

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.

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  
7

## For An Act To Be Entitled

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

### Subtitle

14 AN ACT TO CREATE ALTERNATIVE NEGOTIATED  
15 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  
36 project in an expeditious manner while adhering to high standards of design



1 and construction quality.

2 (3) The municipality shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (B) Contracts for architectural, engineering, and land  
35 surveying professional consultant services shall be negotiated on the basis  
36 of demonstrated competence and qualifications for the type of services

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (2) Notwithstanding anything in this section to the contrary,  
36 the provisions of §§ 19-11-801, 22-9-101, 22-9-103, 22-9-104, 22-9-213, §§

1 22-9-301 through 22-9-315, §§ 22-9-401 through 22-9-405, §§ 22-9-501 through  
2 22-9-505, §§ 22-9-601 through 22-9-604, §§ 22-9-701 through 22-9-702, and all  
3 competitive bidding statutes shall remain in full force and effect and not be  
4 affected hereby.

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

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8 /s/ Altes  
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