

IC 5-30-8

Chapter 8. Miscellaneous Provisions

IC 5-30-8-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 4 of this chapter by P.L.133-2007 apply only to public works contracts entered into after June 30, 2007.

As added by P.L.220-2011, SEC.115.

IC 5-30-8-1

Changes in public project; validity of design-build contract

Sec. 1. A design-build contract may be conditional upon subsequent refinements in scope and price and may permit the public agency to make changes in the scope of the project without invalidating the design-build contract.

As added by P.L.74-2005, SEC.1.

IC 5-30-8-2

Replacement of subcontractor for primary design services and construction services

Sec. 2. (a) A person identified under IC 5-30-7-1(2) as a person with whom the design-builder proposes to enter into subcontracts for primary design services and primary construction services under the design-build contract may not be replaced without the approval of the public agency and a written determination by the public agency that a legitimate reason exists for the replacement.

(b) If a design-builder violates subsection (a), the public agency may cancel the award of or may terminate a design-build contract.

As added by P.L.74-2005, SEC.1.

IC 5-30-8-3

Adjustment of maximum cost by agreement

Sec. 3. After award under this article, the maximum cost established in the successful proposal may be adjusted by negotiated agreement between the public agency and the design-builder to reflect modifications in the proposed design-build project.

As added by P.L.74-2005, SEC.1.

IC 5-30-8-4

Performance and payment bonds required

Sec. 4. (a) The public agency:

(1) shall require the design-builder to furnish performance and payment bonds for the project if the estimated cost of the project is more than two hundred thousand dollars (\$200,000); and

(2) may require the design-builder to furnish performance and payment bonds for the project if the estimated cost of the project is not more than two hundred thousand dollars (\$200,000).

(b) A performance or payment bond is not required for, and does not provide coverage for, the part of a design-build contract that includes design services only.

(c) Subsection (b) does not impair the ability of the public agency to seek recovery under the contract from the design-builder for errors, omissions, or defects in the design services.

As added by P.L. 74-2005, SEC.1. Amended by P.L. 133-2007, SEC.8.

IC 5-30-8-5

Certain acts by public agency prohibited

Sec. 5. A public agency may not, with respect to a public project covered by this article, require an offeror to:

- (1) make application to;
- (2) furnish financial data to; or
- (3) obtain any of the surety bonds, or surety bond components of wrap-up insurance, that are specified in connection with a design-build contract or specified by any law from;

any particular insurance or surety company, agent, or broker.

As added by P.L. 74-2005, SEC.1.

IC 5-30-8-6

Determination of common construction wage

Sec. 6. (a) A determination under IC 5-16-7-1(c) for a public project to be constructed under a design-build contract shall be made and filed with the public agency at least two (2) weeks before the date fixed for submission of the qualitative proposal and the price proposal under IC 5-30-6-5.

(b) If the committee appointed under IC 5-16-7-1(b) fails to act and to file a determination under IC 5-16-7-1(c) within the time required by this section, the public agency shall make the determination, and its finding shall be final.

(c) The time periods set forth in this section apply to any construction services provided for a public project to be constructed under a design-build contract, instead of the time periods set forth in IC 5-16-7-1(g) and IC 5-16-7-1(h).

As added by P.L. 74-2005, SEC.1. Amended by P.L. 18-2011, SEC.3.