

House File 778 - Introduced

HOUSE FILE _____
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HSB 203)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing a pilot program for alternative project
2 delivery procedures for public projects undertaken by certain
3 governmental entities.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1733HV 83
6 md/nh/14

PAG LIN

1 1 SUBCHAPTER I
1 2 ALTERNATIVE PUBLIC PROJECT DELIVERY PILOT PROGRAM
1 3 Section 1. NEW SECTION. 26A.1 DEFINITIONS.
1 4 As used in this chapter, unless the context clearly
1 5 indicates otherwise:
1 6 1. "Alternative project delivery" means procuring and
1 7 delivering design and construction services for a public
1 8 project according to one of the selection procedures outlined
1 9 in subchapters II through IV.
1 10 2. "Construction documents" means the drawings,
1 11 specifications, technical submissions, and other documents
1 12 upon which a construction project is based.
1 13 3. "Construction management services" means an alternative
1 14 project delivery method whereby services are provided by a
1 15 construction manager in a manner similar to a general
1 16 contractor, and which requires the construction manager to
1 17 solicit competitive bids for the trade packages or
1 18 subcontracts developed for the public project and to enter
1 19 into the trade contracts or subcontracts for the public
1 20 project. Construction management services may include but are
1 21 not limited to scheduling, value analysis, system analysis,
1 22 constructability reviews, progress document reviews,
1 23 subcontractor involvement and prequalification, subcontractor
1 24 bonding policy, budgeting and price guarantees, and
1 25 construction coordination.
1 26 4. "Construction manager" means an individual,
1 27 partnership, joint venture, corporation, or other legal entity
1 28 that utilizes skill and knowledge of general contracting to
1 29 perform construction management services and preconstruction
1 30 services, competitively procures and contracts with specialty
1 31 contractors or subcontractors, and assumes the responsibility
1 32 and the risk for construction delivery within a specified cost
1 33 and schedule.
1 34 5. "Construction services" means the process of planning,
1 35 building, equipping, altering, repairing, improving, or
2 1 demolishing any structure or appurtenance thereto, including
2 2 facilities, utilities, or other improvements to real property,
2 3 but excluding highways, roads, bridges, dams, or stand-alone
2 4 parking lots.
2 5 6. "Criteria consultant" means an individual employed or
2 6 retained by the governmental entity to assist in the
2 7 preparation of a request for qualifications and a request for
2 8 proposals. A criteria consultant shall have professional
2 9 licensure or significant professional experience in a field
2 10 related to the proposed public project.
2 11 7. "Design professional" means an individual, partnership,
2 12 joint venture, corporation, or other legal entity that is
2 13 engaged in the business of providing professional design
2 14 services. A design professional shall be licensed to practice
2 15 architecture, engineering, or landscape architecture, or be
2 16 registered to practice interior design in this state.

2 17 8. "Design=build services" means a method of alternative
2 18 project delivery for which both design and construction
2 19 services are provided under one contract. "Design=build
2 20 services" may include architecture, engineering, and related
2 21 design services required for a given project and the labor,
2 22 materials, and other construction services for the project.

2 23 9. "Design=builder" means an individual, partnership,
2 24 joint venture, corporation, or other legal entity that
2 25 furnishes design=build services, whether by itself or through
2 26 subcontracts.

2 27 10. "Estimated total cost" means the estimated total cost
2 28 to a governmental entity to construct a public project,
2 29 including the cost of labor, materials, equipment, supplies,
2 30 and fees.

2 31 11. "Governmental entity" means the department of
2 32 administrative services, a school district, a public hospital,
2 33 or an institution under the control of the state board of
2 34 regents.

2 35 12. "Guaranteed maximum cost" means the total cost of the
3 1 project as defined in the public project contract between the
3 2 governmental entity and the construction manager or between
3 3 the governmental entity and the design=builder.

3 4 13. "Preconstruction services" means a series of services
3 5 including but not limited to design review, scheduling,
3 6 estimating, cost control, value engineering, constructability
3 7 evaluation, and preparation and coordination of bid packages.

3 8 14. "Public project" means a project under the control of
3 9 a governmental entity that is paid for in whole or in part
3 10 with funds of the governmental entity, including a building or
3 11 improvement constructed or operated jointly with any other
3 12 public or private agency that has an estimated total cost of
3 13 more than one hundred thousand dollars. A "public project"
3 14 may include planning, acquiring, designing, building,
3 15 equipping, altering, repairing, improving, or demolishing any
3 16 structure or appurtenance thereto, including facilities,
3 17 utilities, or other improvements to any real property owned by
3 18 the governmental entity, but excluding highways, roads,
3 19 bridges, dams, or stand-alone parking lots. However, a
3 20 parking lot included as part of the site work of a public
3 21 project may be included as part of a construction management
3 22 contract or a design=build services contract. Parking ramps
3 23 and parking garages are not considered to be parking lots and
3 24 may be a "public project" constructed utilizing alternative
3 25 project delivery methods.

3 26 15. "Selection plan" means a resolution adopted by a
3 27 governmental entity that specifies criteria and scoring
3 28 methodology relating to the selection of a construction
3 29 manager or a design=builder for a public project.

3 30 Sec. 2. NEW SECTION. 26A.2 ALTERNATIVE PROJECT DELIVERY
3 31 COMMISSION.

