

HCS HB 844 -- CONSTRUCTION MANAGEMENT (Hough)

COMMITTEE OF ORIGIN: Standing Committee on Emerging Issues

This bill repeals the provision prohibiting a construction manager from bidding or performing the actual construction on a public works project in which he is acting as construction manager and any construction firm which controls, is controlled by, or shares common ownership or control with the construction manager from being allowed to bid on or perform work on the project. The bill allows a construction manager to bid on or perform any of the actual construction on a public works project in which he is acting as a construction manager but only if the construction manager submits a sealed bid in the same manner as a trade contractor. The bill specifies that all successful bidders that contract directly with the public owner must provide payment and performance bonds to the public owner.

The bill revises the provision that prohibits a construction management services contract from being awarded by a public owner on a negotiated basis if the construction manager or a firm that controls, is controlled by, or shares common ownership or control with the construction manager, guarantees, warrants, or otherwise assumes financial responsibility for the work of others on the project; provides the public owner with a guaranteed maximum price for the work of others on the project; or furnishes or guarantees a performance or payment bond for other contractors on the project and requires the contract for construction management services to be let by competitive bidding by allowing construction management services to be awarded on a negotiated basis regardless of those conditions and allows the construction manager to enter into contracts with the successful bidders.

The bill allows any political subdivision to use the construction-manager-at-risk method for a construction project. The bill specifies the required procedures that the political subdivision must follow, including the selection of a construction manager-at-risk, the advertising of proposals, and the receiving and review of bids or proposals. These provisions must not apply to the St. Louis Metropolitan Sewer District or a home rule charter city or county. Civil works projects using this method must be limited to projects in excess of \$2 million and non-civil works projects must be limited to projects in excess of \$7 million. A political subdivision may choose to allow the construction manager-at-risk to perform some projects himself or herself if he or she meets the same bidding requirements as all other trade contractors or subcontractors and the subdivision determines that the construction manager-at-risk's bid or proposal provides the best value or it may restrict him or her from submitting a bid. These provisions will

expire September 1, 2025.

The bill specifies that in using a design-build contract, a political subdivision must determine the scope and level of detail required to permit qualified persons to submit proposals in accordance with the request for proposals given the nature of the project. An architect or engineer must be employed or retained by the political subdivision to assist in specified tasks regarding the project. A political subdivisions must follow specified bidding procedures and solicit proposals using a three-stage process as specified in the bill. Civil works projects using this method must be limited to projects in excess of \$2 million and non-civil works projects must be limited to projects in excess of \$7 million. These provisions must not apply to charter or home rule cities or counties or the St. Louis Metropolitan Sewer District. The authority to use design-build contracts under these provisions will expire September 1, 2025.

Any political subdivision may enter into a special construction design contract for engineering, design, and construction of a wastewater or water treatment project. In disbursing community development block grants under 42 U.S.C. Sections 5301 to 5321, the Department of Economic Development must not reject wastewater or water treatment projects solely for utilizing specialty construction design contracts. The Department of Natural Resources must not preclude specialty construction design contracts from consideration for funding provided by the Water and Wastewater Loan Fund. A political subdivision planning a specialty construction design project must retain an engineer duly licensed in this state to assist in preparing any necessary bid documents and specifications and evaluations of submissions and bids.