House Bill 530 (AS PASSED HOUSE AND SENATE)

By: Representative Smith of the 129th

A BILL TO BE ENTITLED

AN ACT

To amend Article 4 of Chapter 2 of Title 32 of the Official Code of Georgia Annotated, relating to the Department of Transportation´s power to contract, so as to revise the criteria for design-build contracts entered into by the department; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 4 of Chapter 2 of Title 32 of the Official Code of Georgia Annotated, relating to the Department of Transportation´s power to contract, is amended by striking subsections (b), (d), and (f) of Code Section 32-2-81, relating to criteria for design-build contracts, and inserting in their respective places the following:

"(b) The department may use the design-build procedure for buildings, bridges and approaches, rail corridors, and limited or controlled access projects or projects that may be constructed within existing rights of way where the scope of work can be clearly defined or when a significant savings in project delivery time can be attained ~~and when the estimated bid cost does not exceed $10 million~~."

"(d) The department shall adopt by rule procedures for administering design-build contracts. Such procedures shall include, but not be limited to:

(1) Prequalification requirements;

(2) Public advertisement procedures;

(3) Scope of service requirements;

(4) Letters of interest requirements;

(5) Request for proposals. Requests for proposal shall include the applicable percentage to be applied to each evaluation criterion and the relative weight to be assigned to each;

(6) Criteria for evaluating technical information and project costs;

(7) Criteria for selection and award process, provided that the rules shall specify that the criteria for selection shall consist of the following minimum two components:

(A) A statement of qualifications from which the department will determine a list of qualified firms for the project; and

(B) From the list of qualified firms as provided in subparagraph (A) of this paragraph, a price proposal from each firm from which the department shall select the lowest~~, most responsive~~ qualified bidder; provided, however, that a proposal will only be considered nonresponsive if it does not contain all the information and level of detail requested in the request for proposal. A proposal shall not be deemed to be nonresponsive solely on the basis of minor irregularities in the proposal that do not directly affect the ability to fairly evaluate the merits of the proposal. Notwithstanding the requirements of Code Section 36-91-21, under no circumstances shall the department use a 'best and final offer' standard in awarding a contract~~; and~~. The department may provide for a stipulated fee to be awarded to the short list of qualified proposers who provide a responsive, successful proposal. In consideration for paying the stipulated fee, the department may use any ideas or information contained in the proposals in connection with the contract awarded for the project, or in connection with a subsequent procurement, without obligation to pay any additional compensation to the unsuccessful proposers;

(8) Identification of those projects that the department believes are candidates for design-build contracting, with the understanding that in general this type of contract should have minimal right of way or utility issues which are unresolved; provided, however, the failure of the department to identify such projects does not prevent the department from using design-build contracting in extraordinary circumstances including emergency work, unscheduled projects, or where loss of funding might occur; and

~~(8)~~(9) Criteria for resolution of contract issues. The department may adopt a method for resolving issues and disputes through negotiations at the project level by the program manager up to and including a dispute review board procedure with final review by the commissioner or his or her designee. Regardless of the status or disposition of the issue or dispute, the design-builder and the department shall continue to perform their contractual responsibilities. The department shall have the authority to suspend or provide for the suspension of Section 108 of the department´s standard specifications pending final resolution of such contract issues and disputes. This paragraph does not prevent an aggrieved party from seeking judicial review.″

″(f) In contracting for design-build projects, the department shall be limited to contracting for no more than ~~$100 million per fiscal year~~ 15 percent of the total amount of construction projects awarded in the previous fiscal year.″

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.