3 32 1. An alternative project delivery commission is
3 33 established consisting of nine members.

3 34 2. Members of the commission shall consist of all of the
3 35 following:

- 4 1 a. One member appointed by the state board of regents.
- 4 2 b. One member appointed by the director of the department
4 3 of administrative services.
- 4 4 c. One member appointed by the Iowa association of school
4 5 boards.
- 4 6 d. One member appointed by the Iowa state building and
4 7 construction trades council.
- 4 8 e. One member appointed by the Iowa chapter of the
4 9 American institute of architects.
- 4 10 f. One member appointed by the American council of
4 11 engineering companies of Iowa.
- 4 12 g. One member appointed by the Iowa chapter of the
4 13 design=build institute of America.
- 4 14 h. One member appointed by the master builders of Iowa.
- 4 15 i. One member appointed by the mechanical contractors
4 16 association of Iowa.

4 17 3. Each member of the commission shall serve until January
4 18 15, 2012, or until the member resigns. A vacancy on the
4 19 commission shall be filled in the same manner as the original
4 20 appointment.

4 21 4. The member appointed by the state board of regents
4 22 shall serve as the chairperson of the commission.

4 23 5. Meetings of the commission may be called by the
4 24 chairperson or by a majority of the members.

4 25 6. A majority of the members of the commission constitutes
4 26 a quorum. Any action taken by the commission must be adopted
4 27 by the affirmative vote of a majority of its membership.

4 28 7. A member shall not vote on a matter before the
4 29 commission if the individual has a pecuniary, equitable, or
4 30 other interest in the matter or conditions exist that would
4 31 interfere with the member's ability to properly discharge the
4 32 member's duties.

4 33 8. Members of the commission shall be reimbursed for
4 34 actual and necessary expenses incurred while engaged in their
4 35 official duties from fees collected by the commission under
5 1 section 26A.3, subsection 5.

5 2 9. The duties of the commission shall include all of the
5 3 following:

5 4 a. Administer the alternative project delivery pilot
5 5 program created under section 26A.3.

5 6 b. Prepare and file with the governor and the general
5 7 assembly on or before January 15, 2012, a report detailing the
5 8 activities of the commission and summarizing each public
5 9 project selected for inclusion in the alternative project
5 10 delivery pilot program, including information related to cost
5 11 savings to the governmental entity, if any.

5 12 c. Adopt policies and procedures to carry out any duty
5 13 specified in this chapter.

5 14 Sec. 3. NEW SECTION. 26A.3 ALTERNATIVE PROJECT DELIVERY
5 15 PILOT PROGRAM.

5 16 1. The alternative project delivery commission shall
5 17 administer an alternative project delivery pilot program
5 18 consistent with the requirements of this chapter. The purpose
5 19 of the pilot program is to determine whether alternative
5 20 project delivery methods are financially beneficial and
5 21 efficient for governmental entities in undertaking public
5 22 projects.

5 23 2. The pilot program shall consist of no more than ten
5 24 public projects selected by the commission and undertaken by
5 25 governmental entities using an alternative project delivery
5 26 method authorized under subchapters II through IV. The
5 27 selection of public projects for inclusion in the pilot
5 28 program shall be completed no later than November 1, 2010.

5 29 3. A governmental entity that is interested in undertaking
5 30 a public project using alternative project delivery methods
5 31 shall submit an application to the commission detailing the
5 32 nature of the project and specifying an alternative project
5 33 delivery method. Each application shall be on a form
5 34 prescribed by the commission and may include additional
5 35 materials requested by the commission.

6 1 4. The commission shall review each application and shall
6 2 select those public projects for inclusion in the pilot
6 3 program which are best suited to accomplish the purposes of
6 4 the pilot program.

6 5 5. A governmental entity that has been selected to
6 6 participate in the pilot program shall pay a fee to the
6 7 commission in the amount of one-tenth of one percent of the
6 8 estimated total cost of the public project. Fees collected by
6 9 the commission shall be used for the purposes specified in
6 10 section 26A.2, subsection 8. Moneys in excess of the amount
6 11 required under section 26A.2, subsection 8, shall be remitted
6 12 to the governmental entities no later than June 30, 2011.

6 13 6. The commission shall monitor the selection process for
6 14 each public project selected for inclusion in the pilot
6 15 program and may require the governmental entity to provide
6 16 periodic updates on the public project following selection of
6 17 a construction manager or design-builder for the public
6 18 project.

6 19 7. Notwithstanding any other provision of law to the
6 20 contrary, a governmental entity may utilize the alternative
6 21 project delivery procedures under this chapter to procure
6 22 construction management services or design-build services
6 23 related to the completion of a public project.

6 24 Sec. 4. NEW SECTION. 26A.4 PUBLIC NOTICE.

6 25 For each alternative project delivery method under this
6 26 chapter, a governmental entity shall publish public notices as
6 27 follows:

6 28 1. The notice shall be published at least once, not less
6 29 than fifteen and not more than forty-five days before the date
6 30 for filing submissions, if applicable, in a newspaper
6 31 published at least once weekly and having general circulation
6 32 in the geographic area served by the governmental entity.

6 33 2. The notice may also be published in a relevant
6 34 contractor organization publication and a relevant contractor
6 35 plan room service with statewide circulation, provided that a
7 1 notice is posted on an internet site sponsored by either the
7 2 governmental entity or a statewide association that represents
7 3 the governmental entity.

