WEST VIRGINIA CODE: §5-22A-2

§5-22A-2. Definitions.

For the purpose of this article:

(1) "Agency" means all state departments, agencies, authorities, quasi-public corporations and all political subdivisions, including cities, counties, boards of education and public service districts and the individual representatives of the agency appointed to oversee or supervise the project.

(2) "Board" means the Design-Build Board established pursuant to section four of this article to determine whether a public project satisfies the requirements of this article.

(3) "Design-build" is defined as providing responsibility within a single contract for design, construction or alteration of a building or buildings, together with incidental approaches, structures and facilities to be constructed, in which services within the scope of the practice of professional engineering or architecture, as defined by the laws of the State of West Virginia, are performed by an engineer or architect duly licensed in the State of West Virginia and in which services within the scope of construction contracting, as defined by the laws of the State of West Virginia, are performed by a contractor qualified and licensed under the applicable statutes. The design-build method of construction may not be used for any other construction projects, such as highway, water or sewer projects.

(4) "Design-build contract" means the contract between an agency and a design-builder to furnish the architecture, engineering, and related services as required, for a given public project, and to furnish the labor, materials and other construction of services for the same public project. A design-build contract may be conditional upon subsequent refinements in scope and price, and may permit the agency to make changes in the scope of the project without invalidating the design-build contract.

(5) "Design-builder" means the entity, whether natural person, partnership, joint venture, corporation, professional corporation, business association or other legal entity, that proposes to design and construct any public project governed by the procedures of section seven, article six of this chapter and this article.

(6) "Firm" means any individual, firm, partnership, corporation, limited liability company, limited liability partnership, association, joint venture or other legal entity permitted by law to practice engineering, architecture or construction contracting in the State of West Virginia.

(7) "Invitation for proposals" means the document or publication by which an agency solicits proposals for a design-build project.

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(8) "Invitation for qualifications" means the document or publication by which an agency solicits a statement of qualifications from potential design-builders in order to select three to five design-builders to respond to the agency's invitation for proposal.

(9) "Performance criteria" means the requirements for the public project, including as appropriate, aesthetics, capacity, durability, production standard, ingress and egress requirements or other criteria for the intended use of the public project, expressed in performance-oriented drawings and specifications suitable to allow the design-builder to make a proposal.

(10) "Performance criteria developer" means an architect or engineer licensed under the laws of this state and, if applicable, the architect's or engineer's employer, company, partners, joint venturers, affiliates or subcontractors retained by the agency to develop performance criteria and to serve as the agency's technical advisor.

(11) "Project" means that project described in the public announcement.

(12) "Proposal" means an offer to enter into a design-build contract, as further defined in this article.

(13) "Qualified design-builder" means one of the three to five design-builders selected by the agency to respond to the invitation for proposals.

(14) "Responsive proposal" means a proposal that scores a minimum of seventy points out of a possible one hundred points in the qualitative evaluation.

(15) "Statement of qualifications" means descriptive information or other data submitted by a design-builder indicating its ability to satisfy the requirements set forth in the invitation for qualifications.

(16) "Substantial completion" means the stage in the progress of the work when the work or designated portion thereof is sufficiently complete in accordance with the design-build contract so the agency can occupy or utilize the work for its intended use.

(17) "Technical review committee" means the group of individuals who have education and experience in the design, construction, operation, administration, and finance requirements of the project and users of the project selected by the agency to review, evaluate and score the statement of qualifications and invitation for proposal.

(18) "Work" means the design, construction and services required by the design-build contract, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the design-builder to fulfill the design-builder's obligations. The work may constitute the whole or a part of the project.

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