

## 2019 Kansas Statutes

**75-37,142. Same; definitions.** As used in the Kansas alternative project delivery construction procurement act, unless the context expressly provides otherwise:

(a) "Act" means the Kansas alternative project delivery building construction procurement act.

(b) "Agency" means the agency or state educational institution, as defined in K.S.A. 76-756, and amendments thereto, with the authority to award public contracts for building design and construction.

(c) "Alternative project delivery" means an integrated comprehensive building design and construction process, including all procedures, actions, sequences of events, contractual relations, obligations, interrelations and various forms of agreement all aimed at the successful completion of the design and construction of buildings and other structures whereby a construction manager or general contractor or building design-build team is selected based on a qualifications and best value approach.

(d) "Ancillary technical services" include, but shall not be limited to, geology services and other soil or subsurface investigation and testing services, surveying, adjusting and balancing air conditioning, ventilating, heating and other mechanical building systems and testing and consultant services that are determined by the agency to be required for the project.

(e) "Architectural services" means those services described as the "practice of architecture," as defined in K.S.A. 74-7003, and amendments thereto.

(f) "Best value selection" means a selection based upon project cost, qualifications and other factors.

(g) "Building construction" means furnishing labor, equipment, material or supplies used or consumed for the design, construction, alteration, renovation, repair or maintenance of a building or structure. Building construction does not include highways, roads, bridges, dams, turnpikes or related structures, or stand-alone parking lots.

(h) "Building design-build" means a project for which the design and construction services are furnished under one contract.

(i) "Building design-build contract" means a contract between the agency and a design-builder to furnish the architecture or engineering and related design services required for a given public facilities construction project and to furnish the labor, materials and other construction services for such public project.

(j) "Construction services" means the process of planning, acquiring, building, equipping, altering, repairing, improving, or demolishing any structure or appurtenance thereto, including facilities, utilities or other improvements to any real property, excluding highways, roads, bridges, dams, turnpikes or related structures, or stand-alone parking lots.

(k) "Construction management at-risk services" means the services provided by a firm which has entered into a contract with the agency to be the construction manager or general contractor for the value and schedule of the contract for a project, which is to hold the trade contracts and execute the work for a project in a manner similar to a general contractor, and which is required to solicit competitive bids for the trade packages developed for the project and to enter into the trade contracts for a project with the lowest responsible bidder therefor. Construction management at-risk services may

include, but are not limited to, scheduling, value analysis, system analysis, constructability reviews, progress document reviews, subcontractor involvement and prequalification, subcontractor bonding policy, budgeting and price guarantees, and construction coordination.

(l) "Construction management at-risk contract" means the contract whereby the state agency acquires from a construction manager or general contractor a series of preconstruction services and an at-risk financial obligation to carry out construction under a specified cost agreement.

(m) "Construction manager or general contractor" means any individual, partnership, joint venture, corporation, or other legal entity who is a member of the integrated project team with the state agency, design professional and other consultants that may be required for the project, who utilizes skill and knowledge of general contracting to perform preconstruction services and competitively procures and contracts with specialty contractors assuming the responsibility and the risk for construction delivery within a specified cost and schedule terms including a guaranteed maximum price.

(n) "Design-builder" means any individual, partnership, joint venture, corporation or other legal entity that furnishes the architectural or engineering services and construction services, whether by itself or through subcontracts.

(o) "Design criteria consultant" means a person, corporation, partnership, or other legal entity duly registered and authorized to practice architecture or professional engineering in this state pursuant to K.S.A. 74-7003, and amendments thereto, and who is employed by contract to the agency to provide professional design and administrative services in connection with the preparation of the design criteria package.

(p) "Design criteria package" means performance-oriented specifications for the public construction project sufficient to permit a design-builder to prepare a response to the division's request for proposals for a building design-build project.

(q) "Director" means the director of the division of facilities management.

(r) "Division of facilities management" means the division of facilities management of the department of administration.

(s) "Engineering services" means those services described as the "practice of engineering," as defined in K.S.A. 74-7003, and amendments thereto.

(t) "Guaranteed maximum price" means the cost of the work as defined in the contract.

(u) "Negotiating committee" means a group of individuals as defined by K.S.A. 75-1251 and 75-5802, and amendments thereto.

(v) "Parking lot" means a designated area constructed on the ground surface for parking motor vehicles. A parking lot included as part of a building construction project shall be subject to the provisions of this act. A parking lot designed and constructed as a stand-alone project shall not be subject to the provisions of this act.

(w) "Preconstruction services" means a series of services that can include, but are not necessarily limited to: Design review, scheduling, cost control, value engineering, constructability evaluation, and preparation and coordination of bid packages.

(x) "Project services" means architectural, engineering services, land surveying, construction management at-risk services, ancillary technical services or other construction-related services determined by the agency to be required by the project.

(y) "Public construction project" means the process of designing, constructing, reconstructing, altering or renovating a public building or other structure. Public construction project does not include the process of designing, constructing, altering or repairing a public highway, road, bridge, dam, turnpike or related structure.

(z) "State building advisory commission" means the state building advisory commission created by K.S.A. 75-3780, and amendments thereto.

(aa) "Stipend" means an amount paid to the unsuccessful proposers to defray the cost of submission of phase II of the building design-build proposal.

**History:** L. 2006, ch. 80, § 2; L. 2014, ch. 88, § 35; July 1.