7 4 3. In addition to relevant information regarding the
7 5 public project, the notice shall specify the alternative
7 6 project delivery method to be used for the public project.

7 7 Sec. 5. NEW SECTION. 26A.5 PUBLIC RECORDS.

7 8 Each proposal received by a governmental entity under this
7 9 chapter, together with the name of the proposer, after award
7 10 or letting of the contract, is subject to public inspection
7 11 upon request. The governmental entity shall, within five days
7 12 after award or letting of the contract, publish notice of the
7 13 name of the successful proposer including the proposer's
7 14 scores received pursuant to the selection process under
7 15 subchapter II, III, or IV. In addition, such notice shall
7 16 include the names of all proposers whose proposals were not
7 17 selected, together with each proposer's scores.

7 18 Sec. 6. NEW SECTION. 26A.6 PROHIBITION ON PROVIDING
7 19 FINANCING.

7 20 The construction manager or design=builder executing the
7 21 construction or design of a public project utilizing an
7 22 alternative project delivery method under this chapter shall
7 23 not provide any financing, funding, or facility operations for
7 24 the public project.

7 25 Sec. 7. NEW SECTION. 26A.7 REPEAL.

7 26 This chapter is repealed June 30, 2012.

7 27 SUBCHAPTER II
7 28 CONSTRUCTION MANAGEMENT
7 29 PROJECT DELIVERY

7 30 Sec. 8. NEW SECTION. 26A.12 APPLICATION TO THE
7 31 COMMISSION.

7 32 1. When in the judgment of the governing body of a
7 33 governmental entity it is desirable to use construction
7 34 management services for the completion of a public project,
7 35 the governmental entity shall prepare a selection plan and
8 1 submit an application to the alternative project delivery
8 2 commission pursuant to section 26A.3, subsection 3. If the
8 3 public project is selected by the alternative project delivery
8 4 commission for inclusion in the pilot program, the
8 5 governmental entity shall select a construction manager in
8 6 accordance with the procedures of this subchapter.

8 7 2. A criteria consultant shall be employed or retained to
8 8 assist the governmental entity in preparing a request for
8 9 qualifications and a request for proposals. The criteria
8 10 consultant may be an employee of the governmental entity, the
8 11 design professional employed or retained under subsection 3,
8 12 or an individual retained specifically to assist the
8 13 governmental entity with the public project. The request for
8 14 qualifications and the request for proposals shall specify the
8 15 selection criteria and scoring methodology included in the
8 16 selection plan. The criteria consultant shall also assist the
8 17 governmental entity in selecting a construction manager. A
8 18 criteria consultant employed or retained by the governmental
8 19 entity shall not submit a statement of qualifications or a
8 20 proposal for the public project.

8 21 3. The governmental entity shall employ a design
8 22 professional to design the public project, prepare the
8 23 construction documents for the project, and provide
8 24 administrative services in connection with the design of the
8 25 project. The services provided by the design professional
8 26 shall be considered architectural, landscape architectural, or
8 27 engineering design services as provided in section 26.4.

8 28 Sec. 9. NEW SECTION. 26A.13 SELECTION PROCESS == GENERAL
8 29 PROCEDURE.

8 30 The governmental entity shall select a construction manager
8 31 for a public project pursuant to a two=phase selection
8 32 process.

8 33 1. Phase I of the selection process includes publication
8 34 of a request for qualifications by the governmental entity,
8 35 review of the statements of qualifications, and the selection
9 1 of a minimum of two but not more than five construction
9 2 managers to advance to phase II.

9 3 2. Phase II includes a request for proposals, the receipt
9 4 of proposals from those construction managers selected during
9 5 phase I, an interview with each construction manager that
9 6 submits a proposal, evaluation of each proposal, and selection
9 7 of a construction manager for the public project.

9 8 Sec. 10. NEW SECTION. 26A.14 PHASE I == REQUEST FOR
9 9 QUALIFICATIONS, STATEMENT, EVALUATION, AND SELECTION.

9 10 1. During phase I, the governmental entity shall publish
9 11 notice of a request for qualifications pursuant to the
9 12 requirements of section 26A.4. The request for qualifications
9 13 shall specify a time, place, and other specific instructions
9 14 for the submission of the statements of qualifications. A

9 15 statement of qualifications not submitted according to the
9 16 instructions shall be rejected and returned to the
9 17 construction manager.

9 18 2. Each construction manager shall submit a statement of
9 19 qualifications that includes but is not limited to the
9 20 following information:

9 21 a. Similar project experience, including experience in the
9 22 construction management method of alternative project
9 23 delivery.

9 24 b. Qualifications of proposed project personnel.

9 25 c. References from similar projects.

9 26 d. The construction manager's experience modification
9 27 rating and a description of the construction manager's safety
9 28 plan.

9 29 e. Bonding capacity. Construction managers submitting a
9 30 statement of qualifications shall be capable of providing a
9 31 bond according to the requirements of chapter 573 and shall
9 32 include evidence of such bonding capacity with their statement
9 33 of qualifications. If a construction manager fails to include
9 34 evidence of bonding capacity, the construction manager shall
9 35 be deemed unqualified for selection under phase I.

