

# Senate Study Bill 3157

## Bill Text

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1 1 Section 1. NEW SECTION. 72.6 CONSTRUCTION MANAGEMENT  
1 2 SERVICES.  
1 3 1. DEFINITIONS. As used in this section, unless the  
1 4 context otherwise provides:  
1 5 a. "Construction management services" means all of the  
1 6 following:  
1 7 (1) Services provided in the planning and design phases of  
1 8 a public works project including, but not limited to, the  
1 9 following:  
1 10 (a) Consulting with, advising, assisting, and making  
1 11 recommendations to a public owner or architect, engineer, or  
1 12 registered landscape architect employed by the public owner on  
1 13 any aspect of planning for a public works project.  
1 14 (b) Reviewing all plans and specifications for the public  
1 15 works project as they are developed and making recommendations  
1 16 concerning construction feasibility, availability of material  
1 17 and labor, time requirements for procurement and construction,  
1 18 and projected costs.  
1 19 (c) Making, reviewing, and refining budget estimates for  
1 20 the public works project based on the public owner's plans and  
1 21 specifications and other available information.  
1 22 (d) Making recommendations to the public owner or the  
1 23 architect or engineer on the public works project regarding  
1 24 the division of work in the plans and specifications to  
1 25 facilitate bidding on and the award of contracts.  
1 26 (e) Soliciting the interest of capable bidders and  
1 27 assisting the public owner in taking bids on the public works  
1 28 project.  
1 29 (f) Analyzing the bids received from contractors and  
1 30 awarding contracts for the public works project.  
1 31 (g) Preparing and monitoring a progress schedule during  
1 32 the design phase of the project.  
1 33 (h) Preparing a proposed construction schedule for the  
1 34 public works project.  
1 35 (2) Services provided in the construction phase of the  
2 1 public works project including, but not limited to, the  
2 2 following:  
2 3 (a) Maintaining competent supervisory staff to coordinate  
2 4 and provide general direction of the work and progress of the  
2 5 contractors on the public works project.  
2 6 (b) Observing work on the public works project as it is  
2 7 performed for general conformity with working drawings and  
2 8 specifications.  
2 9 (c) Establishing procedures for coordinating the work of  
2 10 the public owner, architect, engineer, contractors, and the  
2 11 construction manager on all aspects of the public works  
2 12 project and implementing such procedures.  
2 13 (d) Maintaining job site records and making appropriate  
2 14 progress reports.  
2 15 (e) Reviewing the safety programs of each contractor on  
2 16 the public works project for conformity with the public  
2 17 owner's safety policies and making recommendations regarding  
2 18 such programs.  
2 19 (f) Reviewing and processing all applications for payment  
2 20 by contractors and material suppliers on the public works  
2 21 project in accordance with the terms of the contract.

2 22 (g) Making recommendations for and processing requests for  
2 23 changes in work on the public works project and maintaining  
2 24 records of change orders.

2 25 (h) Scheduling and conducting job meetings to ensure  
2 26 orderly progress of work on the public works project.

2 27 (i) Developing and monitoring a progress schedule for the  
2 28 public works project, coordinating and expediting the work of  
2 29 all contractors on the project, and providing periodic status  
2 30 reports to the public owner and the architect or engineer.

2 31 (j) Establishing and maintaining a cost control system for  
2 32 the public works project and conducting meetings to review  
2 33 costs.

2 34 b. "Construction manager" means any person, firm, or  
2 35 corporation that provides construction management services to  
3 1 a public owner. For purposes of this section, a construction  
3 2 manager is not a "contractor" as defined in section 91C.1.

3 3 c. "General conditions work" means work that is not  
3 4 permanently incorporated into a public works project.

3 5 d. "Public owner" means a public body including the state  
3 6 of Iowa, an officer, official, agency, authority, board, or  
3 7 commission of the state or of a political subdivision or an  
3 8 institution supported in whole or in part by public funds.

