

III.B.3.

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Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

DATE: October 10, 2017

TO: Board of County Commission

FROM: Mark Hogan, Projects Division Director
Bill Taylor, CPO, Procurement Manager
Tony Flores, Deputy County Manager

VIA: Katherine Miller, County Manager

RE: Request Authorization to Utilize the Design Build Project Delivery Method for the County Administration Offices Project

ISSUE:

Pursuant to NMSA 1978, 13-1-119.1 Public works project delivery system; design and build projects authorized June 14, 2013. *Determination required; contents.* The design-build project delivery method is only authorized if the County's "central purchasing office makes a determination in writing that it is appropriate and in the best interest of the . . . local public body to use the system on a specific project. The determination shall be issued only after the . . . 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 potential teams with the design and build process;
- (4) the suitability of the project for use of the design and build process as concerns time, schedule, costs and quality; and
- (5) the capability of the using agency to manage the project, including experienced personnel or outside consultants, and to oversee the project with persons who are familiar with the design and build process."

Additionally Resolution 2006-60, Santa Fe County Purchasing Regulations Policy Manual, Section 34(C), provides the following direction:

C. Written Determination. The County department(s) or office shall submit a written recommendation to the Purchasing Manager for review. The primary factors that should be addressed in the memo include:

1. A summary of the project, to include a description of project, goals and requirements, estimated design/engineering costs, estimated construction costs, an estimated project schedule, and identification of County staff included on the design-build team who will formulate, evaluate, and administer Request for Proposals.

2. A description of the funding source and amount. The funding for the design and construction must be fully in place or reasonably expected to be in place for the immediate completion of the design-build project. If not in place or reasonable expected to be in place to complete the design-build project without delay, the design should be procured separately under a bid when funds are in place.

3. A summary of why would it be in the best interest of the County to use design-build and the reasons for the potential benefits, such as significant time savings, higher quality realized through designs tailored to contractor capability, design and builder work together to enhance each capabilities and methods, and/or combined expertise of contractor with designer to maximize potential benefits, less impact on the public with the use of expedited construction processes, unusual or unique requirements that could be effectively addressed by design-build, specialty skills needed for design or construction, reduction of total costs, and best value solution with value engineering.

4. A summary of potential risks or problems due to using design-build for specific project and mitigation solutions, including a statement concerning the capability of the County (with a consultant, as applicable) to effectively administer and manage the design-build project. [sic], and who will ultimately be responsible.

5. If approved by the Purchasing Manager, the recommendation shall be reviewed by the County Manager. If approved by the County Manager, the proposed use of design-build shall be submitted to the Board of County Commissioners for concept approval to proceed with the procurement process under design-build.

BACKGROUND/SUMMARY:

Santa Fe County initiated the process of planning and constructing a new administrative office building in 2013 on the site of the former 1st Judicial Court after the Court moved into a new facility on Sandoval Street and Montezuma Ave. The County has taken care to complete due diligence in an incremental and progressive process to insure the decision to build on the site is practical, efficient and provides opportunity to meet the needs of the County and its constituents.

The planning process has included building and site investigations to identify and remediate as required any environmental, geotechnical and archeological issues that may influence the construction of a multi-story building with two levels of below grade parking. The County also initiated a feasibility study that included a program of County requirements and a forecast of probable construction cost.

In 2016 the County contracted Spears Horn Architects to update and confirm program requirements and initiate the design of the required facilities. In August of this year, Spears Horn completed the Schematic Design phase of the project and has updated the project cost projections to approximately \$31,385,000 for the new building on Grant and \$5,445,000 for the renovations and restoration at the existing County Admin Building at 102 Grant. Total project costs including construction, taxes and soft costs are projected to be approximately \$47,000,000. Budget for the project comes from Capital Outlay GRT, Hold Harmless GRT as well as Revenue Bonds against Hold Harmless GRT future receipts depending upon the timing of cash needs.

The Public Works Department and Projects Division has conducted a benefit oriented evaluation to assess if Design-Build is an appropriate method for the delivery of the new Santa Fe County Administrative Offices Building to be located on Grant Ave. and Catron Street. Please let this memo serve as written recommendation from our Division for implementing a Design-Build method for the remaining design and construction of this project.