10 1 f. Other information requested by the governmental entity
10 2 in accordance with the selection plan.

10 3 3. The governmental entity shall evaluate and score each
10 4 statement of qualifications received according to the
10 5 predetermined selection criteria and scoring methodology
10 6 specified in the request for qualifications. The cost or fees
10 7 associated with a public project shall not be considered by
10 8 the governmental entity when evaluating a statement of
10 9 qualifications.

10 10 4. The governmental entity shall select a minimum of two
10 11 and a maximum of five construction managers, who have the
10 12 highest scores to proceed to phase II of the selection
10 13 process. Scores assigned in the phase I evaluation process
10 14 shall not carry forward to phase II. If two qualified
10 15 construction managers cannot be identified, the selection
10 16 process shall cease. The governmental entity shall have
10 17 discretion to disqualify any construction manager that lacks
10 18 the minimum qualifications required to perform the
10 19 construction management services for the public project.

10 20 Sec. 11. NEW SECTION. 26A.15 PHASE II == REQUEST FOR
10 21 PROPOSALS, PROPOSAL REVIEW, SELECTION, AND NEGOTIATION.

10 22 1. During phase II, each construction manager selected
10 23 during phase I shall be given a request for proposal. The
10 24 request for proposal shall include but is not limited to the
10 25 following information:

10 26 a. The procedures to be followed in submitting proposals
10 27 and information relating to construction manager interviews
10 28 under subsection 2.

10 29 b. The selection criteria and scoring methodology for the
10 30 proposals.

10 31 c. Information related to the requirements,
10 32 specifications, budget, and schedule for the public project,
10 33 including requirements and specifications for design services,
10 34 preconstruction services, and construction services.

10 35 d. The proposed terms and conditions for the public
11 1 project contract.

11 2 e. Other information requested by the governmental entity
11 3 in accordance with the selection plan.

11 4 2. After the deadline for submission of proposals has
11 5 passed, the governmental entity shall interview each
11 6 construction manager that has submitted a proposal
11 7 individually, allowing each construction manager to present
11 8 the construction manager's proposed team members,
11 9 qualifications, and proposal, and to answer questions from the
11 10 governmental entity.

11 11 3. The governmental entity shall score each construction
11 12 manager's proposal based on the selection criteria and scoring
11 13 methodology specified in the request for proposals. The
11 14 governmental entity shall proceed to negotiate with and
11 15 attempt to enter into an interim construction contract with
11 16 the construction manager receiving the highest score to serve
11 17 as the construction manager for the public project. If the
11 18 governmental entity is unable to negotiate a satisfactory
11 19 contract with the construction manager with the highest score,
11 20 negotiations with that construction manager shall be
11 21 terminated and the governmental entity shall undertake
11 22 negotiations with the construction manager receiving the
11 23 second highest score. If negotiations cannot be successfully
11 24 completed with the construction manager receiving the second
11 25 highest score, the contract for the public project shall not

11 26 be awarded.
11 27 4. If the governmental entity determines that it is not in
11 28 its best interest to proceed with the public project pursuant
11 29 to the proposals offered, the governmental entity shall reject
11 30 all proposals. If all proposals are rejected, the
11 31 governmental entity may solicit new statements of
11 32 qualifications and proposals using different design or budget
11 33 criteria.

11 34 Sec. 12. NEW SECTION. 26A.16 CONTRACT == PERFORMANCE OF
11 35 CERTAIN SERVICES.

12 1 1. Following completion of construction documents and all
12 2 subcontractor bidding, the construction manager shall provide
12 3 the governmental entity with a guaranteed maximum cost which
12 4 shall be included in the contract for construction management
12 5 services. The contract to perform construction management
12 6 services for a public project shall be prepared by the
12 7 governmental entity and entered into between the governmental
12 8 entity and the construction manager.

12 9 2. Portions or subcontracts of the public project shall be
12 10 let to the lowest responsible bidder pursuant to applicable
12 11 requirements of law other than this chapter. The governmental
12 12 entity may allow the construction manager to self-perform
12 13 construction services if the construction manager submits a
12 14 bid proposal under the same conditions as all other
12 15 competitive bidders. All bid proposals submitted by the
12 16 construction manager for self-performance shall be opened
12 17 simultaneously and evaluated in the presence of a
12 18 representative of the governmental entity.

12 19 SUBCHAPTER III
12 20 DESIGN=BUILD PROJECT DELIVERY
12 21 BEST VALUE SELECTION

12 22 Sec. 13. NEW SECTION. 26A.22 APPLICATION TO THE
12 23 COMMISSION.

12 24 1. When in the judgment of the governing body of a
12 25 governmental entity it is desirable to use design-build
12 26 services pursuant to a best value selection process for the
12 27 completion of a public project, the governmental entity shall
12 28 prepare a selection plan and submit an application to the
12 29 alternative project delivery commission pursuant to section
12 30 26A.3, subsection 3. If the public project is selected by the
12 31 alternative project delivery commission for inclusion in the
12 32 pilot program, the governmental entity shall select a
12 33 design-builder in accordance with the procedures of this
12 34 subchapter.

