

REFERENCE TITLE: progressive design-build; ADOT

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1099

Introduced by
Senator Carroll: Representatives Wilmeth, Livingston

AN ACT

AMENDING SECTIONS 28-7361, 28-7363, 28-7364 AND 28-7366, ARIZONA REVISED
STATUTES; RELATING TO ALTERNATIVE CONTRACTING PROCEDURES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-7361, Arizona Revised Statutes, is amended to
3 read:

4 28-7361. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Architect services" means those professional architect services
7 that are within the scope of architectural practice as provided in title
8 32, chapter 1.

9 2. "Construction-manager-at-risk" means a project delivery method
10 in which:

11 (a) There is a contract for construction services that is separate
12 from the contract for design services, except that instead of a single
13 contract for construction services, the department may elect separate
14 contracts for preconstruction services during the design phase, for
15 construction during the construction phase and for any other construction
16 services.

17 (b) Design services are performed under a separate design services
18 contract, except that as to bridges and other transportation facilities
19 the department may perform with its own employees or force account
20 preliminary design and either:

21 (i) In the case of bridges only, all design services up to final
22 design.

23 (ii) In the case of other transportation facilities, up to twenty
24 ~~percent~~ PERCENT of the design work.

25 (c) The contract for construction services may be entered into at
26 the same time as the design services are commenced or at a later time.

27 (d) Design and construction of the project may be either:

28 (i) Sequential with the entire design complete before construction
29 commences.

30 (ii) Concurrent with the design produced in two or more phases and
31 construction of some phases commencing before the entire design is
32 complete.

33 (e) Finance services, maintenance services, operations services,
34 preconstruction services and other related services may be included.

35 3. "Construction services" means either of the following for
36 construction-manager-at-risk and job-order-contracting project delivery
37 methods:

38 (a) Construction, excluding services, through the
39 construction-manager-at-risk or job-order-contracting project delivery
40 methods.

41 (b) A combination of construction and, as elected by the
42 department, one or more related services, such as finance services,
43 maintenance services, operations services, design services and
44 preconstruction services, as those services are authorized in the
45 definition of construction-manager-at-risk or job-order-contracting.

1 4. "Contract" means all types of department agreements, regardless
2 of what they are called, for procurements pursuant to this article.

3 5. "Contractor" means any person who has a contract with the
4 department.

5 6. "Design-build" means the process of entering into and managing a
6 contract between the department and another party in which the other party
7 agrees to both design and build a highway, a structure, a facility or **ANY**
8 other items specified in the contract.

9 7. "Design-builder" means any individual, partnership, joint
10 venture, corporation or other legal entity that is appropriately licensed
11 in this state and that furnishes the necessary design services, in
12 addition to construction of the work, whether by itself or through
13 subcontracts, including subcontracts for architectural and engineering
14 services.

15 8. "Design services" means architect services, engineer services or
16 landscape architect services.

17 9. "Emergency" means an immediate threat to public health, welfare
18 or safety caused by flood, earthquake, hurricane, tornado, explosion, fire
19 or other catastrophe such that compliance with normal bidding procedures
20 for repair or reconstruction of transportation facilities would be
21 impracticable or contrary to the public interest.

22 10. "Engineer services" means those professional engineer services
23 that are within the scope of engineering practice as provided in title 32,
24 chapter 1.

25 11. "Finance services" means financing for a construction services
26 project.

27 12. "Job-order-contracting" means a project delivery method in
28 which:

29 (a) The contract is for indefinite quantities of construction and,
30 at the election of the department, may or may not include a guaranteed
31 minimum amount of work.

32 (b) The construction to be performed is specified in job orders
33 issued during the contract.

34 (c) Finance services, maintenance services, operations services,
35 preconstruction services, design services and other related services may
36 be included.

37 13. "Landscape architect services" means those professional
38 landscape architect services that are within the scope of landscape
39 architectural practice as provided in title 32, chapter 1.

40 14. "Maintenance services" means routine maintenance, repair and
41 replacement of existing facilities, structures, buildings or real
42 property.

