WEST VIRGINIA CODE CHAPTER 22 ARTICLE 34

WV Legislature

§22-34-1. Short title.

This article shall be known as, and may be cited as, the West Virginia Department of Environmental Protection Design-Build Pilot Program.

WV Legislature

§22-34-2. West Virginia Department of Environmental Protection Design-Build Program.

(a) Notwithstanding any provision of this code to the contrary, the secretary of the West Virginia Department of Environmental Protection may expedite the construction of projects by combining the design and construction elements of a project into a single contract as provided in this article.

(b) The secretary shall promulgate procedural rules as the secretary deems to be useful or necessary to carry out the purpose of this article and to implement the intent of the Legislature in accordance with the provisions of §29A-3-1 *et seq*. of this code, which must provide at a minimum:

(1) The application process for approval of a design-build project;

(2) The procedure for selecting the most qualified design-builders prior to the release of the invitation for proposals;

(3) The procedure for the preparation and contents of invitations for proposals;

(4) The procedure for preparing and submitting proposals;

(5) The procedure for evaluating proposals;

(6) The procedure for negotiations between the agency and those submitting proposals prior to the acceptance of a proposal, if any such negotiations are contemplated;

(7) The procedure for awarding and executing design-build contracts; and

(8) The procedure for acting on formal protests relating to the solicitation or award of design-build contracts.

(c) A design-build project may be let to contract only in accordance with the secretary's procedural rules promulgated pursuant to the provisions of this article: *Provided*, That only contracts awarded directly by the Department of Environmental Protection may utilize the design-build delivery method authorized pursuant to the provisions of this article: *Provided, however*, design-build delivery projects awarded pursuant to the provisions of this article may not exceed a total aggregate value of $75 million.

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§22-34-3. Invitation for bids.

(a) The West Virginia Department of Environmental Protection shall prepare an invitation for bids for prequalified design-builders, which must provide at a minimum:

(1) The procedure to be followed for submitting bids and 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 form and level of completeness of the drawings, specifications, or submittals that will be acceptable;

(4) A proposed time schedule for commencement and completion of the design-build contract;

(5) Budget limits for the design-build contract, if any;

(6) Requirements or restrictions for subletting 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 West Virginia Department of Environmental Protection shall set forth its needs with sufficient clarity to ensure there is comprehensive understanding of the project's scope and requirements.

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§22-34-4. Acceptance of design-build bid.

(a) The design-builder shall submit the bid to the West Virginia Department of Environmental Protection 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 secretary may choose to reject all bids. If the secretary chooses to accept a bid, he or she shall award the project to the qualified design-builder based on a value-based selection process combining technical qualifications and competitive bidding elements. The secretary shall ascertain that the submissions comply with the requirements of this article and the policies and procedures of the secretary.

WV Legislature

§22-34-5. Report to the Legislature; sunset date.

(a) On or before January 15, 2024, annually, the secretary shall prepare and submit to the Joint Committee on Government and Finance a written report, which may be transmitted electronically, evaluating the experience of the West Virginia Department of Environmental Protection with each design-built project completed pursuant to the provisions of this article during the prior calendar year, including whether the department 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 secretary considers appropriate.

(b) The provisions of this article expire and shall have no force and effect after December 31, 2027.

WV Legislature