

SENATE FILE NO. SF0148

Public improvement-construction.

Sponsored by: Senator(s) Von Flatern, Jennings, Johnson  
and Perkins and Representative(s) Illoway  
and Martin

A BILL

for

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

5

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

7

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

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13 **15-1-113. Contracts for public improvements.**

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15 (a) All contracts for any type of public improvement,  
16 excluding contracts for professional services or where the

1 primary purpose is emergency work or maintenance, for any  
2 city or town or joint powers board wherein at least one (1)  
3 member is a municipality shall be advertised for bid or for  
4 response if a request for proposal or qualification for  
5 construction manager agent, ~~or~~ construction manager at risk  
6 or design-builder is used, if the estimated cost, including  
7 all related costs, exceeds a bid threshold of twenty  
8 thousand dollars (\$20,000.00), except that a contract for  
9 the purchase or lease of a new automobile or truck shall be  
10 advertised regardless of cost and if there is an automobile  
11 or truck for trade-in, it shall be included as a part of  
12 the advertisement and bid. The requirements of W.S.  
13 15-1-112(a) do not apply to any city or town trading in an  
14 automobile or truck on the purchase of a new automobile or  
15 truck.

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17 **16-6-701. Definitions.**

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19 (a) As used in this act:

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21 (v) "Alternate design and construction delivery  
22 method" means the delivery method described by any  
23 qualifications based procurement of design and construction  
24 services, including all procedures, actions, events,

1 contractual relationships, obligations and forms of  
2 agreement for the successful completion of the design and  
3 construction, alteration or repair of any public building,  
4 work, improvement, facility, structure or system other than  
5 by design, bid and build. Alternate design and construction  
6 delivery methods available to a public entity include  
7 construction manager agent, ~~and~~ construction manager at  
8 risk or design-builder;

9  
10 (ix) "Design-build" means a type of construction  
11 delivery method in which there is a single contract between  
12 the public entity and a design-builder who furnishes  
13 architectural, engineering and other related design  
14 services as required for the public project, as well as  
15 labor, materials and other construction services necessary  
16 to construct the project. A design-builder may be selected  
17 by the public entity based on evaluation of responses to a  
18 request for qualifications, fixed scope request for  
19 proposal or fixed price request for proposal. The following  
20 shall apply:

21  
22 (A) A design-builder may be selected based  
23 solely on a response to a request for qualification for  
24 projects with an estimated construction cost of five

1 hundred thousand dollars (\$500,000.00) or less provided  
2 there are not less than two (2) respondents;

3  
4 (B) Responses to a fixed scope request for  
5 proposal or a fixed price request for proposal shall be  
6 used as the bases for selection for a project with an  
7 estimated construction cost of more than five hundred  
8 thousand dollars (\$500,000.00);

9  
10 (C) Interested parties shall first respond  
11 to a request for qualification. Based on responses to the  
12 request for qualification a minimum of two (2) and maximum  
13 of five (5) respondents may be selected to respond to a  
14 fixed scope request for proposal or a fixed price request  
15 for proposal;

16  
17 (D) The respondent chosen by evaluation to  
18 provide the best overall value for the project shall be  
19 selected in response to a fixed scope request for proposal  
20 or a fixed price request for proposal. The best overall  
21 value shall be determined based on criteria set forth by  
22 the public entity letting the project and may include, but  
23 is not limited to, qualifications, price, quality of  
24 materials and products, past experience and schedule;

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(E) All unsuccessful respondents to a response for a fixed scope request for proposal or fixed price request for proposal shall be compensated at not less than one-tenth of one percent (0.1%) of the price of the project as proposed by the successful respondent in the respondent's original 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 sub-contractual 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 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

1 proposal. The final guaranteed maximum price and scope for  
2 the project may be altered from the request for proposal  
3 and negotiated with the successful respondent at the  
4 discretion of the public entity;

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

17  
18 (xiii) "Request for qualification" means a  
19 request for an oral or written presentation of all  
20 qualifications deemed pertinent to the project by the  
21 public entity. The request for qualification shall include  
22 not less than all the provisions contained in W.S.  
23 16-6-707(b).

1           **16-6-707. Construction management alternate delivery**  
2 **method.**

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

9  
10          (b) Formal requests for proposal for preconstruction  
11 or construction services by a construction manager or a  
12 design-builder submitted by a public entity shall require  
13 at least the following information:

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

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

20  
21               (viii) For design-build alternative construction  
22 delivery methods, the names of the prime consultants used  
23 for architectural and engineering design services.

1           16-6-708. Responsibilities under alternate delivery  
2   contracts.

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

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

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13 (END)