12 35 2. A criteria consultant shall be employed or retained to
13 1 assist the governmental entity in preparing a request for
13 2 qualifications and a request for proposals. The criteria
13 3 consultant may be an employee of the governmental entity or an
13 4 individual retained specifically to assist the governmental
13 5 entity with the public project. The request for
13 6 qualifications and the request for proposals shall specify the
13 7 selection criteria and scoring methodology included in the
13 8 selection plan. The criteria consultant shall also assist the
13 9 governmental entity in selecting a design-builder. A criteria
13 10 consultant employed or retained by the governmental entity
13 11 shall not submit a statement of qualifications or a proposal
13 12 for the public project.

13 13 Sec. 14. NEW SECTION. 26A.23 BEST VALUE SELECTION
13 14 PROCESS == GENERAL PROCEDURE.

13 15 The governmental entity shall select a design-builder for a
13 16 public project pursuant to a two-phase selection process.

13 17 1. Phase I of the selection process includes publication
13 18 of a request for qualifications by the governmental entity,
13 19 review of the statements of qualifications, and the selection
13 20 of a minimum of two but not more than five design-builders to
13 21 advance to phase II.

13 22 2. Phase II includes a request for proposals, the receipt
13 23 of proposals from those design-builders selected during phase
13 24 I, including a separate cost and schedule proposal, an
13 25 interview with each design-builder that submits a proposal,
13 26 evaluation of each proposal, and selection of a design-builder
13 27 for the public project.

13 28 Sec. 15. NEW SECTION. 26A.24 PHASE I == REQUEST FOR
13 29 QUALIFICATIONS, STATEMENT, EVALUATION, AND SELECTION.

13 30 1. During phase I, the governmental entity shall publish
13 31 notice of a request for qualifications pursuant to the
13 32 requirements of section 26A.4. The governmental entity shall
13 33 specify in the request for qualifications a time, place, and
13 34 other specific instructions for the submission of the
13 35 statements of qualifications. A statement of qualifications
14 1 not submitted according to the instructions shall be rejected

14 2 and returned to the design=builder.
14 3 2. Each design=builder shall submit a statement of
14 4 qualifications that includes but is not limited to the
14 5 following information:
14 6 a. Similar project experience, including experience in the
14 7 design=build method of alternative project delivery.
14 8 b. Qualifications of proposed project personnel.
14 9 c. References from similar projects.
14 10 d. The design=builder's experience modification rating and
14 11 a description of the design=builder's safety plan.
14 12 e. Bonding capacity. Design=builders submitting a
14 13 statement of qualifications shall be capable of providing a
14 14 bond according to the requirements of chapter 573 and shall
14 15 include evidence of such bonding capacity with their statement
14 16 of qualifications. If a design=builder fails to include
14 17 evidence of bonding capacity, the design=builder shall be
14 18 deemed unqualified for selection under phase I.
14 19 f. Other information requested by the governmental entity
14 20 in accordance with the selection plan.
14 21 3. The governmental entity shall evaluate and score each
14 22 statement of qualifications received according to the
14 23 predetermined selection criteria and scoring methodology that
14 24 were specified in the request for qualifications. The cost or
14 25 fees associated with a public project shall not be considered
14 26 by the governmental entity when evaluating a statement of
14 27 qualifications.
14 28 4. The governmental entity shall select a minimum of two
14 29 and a maximum of five design=builders who have the highest
14 30 scores to proceed to phase II. Scores assigned during phase I
14 31 shall not carry forward to phase II. The governmental entity
14 32 shall have discretion to disqualify any design=builder that
14 33 lacks the minimum qualifications required to perform the
14 34 design=build services for the public project. If two
14 35 qualified design=builders cannot be identified, the selection
15 1 process shall cease. If all design=builders are rejected, the
15 2 governmental entity may solicit new proposals using different
15 3 design and budget criteria.
15 4 Sec. 16. NEW SECTION. 26A.25 PHASE II == REQUEST FOR
15 5 PROPOSALS, PROPOSAL REVIEW, SELECTION, AND NEGOTIATION.
15 6 1. During phase II, each design=builder selected during
15 7 phase I shall be given a request for proposals. The request
15 8 for proposals shall include but is not limited to the
15 9 following information:
15 10 a. The procedures to be followed in submitting proposals
15 11 and information relating to design=builder interviews under
15 12 subsection 2.
15 13 b. The selection criteria and scoring methodology for the
15 14 proposals.
15 15 c. Information related to the requirements,
15 16 specifications, budget, and schedule for the public project,
15 17 including requirements and specifications for design services,
15 18 preconstruction services, and construction services.
15 19 d. The proposed terms and conditions for the public
15 20 project contract.
15 21 e. The requirements for the submission of a separate cost
15 22 and schedule proposal.
15 23 f. Other information requested by the governmental entity
15 24 in accordance with the selection plan.
15 25 2. Each design=builder selected during phase I shall
15 26 submit a proposal to the governmental entity. Each proposal
15 27 submitted under this section shall not contain references to
15 28 costs associated with work contained in the proposal. The
15 29 governmental entity shall evaluate and score each proposal
15 30 according to the selection criteria and scoring methodology
15 31 specified in the request for proposals.
15 32 3. Each design=builder selected during phase I shall also
15 33 provide the governmental entity with a separate cost and
15 34 schedule proposal. A proposal submitted under subsection 2
15 35 and the cost and schedule proposal may be submitted
16 1 sequentially or concurrently, according to the requirements of
16 2 the request for proposals. Failure to submit a cost and
16 3 schedule proposal according to the delivery requirements of
16 4 the request for proposals shall be grounds to reject the
16 5 proposal.
16 6 4. The cost and schedule proposal shall include all of the
16 7 following:
16 8 a. A guaranteed maximum cost for the public project.
16 9 b. A bid security pursuant to chapter 573.
16 10 c. A proposed contract time, in calendar days, for
16 11 completing the public project.
16 12 d. Any other information required by the request for

