

# PUBLIC BUILDINGS

## CHAPTER 394

### HOUSE BILL NO. 1445

(Representative Carlson)

## CONSTRUCTION MANAGERS

AN ACT to create and enact a new section to chapter 48-01.1 of the North Dakota Century Code, relating to the use of a construction manager for public improvement projects; and to amend and reenact section 48-01.1-01 of the North Dakota Century Code, relating to definitions regarding public improvement contracts.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 48-01.1-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**48-01.1-01. Definitions.** In this chapter, unless the context otherwise requires:

1. "Construction" includes repair and alteration.
2. "Construction administration" means administrative services provided on behalf of the governing body, either by the governing body or a registered design professional, and includes providing clarifications, submittal review, recommendations for payment, preparation of change orders, and other administrative services included in the agreement with the registered design professional. The term does not include supervision of the construction activities for the construction contracts.
3. "Construction management" means the management and supervision of the construction of a public improvement, including the management and supervision of multiple prime contracts. The term does not include construction administration performed by a design professional under the terms of a professional services agreement with the governing body.
4. "Contractor" means any person, duly licensed, that undertakes or enters ~~into~~ a contract with a governing body ~~of~~ for the construction or construction management of any public improvement, including multiple prime contracts.
- ~~3.~~ 5. "Governing body" means the governing officer or board of any state entity or of any political subdivision.
- ~~4.~~ 6. "Public improvement" means any improvement the cost of which is payable from taxes or other funds under the control of a governing body including improvements for which special assessments are levied. The term does not include any county road construction and maintenance,

state highway, or public service commission project governed by titles 11, 24, or 38.

- ~~5.~~ 7. "Surety" means a bond or undertaking executed by a surety company authorized to do business in this state which is countersigned by an agent of that company.

**SECTION 2.** A new section to chapter 48-01.1 of the North Dakota Century Code is created and enacted as follows:

**Use of construction manager.** If a governing body uses a construction manager on a public improvement, the construction manager must be a licensed contractor. A construction manager awarded a contract for construction of a public improvement shall bond the entire cost of the project through a single bond, or through bonds supporting all bid packages and the construction manager's bond for the full amount of the construction manager's services.

Approved April 4, 1997  
Filed April 4, 1997

## CHAPTER 395

### HOUSE BILL NO. 1442

(Representative Glassheim)

### PUBLIC BID PUBLICATION

AN ACT to amend and reenact section 48-01.1-03 of the North Dakota Century Code, relating to publication of advertising for bids for public improvement projects.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 48-01.1-03 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**48-01.1-03. Publication of advertisement for bids.** If a contract of a governing body for the construction of a public improvement is estimated to cost in excess of ~~fifty~~ one hundred thousand dollars, the governing body shall advertise for bids by publishing for three consecutive weeks, the first publication to be at least twenty-one days before the date of the opening of bids. The advertisement must be published in the official newspaper of the political subdivision in which the public improvement is or will be located, and in a trade publication of general circulation among the contractors, building manufacturers, and dealers in this state, except the advertisement for a public improvement financed by special assessments need only be published once each week for two weeks in the official newspaper with the first publication being at least fourteen days before bid opening.

Approved March 25, 1997

Filed March 26, 1997

## CHAPTER 396

### HOUSE BILL NO. 1033

(Legislative Council)

(Advisory Commission on Intergovernmental Relations)

### PUBLIC IMPROVEMENT PLANS AND SPECIFICATIONS

AN ACT to amend and reenact sections 43-19.1-28 and 48-01.1-04 of the North Dakota Century Code, relating to plans and specifications for public improvement contracts; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 43-19.1-28 of the North Dakota Century Code is amended and reenacted as follows:

**43-19.1-28. Public works.** ~~This~~ Except as otherwise provided by law, the state and its political subdivisions, ~~including counties, cities, townships and legally constituted boards, districts, commissions, or authorities,~~ may not engage in the construction of public works involving the practice of professional engineering ~~as herein defined~~ when the contemplated expenditure for the project exceeds the sum of fifty one hundred thousand dollars, unless the engineering drawings and specifications and estimates have been prepared by, and the construction ~~is~~ administration and construction observation services are executed under the supervision of, a registered professional engineer. Any engineering contract executed in violation of this section is ~~null and~~ void.

**SECTION 2. AMENDMENT.** Section 48-01.1-04 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**48-01.1-04. Plans and specifications for public improvement contracts.** If a contract of a governing body for the construction of a public improvement is estimated to cost in excess of fifty one hundred thousand dollars, the governing body shall procure plans, drawings, and specifications for the work from a licensed architect or registered professional engineer. For public buildings in use by or to be used by the North Dakota agricultural experiment stations in connection with farm or agricultural research operations, the plans, drawings, and specifications ~~may,~~ with the approval of the board of higher education, may be procured from a registered professional engineer if the engineer is in the regular employment of the agricultural experiment station.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 19, 1997  
Filed March 19, 1997

**CHAPTER 397****HOUSE BILL NO. 1032**

(Legislative Council)

(Advisory Commission on Intergovernmental Relations)

**MULTIPLE PRIME BID REQUIREMENTS**

AN ACT to amend and reenact section 48-01.1-06 of the North Dakota Century Code, relating to the multiple prime bid requirement for public improvement contracts.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 48-01.1-06 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**48-01.1-06. Bid requirements for public buildings.** Multiple prime bids for the general, electrical, and mechanical portions of a project are required when any individual general, electrical, or mechanical contract is in excess of ~~fifty~~ one hundred thousand dollars. The governing body may also allow submission of single prime bids or bids for other portions of the project at its discretion. The governing body may not accept the single prime bid unless that bid is lower than the combined total of the lowest and best multiple bids for the project.

Approved March 25, 1997  
Filed March 26, 1997

## CHAPTER 398

### HOUSE BILL NO. 1421

(Representatives Freier, Carlson, Timm)  
(Senator Krebsbach)

## CONTRACTOR BONDS

AN ACT to amend and reenact section 48-02-06.2 of the North Dakota Century Code, relating to bonds required of contractors for certain public improvement contracts; and to declare an emergency.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 48-02-06.2 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**48-02-06.2. Bonds from contractors for public improvements.** A governing body, as defined in section 48-01.1-01, authorized to enter into a contract for construction of a public improvement in excess of one hundred thousand dollars shall take from the contractor a bond before permitting any work to be done on that contract. The bond must be for an amount equal at least to the price stated in the contract. The bond must be conditioned to be void if the contractor and all subcontractors fully perform all terms, conditions, and provisions of the contract and pay all bills or claims on account of labor and materials including supplies used for machinery and equipment, performed, furnished, and used in the performance of the contract, including all demands of subcontractors. The requirement that bills and claims be paid must include the requirement that interest of the amount authorized under section 13-01-14 be paid on bills and claims not paid within ninety days. The bond is security for all bills, claims, and demands until fully paid, with preference to labor and material suppliers as to payment. The bond must run to the governing body, but any person having a lawful claim against the contractor, or any subcontractor, as provided in this chapter, may sue on the bond.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 13, 1997  
Filed March 13, 1997