Based upon the evaluation, Projects Division staff has requested a determination from the County's Chief Procurement Manager and County Manager to change the project delivery method from the traditional Design/Bid/Build method to a Design-Build method to realize the important benefits as follows:

- *More expeditious project delivery*
- *Allow A&E and Contractor selection in one solicitation*
- *Designer and builder work together to enhance the expertise in specialized requirements of the project to maximize benefits to the County.*
- *Santa Fe County gains the opportunity to consider multiple design solutions as part of the selection Process*
- *Design and Construction team take on cost and scope control from the onset*
- *The process reduces opportunities for Santa Fe County to provide late input or change requirements that can alter the scope of work and significantly influence the project budget*
- *Reinvigorate the Project with additional ideas and focus on priorities of the County*
- *Now is the ideal time in project development to consider Design -Build and optimize the work product schematically developed by the A&E team*

In addition, the County is interested in modifying the scope of work to include more Sustainability Features which were previously limited by budget concerns in the original scope. Since the County assigned additional financial resources to employ more sustainable technology throughout this project, it is our opinion that converting to a Design-Build process will give the County the ability to select the Design and Construction team that can best demonstrate those specific areas of expertise.

As required, the Projects Division submitted a request to the Purchasing Division who reviewed the request as outlined in 2006-60, Santa Fe County Purchasing Regulations Policy Manual, §34(C) and the County's Chief Procurement Officer has determined that the request meets the requirements set forth in both NMSA 1978, 13-1-119.1 and Resolution 2006-60, County Purchasing Regulations Manual and that it would be in the best interest of Santa Fe County to utilize the design and build delivery method for the design and construction of the new County Administration Building.

Further, the merits of this project delivery method will cultivate multiple design solutions needed and provide for a more efficient construction delivery that will meet the expectations of the County, its stakeholders and the Community

RECOMMENDATION

The Projects Division is requesting recommending concept approval and authorization to proceed with an alternate procurement process under the design-build project delivery method for the County Administration Offices project.

EXHIBITS

A – §13-1-119.1 NMSA 1978

B – Resolution 2006-60 §34 Design and Build Projects, Santa Fe County Procurement Procedures

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 potential teams with the design and build process;
- (4) the suitability of the project for use of the design and build process as concerns time, schedule, costs and quality; and
- (5) the capability of the using agency to manage the project, including experienced personnel or outside consultants, and to oversee the project with persons who are familiar with the design and build process.

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

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

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

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

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

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



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

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

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

History: 1978 Comp., § 13-1-119.1, enacted by Laws 1997, ch. 171, § 5; 1999, ch. 220, § 2; 2003, ch. 222, § 1; 2013, ch. 146, § 1.

34. DESIGN BUILD PROJECTS, REQUEST FOR PROPOSALS:

A. Applicability. An alternative for construction of projects, except for road and highway construction or reconstruction projects is available through the design-build delivery method. The objective of design-build contracting is to complete construction projects more efficiently than conventional design-bid-build, however, a benefit-oriented evaluation should be used to assess if design-build is appropriate.

B. Practical or Advantageous. When the Chief Procurement Officer determines pursuant to this Section that the design-build delivery method is either practical or advantageous to the County, the procurement may be effected by competitive design-build proposals. The process is intended to be fair, uniform, clear and effective for the delivery of a quality project on time and within budget.

C. Written Determination. The County department(s) or office shall submit a written recommendation to the Chief Procurement Officer for review. The primary factors that should be addressed in the memo include:

1. A summary of the project, to include a description of project, goals and requirements, estimated design/engineering costs, estimated construction costs, an estimated project schedule, and identification of County staff included on the design-build team who will formulate, evaluate, and administer Request for Proposals.
2. A description of the funding source and amount. The funding for the design and construction must be fully in place or reasonably expected to be in place for the immediate completion of the design-build project. If not in place or reasonable expected to be in place to complete the design-build project without delay, the design should be procured separately under a bid when funds are in place.
3. A summary of why would it be in the best interest of the County to use design-build and the reasons for the potential benefits, such as significant time savings, higher quality realized through designs tailored to contractor capability, design and builder work together to enhance each capabilities and methods, and/or combined expertise of contractor with designer to maximize potential benefits, less impact on the public with the use of expedited construction processes, unusual or unique requirements that could be effectively addressed by design-build, specialty skills needed for design or construction, reduction of total costs, and best value solution with value engineering.
4. A summary of potential risks or problems due to using design-build for specific project and mitigation solutions, including a statement concerning the capability of the County (with a consultant, as applicable) to effectively administer and manage the design-build project., and who will ultimately be responsible.
5. If approved by the Chief Procurement Officer, the recommendation shall be reviewed by the County Manager. If approved by the County Manager, the proposed use of design-build shall be submitted to the Board of County Commissioners for concept approval to proceed with the procurement process under design-build.

