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HOUSE BILL 21

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,  
2000**

INTRODUCED BY  
"Andy" J. Kissner

AN ACT

RELATING TO PUBLIC WORKS PROJECTS; REMOVING THE TEN MILLION  
DOLLAR (\$10,000,000) MINIMUM CONSTRUCTION COST REQUIREMENT  
FOR DESIGN AND BUILD PROJECTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 13-1-119.1 NMSA 1978 (being Laws  
1997, Chapter 171, Section 5, as amended) is amended to read:

"13-1-119.1. PUBLIC WORKS PROJECT DELIVERY SYSTEM--  
DESIGN AND BUILD PROJECTS AUTHORIZED.--

A. Except for road and highway construction or  
reconstruction projects, a design and build project delivery  
system may be authorized when the state purchasing agent or a  
central purchasing office makes a determination in writing  
that it is appropriate and in the best interest of the state  
or local public body to use the system ~~[on a specific project  
with a maximum allowable construction cost of more than ten~~

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1 million dollars ~~(\$10,000,000)~~]. The determination shall be  
2 issued only after the state purchasing or central purchasing  
3 office has taken into consideration the following criteria,  
4 which shall be used as the minimum basis in determining when  
5 to use the design and build process:

6 (1) the extent to which the project  
7 requirements have been or can be adequately defined;

8 (2) time constraints for delivery of the  
9 project;

10 (3) the capability and experience of  
11 potential teams with the design and build process;

12 (4) the suitability of the project for use  
13 of the design and build process as concerns time, schedule,  
14 costs and quality; and

15 (5) the capability of the using agency to  
16 manage the project, including experienced personnel or  
17 outside consultants, and to oversee the project with persons  
18 who are familiar with the design and build process.

19 B. When a determination has been made by the state  
20 purchasing agent or a central purchasing office that it is  
21 appropriate to use a design and build project delivery  
22 system, the design and build team shall include, as needed, a  
23 New Mexico registered engineer or architect and a contractor  
24 properly licensed in New Mexico for the type of work  
25 required.

C. Except as provided in Subsections F and G of  
this section, for each proposed state or local public works

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1 design and build project, a two-phase procedure for awarding  
2 design and build contracts shall be adopted and shall include  
3 at a minimum the following:

4 (1) during phase one, and prior to  
5 solicitation, documents shall be prepared for a request for  
6 qualifications by a registered engineer or architect, either  
7 in-house or selected in accordance with Sections 13-1-120  
8 through 13-1-124 NMSA 1978, and shall include minimum  
9 qualifications, a scope of work statement and schedule,  
10 documents defining the project requirements, the composition  
11 of the selection committee and a description of the phase-two  
12 requirements and subsequent management needed to bring the  
13 project to completion. Design and build qualifications of  
14 responding firms shall be evaluated and a maximum of five  
15 firms shall be short listed in accordance with technical and  
16 qualifications-based criteria; and

17 (2) during phase two, the short-listed firms  
18 shall be invited to submit detailed specific technical  
19 concepts or solutions, costs and scheduling. Unsuccessful  
20 firms may be paid a stipend to cover proposal expenses.  
21 After evaluation of these submissions, selection shall be  
22 made and the contract awarded to the highest ranked firm.

23 D. Except as provided in Subsections F and G of  
24 this section, to ensure fair, uniform, clear and effective  
25 procedures that will strive for the delivery of a quality  
project on time and within budget, the secretary, in  
conjunction with the appropriate and affected professional

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1 associations and contractors, shall promulgate [~~regulations~~]  
2 rules applicable to all using agencies, which shall be  
3 followed by all using agencies when procuring a design and  
4 build project delivery system.

5 E. A state agency shall make the decision on a  
6 design and build project delivery system for a state public  
7 works project, and a local public body shall make that  
8 decision for a local public works project. A state agency  
9 shall not make the decision on a design and build project  
10 delivery system for a local public works project.

11 F. The requirements of Subsections C and D of this  
12 section [~~and the minimum construction cost requirement of~~  
13 ~~Subsection A of this section~~] do not apply to a design and  
14 build project delivery system and the services procured for  
15 the project if:

16 (1) the maximum allowable construction cost  
17 of the project is two hundred thousand dollars (\$200,000) or  
18 less; and

19 (2) the only requirement for architects,  
20 engineers, landscape architects or surveyors is limited to  
21 either site improvements or adaption for a pre-engineered  
22 building or system.

23 G. The procurement of a design and build project  
24 delivery system qualifying for exemptions pursuant to  
25 Subsection F of this section, including the services of any  
architect, engineer, landscape architect, construction  
manager or surveyor needed for the project, shall be

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1 accomplished by competitive sealed bids pursuant to Sections  
2 13-1-102 through 13-1-110 NMSA 1978."

3 Section 2. EFFECTIVE DATE.--The effective date of the  
4 provisions of this act is July 1, 2000.

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