

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 518

SENATE BILL NO. 1577

By Stanley

Substituted for: House Bill No. 1705

By Hensley

AN ACT to amend Tennessee Code Annotated, Title 12, Chapter 4, Part 1, relative to construction management.

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

SECTION 1. Tennessee Code Annotated, Section 12-4-106, is amended by adding the following language as a new subdivision (3):

(3)(A) For construction of local correctional facility projects or additions to existing correctional facility buildings, a county, city, metropolitan government or town, may contract for construction management agent or advisor services. Construction management services that are provided for a fee and that involve preconstruction and construction administration and management services are deemed to be professional services and may be performed by a qualified person licensed under Title 62, Chapter 6. Construction management services are to be procured for each project through a written request for proposals process through advertisement. Such procurement and advertisement shall be in accordance with laws, regulations, and/or ordinances of the county, city, metropolitan government or town. The written request for proposals process will invite prospective proposers to participate and will indicate the service requirements and the factors used for evaluating the proposals. Such factors shall 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. Cost is not to be the sole criterion for evaluation. The contract for such services shall be awarded to the best qualified and responsive proposer. A construction manager is prohibited from undertaking actual construction work on a project over which such construction manager coordinates or oversees the planning, bid or construction phases of the project, except in instances where bids have been solicited twice and no bids have been submitted. If the construction manager 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 may perform the construction work at a price agreed upon by the construction manager, 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. 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;

(B) Construction management agent or advisor services for the construction of local correctional facility projects or additions to existing correctional facility buildings in accordance with subdivision (A) may be performed by:

(i) A general contractor licensed in Tennessee pursuant to Title 62, Chapter 6, provided that none of such services performed by a general contractor involve any of the services exempt from the requirements of such chapter as "normal architectural and engineering services" under § 62-6-102(3)(B) or (C), unless, with regard to the performance of any services defined as normal architectural and engineering services, such general contractor is also licensed as an architect or engineer under Title 62, Chapter 2; or

(ii) 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(3)(A)(i), unless with regard to the performance of any services included within the definition of contractor, such architect or engineer is also licensed as a contractor under Title 62, Chapter 6;

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

SECTION 2. This act shall be effective upon becoming the law, the public welfare requiring it.

PASSED: June 9, 2009



RON RAMSEY
SPEAKER OF THE SENATE



KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 25th day of June 2009



PHIL BREDESEN, GOVERNOR