

1 INTERIM STUDY PROPOSAL 2013-117

2 State of Arkansas
3 89th General Assembly
4 Regular Session, 2013

As Engrossed: S4/5/13

A Bill

SENATE BILL 1084

5
6 By: Senator Files

7 Filed with: Interim Senate Committee on Revenue and Taxation
8 pursuant to A.C.A. §10-3-217.

9 **For An Act To Be Entitled**

10 AN ACT TO *REGULATE* THE PROCUREMENT OF CONSTRUCTION
11 MANAGEMENT CONTRACTS BY PUBLIC *ENTITIES EXCEPT IN*
12 *CERTAIN CIRCUMSTANCES; TO REGULATE THE PROCUREMENT OF*
13 *CERTAIN CONTRACTS BY PUBLIC ENTITIES; AND FOR OTHER*
14 *PURPOSES.*

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17 **Subtitle**

18 *TO REGULATE THE PROCUREMENT OF*
19 *CONSTRUCTION MANAGEMENT CONTRACTS BY*
20 *PUBLIC ENTITIES EXCEPT IN CERTAIN*
21 *CIRCUMSTANCES; AND TO REGULATE THE*
22 *PROCUREMENT OF CERTAIN CONTRACTS BY*
23 *PUBLIC ENTITIES.*

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

27
28 *SECTION 1. Arkansas Code § 14-58-1001(a), concerning municipal*
29 *projects exceeding two million dollars, is amended to read as follows:*

30 *(a) ~~In the event~~ If funds from any sources for a municipal project*
31 *other than revenues derived from a performance-based efficiency project*
32 *exceed ~~two million dollars (\$2,000,000)~~ five million dollars (\$5,000,000),*
33 *excluding the cost of land, ~~the provisions of this subchapter and all other~~*
34 *provisions of the Arkansas Code of 1987 Annotated governing construction of*
35 *public facilities, including, ~~but not limited to, the provisions of~~ without*
36 *limitation § 22-9-201 et seq., at the election of municipalities ~~shall not be~~*

1 ~~applicable~~ do not apply to the project if the selection and contracting
2 process ~~set forth~~ stated in this section is followed.

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4 SECTION 2. Arkansas Code § 14-58-1001(b), concerning municipal
5 projects exceeding two million dollars, is amended to add an additional
6 subdivision to read as follows:

7 (4) A contract for a project between a municipality and a
8 construction manager shall not be entered into without first obtaining review
9 by the Legislative Council or the Joint Budget Committee.

10
11 SECTION 3. Arkansas Code § 14-58-1001(d), concerning municipal
12 projects exceeding two million dollars, is amended to add additional
13 subdivisions to read as follows:

14 (5)(A) The general contractor shall solicit sealed bids for all
15 divisions of a project from a list of approved subcontractors prepared by the
16 general contractor.

17 (B) The general contractor shall solicit a minimum of
18 three (3) bids for each division of the project.

19 (C) If the general contractor is unable to obtain a
20 minimum of three (3) bids for each division of the project, the general
21 contractor shall provide written documentation of its efforts and submit the
22 written documentation to the municipality for approval.

23 (D) If the general contractor desires to perform work in
24 any division of the project, the general contractor shall submit a sealed bid
25 in the same manner as a subcontractor.

26 (E) The municipality shall retain the right to approve or
27 disapprove the general contractor's list of subcontractors for the project
28 before the solicitation of sealed bids.

29 (6) The general contractor and a representative of the
30 municipality shall be present when the sealed bids are opened for each
31 division of the project.

32 (7)(A) The general contractor shall prepare and present a
33 tabulated form to the municipality that accurately represents the range of
34 bids for each division of the project.

1 (B) The tabulated form required under subdivision
2 (d)(7)(A) of this section is a public record under the Freedom of Information
3 Act of 1967, § 25-19-101 et seq., subject to any applicable exemptions.

4 (8) The construction contract for the project shall identify the
5 items that are included in the general conditions.

6
7 SECTION 4. Arkansas Code § 19-4-1415(f), concerning projects exceeding
8 five million dollars, is amended to add additional subdivisions to read as
9 follows:

10 (5)(A) The general contractor for a project for an institution
11 of higher education shall solicit sealed bids for all divisions of a project
12 from a list of approved subcontractors prepared by the general contractor.

13 (B) The general contractor shall solicit a minimum of
14 three (3) bids for each division of the project.

15 (C) If the general contractor is unable to obtain a
16 minimum of three (3) bids for each division of the project, the general
17 contractor shall provide written documentation of its efforts and submit the
18 written documentation to the institution of higher education for approval.

19 (D) If the general contractor desires to perform work in
20 any division of the project, the general contractor shall submit a sealed bid
21 in the same manner as a subcontractor.

22 (E) The institution of higher education shall retain the
23 right to approve or disapprove the general contractor's list of
24 subcontractors for the project before the solicitation of sealed bids.

25 (6) The general contractor and a representative of the
26 institution of higher education shall be present when the sealed bids are
27 opened for each division of the project.

28 (7)(A) The general contractor shall prepare and present a
29 tabulated form to the institution of higher education that accurately
30 represents the range of bids for each division of the project.

31 (B) The tabulated form required under subdivision
32 (f)(7)(A) of this section is a public record under the Freedom of Information
33 Act of 1967, § 25-19-101 et seq., subject to any applicable exemptions.

34 (8) The construction contract for the project shall identify the
35 items that are included in the general conditions.

36

1 SECTION 5. Arkansas Code § 19-11-802(d), concerning restrictions on
2 competitive bidding for professional services contracts, is amended to add an
3 additional subdivision to read as follows:

4 (4) A contract between a public school district and a
5 construction manager for a project that exceeds five million dollars
6 (\$5,000,000), excluding the cost of land, shall not be entered into without
7 first obtaining review by the Legislative Council or the Joint Budget
8 Committee.

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10 SECTION 6. Arkansas Code § 19-11-802, concerning restrictions on
11 competitive bidding for professional services contracts, is amended to add an
12 additional subsection to read as follows:

13 (e)(1)(A) The general contractor for a public school district project
14 that exceeds five million dollars (\$5,000,000), excluding the cost of land,
15 shall solicit sealed bids for all divisions of a project from a list of
16 approved subcontractors prepared by the general contractor.

17 (B) The general contractor shall solicit a minimum of
18 three (3) bids for each division of the project.

19 (C) If the general contractor is unable to obtain a
20 minimum of three (3) bids for each division of the project, the general
21 contractor shall provide written documentation of its efforts and submit the
22 written documentation to the state agency or political subdivision for
23 approval.

24 (D) If the general contractor desires to perform work in
25 any division of the project, the general contractor shall submit a sealed bid
26 in the same manner as a subcontractor.

27 (E) The state agency or political subdivision shall retain
28 the right to approve or disapprove the general contractor's list of
29 subcontractors for the project before the solicitation of sealed bids.

30 (2) The general contractor and a representative of the state
31 agency or political subdivision shall be present when the sealed bids are
32 opened for each division of the project.

33 (3)(A) The general contractor shall prepare and present a
34 tabulated form to the state agency or political subdivision that accurately
35 represents the range of bids for each division of the project.

1 (B) The tabulated form required under subdivision
2 (e)(3)(A) of this section is a public record under the Freedom of Information
3 Act of 1967, § 25-19-101 et seq., subject to any applicable exemptions.

4 (4) The construction contract for the project shall identify the
5 items that are included in the general conditions.

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/s/Files

10 Referred by the Arkansas Senate
11 Prepared by: JLL/VJF

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