

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

HOUSE BILL 1693

5 By: Representative Wing
6 By: Senator M. Pitsch
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE CONSTRUCTION MANAGER-GENERAL
10 CONTRACTOR METHOD OF PROCUREMENT PILOT PROGRAM; AND
11 FOR OTHER PURPOSES.
12
13

Subtitle

15 TO AMEND THE CONSTRUCTION MANAGER-GENERAL
16 CONTRACTOR METHOD OF PROCUREMENT PILOT
17 PROGRAM.
18
19

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

22 SECTION 1. Arkansas Code § 19-11-1402 is amended to read as follows:
23 19-11-1402. Legislative findings.

24 The General Assembly finds that:

25 (1) An efficient transportation system is critical for
26 Arkansas's economy and the quality of life of the state's residents;

27 (2) Transportation projects are costly and the revenues
28 currently available for highways and local roads are inadequate to preserve
29 and maintain existing infrastructure and to provide funds for highway
30 improvements;

31 (3) The State Highway Commission ~~is interested in developing~~ has
32 developed an alternative, cost-effective, procurement procedure for
33 transportation projects performed by the commission and the Arkansas
34 Department of Transportation;

35 (4) ~~Other states have begun to explore the utilization of a~~
36 ~~construction manager-general contractor method as a cost-effective and~~



1 ~~efficient option for constructing transportation projects, including the~~
 2 ~~State of California, which applies the construction manager-general~~
 3 ~~contractor method when it is anticipated that the use of the construction~~
 4 ~~manager-general contractor method will reduce transportation project costs or~~
 5 ~~expedite transportation project completion in a manner that is not achievable~~
 6 ~~through the design-bid-build method;~~

7 ~~(5)~~ A construction manager-general contractor method allows the
 8 commission to engage a construction manager:

9 (A) To assist during the design and development process of
 10 the transportation project, including without limitation to provide input
 11 concerning the transportation project's:

- 12 (i) Design;
- 13 (ii) Scheduling;
- 14 (iii) Pricing; and
- 15 (iv) Phasing; and

16 (B) Who may subsequently become the general contractor and
 17 construct the transportation project if the parties agree on a guaranteed
 18 maximum price; and

19 ~~(6)~~(5) The cost-effective benefits are achieved by shifting the
 20 liability and risk for cost containment and transportation project scheduling
 21 to the construction manager, which leads many states to call this method the
 22 "construction manager at-risk method".

23
 24 SECTION 2. Arkansas Code § 19-11-1403(6), concerning the definition
 25 of "request for proposals" under the Construction Manager-General Contractor
 26 Method of Procurement Pilot Program, is repealed.

27 ~~(6) "Request for proposals" means a document or publication~~
 28 ~~soliciting proposals for a contract for construction of a transportation~~
 29 ~~project between a construction manager-general contractor and the department.~~

30
 31 SECTION 3. Arkansas Code § 19-11-1404(b), concerning the creation of
 32 the Construction Manager-General Contractor Method of Procurement Pilot
 33 Program, is amended to read as follows:

34 (b)(1) During the term of the program the commission may select a
 35 total of ~~three (3)~~ five (5) transportation projects on which to utilize the
 36 construction manager-general contractor method.

1 (2)(A) The sum of the construction cost estimates prepared as
 2 required under § 19-11-1407 of all ~~three (3)~~ five (5) construction manager-
 3 general contractor method transportation projects shall not exceed ~~two~~
 4 ~~hundred million dollars (\$200,000,000)~~ three hundred million dollars
 5 (\$300,000,000).

6 (B) ~~The construction cost estimate of the first~~
 7 ~~construction manager-general contractor method transportation project shall~~
 8 ~~not exceed seventy million dollars (\$70,000,000).~~

9 ~~(C) The sum of the A construction cost estimates estimate~~
 10 ~~of the remaining two (2) of a construction manager-general contractor method~~
 11 ~~transportation projects project shall not exceed one hundred million dollars~~
 12 ~~(\$100,000,000).~~

13
 14 SECTION 4. Arkansas Code § 19-11-1404(d), concerning the creation of
 15 the Construction Manager-General Contractor Method of Procurement Pilot
 16 Program, is amended to read as follows:

17 (d) A The program established under this subchapter shall terminate no
 18 later than June 30, ~~2022~~ 2025.

19
 20 SECTION 5. Arkansas Code §§ 19-11-1405 and 19-11-1406 are repealed.

