REQUIREMENTS

6.01 When an Entity self-constructs, the Entity shall ensure by written report to the Division compliance to with all Arkansas laws, including but not limited to, the following:

6.02—Commodities Purchasing

6.01.1 A. Open market purchases may be made where the purchase price is less than \$10,000 ~~\$20,000~~ the current amount set by the Commissioner of Education establishing the maximum purchase amount for open-market purchases. (Ark. Code Ann. § 6-21-304).

6.01.2 B. In each instance where the estimated purchase price shall equal or Exceed ~~exceed~~ \$10,000, ~~\$20,000~~ the current amount set by ~~the most recent~~ Commissioner of Education establishing the maximum purchase amount for open-market purchases, the commodity shall be procured by soliciting bids. (Ark. Code Ann. § 6-21-304).

6.03—Bidding Requirements

6.01.3 A. When all estimated construction costs do not exceed ~~\$20,000~~ \$35,000, the contract shall be solicited according to local school board policy. (Ark. Code Ann. § 22-9-203).

6.01.4 B. When all estimated construction costs exceed \$20,000 ~~\$35,000~~, the Entity shall publish public notice of intent to receive bids a minimum of one (1) time per week for two (2) consecutive weeks. The bids may be opened one (1) week after the last date of publication. (Ark. Code Ann. § 22-9-203). ~~as amended by Act 1051 of 2001~~

~~6.042~~ 6.02 When giving public notice of intent to receive bids for construction, an Entity may include alternates in the bid specifications. If the Entity includes alternates in the bid specifications, the alternates must be deductive, no more that three (3) alternates may be used, and the alternates must be set forth and considered in numerical order. (Ark. Code Ann. § 22-9-203).

6.053 When advertising for bids for construction, an Entity may negotiate a final contract amount with the successful bidder if the low bid is within twenty-five ~~five~~ percent (25%) of the amount appropriated for the project and all alternates have been exhausted. (Ark. Code Ann. § 22-9-203). ~~as amended by Act 921 of 2001~~

6.054 An entity shall accept the lowest qualified bid from a firm resident in Arkansas. This bid shall be accepted only if the bid does not exceed the lowest qualified bid from a nonresident firm by more than five percent (5%) and if one (1) or more firms resident in Arkansas made written claim

for a preference at the time bids were submitted. (Ark. Code Ann. § 19-11-259).

- 6.065 A five percent (5%) corporate bid bond or certified check in the amount of five percent (5%) of the bid shall accompany all submitted bids on construction contracts that exceed \$20,000 \$35,000. (Ark. Code Ann. § 22-9-203).
- 6.076 The successful bidder on construction that exceeds \$20,000 shall provide the owner a performance and payment bond for ~~one hundred percent~~ (100%) equal to of the contract amount. This bond must be filed in the with the clerk of the circuit court of the county where the work is being performed before authorization to proceed is granted. (Ark. Code Ann. §§18-44-503 and 18-44-507).
- 6.087 Any sub-trades contractor doing work in areas such as electrical, plumbing, HVAC, etc. must hold the required trades' licenses from the State of Arkansas. This applies to Entity personnel, as well as sub-trades contractors employed by the Entity. Any contractor who performs a job that exceeds \$20,000 \$50,000 must also hold an Arkansas contractor's license. (Ark. Code Ann. § 17-25-101(a)).

7.00 ENFORCEMENT

- 7.01 Any Entity Administrator or certified employee that knowingly submits to the Commission or Division a false report or false information required by Arkansas law or these rules and regulations shall be subject to having his license revoked, suspended, or placed on probation pursuant to Ark. Code Ann. § 6-17-410.

APPENDIX "A"

DIVISION OF PUBLIC SCHOOL ACADEMIC FACILITIES AND TRANSPORTATION SCHOOL CONSTRUCTION APPROVAL FORM

August 1, 2017

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DEC 14 2018

Part A

BUREAU OF
LEGISLATIVE RESEARCH

Instructions

Pursuant to Ark. Code Ann. §§ 6-20-1407 and 6-21-109, ~~school districts~~ entities [School Districts, Public Charter Schools, Education Service Cooperatives, or any publicly supported entity having supervision over public educational entities] that propose to construct and/or fund facility projects are required to submit written documentation.

Construction: Completion of this form is required for Division of Public School Academic Facilities and Transportation approval of ~~a school district's~~ an entity's construction project. ~~It is additionally required from Charter Schools, Educational Cooperatives, or any publicly supported entity having supervision over public educational entities~~ if the process of self-construction is used.

