SENATE BILL 897

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

H. Diane Snyder

AN ACT

RELATING TO PROCUREMENT; LOWERING THE MINIMUM CONSTRUCTION COST FOR DESIGN AND BUILD PROJECTS; REQUIRING PAYMENT OF A STIPEND TO SHORT-LISTED FIRMS AND THE HIGHEST-RANKED FIRM TO COVER PROPOSAL EXPENSES.

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

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1   local public body to use the system on a specific project with

2   a [maximum] minimum allowable construction cost of [more than

3   ten million dollars ($10,000,000)] five million dollars

4   ($5,000,000).   The determination shall be issued only after the

5   state purchasing agent or a central purchasing office has taken

6   into consideration the following criteria, which shall be used

7   as the minimum basis in determining when to use the design and

8   build process:

9   (1)   the extent to which the project

10   requirements have been or can be adequately defined;

11   (2)   time constraints for delivery of the

12   project;

13   (3)   the capability and experience of potential

14   teams with the design and build process;

15   (4)   the suitability of the project for use of

16   the design and build process as concerns time, schedule, costs

17   and quality; and

18   (5)   the capability of the using agency to

19   manage the project, including experienced personnel or outside

20   consultants, and to oversee the project with persons who are

21   familiar with the design and build process.

22   B.   When a determination has been made by the state

23   purchasing agent or a central purchasing office that it is

24   appropriate to use a design and build project delivery system,

25   the design and build team shall include, as needed, a New

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1   Mexico registered engineer or architect and a contractor

2   properly licensed in New Mexico for the type of work required.

3   C.   Except as provided in Subsections F and G of

4   this section, for each proposed state or local public works

5   design and build project, a two-phase procedure for awarding

6   design and build contracts shall be adopted and shall include

7   at a minimum the following:

8   (1)   during phase one, and prior to

9   solicitation, documents shall be prepared for a request for

10   qualifications by a registered engineer or architect, either

11   in-house or selected in accordance with Sections 13-1-120

12   through 13-1-124 NMSA 1978, and shall include minimum

13   qualifications, a scope of work statement and schedule,

14   documents defining the project requirements, the composition of

15   the selection committee and a description of the phase-two

16   requirements and subsequent management needed to bring the

17   project to completion. Design and build qualifications of

18   responding firms shall be evaluated and a maximum of five firms

19   shall be short-listed in accordance with technical and

20   qualifications-based criteria; and

21   (2)   during phase two, the short-listed firms

22   shall be invited to submit detailed specific technical concepts

23   or solutions, costs and scheduling. Unsuccessful firms [may]

24   on the short list and the highest-ranked firm shall be paid a

25   stipend to cover proposal expenses in an amount equal to one

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1   percent of the total project cost. Payment of the stipend

2   shall not entitle an agency to ownership of the documents or

3   ideas represented in the documents. After evaluation of these

4   submissions, selection shall be made and the contract awarded

5   to the highest-ranked firm.

6   D.   Except as provided in Subsections F and G of

7   this section, to ensure fair, uniform, clear and effective

8   procedures that will strive for the delivery of a quality

9   project on time and within budget, the secretary, in

10   conjunction with the appropriate and affected professional

11   associations and contractors, shall promulgate rules applicable

12   to all using agencies, which shall be followed by all using

13   agencies when procuring a design and build project delivery

14   system.

15   E.   A state agency shall make the decision on a

16   design and build project delivery system for a state public

17   works project, and a local public body shall make that decision

18   for a local public works project. A state agency shall not

19   make the decision on a design and build project delivery system

20   for a local public works project.

21   F.   The requirements of Subsections C and D of this

22   section and the minimum construction cost requirement of

23   Subsection A of this section do not apply to a design and build

24   project delivery system and the services procured for the

25   project if:

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1   (1)   the maximum allowable construction cost of

2   the project is four hundred thousand dollars ($400,000) or

3   less; and

4   (2)   the only requirement for architects,

5   engineers, landscape architects or surveyors is limited to

6   either site improvements or [adaption] adaptation for a pre-

7   engineered building or system.

8   G.   The procurement of a design and build project

9   delivery system qualifying for exemptions pursuant to

10   Subsection F of this section, including the services of any

11   architect, engineer, landscape architect, construction manager

12   or surveyor needed for the project, shall be accomplished by

13   competitive sealed bids pursuant to Sections 13-1-102 through

14   13-1-110 NMSA 1978."

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