3 9 e. "Public works" means a permanent building or other  
3 10 construction work constructed for public use or benefit and  
3 11 paid for in whole or in part with public funds, including a  
3 12 public improvement as defined in section 73A.1, 331.341,  
3 13 384.37, or 384.95, and including any work performed directly  
3 14 by a public utility as defined in section 368.1 when performed  
3 15 by a public utility pursuant to an order of a public authority  
3 16 or commission whether or not the work is performed under  
3 17 public supervision or direction or paid for in whole or in  
3 18 part with public funds. "Public works" does not include any  
3 19 work done by or on behalf of a drainage or levee district.

3 20 f. "Public works project" or "project" means the  
3 21 construction, maintenance, or repair of public works.

3 22 2. USE OF CONSTRUCTION MANAGER. A public owner may engage  
3 23 a construction manager when planning, designing, or  
3 24 constructing a public works, or when improving, altering, or  
3 25 repairing a public works. A public owner may engage a  
3 26 construction manager in the preconstruction phase of a public  
3 27 works project or in both the preconstruction and construction  
3 28 phases of the project.

3 29 3. SOLICITATION OF BIDS. When the estimated cost of  
3 30 construction management services for a public works project  
3 31 exceeds twenty-five thousand dollars, a public owner shall  
3 32 solicit bids on the proposed construction management services  
3 33 contract by publishing an advertisement in a print format.  
3 34 The advertisement shall appear in two publications in a  
3 35 newspaper with circulation throughout the state. The first  
4 1 advertisement for bids appearing in a newspaper shall be not  
4 2 less than fifteen days prior to the date set for receiving  
4 3 bids. The public owner may publish an advertisement in an  
4 4 electronic format as an additional method of soliciting bids  
4 5 under this subsection.

4 6 4. EVALUATION AND SELECTION OF BIDDERS.

4 7 a. SELECTION PROCESS. A public owner shall evaluate a bid  
4 8 for provision of construction management services and select a  
4 9 construction manager by using a selection process as follows:

4 10 (1) Send requests for proposals to not less than three  
4 11 construction managers and solicit bids as required by  
4 12 subsection 3.

4 13 (2) Score the proposals received from construction  
4 14 managers using the selection criteria contained in paragraph  
4 15 "b".

4 16 (3) Conduct interviews of construction managers with the  
4 17 highest preliminary scores based on the selection criteria as  
4 18 set forth in paragraph "c".