Bond Applications: Completion of this form is required for loan or bond approval but is not required for non-voted refunding of existing debt.

Please answer the following questions, provide the required information, and submit the completed form with attachments to:

**Division of Public School Academic Facilities and Transportation
One Capitol Mall, Suite 4D-200
Little Rock, AR 72201**

General and Equity Information

Construction Approval applies to all construction projects costing over ~~\$20,000~~ \$35,000 at public school facilities regardless of the source of funds. *(This section shall not apply to maintenance projects or construction projects costing ~~\$20,000~~ \$35,000 or less.)*

1. Describe the proposed facility project: *(Indicate the Project Number from the Master Plan, Location, Campus, Building, and detailed description.)*

DIVISION OF PUBLIC SCHOOL ACADEMIC FACILITIES AND TRANSPORTATION
SCHOOL CONSTRUCTION APPROVAL FORM
August 1, 2017 _____

Part A – Continued

2. Provide a written, detailed, substantial justification for the proposed facility projects. Projects shall be considered legitimately justified if, for example:

A. The proposed facility project is necessary for the applying district entity to comply with Arkansas Department of Education (ADE) rules and regulations, and/or State and Federal statutes and regulations; and/or

B. The proposed facility project is necessary to meet important educational goals of the district entity. Completion of the proposed project should enable the applying district entity to provide a better quality, desegregated education, necessary to meet the needs of its present and projected population. The district entity must provide a desegregation impact statement showing that the proposed improvements will not have a segregative effect (see item #3 below). A detailed outline or explanation of the educational goal to be met shall be included:

3. Provide a written Assurance Impact Statement indicating that the proposed facility project will not establish, continue, or ignore segregative activities and/or policies within your the school entity or contiguous districts. Also, indicate with the Assurance Impact Statement that the proposed project in any school in any county contiguous to Pulaski County, Arkansas, will not have a substantial negative impact on the ability of any district entity in Pulaski County, Arkansas, to effectively desegregate.

4. The Annual Equity Compliance Report must be filed with the Arkansas Department of Education before approval can be granted. The Division of Public School Academic Facilities and Transportation will confirm the filing with the Equity Assistance Center.

5. Provide an ~~written Assurance~~ Statement that the approval of the facilities project or the approval of any loan or bond financing the facilities project does not violate any Federal Court Order or federal or state law.

6. The written Assurance ~~Impact-Statement~~ referenced in paragraph 3 and the Annual Equity Compliance Report referenced in paragraph 4, also must be submitted to:

**Arkansas Department of Education
LEA State Funding - Loans & Bonds
Four Capitol Mall, Mail Slot 9
Little Rock, AR 72201**

7. What method of construction does the district entity plan to use for the project? If the response is general contractor, no additional information is needed and only the superintendent's signature is required. *(If Self Construction is indicated then Part B must be completed and submitted with Part A.)*

General Contractor
 General Contractor as CM
 Design Build
 Self-Construction
 Construction Management
 Lease Purchase

SCHOOL DISTRICT EDUCATIONAL ENTITY

COUNTY

SIGNATURE OF ENTITY ADMINISTRATOR

DATE

DIVISION OF PUBLIC SCHOOL ACADEMIC FACILITIES AND TRANSPORTATION
SCHOOL CONSTRUCTION PROCESS INFORMATION
August 1, 2017

Part B

(To be completed only if Self-Construction is indicated)

SCHOOL DISTRICT EDUCATIONAL ENTITY

COUNTY

PROJECT

PROJECT NUMBER

Construction Information

This form applies to all construction projects that exceed \$20,000 ~~\$35,000~~, including but not limited to; academic, maintenance and operations facilities, transportation facilities, and other non-instructional facilities.

1. What method of self-construction does the district entity plan to use for the project?
 District Entity personnel
 District Entity will serve as their its own general contractor
 District Entity will serve as their its own general contractor and employ a construction manager
 District Entity will serve as its own Construction Manager and contract for performance of the work
2. Provide the date that the Entity Board of Directors school board voted to self-construct the project
Date: _____
3. 4. Has the district entity used the self-construction process on projects in the past?
Yes ___ No ___
4. 5. If yes to question #4, provide the date(s) that the district entity used the self-construction process.