1 15. "Operations services" means routine operation of existing
2 facilities, structures, buildings or real property.

3 16. "Person" means any corporation, business, individual, union,
4 committee, club, other organization or group of individuals.

5 17. "Preconstruction services" means services and other activities
6 during the design phase.

7 18. "PROGRESSIVE DESIGN-BUILD" MEANS THE PROCESS OF ENTERING INTO
8 AND MANAGING A CONTRACT BETWEEN THE DEPARTMENT AND ANOTHER PARTY IN WHICH
9 THE OTHER PARTY BOTH:

10 (a) AGREES TO BOTH DESIGN AND BUILD A HIGHWAY, A STRUCTURE, A
11 FACILITY OR ANY OTHER ITEMS SPECIFIED IN THE CONTRACT.

12 (b) AT THE EARLIEST FEASIBLE STAGE OF THE PROCESS, IS SELECTED
13 THROUGH THE USE OF QUALIFICATIONS-BASED SELECTION AS DEFINED IN SECTION
14 5-807, SUBSECTION C.

15 ~~18.~~ 19. "Specific single project" means a project that is
16 constructed at a single location, at a common location or for a common
17 purpose.

18 ~~19.~~ 20. "Subcontractor" means a person who contracts to perform
19 work or render service to a contractor or to another subcontractor as a
20 part of a contract with the department.

21 Sec. 2. Section 28-7363, Arizona Revised Statutes, is amended to
22 read:

23 28-7363. Design-build and progressive design-build method of
24 project delivery

25 A. Notwithstanding any other law, the department may use the
26 design-build OR PROGRESSIVE DESIGN-BUILD method of project delivery on a
27 project if the department makes a determination in writing that it is
28 appropriate and in the best interests of the department to use the
29 design-build OR PROGRESSIVE DESIGN-BUILD method of project delivery for
30 that project, except that:

31 1. The department shall not enter into a contract to operate any
32 structure, facility or other item pursuant to this article.

33 2. Each design-build OR PROGRESSIVE DESIGN-BUILD project shall be a
34 specific single project.

35 3. The department shall not commence any design-build OR
36 PROGRESSIVE DESIGN-BUILD project after December 31, 2025. For the
37 purposes of this paragraph, a project is commenced on the date the
38 department solicits the contract for the project. If the department
39 solicits a design-build OR PROGRESSIVE DESIGN-BUILD contract on or before
40 December 31, 2025, the contract may be executed and services and
41 construction under the contract may be rendered in whole or in part after
42 December 31, 2025.

1 B. The estimated cost of the project shall not include the cost to
2 procure any right-of-way or other cost of condemnation. The cost to
3 procure any right-of-way or other cost of condemnation remains at all
4 times the responsibility of the department. The department shall obtain
5 all necessary rights-of-way.

6 C. The department is responsible for ~~preparation~~ PREPARING and
7 ~~acquisition of~~ ACQUIRING all environmental documents, including the scope
8 of any remediation and required clearances.

9 D. If construction of a design-build OR PROGRESSIVE DESIGN-BUILD
10 project involves railroad facilities, the railroad shall approve the use
11 of the design-build OR PROGRESSIVE DESIGN-BUILD delivery method before the
12 department awards the design-build OR PROGRESSIVE DESIGN-BUILD contract.

13 E. To ensure fair, uniform, clear and effective procedures that
14 will deliver a quality project on time and within budget, the director, in
15 conjunction with the appropriate and affected professionals and
16 contractors, may adopt procedures for procuring a project using the
17 design-build OR PROGRESSIVE DESIGN-BUILD method of project delivery.

18 F. The provisions of sections 28-6923 and 28-6924 relating to bid,
19 performance and payment bonds and to change orders, progress payments,
20 contract retentions, definitions and authority to award contracts apply to
21 department design-build OR PROGRESSIVE DESIGN-BUILD projects for
22 transportation facilities pursuant to this article.