4 19 (4) Rescore each proposal of a construction manager  
4 20 interviewed based on the construction manager's proposal and  
4 21 the interview of the construction manager using the selection  
4 22 criteria contained in paragraph "b".  
4 23 (5) Require each construction manager that is interviewed  
4 24 to submit the construction manager's fee requirements to the  
4 25 public owner in a separate sealed envelope following the  
4 26 interview of the construction manager.  
4 27 (6) Review the separate fee proposals submitted by the  
4 28 construction managers interviewed and rescore each proposal of  
4 29 a construction manager as set forth in paragraph "c".  
4 30 (7) Award a contract for construction management services  
4 31 as set forth in paragraph "d". After the contract for  
4 32 construction management services is awarded, all results of  
4 33 the scoring process shall be made public by the public owner.  
4 34 b. SELECTION CRITERIA. A public owner shall include a  
4 35 description of the scope of construction management services  
5 1 desired and the selection criteria contained in this paragraph  
5 2 "b" in a request for proposals for construction management  
5 3 services and in a solicitation of bids required under  
5 4 subsection 3. A public owner shall disclose the scoring  
5 5 ranges for each of the selection criteria in the request for  
5 6 proposals, but a public owner may, in its discretion, vary the  
5 7 point ranges and include additional subcategories from those  
5 8 set forth in this paragraph "b" for the required selection  
5 9 criteria. The required criteria for selecting a construction  
5 10 manager are as follows:  
5 11 (1) History (ten to twenty maximum point range) including  
5 12 all of the following:  
5 13 (a) Name, address, telephone number, and federal  
5 14 identification number.  
5 15 (b) Qualifications.  
5 16 (c) Efficiency and financial condition.  
5 17 (d) Familiarity with the local market where the public  
5 18 works project will be constructed.  
5 19 (2) Composition of the construction manager's proposed  
5 20 project team (twenty to thirty maximum point range) including  
5 21 a description of the project team including resumes and  
5 22 references of each project team member and an organizational  
5 23 chart of the construction manager.  
5 24 (3) Information describing the experience of the  
5 25 construction manager (twenty-five to thirty-five maximum point  
5 26 range) including the following:  
5 27 (a) Description of previous experience.  
5 28 (b) References.  
5 29 (c) Performance of previous construction management of  
5 30 public works projects comparable in design, scope, and  
5 31 complexity to the public works project being bid on.  
5 32 (d) Evidence of ability to meet established construction  
5 33 schedules.  
5 34 (e) Previous projects managed.  
5 35 (f) Demonstration of successful management systems for  
6 1 estimating, project management, scheduling, and cost controls.  
6 2 (4) Construction management approach utilized (ten to  
6 3 fifteen maximum point range) including a narrative of the  
6 4 construction manager's philosophy of construction management.  
6 5 (5) Fee proposal (fifteen to twenty maximum point range)  
6 6 including all of the following:  
6 7 (a) Overhead and profit.  
6 8 (b) Description of services.  
6 9 (c) Policy concerning costs of change work orders.  
6 10 (d) Reimbursement costs for reimbursable items as defined  
6 11 in the request for proposals.  
6 12 c. INTERVIEW OF BIDDERS. A public owner shall interview  
6 13 at least three construction managers who receive the highest  
6 14 preliminary scores for the proposals submitted in response to  
6 15 the public owner's request for proposals and solicitation of

6 16 bids based on the selection criteria required in paragraph  
6 17 "b", or less if fewer than three proposals are submitted.  
6 18 During each interview, the public owner shall assess the  
6 19 qualifications of the construction manager's proposed project  
6 20 team, obtain additional information concerning the proposal,  
6 21 and assess the construction manager's competence to provide  
6 22 construction management services for the public works project.  
6 23 Following the interviews, the public owner shall reevaluate  
6 24 and rescore each proposal submitted based on the selection  
6 25 criteria set forth in paragraph "b" including the scores of  
6 26 the written proposal and the interview. A public owner shall  
6 27 then open and evaluate each separate fee proposal submitted by  
6 28 a construction manager interviewed using the selection  
6 29 criteria contained in paragraph "b" and again rescore each  
6 30 proposal submitted based on the scores of the proposal,  
6 31 interview, and fee proposal.

6 32 d. AWARD OF CONTRACT. A public owner shall award a  
6 33 contract for construction management services on a public  
6 34 works project to the construction manager with the highest  
6 35 score based on the required selection criteria unless the  
7 1 public owner is unable to establish an agreement with that  
7 2 construction manager for the type of construction management  
7 3 services desired by the public owner. In that event, the  
7 4 public owner shall award the contract for construction  
7 5 management services to the construction manager with the next  
7 6 highest score on the required selection criteria that can  
7 7 reach an agreement with the public owner for the type of  
7 8 construction management services desired by the public owner.

7 9 5. CONSTRUCTION MANAGEMENT CONTRACT. A construction  
7 10 management services contract for a public works project shall  
7 11 provide that the construction manager shall do all of the  
7 12 following:

7 13 a. Furnish skill and judgment in cooperation with, and in  
7 14 reliance on, the services of the public works project  
7 15 architect or engineer.

7 16 b. Furnish business administration, management of the  
7 17 construction process, and other specified services in an  
7 18 economical and expeditious manner consistent with the  
7 19 interests of the public owner.

7 20 c. Provide or perform general conditions work at the  
7 21 request of the public owner if the provision of such work is  
7 22 in the best interest of the public owner.

