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HOUSE BILL 391

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Larry A. Larranaga

AN ACT

RELATING TO THE PROCUREMENT CODE; REMOVING THE MINIMUM COST
REQUIREMENT FOR PROCUREMENT OF DESIGN AND BUILD PROJECT
DELIVERY SYSTEMS; PROVIDING EXEMPTIONS FROM CERTAIN
REQUIREMENTS OF THE PROCUREMENT CODE FOR CERTAIN DESIGN AND
BUILD PROJECT DELIVERY SYSTEMS COSTING LESS THAN TWO HUNDRED
THOUSAND DOLLARS (\$200,000).

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

Section 1. Section 13-1-111 NMSA 1978 (being Laws 1984,
Chapter 65, Section 84, as amended) is amended to read:

"13-1-111. COMPETITIVE SEALED PROPOSALS-- CONDITIONS FOR
USE. -- Except as provided in Subsection G of Section 13-1-119.1
NMSA 1978, when a state agency or a local public body is
procuring professional services or a design and build project
delivery system, or when the state purchasing agent, a central

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1 purchasing office or a designee of either officer makes a
2 written determination that the use of competitive sealed
3 bidding for items of tangible personal property or services is
4 either not practicable or not advantageous to the state agency
5 or a local public body, a procurement shall be effected by
6 competitive sealed proposals. Competitive qualifications-
7 based proposals shall be used for procurement of professional
8 services of architects, engineers, landscape architects,
9 construction managers and surveyors who submit proposals
10 pursuant to Sections 13-1-120 through 13-1-124 NMSA 1978. "

11 Section 2. Section 13-1-119.1 NMSA 1978 (being Laws
12 1997, Chapter 171, Section 5) is amended to read:

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

15 A. Except for road and highway construction or
16 reconstruction projects [~~of the state highway and~~
17 ~~transportation department or any local public body~~], a design
18 and build project delivery system may be authorized when the
19 state purchasing agent or a central purchasing office makes a
20 determination in writing that it is appropriate and in the
21 best interest of the state or local public body to use the
22 system on a specific project [~~with a maximum allowable~~
23 ~~construction cost of more than ten million dollars~~
24 ~~(\$10,000,000)~~]. The determination shall be issued only after
25 the state purchasing or central purchasing office has taken

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1 into consideration the following criteria, which shall be used
2 as the minimum basis in determining when to use the design and
3 build process:

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

6 (2) time constraints for delivery of the
7 project;

8 (3) the capability and experience of
9 potential teams with the design and build process;

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

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

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

24 C. Except as provided in Subsections F and G of
25 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. After
21 evaluation of these submissions, selection shall be made and
22 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

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1 project on time and within budget, the secretary, in
2 conjunction with the appropriate and affected professional
3 associations and contractors, shall promulgate regulations
4 applicable to all using agencies, which shall be followed by
5 all using agencies when procuring a design and build project
6 delivery system.

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

13 F. The requirements of Subsections B, C and D of
14 this section and the requirements of Sections 13-1-120 through
15 13-1-124 NMSA 1978 do not apply to a design and build project
16 delivery system and the services procured for the project if:

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

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

24 G. The procurement of a design and build project
25 delivery system qualifying for exemptions pursuant to

1 Subjection F of this section, including the services of any
2 architect, engineer, landscape architect, construction manager
3 or surveyor needed for the project, shall be accomplished by
4 competitive sealed bids pursuant to Sections 13-1-102 through
5 13-1-110 NMSA 1978. "

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1 **FORTY-FOURTH LEGISLATURE**

2 **FIRST SESSION, 1999**

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5
6 **February 18, 1999**

7
8 **Mr. Speaker:**

9
10 **Your BUSINESS AND INDUSTRY COMMITTEE, to whom has**
11 **been referred**

12
13 **HOUSE BILL 391**

14
15 **has had it under consideration and reports same with**
16 **recommendation that it DO PASS, amended as follows:**

17 1. On page 1, line 11, after the semicolon strike the
18 remainder of the line and all of lines 12 and 13 through the
19 semicolon.

20
21 2. On page 2, lines 22 through 24, remove all of the
22 brackets and line-through.

23
24 3. On page 3, lines 17 and 18, strike "Except as
25 provided in Subsections F and G of this section, when" and
insert in lieu thereof "When".

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1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3 HBIC/HB 391

Page 8

4 4. On page 5, line 13, strike "B,".

5
6 5. On page 5, line 14, after "the" strike the
7 remainder of the line and line 15 through "1978" and insert
8 in lieu thereof "minimum construction cost requirement of
9 Subsection A of this section".,

10 and thence referred to the JUDICIARY COMMITTEE.

11
12 Respectfully submitted,

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16 _____
17 Debbie A. Rodella, Chairwoman

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19 Adopted _____

Not Adopted _____

20 (Chief Clerk)

(Chief Clerk)

21
22 Date _____

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 HBIC/HB 391

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4 The roll call vote was 8 For 2 Against

5 Yes: 8

6 No: Taylor, J., Rodella

7 Excused: Sanchez

8 Absent: Kissner

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12 J: \99BillSWP\h0391

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1 FORTY- FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3
4 March 1, 1999

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7 Mr. Speaker:

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9 Your JUDICIARY COMMITTEE, to whom has been referred

10 HOUSE BILL 391, as amended

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12 has had it under consideration and reports same with
13 recommendation that it DO PASS.

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15 Respectfully submitted,

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19 _____
20 R. David Pederson, Chairman
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 HJC/HB 391, aa

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4 Adopted _____ Not Adopted _____

6 (Chief Clerk)

(Chief Clerk)

8 Date _____

10 The roll call vote was 9 For 0 Against

11 Yes: 9

12 Excused: Luna, Thompson, Sanchez

13 Absent: None

15 J: \99BillSWP\h0391

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

1 HJC/HB 391, aa

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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March 8, 1999

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Mr. President:

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11

Your CORPORATIONS & TRANSPORTATION COMMITTEE, to

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whom has been referred

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HOUSE BILL 391, as amended

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has had it under consideration and reports same with

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recommendation that it DO PASS, and thence referred to the

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PUBLIC AFFAIRS COMMITTEE.

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Respectfully submitted,

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Roman M. Maes, Chairman

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

1 HJC/HB 391, aa

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Adopted _____ Not

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Adopted _____

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(Chief Clerk)

(Chief Clerk)

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Date _____

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The roll call vote was 6 For 0 Against

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Yes: 6

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No: 0

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Excused: Macias, McKibben, Robinson, Maes

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Absent: None

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

1 HJC/HB 391, aa

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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March 12, 1999

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Mr. President:

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Your PUBLIC AFFAIRS COMMITTEE, to whom has been

12

referred

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HOUSE BILL 391, as amended

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has had it under consideration and reports same with
recommendation that it DO PASS.

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Respectfully submitted,

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Shannon Robinson, Chairman

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

1 HJC/HB 391, aa

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Adopted _____ Not

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(Chief Clerk)

(Chief Clerk)

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Date _____

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The roll call vote was 5 For 0 Against

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Yes: 5

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No: 0

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Excused: Boitano, Howes, Ingle, Smith

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Absent: None

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