

2023 Kansas Statutes

16-1909. Public-private agreement; bond requirements. (a) Prior to entering into a contract in any sum exceeding \$100,000 with an owner that involves a public-private agreement, the contractor shall furnish to the owner or owner's agent the following bonds, which shall be placed with good and sufficient sureties as determined by the public owner and shall become binding upon the award of the contract by the owner or owner's agent to the contractor:

(1) If a performance bond is not otherwise required pursuant to state law, a performance bond in an amount equal to the full contract amount conditioned upon the faithful performance of the contract in accordance with plans, specifications and conditions thereof, made solely for the protection of the owner awarding the contract; and

(2) a payment bond in an amount equal to the full contract amount solely for the protection of claimants supplying labor or materials to the contractor or subcontractors in the performance of the work.

(b) Each bond shall include a provision allowing the prevailing party in any action on the bond to recover as a part of the judgment reasonable attorney fees and expenses as determined by the court.

(c) For purposes of this section:

(1) "Public-private agreement" means an agreement for public construction involving a nontraditional arrangement between the owner and one or more private entities, including a contractor, that provides for acceptance by the owner of a private contribution to the public construction project in exchange for a public benefit concerning such public construction project other than only a money payment;

(2) "private contribution" means the supply by a private entity of resources to accomplish all or any part of the work to be performed under a public-private agreement, including, but not limited to, funds, financing, supplies, materials or engineering or construction services; and

(3) "public benefit" means a grant by the owner of a right or interest in or concerning the construction project and may include receipts or revenue arising out of, or in connection with, the grant of a right or interest in the construction project.

(d) This section shall be a part of and supplemental to the Kansas fairness in public construction contract act.

History: L. 2017, ch. 29, § 1; July 1.