

**From:** Nyberg Wade  
**Sent:** Friday, October 12, 2012 1:52 PM  
**To:** Sumption Pauline  
**Subject:** RE: Design build streets, drainage, MIP projects

You can do design build projects for public improvements, but there's a set of rules to follow. We have to first give a rationale for why design-build – meeting one of the criteria. I pasted the statute below.

5-18B-20. Design-build contracts. A purchasing agency may enter into design-build contracts for public improvements, if the following conditions are met:

(1) The purchasing agency shall, prior to issuing any design-build request for proposals, establish and publish procedures for the solicitation and award of design-build contracts. The Bureau of Administration shall establish the procedures for the state. The procedures shall include the following:

(a) The procedure to select or designate a performance criteria developer utilizing a qualification based process and the procedure to prepare performance criteria;

(b) The procedures for the preparation and contents of a design-build request for proposals;

(c) The procedure and standards to be used to qualify or pre-qualify design-builders;

(d) The procedures for preparing and submitting proposals;

(e) The procedures for evaluating proposals;

(f) The procedures for negotiations between the purchasing agency and those submitting proposals prior to the acceptance of a proposal. The procedures shall contain safeguards to preserve confidential information and proprietary information supplied by those submitting proposals, consistent with § 5-18B-34;

(g) The procedures for awarding and executing design-build contracts;

(h) The procedures for awarding design-build contracts in the event of public emergencies as defined in § 5-18A-9; and

(i) The procedures for acting on formal protests relating to the solicitation or award of design-build contracts;

(2) The purchasing agency shall, for each public improvement under this section, make a determination that it is in the best interest of the public to enter into a design-build contract to complete the public improvement. The determination to utilize design-build and the basis for the determination shall be recorded in the project file or the minutes of the meeting of the governing board of the purchasing agency. In making this determination, design-build projects shall meet one or more of the following criteria:

(a) The purchasing agency requires a project design and construction time line that is faster than the traditional design/bid/build process would allow;

(b) The complexity of the project requires close coordination of design and construction expertise or an extreme amount of coordination;

(c) The purchasing agency requires early cost commitments; or

(d) The project can be defined at an early stage and the purchasing agency is able to specify all requirements; and

(3) The purchasing agency shall follow the procedures of other laws governing public improvement construction contracts to the extent such laws are compatible with the use of design-build contracts.

**From:** Sumption Pauline  
**Sent:** Thursday, October 11, 2012 7:37 AM  
**To:** Nyberg Wade  
**Subject:** Design build streets, drainage, MIP projects

Can we do "Design Build" projects in CIP for Streets, Drainage & MIP?

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