

## 2012 Kansas Statutes

**75-37,143. Same; state building advisory commission authorized to institute alternative project delivery program; acquisition of information from potential contractors; determination of project appropriateness; notices and public hearing regarding program request; rules and regulations.** (a) Notwithstanding any other provision of the law to the contrary, the state building advisory commission is hereby authorized to institute an alternative project delivery program whereby construction management at-risk or building design-build procurement processes may be utilized on state agency public projects pursuant to this act. This authorization for construction management at-risk and building design-build procurement shall be for the sole and exclusive use of planning, acquiring, designing, building, equipping, altering, repairing, improving, or demolishing any structure or appurtenance thereto, including facilities, utilities, or other improvements to any real property, but shall not include highways, roads, bridges, dams, turnpikes or related structures, or stand-alone parking lots.

(b) To assist in the procurement of alternative project delivery construction services as defined under this act, the secretary of administration shall encourage firms engaged in the performance of construction services to submit annually to the secretary of administration and to the state building advisory commission a statement of qualifications and performance data. Each statement shall include data relating to the following:

- (1) The firm's capacity and experience, including experience on similar or related projects;
- (2) the capabilities and other qualifications of the firm's personnel; and
- (3) such other information related to qualifications and capability of the firm to perform construction services for projects as may be described by the secretary of administration.

(c) The state building advisory commission shall approve those projects for which the use of alternative project delivery procurement process is appropriate. In making such determination, the commission shall consider the following factors:

- (1) The likelihood that the alternative project delivery method of procurement selected will serve the public interest by providing substantial savings of time or money over the traditional design-bid-build delivery process.
- (2) The ability to overlap design and construction phases is required to meet the needs of the end user.
- (3) The use of an accelerated schedule is required to make repairs resulting from an emergency situation.
- (4) The project presents significant phasing or technical complexities, or both, requiring the use of an integrated team of designers and constructors to solve project challenges during the design or preconstruction phase.
- (5) The use of an alternative project delivery method will not encourage favoritism in awarding the public contract or substantially diminish competition for the public contract.

(d) When a request is made for alternative delivery procurement by an agency, the director shall publish a notice in the Kansas register that the state building advisory commission will be holding a public hearing with the opportunity for comment on such request. Notice shall be published at least 15 days prior to the hearing.

(e) Notwithstanding the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto, if the state building advisory commission finds that the project does not qualify for the alternative project delivery methods included under this act, then the construction services for such project shall be obtained pursuant to competitive bids and all contracts for construction services shall be awarded to the lowest responsible bidder in accordance with procurement procedures determined and administered by the division of facilities management which shall be consistent with the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto.

(f) The secretary of administration may adopt regulations pursuant to K.S.A. 75-3783, and amendments thereto, for the conduct of the alternative project delivery process.

(g) When it is necessary in the judgment of the agency to obtain project services for a particular project as described under this act, the director shall publish a notice of the request for qualifications and proposals for the required project services at least 15 days prior to the commencement of such request in the Kansas register in accordance with K.S.A. 75-430a, and amendments thereto, and in such other appropriate manner as may be determined by the agency.

**History:** L. 2006, ch. 80, § 3; July 1.