

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

As Engrossed: H2/26/15 H3/5/15

A Bill

HOUSE BILL 1009

5 By: Representative Murdock
6

For An Act To Be Entitled

8 AN ACT TO CLARIFY ARKANSAS LAWS CONCERNING
9 CONSTRUCTION MANAGEMENT; AND FOR OTHER PURPOSES.

Subtitle

10 TO CLARIFY ARKANSAS LAWS CONCERNING
11 CONSTRUCTION MANAGEMENT.
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13 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)(A) 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 *(i) ~~design~~ Design review;*

28 *(ii) ~~scheduling~~ Scheduling;*

29 *(iii) ~~cost~~ Cost control;*

30 *(iv) ~~value~~ Value engineering;*

31 *(v) ~~constructability~~ Constructability evaluation;*

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

34 *(vii) ~~construction~~ Construction administration.*

35 *(B) The construction manager under subdivision (d)(1)(A)*
36 *of this section shall be licensed in this state as a general contractor.*



1 (2) ~~“Construction~~ As used in this section, “construction
2 management” includes, but is not limited to without limitation:

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

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

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

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

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

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

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

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

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

24 (C)(i) “General contractor construction management”, in
25 which the construction ~~entity~~ manager, after providing agency services during
26 the preconstruction period, serves as the general contractor.

27 (ii) The ~~general contractor~~ construction manager
28 shall:

29 (a) Provide a guaranteed maximum price;

30 (b) ~~shall hold~~ Hold all trade contracts and
31 purchase orders; and

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

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

1 (3) "Bid package" means a defined scope of trade work as
2 determined by the construction manager to receive bids from trade contractors
3 and vendors.

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

8 (f) A construction manager shall:

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

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

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

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

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

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

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

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

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

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

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

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

4 (d)(1) A public school district that utilizes construction management
5 services shall:

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

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

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

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

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

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

29 /s/Murdock
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