D. Basic Process.

1. The following is recommended as a basic process in initiating and planning a design build project. Often it can be expected that there is more upfront time and effort required to clearly define the project expectations than in a design-bid-build process, although time savings may be seen in the overall project.
 - a. Identify the goal;
 - b. Assign the project manager;



- c. Assemble project team, including consultant if advisable;
- d. Develop project requirements, including project scope, project goals, quality expectations, final project expectations, technical requirements, contract development, decision-making process, project schedule, clean and complete definition of project and technical areas, and provide equal platform of information for proponents to be able to prepare competitive proposals

E. Determinations prior to Requests for Proposals.

1. The County project team should determine what will be done by County staff, and what tasks are included in the Requests for Proposals, including but not limited to the following:

- a. Environmental studies
- b. Public participations through public hearings and other input
- c. Interagency agreements
- d. Utility agreements/relocations
- e. Right-of-way acquisition
- f. Handling and resolution of hazardous materials
- g. Cultural and archeological resource site investigation
- h. Endangered species investigations
- i. Permit requirements
- j. Determine risks and clarify mitigation and responsibility
- k. Surveys
- l. Mapping
- m. Hydraulic analysis
- n. Geotechnical investigations

2. Other areas and expectations that should be addressed in the Request for Proposals may include the following:

- a. Legal description of site
- b. Maximum Available Construction Costs (MACC)
- c. Aesthetic considerations and compatibility with existing facilities
- d. Site development requirements
- e. Special codes, regulations, ordinances or statutes
- f. Utilities, parking and landscaping requirements
- g. Future expansion requirements
- i. Special materials
- j. Space requirements
- k. Special equipment and systems requirements
- l. Construction administration
- m. Labor disputes
- n. Weather conditions
- o. Inflation
- p. Schedule requirements
- q. Incremental acceptance of work
- r. Performance guarantees/warranties
- s. Design reviews/approvals
- t. Liability for design
- u. Site conditions
- v. Contract changes
- w. Liquidated damages

- x. Ownership during phases
- y. Payment methodology
- z. Incentives and disincentives
- aa. Bonding requirements
- bb. Errors and omissions insurance
- cc. Guaranteed completion date
- dd. Warranties
- ee. Determination of criteria for completion of contract

3. Request for Proposals.

a. The County project team shall prepare a Request for Proposals setting forth the scope of the project that should include, but is not limited to: (i) the size, type and desired design requirements of the building and site; and (ii) performance specifications covering the quality of materials, equipment, and workmanship, durability, life cycle costs, preliminary plans or building layouts, or any other information deemed necessary to adequately and clearly describe the County needs.

b. The performance specifications and plans shall be reviewed and approved by a registered engineer or architect professional licensed by the State of New Mexico, which may be a County employee or outside provider. This review shall ensure the validity of technical areas and that the information in the Request for Proposals and provide for a fair and complete Request for Proposals process. If an outside provider contracts for review services, the design/engineering professional or the related firm shall not later submit a proposal in any capacity.

F. Applicable Section for Request for Proposals. The procedures for Competitive Sealed Proposals for Procurement of Professional Services shall apply to design-build solicitations, unless the procedures specified are clearly not applicable to the design-build process.

G. Step One of the Request for Proposals.

1. Step one may include programming and schematic design including recommended or required building systems, elevations, areas, floor plans and cross section in limited detail for further development by proponents.

2. The Request for Proposals issued under this Step One of the Request for Proposals process are referred to as the Request for Qualifications. The Request for Proposals issued under Step One shall include:

- a. the project scope and requirements
- b. submittal requirements from proponents
- c. composition of selection committee, with statement that the County retains the option to change committee members, if necessary
- d. description of step two and/or interviews in process
- e. evaluation criteria for each step of the process (step one, step two, interviews, and best and final offers, as applicable)
- f. mandatory pre-proposal meeting requirement
- g. number of firms that will be short listed as detailed in the request for proposals
- h. estimated procurement and approval schedule
- i. any and all further steps in the selection process

- j. An independent outside consultant or other qualified outside representative(s) may serve on the selection committee.