SIGNATURE OF ENTITY ADMINISTRATOR

DATE

**DIVISION OF PUBLIC SCHOOL ACADEMIC FACILITIES AND TRANSPORTATION
SELF-CONSTRUCTION ASSURANCE STATEMENT
August 1, 2017**

Part B – Continued

SCHOOL DISTRICT EDUCATIONAL ENTITY

COUNTY

PROJECT

PROJECT NUMBER

By our respective signatures below, we certify that we are duly authorized to legally bind the above mentioned school district, and that we have read the Being the duly authorized administrator of the above educational entity, I certify that the entity is acting in compliance with the Commission for Arkansas Public School Academic Facilities and Transportation Rules Identifying and Governing Self-Construction Projects by Public Education Entities, and are in compliance with such rules and regulations, and further certify that the above-mentioned educational entity will:

- 1) Have the plans drafted by an appropriate design professional;
- 2) Submit final plans to the proper state agencies for approval; and
- 3) Follow all applicable Arkansas statutes concerning commodities purchasing requirements, bidding requirements, and licensing requirements.

SIGNATURE OF ENTITY ADMINISTRATOR

DATE

SIGNATURE OF SCHOOL BOARD PRESIDENT

DATE

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017

A Bill

HOUSE BILL 1595

4
5 By: Representative Holcomb
6 By: Senator Caldwell

For An Act To Be Entitled

7
8
9 AN ACT TO AMEND THE AWARD PROCEDURE FOR PUBLIC
10 IMPROVEMENT CONTRACTS; AND FOR OTHER PURPOSES.

Subtitle

11
12
13 TO AMEND THE AWARD PROCEDURE FOR PUBLIC
14 IMPROVEMENT CONTRACTS.
15

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

19
20 SECTION 1. Arkansas Code § 22-9-202(b)(2)(C), concerning statutory
21 construction, is amended to read as follows:

22 (C) Construction work from one (1) or more separate
23 contractors under separate contract or invoice so that the work is not
24 included in calculating the bid requirement threshold of ~~twenty thousand~~
25 ~~dollars (\$20,000)~~ thirty-five thousand dollars (\$35,000).

26
27 SECTION 2. Arkansas Code § 22-9-202(c), concerning statutory
28 construction, is amended to read as follows:

29 (c) This section and §§ 22-9-203 and 22-9-204 do not amend or repeal
30 any law that requires the publication of notice in those instances in which
31 the estimated amount of the cost of the proposed improvements within the
32 scope of the contract is ~~less than twenty thousand dollars (\$20,000)~~ more
33 than thirty-five thousand dollars (\$35,000).

34
35 SECTION 3. The introductory language of Arkansas Code § 22-9-203(a),
36 concerning the award procedure for public improvements, is amended to read as



1 follows:

2 (a) Except as provided under § 14-58-105, a contract providing for the
 3 making of major repairs or alterations, for the erection of buildings or
 4 other structures, or for making other permanent improvements shall not be
 5 entered into by the state or an agency of the state or by a county,
 6 municipality, school district, or other local taxing unit with any contractor
 7 in instances in which all estimated costs of the work shall exceed the sum of
 8 ~~twenty thousand dollars (\$20,000)~~ thirty-five thousand dollars (\$35,000)

9 unless:

10

11 SECTION 4. Arkansas Code § 22-9-203(c)(2)(A), concerning award
 12 procedures and requirements, is amended to read as follows:

13 (2)(A)(i) Every bid submitted on public construction
 14 contracts for any political subdivision of the state shall be is void unless
 15 accompanied by a cashier's check drawn upon a bank or trust company doing
 16 business in this state or by a corporate bid bond.

17 (ii) Every bid submitted on public construction
 18 contracts for the state or any agency or department of the state shall be is
 19 void unless accompanied by a cashier's check drawn upon a bank or trust
 20 company doing business in this state or by a corporate bid bond, except for
 21 projects under ~~twenty thousand dollars (\$20,000)~~ thirty-five thousand dollars
 22 (\$35,000).

23 (iii) ~~No~~ A bid bond shall be is not required for
 24 public construction contracts for the state or any agency or department of
 25 the state under or equal to ~~twenty thousand dollars (\$20,000)~~ thirty-five
 26 thousand dollars (\$35,000).