23 Sec. 3. Section 28-7364, Arizona Revised Statutes, is amended to
24 read:

25 28-7364. Design-build and progressive design-build criteria

26 The department shall use the following criteria as the minimum basis
27 for determining when to use the design-build OR PROGRESSIVE DESIGN-BUILD
28 method of project delivery:

29 1. The extent to which it can adequately define the project
30 requirements.

31 2. The time constraints for delivery of the project.

32 3. The capability and experience of potential teams with the
33 design-build OR PROGRESSIVE DESIGN-BUILD method of project delivery.

34 4. The suitability of the project for use of the design-build OR
35 PROGRESSIVE DESIGN-BUILD method of project delivery in the areas of time,
36 schedule, costs and quality.

37 5. The capability of the department to manage the project,
38 including the employment of experienced personnel or outside consultants.

39 6. The capability of the department to oversee the project with
40 persons who are familiar with the design-build OR PROGRESSIVE DESIGN-BUILD
41 method of project delivery.

42 7. Other criteria the department deems relevant.

1 Sec. 4. Section 28-7366, Arizona Revised Statutes, is amended to
2 read:

3 28-7366. Construction-manager-at-risk construction services,
4 job-order-contracting construction services and
5 progressive design-build design services and
6 construction services

7 A. The department may procure the following services pursuant to
8 this section:

- 9 1. Construction-manager-at-risk construction services.
10 2. Job-order-contracting construction services.

11 3. PROGRESSIVE DESIGN-BUILD DESIGN SERVICES AND CONSTRUCTION
12 SERVICES.

13 B. The department shall provide notice of each procurement of
14 DESIGN SERVICES OR construction services OR BOTH DESIGN SERVICES AND
15 CONSTRUCTION SERVICES prescribed in this section and shall award contracts
16 on the basis of demonstrated competence and qualifications for the type of
17 DESIGN SERVICES OR construction services OR BOTH DESIGN SERVICES AND
18 CONSTRUCTION SERVICES pursuant to the procedures prescribed in this
19 section.

20 C. In the procurement of DESIGN SERVICES OR construction services
21 OR BOTH DESIGN SERVICES AND CONSTRUCTION SERVICES pursuant to this
22 section:

23 1. The department shall issue a request for qualifications for each
24 contract and publish notice of the request for qualifications in the same
25 manner as provided in section 28-6923. The request for qualifications
26 shall:

27 (a) Include the number of persons or firms to be included on the
28 final list. At least three but not more than five persons or firms shall
29 be on the final list.

30 (b) State the criteria to be used by the selection team to select
31 the person or firm to perform the DESIGN SERVICES OR THE construction
32 services OR BOTH THE DESIGN SERVICES AND CONSTRUCTION SERVICES. The
33 request for qualifications shall also state in a manner determined by the
34 department the relative weight of the selection criteria.

35 (c) If the department will hold interviews as part of the selection
36 process, state that interviews shall be held and the number of persons or
37 firms to be interviewed, which shall be at least the number of persons or
38 firms to be included in the final list but not more than the number of
39 persons or firms to be included in the final list plus two.

40 2. For each request for qualifications, the department shall
41 initiate a selection team pursuant to section 28-7365, subsection B. A
42 person who is a member of a selection team shall not be a contractor under
43 the contract or provide DESIGN, DESIGN SERVICES, construction,
44 construction services, materials or services under the contract. The
45 selection team shall:

1 (a) Evaluate the statements of qualifications and performance data
2 that are submitted in response to the department's request for
3 qualifications.

4 (b) If determined by the department and included by the department
5 in the request for qualifications, conduct interviews with the number of
6 persons or firms to be interviewed as stated in the request for
7 qualifications regarding the contract and the relative methods of approach
8 for furnishing the required DESIGN SERVICES OR construction services OR
9 BOTH DESIGN SERVICES AND CONSTRUCTION SERVICES.

