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Sixty-ninth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1028

Introduced by

Legislative Management

(Government Services Committee)

A BILL for an Act to amend and reenact subsection 1 of section 48-01.2-20, subdivision f of subsection 5 of section 48-01.2-20, subsection 6 of section 48-01.2-20, section 48-01.2-22, and subsection 5 of section 54-44.7-03 of the North Dakota Century Code, relating to the selection process for construction management at-risk planning and design phase services and the procurement of architect, engineer, construction management, and land surveying services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 48-01.2-20 of the North Dakota Century Code is amended and reenacted as follows:

1. A governing body electing to utilize a construction management at-risk delivery process for a proposed public improvement shall create a selection committee composed of:
   a. An administrative individual from the governing body.
   b. A registered architect, excluding any architect contracted for the project.
   c. A registered engineer, excluding any engineer contracted for the project.
   d. A licensed contractor.

SECTION 2. AMENDMENT. Subdivision f of subsection 5 of section 48-01.2-20 of the North Dakota Century Code is amended and reenacted as follows:

f. The person's fees and expenses, which must be identified on a standard bid form approved by the director of the office of management and budget and issued by the governing body for the project;

SECTION 3. AMENDMENT. Subsection 6 of section 48-01.2-20 of the North Dakota Century Code is amended and reenacted as follows:

6. The selection committee shall evaluate each submission based on the qualification criteria under subsection 5 and shall include the numeric scoring of each criteria item

on a weighted basis~~, with~~. Excluding the person's fees and expenses, which must be weighted no less than twenty percent, no item ~~being~~may be weighted at more than twenty percent and no less than five percent. The weighting of the qualification criteria must be done in a manner to ensure no subjective bias and encourage the maximum participation of qualified construction managers at-risk. Each member of the selection committee shall apply the same weighting of qualification criteria for a project.

SECTION 4. AMENDMENT. Section 48-01.2-22 of the North Dakota Century Code is amended and reenacted as follows:

48-01.2-22. Subcontractor bids.

1. An agency construction manager selected for a public improvement shall publicly advertise pursuant to section 48-01.2-04 and publicly open bids pursuant to section 48-01.2-07 from subcontractors for the work items necessary to complete the general construction portions of the improvement. The agency construction manager shall evaluate the bids and award the subcontract to the lowest responsible bidder. The governing body may influence the selection of the subcontractors, but only insofar as the governing body's past experience with a subcontractor or a current legal dispute with a subcontractor.
2. A construction manager at-risk selected for a public improvement shall publicly advertise pursuant to section 48-01.2-04 and publicly open bids pursuant to section 48-01.2-07 from subcontractors for the work items ~~the construction manager at-risk chooses not to perform~~necessary to complete the general construction portions of the improvement. A construction manager at-risk must submit a bid for any work item necessary to complete the general construction portions of the improvement the construction manager at-risk chooses to perform pursuant to this section. The construction manager at-risk ~~then~~ shall evaluate the bids and ~~determine which is the most responsible~~award the subcontract to the lowest responsible bidder. The governing body may influence the selection of the subcontractors, but only insofar as the governing body's past experience with a subcontractor or a current legal dispute with a subcontractor.

SECTION 5. AMENDMENT. Subsection 5 of section 54-44.7-03 of the North Dakota Century Code is amended and reenacted as follows:

5. a. The agency selection committee shall evaluate each of the persons or firms interviewed on the basis of the following criteria:
   ~~a.~~ (1) Past performance.
   ~~b.~~ (2) The ability of professional personnel.
   ~~c.~~ (3) Willingness to meet time and budget requirements.
   ~~d.~~ (4) Location, with higher priority given to firms headquartered in North Dakota.
   ~~e.~~ (5) Recent, current, and projected workloads of the persons or firms.
   ~~f.~~ (6) Related experience on similar projects.
   ~~g.~~ (7) Recent and current work for the agency.
   (8) Fees and expenses, which must be identified on a standard information submission form approved by the director of the office of management and budget and issued by the agency selection committee for the project.

   b. Based upon these evaluations, the agency selection committee shall select the three which, in its judgment, are most qualified, ranking the three in priority order. The agency selection committee's report ranking the interviewed persons or firms must be in writing and must include data substantiating its determinations. This data must be available to the public upon written request.