21 ~~19-11-1405. Project selection.~~

22 ~~(a) The Arkansas Department of Transportation shall not initiate~~
 23 ~~another construction manager-general contractor method transportation project~~
 24 ~~until after a contract for construction of the first construction manager-~~
 25 ~~general contractor method transportation project has been awarded.~~

26 ~~(b) If the department determines that a construction manager-general~~
 27 ~~contractor method of procurement is appropriate for a transportation project,~~
 28 ~~the department shall establish a procedure for awarding the contract for~~
 29 ~~construction of the construction manager-general contractor method~~
 30 ~~transportation project using the criteria listed in § 19-11-1406.~~

31
 32 ~~19-11-1406. Request for proposals.~~

33 ~~(a) A request for proposals under this subchapter shall include~~
 34 ~~without limitation the following:~~

35 ~~(1) The minimum qualifications of the construction manager-~~
 36 ~~general contractor;~~

1 ~~(2) The procedures for submitting a proposal to the Arkansas~~
2 ~~Department of Transportation, the criteria for the evaluation of and~~
3 ~~selection of a construction manager-general contractor to perform~~
4 ~~preconstruction services, and the relative weight assigned for each criteria~~
5 ~~as indicated in a technical scoring matrix;~~

6 ~~(3) The form of the contract to be awarded for preconstruction~~
7 ~~services;~~

8 ~~(4) A listing of the types and scope of the preconstruction~~
9 ~~services that will be required;~~

10 ~~(5) The scope of the intended contract;~~

11 ~~(6) The budget limits for the transportation project and the~~
12 ~~preconstruction services;~~

13 ~~(7) The method of payment and structure of fees for the~~
14 ~~preconstruction services;~~

15 ~~(8) A requirement that the construction manager-general~~
16 ~~contractor submit relevant information regarding any licenses, registration,~~
17 ~~or credentials that may be required to construct the transportation project;~~

18 ~~(9) A requirement that the construction manager-general~~
19 ~~contractor provide evidence that establishes that the construction manager-~~
20 ~~general contractor is capable of obtaining the required bonding and~~
21 ~~insurance;~~

22 ~~(10) A requirement that the construction manager-general~~
23 ~~contractor submit information concerning the debarment or default from a~~
24 ~~federal, state, or local government transportation project within the past~~
25 ~~five (5) years;~~

26 ~~(11) A requirement that the construction manager-general~~
27 ~~contractor provide information concerning the bankruptcy or receivership of~~
28 ~~any of its members, including information concerning any work completed by a~~
29 ~~surety;~~

30 ~~(12) A requirement that the construction manager-general~~
31 ~~contractor provide evidence of competency, capability, and capacity to~~
32 ~~complete a transportation project of similar size, scope, or complexity; and~~

33 ~~(13) A prohibition that excludes a person or firm that has~~
34 ~~received compensation for assisting the department in preparing the request~~
35 ~~for proposals from submitting a proposal in response to the request for~~
36 ~~proposals or participating as a construction manager-general contractor team~~

1 member.

2 ~~(b) A request for proposals under this subchapter shall not:~~

3 ~~(1) Require that the construction manager-general contractor~~
 4 ~~have prior experience with any particular transportation project procurement~~
 5 ~~method as a condition for submitting a proposal; and~~

6 ~~(2) Give any preference for any particular contract delivery~~
 7 ~~method in the scoring of a proposal.~~

8 ~~(c) The department shall:~~

9 ~~(1) Send a written notice of award to the best-evaluated~~
 10 ~~construction manager-general contractor; or~~

11 ~~(2) Send to all the construction manager-general contractors~~
 12 ~~that submitted a proposal a written notice that all proposals have been~~
 13 ~~rejected.~~

14
 15 SECTION 6. Arkansas Code § 19-11-1407(a)(5), concerning construction
 16 manager-general contractor selection, is repealed.

17 ~~(5)(A) Keep the construction cost estimates prepared under~~
 18 ~~subdivisions (a)(2) and (3) of this section confidential and not subject to~~
 19 ~~public disclosure until after the contract has been awarded.~~

20 ~~(B) Construction cost estimates prepared under~~
 21 ~~subdivisions (a)(2) and (3) of this section are confidential and exempt from~~
 22 ~~public disclosure under the Freedom of Information Act of 1967, § 25-19-101~~
 23 ~~et seq., but only until after the contract has been awarded.~~