27

28 SECTION 5. Arkansas Code § 22-9-209(a), concerning the renovation of
 29 historic sites, is amended to read as follows:

30 (a) A contract for the altering, repairing, or renovation of a
 31 recognized historic site or structure owned by the ~~State of Arkansas~~ state or
 32 with title vested in the name of a state agency or of another taxing
 33 authority in which the estimated cost of the work equals or exceeds the sum
 34 of ~~twenty thousand dollars (\$20,000)~~ thirty-five thousand dollars (\$35,000)
 35 shall not be entered into between the state agency or taxing authority and
 36 any contractor unless the state agency or taxing authority has first

1 published notice of intention to receive bids for improvements one (1) time
2 each week for not less than two (2) consecutive weeks in a newspaper of
3 general circulation published in the county in which the proposed
4 improvements are to be made or in a trade journal reaching the construction
5 industry.

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APPROVED: 03/28/2017

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017

A Bill

SENATE BILL 329

4
5 By: Senator A. Clark

For An Act To Be Entitled

8 AN ACT TO RAISE THE PRICE THRESHOLD FOR THE PURCHASE
9 OF COMMODITIES THAT SCHOOL DISTRICTS MUST PROCURE BY
10 SOLICITING BIDS; TO PROVIDE FOR ANNUAL ADJUSTMENTS IN
11 THE PURCHASE PRICE THRESHOLD BASED ON INFLATION; AND
12 FOR OTHER PURPOSES.

Subtitle

15 TO RAISE THE PRICE THRESHOLD FOR THE
16 PURCHASE OF COMMODITIES THAT SCHOOL
17 DISTRICTS MUST PROCURE BY SOLICITING
18 BIDS; AND TO PROVIDE FOR ANNUAL
19 ADJUSTMENTS IN THE PURCHASE PRICE
20 THRESHOLD BASED ON INFLATION.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25
26 SECTION 1. Arkansas Code § 6-21-304(a)(1), concerning the procurement
27 of commodities by a school district, is amended to read as follows:

28 (a)(1)(A) All purchases of commodities by any school district, except
29 those specifically exempted by § 6-21-305, shall be made as follows:

30 ~~(A)(i)(a)~~ In each instance in which the estimated
31 purchase price shall equal or exceed ~~ten thousand dollars (\$10,000)~~ twenty
32 thousand dollars (\$20,000), the commodity shall be procured by soliciting
33 bids, provided that the purchasing official may reject all bids and may
34 purchase the commodity by negotiating a contract.

35 ~~(ii)(b)~~ If the purchasing official, after
36 rejecting all bids, determines that the purchase should be made by



1 negotiation, then each responsible bidder who submitted a bid shall be
2 notified of the determination and shall be given a reasonable opportunity to
3 negotiate;

4 ~~(B)(ii)~~ Open market purchases may be made when the
5 purchase price is less than ~~ten thousand dollars (\$10,000)~~ twenty thousand
6 dollars (\$20,000); and

7 ~~(C)(iii)~~ No purchasing official shall parcel or
8 split any item or items with the intent or purpose to enable the purchase to
9 be made under a less restrictive procedure.

10 (B) Annually on July 1, the Commissioner of Education
11 shall adjust the purchase price amounts under subdivision (a)(1)(A) of this
12 section by the percentage change in the Consumer Price Index for All Urban
13 Consumers or its successor.

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16 **APPROVED: 04/07/2017**
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Stricken language would be deleted from and underlined language would be added to present law.
Act 1048 of the Regular Session

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: S3/4/15
A Bill

SENATE BILL 631

5 By: Senator Hester
6 By: Representative Womack
7

8 **For An Act To Be Entitled**

9 AN ACT TO AMEND THE LAW CONCERNING THE COST OF WORK
10 AND MATERIALS REQUIRING A GENERAL CONTRACTOR'S
11 LICENSE; AND FOR OTHER PURPOSES.
12
13

14 **Subtitle**

15 TO AMEND THE LAW CONCERNING THE COST OF
16 WORK AND MATERIALS REQUIRING A GENERAL
17 CONTRACTOR'S LICENSE.
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code § 17-25-101(a) and (b), concerning the
23 definition of "contractor", are amended to read as follows:

24 (a)(1) As used in this chapter, "contractor" means any person, firm,
25 partnership, copartnership, association, corporation, or other organization,
26 or any combination thereof, that, for a fixed price, commission, fee, or
27 wage, attempts to or submits a bid to construct or demolish, or contracts or
28 undertakes to construct or demolish, or assumes charge, in a supervisory
29 capacity or otherwise, or manages the construction, erection, alteration,
30 demolition, or repair, or has or have constructed, erected, altered,
31 demolished, or repaired, under his or her, their, or its direction, any
32 building, apartment, condominium, highway, sewer, utility, grading, or any
33 other improvement or structure on public or private property for lease, rent,
34 resale, public access, or similar purpose, except single-family residences,
35 when the cost of the work to be done, or done, in the State of Arkansas by
36 the contractor, including, but not limited to, labor and materials, is ~~twenty~~



1 fifty thousand dollars ~~(\$20,000)~~ (\$50,000) or more.

