

2007 DRAFTING REQUEST

Bill

Received: **01/11/2007**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Miner**

This file may be shown to any legislator: **NO**

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Local Gov't - sewerage districts**

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Miner, BB0327 -

Topic:

Authorize limited Milwaukee Metropolitan Sewerage District use of design-build construction process

Instructions:

See Attached. Let MMSD use design-build for one project -- deep tunnel pump station; UW Division of Facilities Planning and Management must evaluate

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 01/11/2007	wjackson 01/11/2007		_____			Local
/1			rschluet 01/12/2007	_____	mbarman 01/12/2007		Local
/2	mshovers 01/24/2007	wjackson 01/25/2007	pgreensl 01/25/2007	_____	sbasford 01/25/2007		Local
/3	mshovers 01/29/2007	kfollett 01/29/2007	rschluet 01/29/2007	_____	sbasford 01/29/2007		

FE Sent For:

<END>

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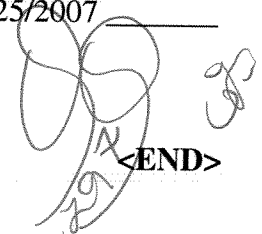
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13 MES 1/29/07
FE Sent For: 13 kif
1/29


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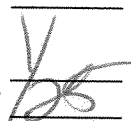
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Authorize limited Milwaukee Metropolitan Sewerage District use of design-build construction process



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/? mshovers

11NES 4/11/07

11WJ 1/11

[Handwritten signature]
1117 SF

FE Sent For:

<END>

2007-09 Budget Bill Statutory Language Drafting Request

- Topic: Milwaukee Metropolitan Sewerage District Design-Build Authorization
- Tracking Code: BB0327
- SBO team: Environmental and Commercial Resources
- SBO analyst: Andrew Miner *AM 4/02/07*
 - Phone: 266-1103
 - Email: Andrew.Miner@Wisconsin.gov
- Agency acronym: Special Projects
- Agency number:
- Priority (Low, Medium, High): Medium

Authorize the Milwaukee Metropolitan Sewerage District to use the design-build construction process to build a deep tunnel pump station as a pilot project. The project would be evaluated by the University of Wisconsin's Division of Facilities Planning and Management.

Budget Request

Design Build for the Milwaukee Metropolitan Sewerage District:

Authorize Milwaukee Metropolitan Sewerage District (MMSD) to let a pilot for a specified contract for public construct using the design build construction process, which is defined as a project delivery and procurement process for the design, construction, repair, renovation, installation or demolition of a public works project under which a single entity is responsible for the professional design services and construction services related to the project. This pilot project would be evaluated by the University of Wisconsin's Division Facilities Planning and Management.

Specified project: Building a Deep Tunnel Pump Station

Rationale:

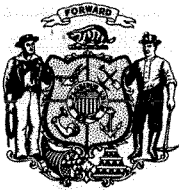
Building a deep tunnel pump station is a very complex, multi faceted project. Allowing the project to be built using the design build method will enable MMSD to bid out the entire project at once. A project of this magnitude demands the best minds be involved from conception to completion. Contractors with vast expertise will be asked to serve as architect, engineer and builder on all phases of the project. MMSD will receive multiply "ideas" for how this pump should be built and will be able to choose the best competitively priced and most soundly designed option, instead of having to competitively bid each phase of the project and hope pieces fit together.

Using a design build and hiring one contractor allows for single source responsibility and accountability, early determination of and guaranteed costs, improved risk management, fewer change orders and faster project completion.

The State of Wisconsin recognizes the value of the design build method and frequently employs it. However, currently the State requires local units of government to seek permission before seeking bids using the design build method.

MMSD has been allowed to use this method for a project, during the Lincoln Creek project design-build saved 18 months of construction time and over \$550,000 in taxpayer dollars.

It is believed that allowing MMSD to use this bid method for the deep tunnel pump station could save the taxpayers of South Eastern Wisconsin as much as 5% to 10% on the \$140 million project and bring the needed pump on line eight months to a year sooner than a traditional competitive bidding process.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1464/7
MES.....

