

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

As Engrossed: H2/26/15

# A Bill

HOUSE BILL 1009

5 By: Representative Murdock  
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## For An Act To Be Entitled

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

11 TO CLARIFY ARKANSAS LAWS CONCERNING  
12 CONSTRUCTION MANAGEMENT.  
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17 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.

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

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

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

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

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

28 /s/Murdock  
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