H. Submittal Requirements. The submittal requirements shall include:

1. Request for information on the qualifications of proponent as to capability, capacity, availability, and experience;
2. A description of similar contracts with counties and municipalities;
3. A preliminary proposed work plan;
4. A preliminary proposed project schedule with key tasks, key staff and their professional licenses who will be assigned to this project;
5. A proposed contractor and similar information and qualifications, certification to meet all insurance and bonding requirements/certification of no debarment, disqualification, default, or early termination from contract in the last 5 years;
6. A certification of no commercial bankruptcy in the last 5 years of any member or subcontractor of the entity;
7. Information on all settled adverse claims, disputes or lawsuits with an owner of a project;
8. A description of OSHA violations, workers' compensation claims, or safety claims;
9. A description of any state licensing violations; and
10. Any additional information deemed necessary by the County.

I. Mandatory Pre-Proposal Meeting. A Request for Proposals may include a mandatory pre-proposal meeting to explain the project and provide information about the procurement process. The County will attempt to respond to all questions and provide necessary information at the meeting; however, the County may require questions or comments to be submitted in writing before the County responds in the form of addenda or if a response requires the County to conduct additional inquiry or research. Non-attendance at a mandatory pre-proposal meeting will be cause for an offeror's proposal to be deemed non-responsive. An attendee at a mandatory pre-proposal meeting may not represent more than one potential offeror.

J. Receipt of the Step One Proposals. Step One proposals are received as formal sealed proposals at the Purchasing Office.

K. Evaluation under Step One of Request for Proposals. All responsive submittals shall be evaluated based on the evaluation criteria. This step evaluates experience, technical competence, capability to perform, past performance and other criteria set forth in the Step One Request for Proposals. The top rated firms shall be short-listed based on the totals of the ratings of the committee.

L. Step Two of the Request for Proposals.

1. The short-listed firms shall be invited to submit detailed specific technical concepts or solutions, costs and scheduling as a formal sealed proposal to the Purchasing Office. If at least 3 firms do not submit responsive proposals, the short-list may be composed of the number of responsive proposals received.
2. Cost shall be at least 60% of the evaluation criteria. Cost may be based on life cycle cost if so stated and explained in the Requests for Proposals for a period of time determined by the Purchasing Director but not exceeding the expected asset life of the project.
3. Other evaluation criteria may include technical expertise, skilled labor force availability, safety record, time schedule. Additional evaluation criteria information requirements may be included at the discretion of the County.

4. For a complex project or a project in which more detailed proposals are requested, a stipend may be paid to cover costs of the preparation of this phase. The amount shall be determined in advance, although a stipend is not required and is at the sole option of the County.

5. Interviews may be conducted, but are not required and are at the sole option of the County.

6. Based on evaluation of Step Two proposals, new information may be issued by the County and Best and Final Offers may be submitted. The Best and Final Offers shall be evaluated based on the evaluation criteria for step two, unless specified in writing to the top listed proponents.

7. All information received shall be deemed to be confidential to the evaluation committee and County administration until a recommendation is made to the first review committee prior to County consideration.

M. Evaluation Under Step Two of Request for Proposals. All submittals shall be evaluated unless a given submittal is determined to be non-responsive. The qualifications, quality of proposed design and technical submittals, quality of construction approach, demonstrated response to program requirements, management plan for constructing the project, cost, schedule and other factors and criteria shall be evaluated as set forth in the Request for Proposals. Final contract negotiations shall proceed with the top rated firm. A single contract will be issued for design services and construction services. If negotiations are successful, the top rated firm based on the totals of the ratings of the committee shall be recommended to the applicable committees and Board of County Commissioners. If negotiations with the top rated firm are not successful, as determined at any time by the County in its sole discretion, the County may terminate such negotiations and initiate contract negotiations with the next top rated firm in order of ranking.

N. Construction Inspection. A separate contract with a fully independent licensed architect or engineer to provide construction inspection services is advisable, but not required.

O. Other Services. Finance services, maintenance services, operation services, and other related services may be included, but must be clearly stated in the Request for Proposals. Such services could be included as an optional component, such that a basic design-build contract could be awarded or a contract including other services. The Request for Proposal must be very clear as to the evaluation process and criteria and how optional services would be evaluated and considered as part of the contract awarded.