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AN ACT

RELATING TO PROCUREMENT; REMOVING THE TEN-MILLION-DOLLAR
(\$10,000,000) MINIMUM ON 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.
The determination shall be issued only after the state
purchasing agent or a central purchasing office has taken
into consideration the following criteria, which shall be
used as the minimum basis in determining when to use the
design and build process:

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

(2) time constraints for delivery of the
project;

(3) the capability and experience of

1 potential teams with the design and build process;

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

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

9 B. When a determination has been made by the state
10 purchasing agent or a central purchasing office that it is
11 appropriate to use a design and build project delivery
12 system, the design and build team shall include, as needed, a
13 New Mexico registered engineer or architect and a contractor
14 properly licensed in New Mexico for the type of work
15 required.

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

21 (1) during phase one, and prior to
22 solicitation, documents shall be prepared for a request for
23 qualifications by a registered engineer or architect, either
24 in-house or selected in accordance with Sections 13-1-120
25 through 13-1-124 NMSA 1978, and shall include minimum

1 qualifications, a scope of work statement and schedule,
2 documents defining the project requirements, the composition
3 of the selection committee and a description of the phase-two
4 requirements and subsequent management needed to bring the
5 project to completion. Design and build qualifications of
6 responding firms shall be evaluated, and a maximum of five
7 firms shall be short-listed in accordance with technical and
8 qualifications-based criteria; and

9 (2) during phase two, the short-listed firms
10 shall be invited to submit detailed specific technical
11 concepts or solutions, costs and scheduling. Unsuccessful
12 firms may be paid a stipend to cover proposal expenses.
13 After evaluation of these submissions, selection shall be
14 made and the contract awarded to the highest-ranked firm.

15 D. Except as provided in Subsections F and G of
16 this section, to ensure fair, uniform, clear and effective
17 procedures that will strive for the delivery of a quality
18 project on time and within budget, the secretary, in
19 conjunction with the appropriate and affected professional
20 associations and contractors, shall promulgate rules
21 applicable to all using agencies, which shall be followed by
22 all using agencies when procuring a design and build project
23 delivery system.

24 E. A state agency shall make the decision on a
25 design and build project delivery system for a state public

1 works project, and a local public body shall make that
2 decision for a local public works project. A state agency
3 shall not make the decision on a design and build project
4 delivery system for a local public works project.

5 F. The requirements of Subsections C and D of this
6 section do not apply to a design and build project delivery
7 system and the services procured for the project if:

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

11 (2) the only requirement for architects,
12 engineers, landscape architects or surveyors is limited to
13 either site improvements or adaption for a pre-engineered
14 building or system.

15 G. The procurement of a design and build project
16 delivery system qualifying for exemptions pursuant to
17 Subsection F of this section, including the services of any
18 architect, engineer, landscape architect, construction manager
19 or surveyor needed for the project, shall be accomplished by
20 competitive sealed bids pursuant to Sections 13-1-102 through
21 13-1-110 NMSA 1978."
