

PUBLIC BUILDINGS

CHAPTER 317

SENATE BILL NO. 2149

(Senators Burckhard, Poolman)
(Representatives Frantsvog, Ruby)

AN ACT to amend and reenact section 48-01.2-02, subsection 1 of section 48-01.2-04, and subdivision d of subsection 1 of section 48-01.2-20 of the North Dakota Century Code, relating to public improvement contracts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 48-01.2-02 of the North Dakota Century Code is amended and reenacted as follows:

48-01.2-02. Plans and specifications for a public improvement contract.

Except as otherwise provided in this chapter, if the estimated cost for the construction of a public improvement is in excess of the threshold established under section 48-01.2-02.1, the governing body shall procure plans, drawings, and specifications for the improvement from an architect or engineer. For a public building in use by or to be used by the North Dakota agricultural experiment station in connection with farm or agricultural research operations, the plans, drawings, and specifications, with the approval of the state board of higher education, may be prepared by an engineer in the regular employment of the agricultural experiment station. For a public building in use by or to be used by the department of transportation for the storage and housing of road materials or road machinery, equipment, and tools, the plans, drawings, and specifications may be prepared by an engineer employed by the department of transportation. Plans, drawings, and specifications of an architect or engineer must be stamped and sealed by the date of the initial bid advertisement.

SECTION 2. AMENDMENT. Subsection 1 of section 48-01.2-04 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as otherwise provided in this chapter, if the estimated cost for the construction of a public improvement is in excess of the threshold established under section 48-01.2-02.1, the governing body shall advertise for bids by publishing for three consecutive weeks. The first publication of the advertisement must be at least twenty-one days before the date of the opening of bids. The advertisement must be published in the official newspaper of the political subdivision in which the public improvement is or will be located, in a daily newspaper having a general circulation in the area where the project is located, and in a trade publication, electronic plan service, builders exchange, or other industry-recognized method of general circulation among the contractors, building manufacturers, and dealers in this state, except the advertisement for a public improvement financed by special assessments need be published only once each week for two weeks in the

official newspaper with the first publication being at least fourteen days before the bid opening.

SECTION 3. AMENDMENT. Subdivision d of subsection 1 of section 48-01.2-20 of the North Dakota Century Code is amended and reenacted as follows:

d. A licensed contractor.

Approved March 20, 2015
Filed March 20, 2015

CHAPTER 318

SENATE BILL NO. 2171

(Senators Klein, Murphy, Poolman)
(Representatives Amerman, Keiser, Ruby)

AN ACT to amend and reenact section 48-01.2-06 of the North Dakota Century Code, relating to multiple prime bids.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 48-01.2-06 of the North Dakota Century Code is amended and reenacted as follows:

48-01.2-06. Bid requirements for public improvements.

Multiple prime bids for the general, electrical, and mechanical portions of a project are required when any individual general, electrical, or mechanical contract or any combination of individual contracts is in excess of the threshold established under section 48-01.2-02.1. If a general, mechanical, or electrical contract is estimated to be less than twenty-five percent of the threshold, the contract may be included in one of the other prime contracts. A governing body may allow submission of a single prime bid for the complete project or bids for other specialized portions of the project. A governing body may not accept the single prime bid unless that bid is lower than the combined total of the lowest responsible multiple bids for the project. If a bid for the general, electrical, or mechanical portions of a project is not received, a governing body may negotiate a contract amendment, up to an additional one hundred fifty thousand dollars, with the general, electrical, or mechanical contractor whose contract would represent the largest portion of the project cost for providing the portion of the project for which a bid was not received without rebidding all or part of the project.

Approved April 8, 2015

Filed April 8, 2015

CHAPTER 319

SENATE BILL NO. 2233

(Senators Dever, O'Connell)
(Representatives Rick C. Becker, Dockter, Meier)

AN ACT to amend and reenact subsection 1 of section 48-01.2-22 of the North Dakota Century Code, relating to the public opening of subcontractor bids; and to provide for a legislative management study of public improvement issues relating to use of multiple bids versus single prime bids, bidding thresholds, design services thresholds, and indemnification.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 48-01.2-22 of the North Dakota Century Code is amended and reenacted as follows:

1. An agency construction manager selected for a public improvement shall publicly advertise ~~publicly~~ and receive open bids from subcontractors for the work items necessary to complete the general construction portions of the improvement. The governing body may influence the selection of the subcontractors, but only insofar as the governing body's past experience with a subcontractor or a current legal dispute with a subcontractor.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY. During the 2015-16 interim, the legislative management shall consider studying public improvement issues relating to use of multiple bids versus single prime bids, bidding thresholds, design services thresholds, and indemnification. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved April 15, 2015
Filed April 15, 2015

CHAPTER 320

HOUSE BILL NO. 1128

(Industry, Business and Labor Committee)
(At the request of the State Board of Higher Education)

AN ACT to amend and reenact section 48-01.2-23 of the North Dakota Century Code, relating to bonds for construction managers at-risk.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 48-01.2-23 of the North Dakota Century Code is amended and reenacted as follows:

48-01.2-23. Bond required.

1. An agency construction manager, before starting any work, shall provide the governing body with a bond that is equal to the cost of the agency construction manager's services with the governing body. Each contractor performing services on the public improvement shall provide the governing body with a separate bond for the contractor's portion of the public improvement.
2. A construction manager at-risk, before starting any construction, shall provide the governing body with a bond in an amount at least equal to the amount of the guaranteed maximum price. The bond must be conditioned to be void if the contractor and all subcontractors fully perform all terms, conditions, and provisions of the construction services contract and pay all bills or claims on account of labor and materials, including supplies used for machinery and equipment, performed, furnished, and used in the performance of the contract, including all demands of subcontractors. The requirement that bills and claims be paid must include the requirement that interest of the amount authorized under section 13-01.1-02 be paid on bills and claims not paid within ninety days. The bond is security for all bills, claims, and demands until fully paid, with preference to labor and material suppliers as to payment. The bond must run to the governing body, but any person having a lawful claim against the contractor may sue on the bond.
3. ~~Each mechanical contractor and electrical contractor providing work on a public improvement project that utilizes the construction management at-risk delivery method shall provide the governing body with a separate bond for the contractor's portion of the public improvement.~~

Approved March 20, 2015

Filed March 20, 2015