

FIRST REGULAR SESSION

HOUSE BILL NO. 92

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MOLENDORP.

0552L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 177, RSMo, by adding thereto six new sections relating to the procurement of construction by the design-build method by school districts.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 177, RSMo, is amended by adding thereto six new sections, to be known as sections 177.301, 177.302, 177.303, 177.304, 177.305, and 177.306, to read as follows:

177.301. As used in this section, the following terms shall mean:

- 2 **(1) "Design-build", a project for which the design and construction services are**
3 **furnished under one contract;**
- 4 **(2) "Design-build contract", a contract between a school district and a design-build**
5 **contractor to furnish the architecture, engineering, and related design services, and the**
6 **labor, materials, and other construction services required for a specific construction**
7 **project;**
- 8 **(3) "Design-build contractor", any individual, partnership, joint venture,**
9 **corporation, or other legal entity that furnishes architecture or engineering services and**
10 **construction services either directly or through subcontracts;**
- 11 **(4) "Design-build project", the design, construction, alteration, addition,**
12 **remodeling, or improvement of any school buildings or facilities under contract with a**
13 **school district;**
- 14 **(5) "Design criteria package", performance-oriented specifications for the**
15 **design-build project sufficient to permit a design-build contractor to prepare a response to**
16 **the school district's request for proposals for a design-build project, which may include**
17 **preliminary designs for the project or portions thereof.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

177.302. 1. Notwithstanding any provision of this chapter to the contrary, as an
2 alternative to the requirements and procedures specified by sections 177.086 to 177.171, any
3 school district of this state is authorized to enter into design-build contracts for design-build
4 projects.

5 2. In using a design-build contract, the school district shall establish a written
6 procedure by rule for prequalifying design-build contractors before such design-build
7 contractors will be allowed to make a proposal on the project.

8 3. The school board shall adopt procedures for the prequalification review team;
9 specifications for the design criteria package; the method of advertising, receiving and
10 evaluating proposals from design-build contractors; the criteria for awarding the
11 design-build contract based on the design criteria package and a separate proposal stating
12 the cost of construction; and other methods, procedures and criteria necessary to administer
13 this section.

14 4. The school district is authorized to issue a request for proposals to a maximum
15 of five design-build contractors who are prequalified in accordance with subsection 2 of this
16 section.

17 5. The school district may require approval of any person performing subcontract
18 work on the design-build project including, but not limited to, those furnishing design
19 services, labor, materials or equipment.

177.303. 1. Prior to the prequalification process specified in section 177.302, the
2 school district shall publicly advertise, once a week for two consecutive weeks, in a
3 newspaper of general circulation, qualified under chapter 493 located within the city in
4 which the school district is located, or if there be no such newspaper, in a qualified
5 newspaper of general circulation in the county, or if there be no such newspaper, in a
6 qualified newspaper of general circulation in an adjoining county, and may advertise in
7 business, trade, or minority newspapers, for qualification submissions on said design-build
8 project.

9 2. If the school district fails to receive at least two responsive submissions from
10 prequalified design-build contractors, submissions shall not be opened and it shall
11 readvertise the project.

12 3. The school district shall have the right to reject any and all submissions and
13 proposals.

14 4. The proposals from prequalified design-build contractors shall be submitted
15 sealed and in writing, to be opened publicly at the time and place of the school district's
16 choosing. Technical proposals and qualifications submissions shall be submitted separately
17 from any cost proposals. No cost proposal shall be opened until the technical proposals and

18 qualifications submissions are first opened, evaluated, and ranked in accordance with the
19 criteria identified by the school district in the request for proposals.

20 **5. The design-build contract shall be awarded to the design-build contractor whose**
21 **proposal represents the best overall value to the school district in terms of quality, technical**
22 **skill, schedule and cost.**

23 **6. No proposal shall be entertained by the school district which is not made in**
24 **accordance with the request for proposals furnished by the school district.**

25 **7. The school district shall pay a reasonable stipend to prequalified responsive**
26 **design-build contractors who submit a proposal, but are not awarded the design-build**
27 **contract.**

177.304. 1. The payment bond requirements of section 107.170 shall apply to the
2 **design-build project. All persons furnishing design services shall be deemed to be covered**
3 **by the payment bond the same as any person furnishing labor or materials; however, the**
4 **performance bond for the design-build contractor does not need to cover the design services**
5 **as long as the design-build contractor or its subcontractors providing design services carry**
6 **professional liability insurance in an amount established by the school district in the request**
7 **for proposals.**

8 **2. Any person or firm providing architectural, engineering, or land surveying**
9 **services for the design-build contractor on the design-build project shall be duly licensed**
10 **or authorized in Missouri to provide such services as required by chapter 327.**

177.305. 1. A school district planning a design-build project shall retain an architect
2 **or engineer, as appropriate to the project type, under sections 8.285 to 8.291, to assist with**
3 **programming, site selection, master plan, the design criteria package, preparation of the**
4 **request for proposals, prequalifying design-build contractors, evaluation of proposals, and**
5 **preparation of forms necessary to award the design-build contract. The school district shall**
6 **also retain that same architect or engineer or another to perform contract administration**
7 **functions on behalf of the school district during the construction phase and after project**
8 **completion. If the school district has an architect or engineer capable of fulfilling the**
9 **functions described in this section, the school district is exempt from being required to**
10 **retain another such professional.**

11 **2. Any architect or engineer who is retained by a school district under this section**
12 **shall be ineligible to act as the design-build contractor, or to participate as part of the**
13 **design-build contractor's team as a subcontractor, joint venturer, partner or otherwise for**
14 **the same design-build project for which the architect or engineer was hired by the school**
15 **district.**

**177.306. Under section 327.465, any design-build contractor that enters into a
2 design-build contract for a school district is exempt from the requirement that such person
3 or entity hold a certificate of registration or such corporation hold a certificate of authority
4 if the architectural, engineering, or land surveying services to be performed under the
5 contract are performed through subcontracts with properly licensed and authorized
6 persons or entities, and not performed by the design-build contractor or its own employees.**