D-note ✓

WLJ RMR

DOA:.....Miner, BB0327 - Authorize limited Milwaukee Metropolitan Sewerage District use of design-build construction process

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

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gen

1 AN ACT ...; relating to: authorizing the Milwaukee Metropolitan Sewerage
2 District to use the design-build construction process on a limited basis.

Analysis by the Legislative Reference Bureau

LOCAL GOVERNMENT

Generally, under current law, the Milwaukee Metropolitan Sewerage District (MMSD) is required to award all contracts for all work done and all purchases of supplies and materials to the lowest responsible bidder.

This bill authorizes MMSD to let one contract for public construction using the design-build construction process. The contract is exempted from the lowest responsible bidder requirement, and may only be for the construction of a deep tunnel pump station. The design-build construction process is defined as a project delivery and procurement process for the design, construction, repair, renovation, installation, or demolition of a public works project under which a single entity is responsible for the professional design services and construction services related to the project. The project must be evaluated by the Board of Regents of the University of Wisconsin System.

must evaluate the project

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 200.47 (2) (a) of the statutes is amended to read:

2 200.47 (2) (a) Except for a contract awarded under par. (f) and except as
3 provided in par. (b), all work done and all purchases of supplies and materials by the
4 commission shall be by contract awarded to the lowest responsible bidder complying
5 with the invitation to bid, if the work or purchase involves an expenditure of \$20,000
6 or more. If the commission decides to proceed with construction of any sewer after
7 plans and specifications for the sewer are completed and approved by the commission
8 and by the department of natural resources under ch. 281, the commission shall
9 advertise by a class 2 notice under ch. 985 for construction bids. All contracts and
10 the awarding of contracts are subject to s. 66.0901.

11 History: 1981 c. 282, 391; 1985 a. 29; 1999 a. 9; 1999 a. 150 s. 589 to 591; Stats. 1999 s. 200.47.

11 **SECTION 2.** 200.47 (2) (e) of the statutes is amended to read:

12 200.47 (2) (e) Paragraphs (a) to (d) and (f) do not apply to contracts awarded
13 under s. 200.49.

14 History: 1981 c. 282, 391; 1985 a. 29; 1999 a. 9; 1999 a. 150 s. 589 to 591; Stats. 1999 s. 200.47.

14 **SECTION 3.** 200.47 (2) (f) of the statutes is created to read:

15 200.47 (2) (f) 1. In this ^{paragraph} ~~subsection~~, "design-build construction process" means
16 a project delivery and procurement process for the design, construction, repair,
17 renovation, installation, or demolition of a public works project under which a single
18 entity is responsible for the professional design services and construction services
19 related to the project.

1

2. The commission may let only one contract under sub. (1) that uses the design-build construction ^{process} ~~project~~, and that contract may be let only for a deep tunnel pump station.

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3. After a contract described ^{in g} ~~under~~ subd. 2. is let, ~~the implementation and execution of the project shall be evaluated by~~ the Board of Regents of the University of Wisconsin System ^{shall evaluate the implementation of the project}

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(END)

and execution

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1464/?dn
MES./.....

WLj

Andrew Miner:

Please review this draft carefully to ensure that it meets your intent. The instructions did not indicate, for example, whether you wanted to exempt this project from the lowest-responsible bidder requirement, or the provisions contained in s. 200.49, but it seemed to me that there wouldn't be much of a point in authorizing design-build unless that was your intent. Is this OK?

The instructions also said that the project should be evaluated by the "UW's Division Facilities Planning and Management" but I could not find any reference to any such division in the statutes. Therefore, I just required the Board of Regents to do it and they'll assign the project to whomever they want. Your instructions did not say when the evaluation should be completed, what the purpose of the evaluation is, or to whom the evaluation should be sent.

Is the reference to "a deep tunnel pump station" specific enough?

Please let me know if you want any changes made to the draft.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1464/1dn
MES:wlj:rs

January 12, 2007

Andrew Miner:

Please review this draft carefully to ensure that it meets your intent. The instructions did not indicate, for example, whether you wanted to exempt this project from the lowest-responsible bidder requirement, or the provisions contained in s. 200.49, but it seemed to me there wouldn't be much of a point in authorizing design-build unless that was your intent. Is this OK?