10 (c) After any interviews or if interviews are not held, in order of
11 preference, based on the criteria and the weighting of criteria
12 established and published by the department and included in the request
13 for qualifications, select a final list for the contract of persons or
14 firms the selection team deems to be the most qualified to provide the
15 DESIGN SERVICES OR THE construction services OR BOTH THE DESIGN SERVICES
16 AND CONSTRUCTION SERVICES and, in the case of a contract that will be
17 negotiated under subsection E of this section, rank the persons or firms
18 on the final list in order of preference. The selection team shall base
19 the selection of the final list and the order of preference on
20 demonstrated competence and qualifications only. The number of persons or
21 firms on the final list shall be the number of persons or firms specified
22 in the request for qualifications, except that:

23 (i) If a smaller number of responsive and responsible persons or
24 firms respond to the solicitation, the department may have the selection
25 team proceed with the selection process, including interviews and the
26 final list, with the remaining persons or firms if at least two persons or
27 firms remain or the department may readvertise pursuant to this subsection
28 as the department deems necessary or appropriate.

29 (ii) If only one responsive and responsible person or firm responds
30 to a solicitation for a contract to be negotiated pursuant to subsection E
31 of this section, the department may proceed with only one person or firm
32 in the selection process and may award the contract to a single person or
33 firm if the department determines in writing that the fee negotiated
34 pursuant to subsection E of this section is fair and reasonable and that
35 either other prospective persons or firms had reasonable opportunity to
36 respond or there is not adequate time for a resolicitation.

37 (iii) If a person or firm on the final list withdraws or is removed
38 from the selection process and the selection team determines that it is in
39 the best interest of the department, the selection team may replace that
40 person or firm with the person or firm that submitted qualifications and
41 that is selected by the selection team as the next most qualified.

42 (d) Base the selection of the final list and order of preference on
43 the final list on demonstrated competence and qualifications only.

44 3. The department and the selection team shall not request or
45 consider fees, price, man-hours or any other cost information at any point

1 in the selection process under this subsection or subsection D of this
2 section, including the selection of the persons or firms to be
3 interviewed, the selection of the persons or firms to be on the final
4 list, in determining the order of preference of persons or firms on the
5 final list or for any other purpose in the selection process.

6 4. For construction-manager-at-risk construction services AND
7 PROGRESSIVE DESIGN-BUILD DESIGN SERVICES AND CONSTRUCTION SERVICES, the
8 contract under a request for qualifications solicitation is limited to a
9 specific single project.

10 D. The department shall award a contract for DESIGN SERVICES OR
11 construction services OR BOTH DESIGN SERVICES AND CONSTRUCTION SERVICES to
12 one of the persons or firms on the final list prepared pursuant to
13 subsection C of this section as provided in subsection E or F of this
14 section, except that, if fewer than the number of persons or firms on the
15 final list respond to the request for proposals pursuant to subsection F
16 of this section but at least two persons or firms on the final list submit
17 responsive proposals, or if one or more of the persons or firms on the
18 final list drop out of the selection process pursuant to subsection E or F
19 of this section:

20 1. If there are three or more remaining persons or firms, the
21 department shall proceed with the selection process.

22 2. If there are only two remaining persons or firms, as the
23 department deems necessary and appropriate, the department may proceed
24 with the selection process with the two persons or firms or may terminate
25 the selection process and may readvertise pursuant to subsection C of this
26 section.

27 3. If there is only one remaining person or firm, the department
28 may award the contract to a single person or firm pursuant to subsection E
29 of this section if the department determines in writing that the fee
30 negotiated pursuant to subsection E of this section is fair and reasonable
31 and that either other prospective persons or firms had reasonable
32 opportunity to respond or there is not adequate time for a resolicitation.

