

Introduced by

1 A BILL for an Act to amend and reenact subsection 1 of section 48-01.2-20, subdivision f of
2 subsection 5 of section 48-01.2-20, subsection 6 of section 48-01.2-20, section 48-01.2-22, and
3 subsection 5 of section 54-44.7-03 of the North Dakota Century Code, relating to the selection
4 process for construction management at-risk planning and design phase services and the
5 procurement of architect, engineer, construction management, and land surveying services.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Subsection 1 of section 48-01.2-20 of the North Dakota
8 Century Code is amended and reenacted as follows:

- 9 1. A governing body electing to utilize a construction management at-risk delivery
10 process for a proposed public improvement shall create a selection committee
11 composed of:
- 12 a. An administrative individual from the governing body.
 - 13 b. A registered architect, excluding any architect contracted for the project.
 - 14 c. A registered engineer, excluding any engineer contracted for the project.
 - 15 d. A licensed contractor.

16 **SECTION 2. AMENDMENT.** Subdivision f of subsection 5 of section 48-01.2-20 of the North
17 Dakota Century Code is amended and reenacted as follows:

- 18 f. The person's fees and expenses, which must be identified on a standard bid form
19 approved by the director of the office of management and budget and issued by
20 the governing body for the project;

21 **SECTION 3. AMENDMENT.** Subsection 6 of section 48-01.2-20 of the North Dakota
22 Century Code is amended and reenacted as follows:

- 23 6. The selection committee shall evaluate each submission based on the qualification
24 criteria under subsection 5 and shall include the numeric scoring of each criteria item

1 on a weighted basis, ~~with. Excluding the person's fees and expenses, which must be~~
2 weighted no less than fifty percent, no item ~~being~~may be weighted at more than
3 ~~twenty~~fifteen percent and no less than five percent. The weighting of the qualification
4 criteria must be done in a manner to ensure no subjective bias and encourage the
5 maximum participation of qualified construction managers at-risk. Each member of the
6 selection committee shall apply the same weighting of qualification criteria for a
7 project.

8 **SECTION 4. AMENDMENT.** Section 48-01.2-22 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **48-01.2-22. Subcontractor bids.**

- 11 1. An agency construction manager selected for a public improvement shall publicly
12 advertise pursuant to section 48-01.2-04 and publicly open bids pursuant to section
13 48-01.2-07 from subcontractors for the work items necessary to complete the general
14 construction portions of the improvement. The agency construction manager shall
15 evaluate the bids and award the subcontract to the lowest responsible bidder. The
16 governing body may influence the selection of the subcontractors, but only insofar as
17 the governing body's past experience with a subcontractor or a current legal dispute
18 with a subcontractor.
- 19 2. A construction manager at-risk selected for a public improvement shall publicly
20 advertise pursuant to section 48-01.2-04 and publicly open bids pursuant to section
21 48-01.2-07 from subcontractors for the work items ~~the construction manager at-risk~~
22 ~~chooses not to perform~~necessary to complete the general construction portions of the
23 improvement. A construction manager at-risk must submit a bid for any work item
24 necessary to complete the general construction portions of the improvement the
25 construction manager at-risk chooses to perform pursuant to this section. The
26 construction manager at-risk ~~then~~ shall evaluate the bids and ~~determine which is the~~
27 ~~most responsible~~award the subcontract to the lowest responsible bidder. The
28 governing body may influence the selection of the subcontractors, but only insofar as
29 the governing body's past experience with a subcontractor or a current legal dispute
30 with a subcontractor.

1 **SECTION 5. AMENDMENT.** Subsection 5 of section 54-44.7-03 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 5. a. The agency selection committee shall evaluate each of the persons or firms
4 interviewed on the basis of the following criteria:

5 a- (1) Past performance.

6 b- (2) The ability of professional personnel.

7 c- (3) Willingness to meet time and budget requirements.

8 d- (4) Location, with higher priority given to firms headquartered in North Dakota.

9 e- (5) Recent, current, and projected workloads of the persons or firms.

10 f- (6) Related experience on similar projects.

11 g- (7) Recent and current work for the agency.

12 (8) Fees and expenses, which must be identified on a standard information
13 submission form approved by the director of the office of management and
14 budget and issued by the agency selection committee for the project.

15 b. The agency selection committee shall evaluate each submission based on the
16 qualification criteria under subdivision a and shall include the numeric scoring of
17 each criteria item on a weighted basis. Excluding the person's or firm's fees and
18 expenses, which must be weighted at no less than fifty percent, an item may not
19 be weighted at more than fifteen percent or less than five percent. The weighting
20 of the qualification criteria must be done in a manner to ensure no subjective bias
21 and encourage the maximum participation of qualified architects, engineers,
22 construction managers, and land surveyors. Each member of the selection
23 committee shall apply the same weighting of qualification criteria for a project.

24 c. Based upon these evaluations, the agency selection committee shall select the
25 three which, in its judgment, are most qualified, ranking the three in priority order.
26 The agency selection committee's report ranking the interviewed persons or firms
27 must be in writing and must include data substantiating its determinations. This
28 data must be available to the public upon written request.