16 13 proposals.
16 14 5. After the deadline for submission of proposals has
16 15 passed, the governmental entity shall interview each
16 16 design-builder that has submitted a proposal individually,
16 17 allowing each design-builder to present the design-builder's
16 18 proposed team members, qualifications, and proposal, and to
16 19 answer questions from the governmental entity.

16 20 6. The cost and schedule proposals submitted under
16 21 subsection 3 shall be opened only after all proposals
16 22 submitted under subsection 2 have been evaluated and scored
16 23 and after completion of all design-builder interviews under
16 24 subsection 5. At the same time and place that the cost and
16 25 schedule proposals are opened, the governmental entity shall
16 26 make public its scoring of the proposals submitted under
16 27 subsection 2. Cost and schedule proposals shall be evaluated
16 28 and scored according to selection criteria and scoring
16 29 methodology specified in the request for proposals.

16 30 7. The governmental entity shall select the design-builder
16 31 receiving the highest score based on the selection criteria
16 32 and scoring methodology specified in the request for
16 33 proposals. The governmental entity shall proceed to negotiate
16 34 with and attempt to enter into a contract with the selected
16 35 design-builder to serve as the design-builder for the public
17 1 project. If the governmental entity is unable to negotiate a
17 2 satisfactory contract with the selected design-builder,
17 3 negotiations with that design-builder shall be terminated, and
17 4 the governmental entity shall undertake negotiations with the
17 5 design-builder receiving the second highest score. If
17 6 negotiations cannot be successfully completed with the
17 7 design-builder receiving the second highest score, the
17 8 contract shall not be awarded.

17 9 8. If the governmental entity determines that it is not in
17 10 its best interest to proceed with the public project pursuant
17 11 to the proposals offered, the governmental entity shall reject
17 12 all proposals. If all proposals are rejected, the
17 13 governmental entity may solicit new statements of
17 14 qualifications and proposals using different design or budget
17 15 criteria.

17 16 9. As an inducement to qualified design-builders, the
17 17 governmental entity may pay a stipend, the amount of which
17 18 shall be established in the request for proposals, to each
17 19 design-builder who participates in phase II, but is not
17 20 selected as the design-builder for the public project.

17 21 SUBCHAPTER IV

17 22 DESIGN-BUILD PROJECT DELIVERY

17 23 QUALIFICATIONS-BASED SELECTION

17 24 Sec. 17. NEW SECTION. 26A.32 APPLICATION TO THE
17 25 COMMISSION.

17 26 1. When in the judgment of the governing body of a
17 27 governmental entity it is desirable to use design-build
17 28 services pursuant to a qualifications-based selection process
17 29 for the completion of a public project, the governmental
17 30 entity shall prepare a selection plan and submit an
17 31 application to the alternative project delivery commission
17 32 pursuant to section 26A.3, subsection 3. If the public
17 33 project is selected by the alternative project delivery
17 34 commission for inclusion in the pilot program, the
17 35 governmental entity shall select a design-builder in
18 1 accordance with the procedures of this subchapter.

18 2 2. A criteria consultant shall be employed or retained to
18 3 assist the governmental entity in preparing a request for
18 4 qualifications and a request for proposals. The criteria
18 5 consultant may be an employee of the governmental entity or an
18 6 individual retained specifically to assist the governmental
18 7 entity with the public project. The request for
18 8 qualifications and the request for proposals shall specify the
18 9 selection criteria and scoring methodology included in the
18 10 selection plan. The criteria consultant shall also assist the
18 11 governmental entity in selecting a design-builder. A criteria
18 12 consultant employed or retained by the governmental entity
18 13 shall not submit a statement of qualifications or a proposal
18 14 for the public project.

18 15 Sec. 18. NEW SECTION. 26A.33 QUALIFICATIONS-BASED
18 16 SELECTION PROCESS == GENERAL PROCEDURE.

18 17 The governmental entity shall select a design-builder for a
18 18 public project pursuant to a two-phase selection process.

18 19 1. Phase I of the selection process includes publication
18 20 of a request for qualifications by the governmental entity,
18 21 review of the statements of qualifications, and the selection
18 22 of a minimum of two but not more than five design-builders to
18 23 advance to phase II.

18 24 2. Phase II includes a request for proposals, the receipt
18 25 of proposals from those design-builders selected during phase
18 26 I, an interview with each design-builder that submits a
18 27 proposal, evaluation of each proposal, and selection of a
18 28 design-builder for the public project.

18 29 Sec. 19. NEW SECTION. 26A.34 PHASE I == REQUEST FOR
18 30 QUALIFICATIONS, STATEMENT, EVALUATION, AND SELECTION.