2 (2) However, when a person or an entity acts as a contractor in
3 the construction, erection, alteration, demolition, or repair of his or her
4 own or its own property, such action shall not result in the person or entity
5 being required to obtain a license, but the person or entity shall comply
6 with all other provisions of this subchapter.

7 (b) However, the ~~twenty-thousand-dollar~~ fifty-thousand-dollar exception
8 shall not apply to any project of construction in which any of the
9 construction work necessary to complete the project, except any in-progress
10 change orders, is divided into separate contracts of amounts less than ~~twenty~~
11 fifty thousand dollars ~~(\$20,000)~~ (\$50,000), a purpose being to circumvent the
12 provisions of this chapter.

13 (c) It is the intention of this definition to include all improvements,
14 demolition, or structures, excepting only single-family residences.

15 (d)(1) Materials purchased by a prime contractor from a third party
16 shall not be considered as part of the subcontractor's project if the prime
17 contractor has the proper classification listed on a current contractor's
18 license for the work being performed by the subcontractor.

19 (2) Materials purchased by a person or an entity acting as a
20 contractor in the construction, erection, alteration, or repair of his or her
21 own or its own property from a third party shall not be considered as a part
22 of the subcontractor's project, provided that the subcontract is for wood
23 framing, shingle roofing, painting, floor covering, or concrete labor.

24

25 SECTION 2. Arkansas Code § 17-25-103(a)(1)(A), concerning penalties
26 for contracting without a license, is amended to read as follows:

27 (1)(A) For a fixed price, commission, fee, or wage attempts to or
28 submits a bid or bids to construct or demolish or contracts to construct or
29 demolish, or undertakes to construct or demolish, or assumes charge in a
30 supervisory capacity or otherwise, or manages the construction, erection,
31 alteration, demolition, or repair of, or has constructed, erected, altered,
32 demolished, or repaired, under his or her or its direction, any building,
33 apartment, condominium, highway, sewer, utility, grading, or any other
34 improvement or structure, when the cost of the work to be done, or done, in
35 the State of Arkansas by the contractor, including, but not limited to, labor
36 and materials, is ~~twenty~~ fifty thousand dollars ~~(\$20,000)~~ (\$50,000) or more,

1 without first having procured a license with the proper classification to
2 engage in the business of contracting in this state.

3

4 SECTION 3. Arkansas Code § 17-25-301(b)(1), concerning proof of
5 licensing, is amended to read as follows:

6 (b)(1) Upon making application to the building inspector or other
7 authority of any incorporated city or town in Arkansas charged with the duty
8 of issuing building or other permits for the construction of any building,
9 apartment, condominium, utility, highway, sewer, grading, or any other
10 improvement or structure, when the cost of the work to be done by the
11 contractor, but not limited to labor and materials, is ~~twenty~~ fifty thousand
12 dollars ~~(\$20,000)~~ (\$50,000) or more, any person, firm, or corporation, before
13 being entitled to the issuance of such permits, shall furnish satisfactory
14 proof to the inspector or authority that he or she is duly licensed under the
15 terms of this chapter.

16

17 SECTION 4. Arkansas Code § 17-25-401(b), concerning the definition of
18 contractor, is amended to read as follows:

19 (b) However, when a person or entity acts as a contractor in the
20 construction, erection, alteration, or repair of his or her own or its own
21 property or of a single-family residence, or if the cost of the work to be
22 done, including, but not limited to, labor and materials, is less than ~~twenty~~
23 fifty thousand dollars ~~(\$20,000)~~ (\$50,000), the person or entity shall not be
24 deemed a contractor under this chapter.

25

26 SECTION 5. Arkansas Code § 17-25-506(a), concerning applications for
27 licensure, is amended to read as follows:

28 (a) Applications for licensure shall be made on forms prescribed by the
29 Residential Contractors Committee and shall have attached thereto:

30 (1)(A) Except as provided in subdivision (a)(1)(B) of this
31 section, a compiled financial statement with each application for all persons
32 and entities required by this subchapter to be licensed by the committee when
33 the cost of the work done or to be done in the State of Arkansas by the
34 contractor, including without limitation labor and materials, is ~~twenty~~ fifty
35 thousand dollars ~~(\$20,000)~~ (\$50,000) or more.

