

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 675

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Linda M. Lopez

AN ACT

RELATING TO PROCUREMENT; AUTHORIZING THE USE OF A DESIGN AND
BUILD PROJECT DELIVERY SYSTEM FOR ROAD AND HIGHWAY CONSTRUCTION
AND RECONSTRUCTION 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

underscored material = new
[bracketed material] = delete

underscoring material = new
[bracketed material] = delete

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

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

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

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

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

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

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

.163775.1

underscoring material = new
[bracketed material] = delete

1 C. Except as provided in Subsections F and G of
2 this section, for each proposed state or local public works
3 design and build project, a two-phase procedure for awarding
4 design and build contracts shall be adopted and shall include
5 at a minimum the following:

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

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

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

.163775.1

underscoring material = new
[bracketed material] = delete

1 this section, to ensure fair, uniform, clear and effective
2 procedures that will strive for the delivery of a quality
3 project on time and within budget, the secretary, in
4 conjunction with the appropriate and affected professional
5 associations and contractors, shall promulgate rules applicable
6 to all using agencies, which shall be followed by all using
7 agencies when procuring a design and build project delivery
8 system.

9 E. A state agency shall make the decision on a
10 design and build project delivery system for a state public
11 works project, and a local public body shall make that decision
12 for a local public works project. A state agency shall not
13 make the decision on a design and build project delivery system
14 for a local public works project.

15 F. The requirements of Subsections C and D of this
16 section and the minimum construction cost requirement of
17 Subsection A of this section do not apply to a design and build
18 project delivery system and the services procured for the
19 project if:

20 (1) the maximum allowable construction cost of
21 the project is four hundred thousand dollars (\$400,000) or
22 less; and

23 (2) the only requirement for architects,
24 engineers, landscape architects or surveyors is limited to
25 either site improvements or adaptation for a pre-engineered

.163775.1

underscoring material = new
~~[bracketed material]~~ = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

building or system.

G. The procurement of a design and build project delivery system qualifying for exemptions pursuant to Subsection F of this section, including the services of any architect, engineer, landscape architect, construction manager or surveyor needed for the project, shall be accomplished by competitive sealed bids pursuant to Sections 13-1-102 through 13-1-110 NMSA 1978."