
WEST VIRGINIA CODE CHAPTER 17
ARTICLE 2D

WV Legislature

§17-2D-1. Short title.

This article shall be known and may be cited as the West Virginia Highway Design-Build Pilot Program.

WV Legislature

§17-2D-2. Highway Design-Build Program.

(a) Notwithstanding any provision of this code to the contrary, the Commissioner of the West Virginia Division of Highways may expedite the construction of projects by combining the design and construction elements of a highway or bridge project into a single contract as provided in this article.

(b)(1) The Division of Highways may contractually obligate no more than \$50 million in each year in the program: Provided, That if any of the \$50 million is not so contractually obligated in one year, the remaining amount may be applied to the following year's contractual obligation amount: Provided, however, That the total aggregate amount to be contractually obligated may not exceed \$150 million in any one year: Provided further, That for fiscal years beginning after June 30, 2017, the Division of Highways may contractually obligate no more than \$200 million on any one project: And provided further, That for fiscal years beginning after June 30, 2017, the Division of Highways may contractually obligate no more than \$400 million in each year in the program: And provided further, That for fiscal years beginning after June 30, 2017, if any of the \$400 million is not contractually obligated in any year, the remaining amount may be applied to the following year's contract obligation amount: And provided further, That for fiscal years beginning after June 30, 2017, the total aggregate amount to be contractually obligated may not exceed \$500 million in any one year.

(2) Notwithstanding the limits set forth in §17-2D-2(b)(1) of this code, for projects financed without bonds for fiscal years beginning after June 30, 2019, the Division of Highways may contractually obligate in the program:

(A) No more than \$200 million on any one project;

(B) No more than \$200 million in each year; and

(C) No more than \$300 million in the total aggregate amount in any one year.

(3) Notwithstanding and in addition to the limits set forth in §17-2D-2(b)(1) and §17-2D-2(b)(2) of this code, for projects financed with bonds for fiscal years beginning after June 30, 2018, the Division of Highways may contractually obligate in the program:

(A) No more than \$300 million on any one project;

(B) No more than \$600 million in each year; and

(C) No more than \$700 million in the total aggregate amount in any one year.

(c) A design-build project may be let to contract only in accordance with the commissioner's established policies and procedures concerning design-build projects.

(d) Projects receiving funding above the amount of federal core funding as appropriated to the state by formula in a federal highway authorization, currently titled MAP-21, may utilize the program, but shall not be included in calculating contractual obligation limits provided by §17-2D-2(b) of this code.

(e) The contractual obligations made for projects that are necessitated by a declared state of emergency within a county that the Governor has included in a declaration of emergency shall not be included in calculating contractual obligation limits provided in §17-2D-2(b) of this code.

§17-2D-3. Invitation for bids.

(a) The division shall prepare an invitation for bids for prequalified design-builders, which must provide at a minimum:

- (1) The procedures to be followed for submitting bids and the procedures for making awards;
- (2) The proposed general terms and conditions for the design-build contract;
- (3) The description of the drawings, specifications or other information to be submitted with the bid, with guidance as to the form and level of completeness of the drawings, specifications or submittals that will be acceptable;
- (4) A proposed time schedule commencement and completion of the design-build contract;
- (5) Budget limits for the design-build contract, if any;
- (6) Requirements or restrictions for the subletting of specific portions of the design-build contract, if any; and
- (7) Requirements for performance bonds, payment bonds, insurance, professional liability insurance and workers' compensation coverage.

(b) The division shall make available to the qualified design-builders, a list of prequalified consultants, approved subcontractors, suppliers and sureties, as applicable, additional information including, but not limited to, surveys, soils reports, drawings or information regarding existing structures, environmental studies, photographs or references to public records, or other pertinent information.

(c) The division shall set forth its needs with sufficient clarity to assure that there is a comprehensive understanding of the project's scope and requirement.

§17-2D-4. Acceptance of design-build bid.

(a) The design-builder shall submit the bid to the division as required in the invitation for bids.

(b) The design-builder shall furnish a bid bond not to exceed five percent of the maximum cost of the design-build contract.

(c) The selection committee may choose to reject all bids. If the selection committee chooses to accept a bid, the committee shall award the project to the qualified design-builder based on low bid or a value-based selection process combining technical qualifications and competitive bidding elements. The selection committee shall ascertain that the submissions comply with the requirements of this article and the policies and procedures of the commissioner.

§17-2D-5. Report to the Legislature.

On or before January 15, 2014, and annually thereafter, the commissioner shall prepare and submit to the Joint Committee on Government and Finance a written report evaluating the experience of the Division of Highways with each project completed during the prior calendar year, including whether the division realized any cost or time savings, the number and cost of change orders, the quality of work performed, the number of bids received and other issues the commissioner considers appropriate: Provided, That the report submitted on or before January 15, 2014, shall contain such information as to all design-build projects that have been completed under the program prior to 2014.