

1 SENATE BILL 340

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Stuart Ingle

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10 AN ACT

11 RELATING TO PROCUREMENT; REMOVING THE TEN-MILLION-DOLLAR
12 (\$10,000,000) MINIMUM ON DESIGN AND BUILD PROJECTS.

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

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

17 "13-1-119.1. PUBLIC WORKS PROJECT DELIVERY SYSTEM--DESIGN
18 AND BUILD PROJECTS AUTHORIZED.--

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

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

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

15 (5) the capability of the using agency to
16 manage the project, including experienced personnel or outside
17 consultants, and to oversee the project with persons who are
18 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 system,
22 the design and build team shall include, as needed, a New
23 Mexico registered engineer or architect and a contractor
24 properly licensed in New Mexico for the type of work required.

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

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1 this section, for each proposed state or local public works
2 design and build project, a two-phase procedure for awarding
3 design and build contracts shall be adopted and shall include
4 at a minimum the following:

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

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

24 D. Except as provided in Subsections F and G of
25 this section, to ensure fair, uniform, clear and effective

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

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

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

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

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

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