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Please let me know if you want any changes made to the draft.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov

Shovers, Marc

From: Shovers, Marc
Sent: Wednesday, January 24, 2007 1:30 PM
To: Miner, Andrew - DOA
Subject: RE: MMSD draft (1464)

Hi Andrew:

I've done a /2 version of the bill that requires MMSD to make an effort to ensure that the goals and good faith effort described in s. 200.49 (3) are made. Let me know if this meets your intent. As to your first question, there are bidding requirements under s. 66.0901, for example, that MMSD must still follow. Exempting the district from the lowest responsible bidding requirement still leaves in place some structure.

Marc

Marc E. Shovers

Senior Legislative Attorney
Legislative Reference Bureau
Phone: (608) 266-0129
Fax: (608) 264-8522
e-mail: marc.shovers@legis.state.wi.us

From: Miner, Andrew - DOA
Sent: Tuesday, January 23, 2007 6:45 PM
To: Shovers, Marc
Subject: MMSD draft (1464)

Instructions
for /2

Hi Marc,

On this draft, the MMSD should be excluded from the lowest responsible bidder requirement, but there should still be criteria that they should have to follow—have a bid process, advertise, etc. Does the draft now allow for that, or does more need to be added? Being exempt from 200.49 is ok, but the draft should mention that MMSD in awarding the contract should make an effort to hire a minority contractor. We're still unsure on the evaluation—we might move it to DOA or drop it altogether—will get back to you.

Did the email I sent you last week about the RDA request help in composing a draft for it? Thanks,
Andrew



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1464/12

MES:wlj:rs

RMA

DOA:.....Miner, BB0327 - Authorize limited Milwaukee Metropolitan
Sewerage District use of design-build construction process

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

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2 District to use the design-build construction process on a limited basis.

Analysis by the Legislative Reference Bureau

LOCAL GOVERNMENT

Generally, under current law, the Milwaukee Metropolitan Sewerage District (MMSD) is required to award all contracts for all work done and all purchases of supplies and materials to the lowest responsible bidder.

This bill authorizes MMSD to let one contract for public construction using the design-build construction process. The contract is exempted from the lowest-responsible bidder requirement, and may be only for the construction of a deep tunnel pump station. The design-build construction process is defined as a project delivery and procurement process for the design, construction, repair, renovation, installation, or demolition of a public works project under which a single entity is responsible for the professional design services and construction services related to the project. The Board of Regents of the University of Wisconsin System must evaluate the project.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 200.47 (2) (a) of the statutes is amended to read:

2 200.47 (2) (a) Except for a contract awarded under par. (f) and except as
3 provided in par. (b), all work done and all purchases of supplies and materials by the
4 commission shall be by contract awarded to the lowest responsible bidder complying
5 with the invitation to bid, if the work or purchase involves an expenditure of \$20,000
6 or more. If the commission decides to proceed with construction of any sewer after
7 plans and specifications for the sewer are completed and approved by the commission
8 and by the department of natural resources under ch. 281, the commission shall
9 advertise by a class 2 notice under ch. 985 for construction bids. All contracts and
10 the awarding of contracts are subject to s. 66.0901.

11 ~~**SECTION 2.** 200.47 (2) (e) of the statutes is amended to read.~~

12 ~~200.47 (2) (e) Paragraphs (a) to (d) and (f) do not apply to contracts awarded~~
13 ~~under s. 200.49.~~

14 **SECTION 3.** 200.47 (2) (f) of the statutes is created to read:

15 200.47 (2) (f) 1. In this paragraph, "design-build construction process" means
16 a project delivery and procurement process for the design, construction, repair,
17 renovation, installation, or demolition of a public works project under which a single
18 entity is responsible for the professional design services and construction services
19 related to the project.

**2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1464/2ins
MES:wj:rs

INSERT 3-3

3. A contract that is let under sub. (1) and ^{that} ~~which~~ uses the design-build construction process under subd. 2. does not need to comply with s. 200.49, although the commission shall make an effort to ensure that the goal described in s. 200.49 (3) (a) is met and that the good faith effort described in s. 200.49 (3) (b) is made.