33 E. For the single contract included in the request for
34 qualifications, the department shall enter into negotiations for the
35 contract with the highest qualified person or firm on the final list for
36 the DESIGN SERVICES OR THE construction services OR BOTH THE DESIGN
37 SERVICES AND CONSTRUCTION SERVICES. The negotiations shall include
38 consideration of compensation and other contract terms that the department
39 determines to be fair and reasonable to the department. In making this
40 decision, the department shall take into account the estimated value, the
41 scope, the complexity and the nature of the DESIGN SERVICES OR THE
42 construction services OR BOTH THE DESIGN SERVICES AND CONSTRUCTION
43 SERVICES to be rendered. If the department is not able to negotiate a
44 satisfactory contract with the highest qualified person or firm on the
45 final list at compensation and on other contract terms the department

1 determines to be fair and reasonable, the department shall formally
2 terminate negotiations with that person or firm. The department may
3 undertake negotiations with the next most qualified person or firm on the
4 final list in sequence until an agreement is reached or a determination is
5 made to reject all persons or firms on the final list. If a contract for
6 DESIGN SERVICES OR construction services OR BOTH DESIGN SERVICES AND
7 CONSTRUCTION SERVICES is entered into pursuant to this subsection:

8 1. If the contract is for construction-manager-at-risk construction
9 services OR PROGRESSIVE DESIGN-BUILD DESIGN SERVICES AND CONSTRUCTION
10 SERVICES and includes DESIGN SERVICES OR preconstruction services OR BOTH
11 DESIGN SERVICES AND PRECONSTRUCTION SERVICES by the contractor, the
12 department shall enter into a written contract with the contractor for
13 DESIGN SERVICES OR preconstruction services OR BOTH DESIGN SERVICES AND
14 PRECONSTRUCTION SERVICES under which the department shall pay the
15 contractor a fee for DESIGN SERVICES OR preconstruction services OR BOTH
16 DESIGN SERVICES AND PRECONSTRUCTION SERVICES in an amount agreed by the
17 department and the contractor, and the department shall not request or
18 obtain a fixed price or a guaranteed maximum price for the DESIGN SERVICES
19 OR THE construction SERVICES OR BOTH THE DESIGN SERVICES AND CONSTRUCTION
20 SERVICES from the contractor or enter into a ~~construction~~ contract FOR
21 DESIGN SERVICES OR CONSTRUCTION SERVICES OR BOTH DESIGN SERVICES AND
22 CONSTRUCTION SERVICES with the contractor until after the department has
23 entered into the written contract for DESIGN SERVICES OR preconstruction
24 services OR BOTH DESIGN SERVICES AND PRECONSTRUCTION SERVICES and a DESIGN
25 SERVICES OR preconstruction services fee.

26 2. DESIGN SERVICES OR construction SERVICES shall not commence
27 until the department and contractor agree in writing on either a fixed
28 price that the department will pay for the DESIGN SERVICES OR construction
29 SERVICES to be commenced or a guaranteed maximum price for the DESIGN
30 SERVICES OR construction SERVICES to be commenced. The DESIGN SERVICES OR
31 construction SERVICES to be commenced may be the entire project or may be
32 one or more phased parts of the project.

33 F. As an alternative to subsection E of this section, the
34 department may award job-order-contracting construction services as
35 follows:

36 1. The department shall use the selection team that is appointed
37 for the request for qualifications pursuant to subsection C of this
38 section.

39 2. The department shall issue a request for proposals to the
40 persons or firms on the final list that is developed pursuant to
41 subsection C of this section.

42 3. For job-order-contracting construction services, the request for
43 proposals shall include:

1 (a) The department's project schedule and project final design and
2 construction budget or life cycle budget for a procurement that includes
3 maintenance services or operations services.

4 (b) A statement that the contract will be awarded to the offeror
5 whose proposal receives the highest number of points under a scoring
6 method.

7 (c) A description of the scoring method, including a list of the
8 factors in the scoring method and the number of points allocated to each
9 factor.

10 (d) A requirement that each offeror separately submit a technical
11 proposal and a price proposal and that the offeror's entire proposal be
12 responsive to the requirements in the request for proposals.

13 (e) A statement that in applying the scoring method the selection
14 team will separately evaluate the technical proposal and the price
15 proposal and will evaluate and score the technical proposal before opening
16 the price proposal.

