



# *State of Tennessee*

## **PUBLIC CHAPTER NO. 794**

**SENATE BILL NO. 2501**

**By Ketron**

Substituted for: House Bill No. 1763

**By Marsh**

AN ACT to amend Tennessee Code Annotated, Section 12-4-107, relative to contracts for construction.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 12-4-107(a), is amended by deleting the following language:

All contracts for architectural, engineering and construction services procured by any municipal corporation, county, state, development district, utility district, human resource agency, or other political subdivision created by statute shall meet the following requirements:

and by substituting instead the following:

All contracts for architectural and engineering services procured by any municipal corporation, county, state, development district, utility district, human resource agency, or other political subdivision created by statute, and all contracts for construction services procured by any county, city, metropolitan government, or town for projects described in subsection (b), shall meet the following requirements:

SECTION 2. Tennessee Code Annotated, Section 12-4-107, is amended by deleting subsection (b) and substituting instead the following:

(b) Construction projects of a county, city, metropolitan government, or town shall meet the following requirements:

(1) For construction of local projects or additions to existing buildings, a county, city, metropolitan government, or town may contract for construction management agent or advisor services or construction manager at-risk services. Construction management services may be performed by a qualified person licensed under the Contractors Licensing Act of 1994, compiled in title 62, chapter 6, part 1. Construction management services are to be procured for each project through a written request for proposals process through advertisement. The procurement and advertisement shall be in accordance with the laws, regulations, and ordinances of the county, city, metropolitan government, or town. The written request for proposals process shall invite prospective proposers to participate and shall indicate the service requirements and the factors used for evaluating the proposals. These factors may include the construction manager's qualifications and experience on similar projects, qualifications of personnel to be assigned to the project, fees and costs, or any additional factors deemed relevant by the procuring entity for procurement of the service. The contract for such services shall be awarded to the best qualified and responsive responder. A construction manager agent or advisor is prohibited from undertaking actual construction work on a project over which the construction manager agent or advisor coordinates or oversees the planning, bid, or construction phases of the project, except in instances when bids have been solicited twice and no bids have been submitted. If the construction manager agent or advisor can document that a good faith effort was made in each bid solicitation to obtain bids and

no bids were received, then the construction manager agent or advisor may perform the construction work at a price agreed upon by the construction manager agent or advisor, the architect, and the owner of the project. A governing body, at its own discretion, may perform work on the project with its own employees and may include the coordination and oversight of this work as part of the services of the construction manager agent or advisor. Sealed bids for actual construction work shall be opened at the bid opening and the names of the contractors and their bid amounts shall be announced.

(2) Construction management agent or advisor services or construction manager at-risk services for the construction of local projects or additions to existing buildings may be performed by:

(A) A general contractor licensed in this state pursuant to the Contractors Licensing Act of 1994, compiled in title 62, chapter 6, part 1; provided, that none of such services performed by a general contractor involve any of the services exempt from the requirements of title 62, chapter 6, part 1 as "normal architectural and engineering services" under § 62-6-102(4)(B), unless, with regard to the performance of any services defined as normal architectural and engineering services, the general contractor is also licensed as an architect or engineer under title 62, chapter 2; or

(B) An architect or an engineer licensed pursuant to title 62, chapter 2; provided, that none of such services performed by an architect or engineer involve any of the services required to be performed by a contractor within the definition of "contractor" under § 62-6-102, unless with regard to the performance of any services included within the definition of "contractor", the architect or engineer is also licensed as a contractor under the Contractors Licensing Act of 1994, compiled in title 62, chapter 6, part 1.

(3) Construction work that is under the coordination and oversight of a construction manager shall be procured through competitive bids.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 2501

PASSED: April 9, 2018

  
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RANDY McNALLY  
SPEAKER OF THE SENATE

  
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BETH HARWELL, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 20<sup>th</sup> day of April 2018

  
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BILL HASLAM, GOVERNOR