7 23 d. Not bid on or perform actual construction on a public  
7 24 works project on which the construction manager is performing  
7 25 construction management services.

7 26 e. Obtain a performance bond as required in chapter 573  
7 27 for services performed.

7 28 f. At the public owner's request, obtain professional  
7 29 liability insurance.

7 30 6. CONFLICTS PROHIBITED. A construction management  
7 31 services contract for a public works project shall not be  
7 32 awarded by a public owner to a construction manager that  
7 33 controls, is controlled by, or shares common ownership or  
7 34 control with another contractor on the public works project;  
7 35 that assumes financial responsibility for the work of others  
8 1 on the project; that guarantees a maximum price for the work  
8 2 of others on the project; or that furnishes or guarantees a  
8 3 performance or payment bond for another contractor on the  
8 4 project.

8 5 A public owner shall not accept a bid from or award a  
8 6 contract on a public works project to a contractor that  
8 7 controls, is controlled by, or shares common ownership with or  
8 8 control of the construction manager on the public works  
8 9 project.

8 10 7. APPLICABILITY. This section does not apply to the  
8 11 planning, design, construction, maintenance, repair, or other  
8 12 work done for or on behalf of a public owner by employees of a

8 13 public owner.

8 14 Sec. 2. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
8 15 3, shall not apply to this Act.

8 16 EXPLANATION

8 17 This bill regulates contracts for construction management  
8 18 services for public works projects. "Construction management  
8 19 services" includes consulting, advising, and making  
8 20 recommendations to a public owner during the planning and  
8 21 design phases of a public works project as well as in the  
8 22 construction phase of the project. A "public owner" is any  
8 23 public body including the state, an officer, agency,  
8 24 authority, board, or commission of the state or of a political  
8 25 subdivision, or any institution supported in whole or in part  
8 26 by public funds. A "public works project" is a permanent  
8 27 building or other construction work constructed for public use  
8 28 or benefit and paid for in whole or in part with public funds  
8 29 with the exception of work done by or for a drainage or levee  
8 30 district.

8 31 The bill provides that a public owner shall solicit bids  
8 32 when the provision of construction management services is  
8 33 estimated to exceed \$25,000, by publishing an advertisement in  
8 34 two publications of a newspaper with statewide circulation not  
8 35 less than 15 days before the date the bids are due.

9 1 The bill sets forth an evaluation and selection process for  
9 2 a public owner to select a construction manager that includes  
9 3 preparing requests for proposals containing specific required  
9 4 selection criteria and the weight given to each of the  
9 5 criteria, conducting interviews of construction managers who  
9 6 submit proposals with the highest preliminary scores based on  
9 7 the selection criteria, scoring the written proposals,  
9 8 interviews, and fee proposals of each construction manager  
9 9 interviewed, and awarding a contract for construction  
9 10 management services on a public works project to the  
9 11 construction manager with the highest score based on the  
9 12 selection criteria. However, if the public owner is unable to  
9 13 establish an agreement with the construction manager with the  
9 14 highest score for the type of construction management services  
9 15 desired by the public owner, the public owner shall award the  
9 16 contract to the construction manager with the next highest  
9 17 score that can reach an agreement with the public owner for  
9 18 the type of construction management services desired.

9 19 The bill prohibits a construction manager on a public works  
9 20 project from bidding on or performing actual construction on a  
9 21 public works project. A construction management services  
9 22 contract cannot be awarded to a construction manager that  
9 23 controls, or is controlled by, or otherwise has financial  
9 24 responsibility or makes guarantees for other participants on  
9 25 the public works project.

9 26 The bill may include a state mandate as defined in Code  
9 27 section 25B.3. The bill makes inapplicable Code section  
9 28 25B.2, subsection 3, which would relieve a political  
9 29 subdivision from complying with a state mandate if funding for  
9 30 the cost of the state mandate is not provided or specified.  
9 31 Therefore, political subdivisions are required to comply with  
9 32 any state mandate included in the bill.

9 33 LSB 6686SC 79

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