17 (f) If the department conducts discussions pursuant to paragraph 5
18 of this subsection, a statement that discussions will be held and a
19 requirement that each offeror submit a preliminary technical proposal
20 before the discussions are held.

21 4. If the department determines to conduct discussions pursuant to
22 paragraph 5 of this subsection, each offeror shall submit a preliminary
23 technical proposal to the department before those discussions are held.

24 5. If determined by the department and included by the department
25 in the request for proposals, the selection team shall conduct discussions
26 with all offerors that submit preliminary technical proposals.
27 Discussions shall be for the purpose of clarification to ensure full
28 understanding of, and responsiveness to, the solicitation requirements.
29 The department shall accord fair treatment to offerors with respect to any
30 opportunity for discussion and for clarification by the owner. Revision
31 of preliminary technical proposals shall be ~~permitted~~ **ALLOWED** after
32 submission of preliminary technical proposals and before award for the
33 purpose of obtaining the best and final proposals. In conducting any
34 discussions, information derived from proposals submitted by competing
35 offerors shall not be disclosed to other competing offerors.

36 6. After ~~completion of~~ any discussions pursuant to paragraph 5 of
37 this subsection **ARE COMPLETED** or if ~~no~~ discussions are **NOT** held, each
38 offeror shall separately submit the offeror's final technical proposal and
39 the offeror's price proposal.

40 7. Before opening any price proposal, the selection team shall open
41 the final technical proposals, evaluate the final technical proposals and
42 score the final technical proposals using the scoring method in the
43 request for proposals. No other factors or criteria may be used in the
44 evaluation and scoring.

1 8. After ~~completion of~~ the evaluation and scoring of all final
2 technical proposals **ARE COMPLETED**, the selection team shall open the price
3 proposals, evaluate the price proposals, score the price proposals and
4 complete the scoring of the entire proposals using the scoring method in
5 the request for proposals. No other factors or criteria may be used in
6 the evaluation and scoring.

7 9. The department shall award the contract to the responsive and
8 responsible offeror whose proposal receives the highest score under the
9 method of scoring in the request for proposals. No other factors or
10 criteria may be used in the evaluation.

11 10. The contract file shall contain the basis on which the award is
12 made.

13 G. Until an award and execution of a contract by the department,
14 only the name of each person or firm on the final list developed pursuant
15 to subsection C of this section may be made available to the public. All
16 other information received by the department in response to the request
17 for qualifications or contained in the proposals is confidential in order
18 to avoid disclosure of the contents that may be prejudicial to competing
19 offerors during the selection process. The department shall open the
20 proposals to public inspection after the contract is awarded and the
21 department has executed the contract. To the extent that the offeror
22 designates and the department concurs, trade secrets and other proprietary
23 data contained in a proposal remain confidential.

24 H. The department may cancel a request for qualifications or a
25 request for proposals or reject in whole or in part any or all proposals
26 as specified in the solicitation if it is in the best interest of the
27 department. The department shall make the reasons for cancellation or
28 rejection part of the contract file.

29 I. Notwithstanding any other law:

30 1. The contractor for job-order-contracting construction services
31 is not required to be registered to perform design services pursuant to
32 title 32, chapter 1 if the person or firm actually performing the design
33 services on behalf of the contractor is appropriately registered.

34 2. The contractor for construction-manager-at-risk construction
35 services, ~~or~~ job-order-contracting construction services **OR PROGRESSIVE**
36 **DESIGN-BUILD DESIGN SERVICES AND CONSTRUCTION SERVICES** shall be licensed
37 to perform construction pursuant to title 32, chapter 10.

38 3. For each project under a construction-manager-at-risk
39 construction services contract **OR A PROGRESSIVE DESIGN-BUILD DESIGN**
40 **SERVICES AND CONSTRUCTION SERVICES CONTRACT**, the licensed contractor
41 performing the contract shall perform, with the contractor's own
42 organization, construction work that amounts to ~~not less than~~ **AT LEAST**
43 forty ~~per cent~~ **PERCENT** of the total contract price for construction. For
44 the purposes of this paragraph, the total contract price for construction
45 does not include the cost of preconstruction services, design services or

1 any other related services or the cost to procure any right-of-way or
2 other cost of condemnation.

