

ENROLLED ACT NO. 56, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

AN ACT relating to public improvements; providing for design-build construction as specified; providing definitions; amending related provisions; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 15-1-113(a), 16-6-701(a)(v) and by creating new paragraphs (ix) through (xiii), 16-6-707(a), (b)(intro), (vi), (vii) and by creating a new paragraph (viii) and 16-6-708 are amended to read:

15-1-113. Contracts for public improvements.

(a) All contracts for any type of public improvement, excluding contracts for professional services or where the primary purpose is emergency work or maintenance, for any city or town or joint powers board wherein at least one (1) member is a municipality shall be advertised for bid or for response if a request for proposal or qualification for construction manager agent, ~~or~~ or design-builder construction manager at risk is used, if the estimated cost, including all related costs, exceeds a bid threshold of twenty thousand dollars (\$20,000.00), except that a contract for the purchase or lease of a new automobile or truck shall be advertised regardless of cost and if there is an automobile or truck for trade-in, it shall be included as a part of the advertisement and bid. The requirements of W.S. 15-1-112(a) do not apply to any city or town trading in an automobile or truck on the purchase of a new automobile or truck.

16-6-701. Definitions.

(a) As used in this act:

ORIGINAL SENATE
FILE NO. 0148

ENROLLED ACT NO. 56, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

(v) "Alternate design and construction delivery method" means the delivery method described by any qualifications based procurement of design and construction services, including all procedures, actions, events, contractual relationships, obligations and forms of agreement for the successful completion of the design and construction, alteration or repair of any public building, work, improvement, facility, structure or system other than by design, bid and build. Alternate design and construction delivery methods available to a public entity include construction manager agent, ~~and~~ construction manager at risk or design-builder;

(ix) "Design-build" means a type of construction delivery method in which there is a single contract between the public entity and a design-builder who furnishes architectural, engineering and other related design services as required for the public project, as well as labor, materials and other construction services necessary to construct the project. A design-builder may be selected by the public entity based on evaluation of responses to a request for qualifications, fixed scope request for proposal or fixed price request for proposal. The following shall apply:

(A) A design-builder may be selected based solely on a response to a request for qualification for projects with an estimated construction cost of five hundred thousand dollars (\$500,000.00) or less provided there are not less than two (2) respondents;

(B) Responses to a fixed scope request for proposal or a fixed price request for proposal shall be used as the bases for selection for a project with an

ORIGINAL SENATE
FILE NO. 0148

ENROLLED ACT NO. 56, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

estimated construction cost of more than five hundred thousand dollars (\$500,000.00);

(C) Interested parties shall first respond to a request for qualification. Based on responses to the request for qualification a minimum of two (2) and maximum of five (5) respondents may be selected to respond to a fixed scope request for proposal or a fixed price request for proposal;

(D) The respondent chosen by evaluation to provide the best overall value for the project shall be selected in response to a fixed scope request for proposal or a fixed price request for proposal. The best overall value shall be determined based on criteria set forth by the public entity letting the project and may include, but is not limited to, qualifications, price, quality of materials and products, past experience and schedule;

(E) All unsuccessful respondents to a response for a fixed scope request for proposal or fixed price request for proposal may be compensated at the discretion of the public entity based upon a percentage of the price of the project as proposed by the successful respondent in the respondent's original proposal. Any compensation provided pursuant to this subparagraph shall be clearly specified in the request for proposal.

(x) "Design-builder" means an entity that provides design-build services as described under paragraph (ix) of this subsection whether by itself or through subcontractual arrangements with other entities;

(xi) "Fixed price request for proposal" means a request for an oral and written presentation of all qualifications deemed pertinent to the project by the

ORIGINAL SENATE
FILE NO. 0148

ENROLLED ACT NO. 56, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

public entity in addition to a schematic design and detailed description of all materials and products proposed to accommodate a preliminary project program prepared by the public entity and provided in the fixed price request for proposal. The successful respondent shall construct the project described in their design and material and product description for a fixed price prepared by the public entity and provided in the fixed price request for proposal. The final guaranteed maximum price and scope for the project may be altered from the request for proposal and negotiated with the successful respondent at the discretion of the public entity;

(xii) "Fixed scope request for proposal" means a request for an oral and written presentation of all qualifications deemed pertinent to the project by the public entity in addition to a guaranteed maximum price for a preliminary design prepared by the design builder incorporating all elements of a fixed scope for the project prepared by the public entity and provided in the fixed scope request for proposal. The final guaranteed maximum price and scope for the project may be altered from the request for proposal and negotiated with the successful respondent at the discretion of the public entity;

(xiii) "Request for qualification" means a request for an oral or written presentation of all qualifications deemed pertinent to the project by the public entity. The request for qualification shall include not less than all the provisions contained in W.S. 16-6-707(b).

16-6-707. Construction management alternate delivery method.

ORIGINAL SENATE
FILE NO. 0148

ENROLLED ACT NO. 56, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

(a) Excluding contracts for professional services, construction management and design-build delivery negotiations by public entities and construction managers shall be in accordance with residency and preference requirements imposed under W.S. 16-6-101 through 16-6-107.

(b) Formal requests for proposal for preconstruction or construction services by a construction manager or a design-builder submitted by a public entity shall require at least the following information:

(vi) Ability to meet project budget and time schedule requirements; ~~and~~

(vii) Excluding contracts for professional services, compliance with W.S. 16-6-102; ~~and~~ and

(viii) For design-build alternative construction delivery methods, the names of the prime consultants used for architectural and engineering design services.

16-6-708. Responsibilities under alternate delivery contracts.

Any construction manager agent, ~~or~~ construction manager at risk or design-builder contract awarded shall comply with any reporting and administrative requirements as required by the public entity of the recipient of a design, bid and build contract, including retainage, payment and performance bonding and default of contract.

ORIGINAL SENATE
FILE NO. 0148

ENROLLED ACT NO. 56, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

Section 2. This act is effective July 1, 2007.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk