

Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation Commission
Chapter 24—Design-Build Project Contracts

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SECRETARY OF STATE
ADMINISTRATIVE RULES

PROPOSED AMENDMENT

7 CSR 10-24.020 General. The Missouri Highways and Transportation Commission is amending sections (1), (3), and (4).

COPY

PURPOSE: This amendment clarifies the National Environmental Protection Act (NEPA) process as it pertains to the design-build procurement process, deletes unnecessary redundant language, and restrictive wording

(1) This chapter describes the commission's policies and procedures for approving design-build projects financed under Title 23, *United States Code* (U.S.C.), by use of state funds, by use of funds of local public agencies or counties, or any combination of fund sources. *[This chapter satisfies the requirement of 227.107, RSMo Supp. 2004. The contracting procedures of this chapter apply to all design-build projects undertaken by the commission.]* All acquisitions under these rules *[shall be]* **are** competitive acquisitions.

(3) *[The commission is neither requiring nor promoting the use of the design-build contracting method.]* The design-build contracting technique is optional and its use **by the commission** is limited by **federal and state law**.

(4) Relations of the National Environmental Protection Act (NEPA) review process to the design-build procurement process.

(A) A commission Request for Qualification (RFQ) solicitation may be released prior to the conclusion of the NEPA review process as long as the RFQ solicitation informs proposers of the general status of the NEPA process.

(B) A commission Request for Proposal (RFP) **may be issued prior to the conclusion of the NEPA process as long as the RFP informs proposers of the general status of the NEPA process and that no commitment will be made as to any alternative under evaluation in the NEPA process, including the no-build alternative as defined in Title 23, Code of Federal Regulations (CFR) 636.109. Title 23, CFR, section 636.109 is incorporated by reference into and made a part of this rule as published by the United States Superintendent of Documents, 732 N Capitol Street NW, Washington, D.C. 20402-0001, website: <http://bookstore.gpo.gov> on January 1, 2012. This rule does not incorporate any subsequent amendments or additions to the Code of Federal Regulations in 23 CFR 636.109.** *[will not be released prior to the conclusion of the NEPA process. The NEPA review process is concluded with either a Categorical Exclusion (CE) classification, an approved Finding of No Significant Impact (FONSI), or an approved Record of Decision (ROD) as defined in 23 CFR 771.113(a).]*

(C) *[A commission RFP must address how]* **The environmental commitments and mitigation measures identified during the NEPA process are included in the commission's RFP for the design-built project, including how such commitments and mitigation measures will be implemented.**

JOINT COMMITTEE ON

DEC 05 2017

ADMINISTRATIVE RULES

AUTHORITY: sections 226.020, RSMo 2000 and 226.030 and 227.107, RSMo Supp. 2004. Original rule filed Aug. 15, 2005, effective Feb. 28, 2006. Amended: Filed December 5, 2017.*

**Original authority: 226.020, RSMo 1939; 226.030, RSMo 1939, amended 1965, 2003, 2004; and 227.107, RSMo 2002.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Highways and Transportation Commission, Pamela J. Harlan, Secretary to the Commission, 105 W. Capitol Avenue, PO Box 270, Jefferson City, MO 65102 or Pamela.Harlan@modot.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*