3 4. Each procurement and each request for qualifications pursuant to
4 this section is limited to a single contract for
5 construction-manager-at-risk construction services, ~~or~~
6 job-order-contracting construction services OR PROGRESSIVE DESIGN-BUILD
7 DESIGN SERVICES AND CONSTRUCTION SERVICES. This restriction does not
8 affect or impair the department's ability to procure multiple contracts
9 for job-order-contracting construction services in a single procurement
10 using a single request for qualifications pursuant to section 28-7367.

11 5. The department shall not procure any construction services using
12 the construction-manager-at-risk construction services, ~~or~~
13 job-order-contracting construction services OR PROGRESSIVE DESIGN-BUILD
14 DESIGN SERVICES AND CONSTRUCTION SERVICES method of project delivery after
15 December 31, 2025. For the purposes of this paragraph, the department
16 procures construction services when the department solicits the contract
17 for construction services. If the department solicits a contract for
18 construction services on or before December 31, 2025, the contract may be
19 executed and construction services under the contract may be rendered in
20 whole or in part after December 31, 2025.

21 J. For job-order-contracting construction services only:

22 1. The maximum dollar amount of an individual job order shall be
23 ~~one million dollars~~ \$1,000,000 or such higher or lower amount prescribed
24 by the department. Requirements shall not be artificially divided or
25 fragmented in order to constitute a job order that satisfies this
26 requirement.

27 2. If the contractor subcontracts or intends to subcontract any of
28 the work under a job order and if the job-order-construction services
29 contract includes descriptions of standard individual tasks, standard unit
30 prices for standard individual tasks and pricing of job orders based on
31 the number of units of standard individual tasks in the job order:

32 (a) The contractor has a duty to deliver promptly to each
33 subcontractor invited to bid a coefficient to the contractor to do all or
34 part of the work under one or more job orders:

35 (i) A copy of the descriptions of all standard individual tasks on
36 which the subcontractor is invited to bid.

37 (ii) A copy of the standard unit prices for the individual tasks on
38 which the subcontractor is invited to bid.

39 (b) If not previously delivered to the subcontractor, the
40 contractor has a duty to deliver promptly the following to each
41 subcontractor invited to or that has agreed to do any of the work included
42 in any job order:

43 (i) A copy of the description of each standard individual task that
44 is included in the job order and that the subcontractor is invited to
45 perform.

1 (ii) The number of units of each standard individual task that is
2 included in the job order and that the subcontractor is invited to
3 perform.

4 (iii) The standard unit price for each standard individual task
5 that is included in the job order and that the subcontractor is invited to
6 perform.

7 K. Notwithstanding anything to the contrary in this title, the
8 department shall not enter into a contract as contractor to provide
9 construction-manager-at-risk construction services, ~~or~~
10 job-order-contracting construction services OR PROGRESSIVE DESIGN-BUILD
11 DESIGN SERVICES AND CONSTRUCTION SERVICES.

12 L. Each contract for construction-manager-at-risk construction
13 services, ~~or~~ job-order-contracting construction services OR PROGRESSIVE
14 DESIGN-BUILD DESIGN SERVICES AND CONSTRUCTION SERVICES shall contain a
15 description of each separate location at which the construction will be
16 performed and a requirement that the contractor include in each of the
17 contractor subcontracts the same location description. The contractor
18 shall include in each subcontract a description of each separate location
19 at which the construction will be performed.

20 M. Except as otherwise provided in this section, sections 28-6923
21 and 28-6924, relating to bid, performance and payment bonds, change
22 orders, progress payments, contract retention, definitions and authority
23 to award contracts, apply to department construction-manager-at-risk and
24 job-order-contracting contracts for transportation facilities pursuant to
25 this article.