18 31 1. During phase I, the governmental entity shall publish
18 32 notice of a request for qualifications pursuant to the
18 33 requirements of section 26A.4. The request for qualifications
18 34 shall specify a time, place, and other specific instructions
18 35 for the submission of statements of qualifications. A
19 1 statement of qualifications not submitted according to the
19 2 instructions shall be rejected and returned to the
19 3 design-builder.

19 4 2. Each design-builder shall submit a statement of
19 5 qualifications that includes but is not limited to the
19 6 following information:

19 7 a. Similar project experience, including experience in the
19 8 design-build method of alternative project delivery.

19 9 b. Qualifications of proposed project personnel.

19 10 c. References from similar projects.

19 11 d. The design-builder's experience modification rating and
19 12 a description of the design-builder's safety plan.

19 13 e. Bonding capacity. Design-builders submitting a
19 14 statement of qualifications shall be capable of providing a
19 15 bond according to the requirements of chapter 573 and shall
19 16 include evidence of such bonding capacity with their statement
19 17 of qualifications. If a design-builder fails to include
19 18 evidence of bonding capacity, the design-builder shall be
19 19 deemed unqualified for selection under phase I.

19 20 f. Other information requested by the governmental entity
19 21 in accordance with the selection plan.

19 22 3. The governmental entity shall evaluate and score each
19 23 statement of qualifications received according to the
19 24 selection criteria and scoring methodology specified in the
19 25 request for qualifications. The cost or fees associated with
19 26 a public project shall not be considered by the governmental
19 27 entity when evaluating a statement of qualifications.

19 28 4. The governmental entity shall select a minimum of two
19 29 and a maximum of five design-builders who have the highest
19 30 scores to proceed to phase II. Scores assigned during phase I
19 31 shall not carry forward to phase II. The governmental entity
19 32 shall have discretion to disqualify any design-builder that
19 33 lacks the minimum qualifications required to perform the
19 34 design-build services for the public project. If two
19 35 qualified design-builders cannot be identified, the
20 1 design-builder selection process shall cease. If all
20 2 design-builders are rejected, the governmental entity may
20 3 solicit new statements of qualifications and proposals using
20 4 different design and budget criteria.

20 5 Sec. 20. NEW SECTION. 26A.35 PHASE II == REQUEST FOR
20 6 PROPOSALS, PROPOSAL REVIEW, SELECTION, AND NEGOTIATION.

20 7 1. During phase II, each design-builder selected during
20 8 phase I shall be given a request for proposals. The request
20 9 for proposals shall include but is not limited to the
20 10 following information:

20 11 a. The procedures to be followed in submitting proposals
20 12 and information relating to design-builder interviews under
20 13 subsection 2.

20 14 b. The selection criteria and scoring methodology for the
20 15 proposals.

20 16 c. Information related to the requirements,
20 17 specifications, budget, and schedule for the public project,
20 18 including requirements and specifications for design services,
20 19 preconstruction services, and construction services.

20 20 d. The proposed terms and conditions for the public
20 21 project contract.

20 22 e. Other information requested by the governmental entity
20 23 in accordance with the selection plan.

20 24 2. After the deadline for submission of proposals has
20 25 passed, the governmental entity shall interview each
20 26 design-builder that has submitted a proposal individually,
20 27 allowing each design-builder to present the design-builder's
20 28 proposed team members, qualifications, and proposal, and to
20 29 answer questions from the governmental entity.

20 30 3. The governmental entity shall score each proposal based
20 31 on the selection criteria and scoring methodology specified in
20 32 the request for proposals. The governmental entity shall
20 33 proceed to negotiate with and attempt to enter into an interim
20 34 design-build contract with the design-builder receiving the

20 35 highest score to serve as the design=builder for the public
21 1 project. If the governmental entity is unable to negotiate a
21 2 satisfactory contract with the design=builder with the highest
21 3 total score, negotiations with that design=builder shall be
21 4 terminated and the governmental entity shall undertake
21 5 negotiations with the design=builder receiving the second
21 6 highest score. If negotiations cannot be successfully
21 7 completed with the design=builder receiving the second highest
21 8 score, the contract shall not be awarded.

21 9 4. If the governmental entity determines that it is not in
21 10 its best interest to proceed with the public project pursuant
21 11 to the proposals offered, the governmental entity shall reject
21 12 all proposals. If all proposals are rejected, the
21 13 governmental entity may solicit new statements of
21 14 qualifications and proposals using different design or budget
21 15 criteria.

21 16 Sec. 21. NEW SECTION. 26A.36 CONTRACT == PERFORMANCE OF
21 17 CERTAIN SERVICES.

21 18 1. Following completion of construction documents and all
21 19 subcontractor bidding, the design=builder shall provide the
21 20 governmental entity with a guaranteed maximum cost which shall
21 21 be included in the contract for design=build services. The
21 22 contract to perform design=build services shall be prepared by
21 23 the governmental entity and entered into between the
21 24 governmental entity and the design=builder.

21 25 2. Portions or subcontracts of the public project shall be
21 26 let to the lowest responsible bidder pursuant to applicable
21 27 requirements of law other than this chapter. The governmental
21 28 entity may allow the design=builder to self=perform design or
21 29 construction services if the design=builder submits a bid
21 30 proposal under the same conditions as all other competitive
21 31 bidders. All bid proposals submitted by the design=builder
21 32 for self=performance shall be opened simultaneously and
21 33 evaluated in the presence of a representative of the
21 34 governmental entity.

