

HOUSE BILL NO. 1028

Introduced by

Legislative Management

(Government Services Committee)

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 twenty percent, no item ~~being~~may be weighted at more than
3 twenty percent and no less than five percent. The weighting of the qualification criteria
4 must be done in a manner to ensure no subjective bias and encourage the maximum
5 participation of qualified construction managers at-risk. Each member of the selection
6 committee shall apply the same weighting of qualification criteria for a project.

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

9 **48-01.2-22. Subcontractor bids.**

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

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

- 1 5. a. The agency selection committee shall evaluate each of the persons or firms
2 interviewed on the basis of the following criteria:
- 3 a. (1) Past performance.
- 4 b. (2) The ability of professional personnel.
- 5 c. (3) Willingness to meet time and budget requirements.
- 6 d. (4) Location, with higher priority given to firms headquartered in North Dakota.
- 7 e. (5) Recent, current, and projected workloads of the persons or firms.
- 8 f. (6) Related experience on similar projects.
- 9 g. (7) Recent and current work for the agency.
- 10 (8) Fees and expenses, which must be identified on a standard information
11 submission form approved by the director of the office of management and
12 budget and issued by the agency selection committee for the project.
- 13 b. Based upon these evaluations, the agency selection committee shall select the
14 three which, in its judgment, are most qualified, ranking the three in priority order.
15 The agency selection committee's report ranking the interviewed persons or firms
16 must be in writing and must include data substantiating its determinations. This
17 data must be available to the public upon written request.