Shovers, Marc

From: Miner, Andrew - DOA
Sent: Monday, January 29, 2007 9:43 AM
To: Shovers, Marc
Subject: change draft 1464

Hi Marc,

I have a couple of changes to draft 1464, the MMSD design-build project. First, we want to take out any reference to an evaluation, so you can delete proposed 200.47(2)(f)4. Second, when you drafted the language for 2003 Senate Bill 347 related to this issue, you inserted language to 281.41 (1)(a) stating "Owners contracting for a system, plant or extension under the design-build construction process shall submit to the department performance objectives and preliminary designs in a form that is satisfactory to the department, rather than complete plans." We'd like to have that language included in this draft as well. Thanks,
Andrew

SENATE BILL 347

1 contract, the district shall make an equitable adjustment and modify the contract in
2 writing.

3 5. No claim for a differing site condition may be allowed if the contractor does
4 not comply with the written notice requirement under subd. 3.

5 (i) If the commission selects a design-build team under par. (g) 3. and enters
6 into a contract for the construction of the project, the design-build team shall obtain
7 bonding, in an amount specified by the commission for the construction-related
8 portions of the contract that is consistent with ss. 779.14 to 779.17, to guarantee
9 completion of the project according to the terms of the contract.

10 (j) All drawings, specifications, and other information submitted in a statement
11 of qualifications and an initial project approach proposal remain the property of the
12 design-build team that submitted the proposal, and may not be disclosed by the
13 commission to any person, except that this provision does not apply to the
14 design-build team that is selected under par. (g) 3. once the team and the commission
15 enter into a contract for the construction of the project.

16 (k) 1. Not more than 5 contracts for public construction under sub. (1) may be
17 let using the design-build construction process.

18 2. The estimated cost of each of the contracts described under subd. 1. shall
19 exceed \$4,000,000.

20 **SECTION 5.** 281.01 (3e) of the statutes is created to read:

21 281.01 (3e) "Design-build construction process" has the meaning given in s.
22 200.47 (2) (f) 1.

23 **SECTION 6.** 281.41 (1) (a) of the statutes is amended to read:

24 281.41 (1) (a) Except as provided under sub. (2), every owner, within the time
25 prescribed by the department, shall file with the department a certified copy of

SENATE BILL 347**SECTION 6**

1 complete plans of a proposed system or plant or extension thereof, in scope and detail
2 satisfactory to the department, and, if required, of existing systems or plants, and
3 any other information concerning maintenance, operation, and other details that the
4 department requires, including the information specified under s. 281.35 (5) (a), if
5 applicable. Owners contracting for a system, plant, or extension under the
6 design-build construction process shall submit to the department performance
7 objectives and preliminary designs in a form that is satisfactory to the department,
8 rather than complete plans. Material changes with a statement of the reasons shall
9 be likewise submitted. Before plans are drawn, a statement concerning the
10 improvement may be made to the department and the department may, if requested,
11 outline generally what it will require. Upon receipt of the plans for approval, the
12 department or its authorized representative shall notify the owner of the date of
13 receipt.

14 (END)



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1464/2

MES:wlj:pg

RMR

DOA:.....Miner, BB0327 - Authorize limited Milwaukee Metropolitan Sewerage District use of design-build construction process

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FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

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The bill requires mmsd to submit to DNR performance objectives and preliminary designs for the design-build project, rather than the completed plans required under current law.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 200.47 (2) (a) of the statutes is amended to read:

2 200.47 (2) (a) Except for a contract awarded under par. (f) and except as
3 provided in par. (b), all work done and all purchases of supplies and materials by the
4 commission shall be by contract awarded to the lowest responsible bidder complying
5 with the invitation to bid, if the work or purchase involves an expenditure of \$20,000
6 or more. If the commission decides to proceed with construction of any sewer after
7 plans and specifications for the sewer are completed and approved by the commission
8 and by the department of natural resources under ch. 281, the commission shall
9 advertise by a class 2 notice under ch. 985 for construction bids. All contracts and
10 the awarding of contracts are subject to s. 66.0901.