36

(B) A person or entity required to be licensed under

1 this subchapter when the cost of the work done or to be done in the State of
2 Arkansas by the contractor, including without limitation labor and materials,
3 is less than ~~twenty~~ fifty thousand dollars ~~(\$20,000)~~ (\$50,000) shall not be
4 required to submit a financial statement; and

5 (2) Such other information as required by the committee.
6

7 SECTION 6. Arkansas Code § 17-25-514(c), concerning when workers'
8 compensation is required, is amended to read as follows:

9 (c) Unless otherwise required by law, a home improvement contractor
10 required to be licensed under this subchapter shall not be required to secure
11 the payment of workers' compensation under § 11-9-401 et seq. or provide
12 proof of coverage to the committee before issuing or receiving a license if
13 the cost of the work done or to be done in the State of Arkansas by the home
14 improvement contractor, including without limitation labor and materials, is
15 *less than ~~twenty~~ fifty thousand dollars ~~(\$20,000)~~ (\$50,000).*

16
17 SECTION 7. Arkansas Code § 22-9-204 is amended to read as follows:
18 22-9-204. Subcontractors exceeding ~~\$20,000~~ \$50,000 - Penalty.

19 (a) *As a condition to performing construction work for and in the State*
20 *of Arkansas, all prime contractors shall use no other subcontractors when the*
21 *subcontractors' portion of the project is ~~twenty~~ fifty thousand dollars*
22 *~~(\$20,000)~~ (\$50,000) or more, except those licensed by the Contractors*
23 *Licensing Board and qualified in:*

24 (1) *Mechanical, indicative of heating, air conditioning,*
25 *ventilation, and refrigeration;*

26 (2) *Plumbing;*

27 (3) *Electrical; and*

28 (4) *Roofing.*

29 (b)(1) *In the event the prime contractor is qualified and licensed by*
30 *the board, he or she may use his or her own forces to perform those tasks*
31 *listed in this section as subcontractors in one (1) or more of the trades*
32 *listed.*

33 (2)(A) *A subcontractor, including the situation stated in*
34 *subdivision (b)(1) of this section, may subcontract a portion of the listed*
35 *work.*

36 (B) *However, a subcontractor is prohibited from*

1 *subcontracting the work in its entirety.*

2 *(c)(1) When the prime contractor makes a definite decision regarding*
3 *the subcontractors he or she intends to use, he or she shall place the name*
4 *of each subcontractor in a blank space provided on the form of proposal of*
5 *his or her bid.*

6 *(2) In the event that one (1) or more of the subcontractors named*
7 *by the prime contractor in his or her successful bid thereafter refuses to*
8 *perform his or her contract or offered contract, the prime contractor may*
9 *substitute another subcontractor licensed by the board after having obtained*
10 *prior approval from the architect or engineer and the owner. Additional*
11 *approval must be obtained from the Arkansas Building Authority for capital*
12 *improvement projects under its jurisdiction.*

13 *(d) The prime contractor shall submit written evidence that the*
14 *substituted contractor is costing the same amount of money or less and, if*
15 *costing less, that the savings will be deducted from the total contract of*
16 *the prime contractor and rebated to the owner.*

17 *(e) It shall be mandatory that the mechanical, plumbing, electrical,*
18 *and roofing subcontractors named on the form of proposal by the prime*
19 *contractor awarded a contract under the provisions of this subchapter be*
20 *given contracts by the prime contractor in keeping with their proposals to*
21 *perform the items for which they were named.*

22 *(f)(1) It shall be a violation of this section for any prime contractor*
23 *to submit a bid listing unlicensed contractors or to use unlicensed*
24 *contractors on a public works project if the listed work of the unlicensed*
25 *contractors or portion of the unlicensed contractors' work is ~~twenty~~ fifty*
26 *thousand dollars ~~(\$20,000)~~ \$50,000 or more.*

27 *(2) It shall be a violation of this section for any subcontractor*
28 *who is not licensed by the board to contract to perform work on a public*
29 *works project if the listed work of the subcontractor or portion of the*
30 *subcontractor's work is ~~twenty~~ fifty thousand dollars ~~(\$20,000)~~ (\$50,000) or*
31 *more.*

32 *(3) The board has jurisdiction over violations of this subsection*
33 *under § 17-25-103.*

34 */s/Hester*

35 **APPROVED: 04/04/2015**

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