21 35 EXPLANATION

22 1 This bill establishes a new Code chapter 26A that creates
22 2 an alternative project delivery commission and an alternative
22 3 project delivery pilot program.

22 4 Subchapter I of new Code chapter 26A establishes an
22 5 alternative project delivery commission consisting of nine
22 6 members, one member appointed by each of the following: the
22 7 state board of regents; the director of the department of
22 8 administrative services; the Iowa association of school
22 9 boards; the Iowa state building and construction trades
22 10 council; the Iowa chapter of the American institute of
22 11 architects; the American council of engineering companies of
22 12 Iowa; the Iowa chapter of the design=build institute of
22 13 America; the master builders of Iowa; and the mechanical
22 14 contractors association of Iowa. The bill establishes quorum,
22 15 meeting, voting, and conflict of interest requirements for the
22 16 commission, designates the member appointed by the board of
22 17 regents as the commission chairperson, and authorizes the
22 18 commission to adopt policies and procedures to carry out the
22 19 duties of the commission. Members of the commission shall be
22 20 reimbursed for their necessary and actual expenses from fees
22 21 paid by the governmental entities participating in the
22 22 alternative project delivery pilot program.

22 23 Subchapter I also establishes an alternative project
22 24 delivery pilot program under the authority of the alternative
22 25 project delivery commission. The purpose of the pilot program
22 26 is to determine whether alternative project delivery methods
22 27 are financially beneficial and efficient for governmental
22 28 entities in completing public projects. The bill defines
22 29 "governmental entity" as the department of administrative
22 30 services, a school district, a public hospital, or an
22 31 institution under the control of the state board of regents.

22 32 Subchapter I limits the pilot program to no more than 10
22 33 public projects, as defined in the bill. The commission is
22 34 responsible for selecting the public projects for inclusion in
22 35 the pilot program based on applications submitted by the
23 1 governmental entities. The commission must select the public
23 2 projects no later than November 1, 2010. Each of the 10
23 3 public projects must be completed using one of the three
23 4 alternative project delivery methods established in the bill.
23 5 The commission is required to prepare and file a report with
23 6 the governor and the general assembly on or before January 15,
23 7 2012. The report is required to detail the activities of the
23 8 commission and provide a summary of each public project in the
23 9 pilot program, including information related to cost savings
23 10 to the governmental entity, if any.

23 11 Subchapter I also specifies publication requirements for
23 12 public notices provided by the governmental entity during the
23 13 alternative project delivery procedures and provides that
23 14 certain documents and information related to the alternative
23 15 project delivery procedures must be made available for public
23 16 inspection after the award or letting of the contract.
23 17 Subchapters II, III, and IV of new Code chapter 26A
23 18 establish three alternative project delivery procedures for
23 19 use by the governmental entities selected for inclusion in the
23 20 pilot program. For each of the three alternative project
23 21 delivery procedures, the governmental entity is required to
23 22 employ or retain a criteria consultant to assist in the
23 23 preparation of a request for qualifications and a request for
23 24 proposals. Each of the alternative project delivery
23 25 procedures is conducted in two phases.
23 26 Subchapter II of new Code chapter 26A provides the
23 27 requirements and procedures for construction management
23 28 project delivery and for the selection of a construction
23 29 manager. Under subchapter II, the governmental entity is
23 30 required to employ a design professional to design the public
23 31 project and prepare the construction documents for the public
23 32 project. Phase I of the construction manager selection
23 33 process includes publication of a request for qualifications
23 34 by the governmental entity, review of the statements of
23 35 qualifications, and the selection of a minimum of two but not
24 1 more than five construction managers to advance to phase II.
24 2 Phase II includes a request for proposals, the receipt of
24 3 proposals from those construction managers selected during
24 4 phase I, an interview with each construction manager that
24 5 submits a proposal, evaluation of each proposal, and selection
24 6 of a construction manager for the public project.
24 7 Subchapter III of new Code chapter 26A provides the
24 8 requirements and procedures for design=build best value
24 9 project delivery and for the selection of a design=builder.
24 10 Phase I of the design=builder selection process includes
24 11 publication of a request for qualifications by the
24 12 governmental entity, review of the statements of
24 13 qualifications, and the selection of a minimum of two but not
24 14 more than five design=builders to advance to phase II. Phase
24 15 II includes a request for proposals, the receipt of proposals
24 16 from those design=builders selected during phase I, including
24 17 a separate cost and schedule proposal, an interview with each
24 18 design=builder that submits a proposal, evaluation of each
24 19 proposal, and selection of a design=builder for the public
24 20 project.
24 21 Subchapter IV of new Code chapter 26A provides the
24 22 requirements and procedures for design=build
24 23 qualifications=based project delivery and for the selection of
24 24 a design=builder. Phase I of the design=builder selection
24 25 process includes publication of a request for qualifications
24 26 by the governmental entity, review of the statements of
24 27 qualifications, and the selection of a minimum of two but not
24 28 more than five design=builders to advance to phase II. Phase
24 29 II includes a request for proposals, the receipt of proposals
24 30 from those design=builders selected during phase I, an
24 31 interview with each design=builder that submits a proposal,
24 32 evaluation of each proposal, and selection of a design=builder
24 33 for the public project.
24 34 LSB 1733HV 83
24 35 md/nh/14