

ONE HUNDRED EIGHTH LEGISLATURE - SECOND SESSION - 2024
COMMITTEE STATEMENT
LB166

Hearing Date: Tuesday March 07, 2023
Committee On: Transportation and Telecommunications
Introducer: Bostelman
One Liner: Change provisions relating to design-build, construction manager-general contractor, and public-private-partnership proposals under the Transportation Innovation Act

Roll Call Vote - Final Committee Action:
Advanced to General File

Vote Results:

Aye: 8 Senators Bosn, Bostelman, Brandt, Cavanaugh, M., DeBoer, DeKay, Fredrickson, Moser
Nay:
Absent:
Present Not Voting:

Testimony:

Proponents:

Senator Bruce Bostelman
Katie Wilson

Representing:

Opening Presenter
Association of General Contractors - Nebraska Chapter

Opponents:

Vicki Kramer

Representing:

Nebraska Department of Transportation

Neutral:

Jon Cannon

Representing:

Nebraska Association of County Officials

* ADA Accommodation Written Testimony

Summary of purpose and/or changes:

Amends section 39-2814; Request for proposals for design-build or progressive build contract; elements. The section provides, in part, that a contracting agency as a part of creating a request for proposal shall state the criteria for evaluation and their relative weight. The current criteria are:

- 1) Construction experience, design experience, and financial, personnel, and equipment resources of the entity;
- 2) For design-build contracts, the cost of work;
- 3) For progressive design-build contracts, historic reasonable of the progressive design-builders costs and expenses, whether using the progressive design-build process or any other bidding and contracting process; and
- 4) The relative weight that applies to any criteria is at the discretion of the contracting agency except that for all design-build contracts the historic reasonableness of the design-builders costs and expenses shall be given a relative weight of at least 50%.



The bill amends item #4 above by adding that for progressive design-build contracts the historic reasonableness of the progressive design-builder's costs and expenses shall also be given a relative weight of at least 50%.

Section 2- Amends section 39-2818; Request for proposals for construction manager-general contractor contract; elements.

Currently this section only provides that the contracting agency must state in the request for proposal what the criteria for evaluation and their relative weight will be. The bill provides greater definition of the required criteria, including:

- 1) Construction management experience, construction experience, and the financial, personnel, and equipment resources;
- 2) The historical reasonableness of the construction manager's costs and expenses when completing projects; and
- 3) The relative weight assigned to each criteria is at the discretion of the contracting agency except that for all construction manager-general contractor contract the historic reasonableness of the construction manager's costs and expenses shall be 50%, with at least ½ of the cost evaluation based on competitiveness of construction manager's costs on projects procured by means of traditional design-build procurement.

Section 3- Amends section Public-Private Partnership Delivery Method, authorized.

The section is amended by expanding the criteria used by a contracting agency to review requests for proposals for a project using a public-private partnership agreement. Currently the section only states that the contracting agency provides evaluation and the relative weight of each.

The section is amended to provide that the evaluation factors shall include:

- 1) Each private partner's experience and the financial, personnel, and equipment resources available for the project;
- 2) The historic reasonableness of the private partners costs and expenses; 3) The relative weight assigned to criteria is at the discretion of the contracting agency except the historical reasonableness of costs and expenses shall be at least 50%, with 50% of the cost evaluation based upon the competitiveness of the private partner's projects procured by means of traditional open bidding to a lowest responsible bidder.

DEFINITIONS

Contracting Agency means the Nebraska Department of Transportation, an eligible county, a city of the metropolitan class, or a city of the primary class using the powers under the Transportation Innovation Act.

Construction Manager-General Contractor Contract means a contract which is subject to a qualification-based selection process between a contracting agency and a construction manager to furnish preconstruction services during the design development phase of the project and, if an agreement can be reached which is satisfactory to the contracting agency, construction services for the construction phase of the project.

Design-Build Contract means a contract between a contracting agency and a design-builder which is subject to a best value-based selection process to furnish architectural, engineering and related design services and labor, materials, supplies, equipment, and construction services.

Progressive Design Build means a project-delivery process in which both the design and construction of a project are procured from a single entity that is selected through a qualifications-based selection process at the earliest feasible stage of the project.

Public-Private Partnership means a project delivery method for construction or financing of capital projects or procurement of services under a written public-private partnership agreement entered into between at least one private partner and the State of Nebraska or any agency of the state.

Mike Moser, Chairperson