11 **SECTION 2.** 200.47 (2) (f) of the statutes is created to read:

12 200.47 (2) (f) 1. In this paragraph, "design-build construction process" means
13 a project delivery and procurement process for the design, construction, repair,
14 renovation, installation, or demolition of a public works project under which a single
15 entity is responsible for the professional design services and construction services
16 related to the project.

17 2. The commission may let only one contract under sub. (1) that uses the
18 design-build construction process, and that contract may be let only for a deep
19 tunnel pump station.

20 3. A contract that is let under sub. (1) and that uses the design-build
21 construction process under subd. 2. does not need to comply with s. 200.49, although

1 the commission shall make an effort to ensure that the goal described in s. 200.49 (3)
2 (a) is met and that the good faith effort described in s. 200.49 (3) (b) is made.

3 4. After a contract described in subd. 2. is let, the Board of Regents of the
4 University of Wisconsin System shall evaluate the implementation and execution of
5 the project.

6 (END)

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3-6

**2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1464/3ins
MES:wlj:pg

INSERT 3-6

✓
SECTION 1. 281.01 (3e) of the statutes is created to read:

281.01 (3e) "Design-build construction process" has the meaning given in s. 200.47 (2) (f) 1.

✓
SECTION 2. 281.41 (1) (a) of the statutes is amended to read:

281.41 (1) (a) Except as provided under sub. (2), every owner within the time prescribed by the department, shall file with the department a certified copy of complete plans of a proposed system or plant or extension thereof, in scope and detail satisfactory to the department, and, if required, of existing systems or plants, and any other information concerning maintenance, operation and other details that the department requires, including the information specified under s. 281.35 (5) (a), if applicable. Owners contracting for a system, plant, or extension under the design-build construction process shall submit to the department performance objectives and preliminary designs in a form that is satisfactory to the department, rather than complete plans. Material changes with a statement of the reasons shall be likewise submitted. Before plans are drawn, a statement concerning the improvement may be made to the department and the department may, if requested, outline generally what it will require. Upon receipt of the plans for approval, the department or its authorized representative shall notify the owner of the date of receipt.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1464/3
MES:wlj&kjf:rs

DOA:.....Miner, BB0327 - Authorize limited Milwaukee Metropolitan
Sewerage District use of design-build construction process

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

- 1 AN ACT ...; relating to: authorizing the Milwaukee Metropolitan Sewerage
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15 entity is responsible for the professional design services and construction services
16 related to the project.

17 2. The commission may let only one contract under sub. (1) that uses the
18 design-build construction process, and that contract may be let only for a deep
19 tunnel pump station.

20 3. A contract that is let under sub. (1) and that uses the design-build
21 construction process under subd. 2. does not need to comply with s. 200.49, although

1 the commission shall make an effort to ensure that the goal described in s. 200.49 (3)
2 (a) is met and that the good faith effort described in s. 200.49 (3) (b) is made.

3 SECTION 3. 281.01 (3e) of the statutes is created to read:

4 281.01 (3e) "Design-build construction process" has the meaning given in s.
5 200.47 (2) (f) 1.

6 SECTION 4. 281.41 (1) (a) of the statutes is amended to read:

7 281.41 (1) (a) Except as provided under sub. (2), every owner within the time
8 prescribed by the department, shall file with the department a certified copy of
9 complete plans of a proposed system or plant or extension thereof, in scope and detail
10 satisfactory to the department, and, if required, of existing systems or plants, and
11 any other information concerning maintenance, operation and other details that the
12 department requires, including the information specified under s. 281.35 (5) (a), if
13 applicable. Owners contracting for a system, plant, or extension under the
14 design-build construction process shall submit to the department performance
15 objectives and preliminary designs in a form that is satisfactory to the department,
16 rather than complete plans. Material changes with a statement of the reasons shall
17 be likewise submitted. Before plans are drawn, a statement concerning the
18 improvement may be made to the department and the department may, if requested,
19 outline generally what it will require. Upon receipt of the plans for approval, the
20 department or its authorized representative shall notify the owner of the date of
21 receipt.

22 (END)