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January 12, 2010

Report on Design Build Contracting Pilot Program

Minnesota Session Laws 2009, Regular Session

Chapter 36, Article 3

Sec. 28. **DESIGN-BUILD PROJECT SELECTION COUNCIL**

Subd. 4. **Report to legislature.** Annually, by January 15, the council shall submit a report to the chairs and ranking minority members of the legislative committees with jurisdiction over transportation budget and policy, and to the legislature as provided under Minnesota Statutes, section 15.059. The report must summarize the design-build pilot program selection process, including the number of applications considered; the proposal process for each project that was selected; the contracting process for each project that was completed; and project costs. The report must evaluate the process and results applying the performance-based measures with which the commissioner evaluates trunk highway design-build projects. The report must include any recommendations for future legislation.

For More
Information

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The cost of preparing this report was less than \$1,000.

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The authority for a design-build contracting pilot program is found in Minnesota Session Laws 2009, Regular Session, Chapter 36, Article 3, Section 29. It provides that the commissioner of transportation shall conduct a design-build contracting pilot program to select local transportation projects for participation in the program, conduct information sessions for engineers and contractors, support and evaluate the use of the design-build method of contracting by counties and statutory and home rule charter cities in constructing, improving, and maintaining streets and highways on the state-aid system, and report to the legislature.

It is further provided in Minnesota Session Laws 2009, Regular Session, Chapter 36, Article 3, Section 28 that a Design-Build Project Selection Council is established to select, evaluate, and support county and municipal transportation projects on the state-aid system that are conducive to use of the design-build method of contracting and to report to the legislature.

In order to accomplish these purposes, the Design-Build Project Selection Council shall:

- (1) review applications for participation received by the commissioner from counties and cities;
- (2) select for participation in the pilot program projects on the state-aid system;
- (3) determine that the use of design-build in the selected projects would serve the public interest, after considering, at a minimum:
 - (i) the extent to which the municipality can adequately define the project requirements in a proposed scope of the design and construction desired;
 - (ii) the time constraints for delivery of the project;
 - (iii) the capability of potential contractors with the design-build method of project delivery;
 - (iv) the suitability of the project for use of the design-build method of project delivery with respect to time, schedule, costs, and quality factors;
 - (v) the capability of the municipality to manage the project, including the employment of experienced personnel or outside consultants; and
 - (vi) the original character of the product or the services;
- (4) periodically review and evaluate the use of design-build in the selected projects; and
- (5) assist the commissioner in preparing a report to the legislature at the conclusion of the pilot program.



The required membership of the Design-Build Project Selection Council is:

- (1) two contractors, at least one of whom represents a small contracting firm, selected by the Associated General Contractors, Minnesota chapter;
- (2) two project designers selected by the American Council of Engineering Companies, Minnesota chapter;
- (3) one representative of a metropolitan area county selected by the Association of Minnesota Counties;
- (4) one representative of a greater Minnesota county selected by the Association of Minnesota Counties;
- (5) one representative of a metropolitan area city selected by the League of Minnesota Cities;
- (6) one representative of a greater Minnesota city selected by the League of Minnesota Cities; and
- (7) the Commissioner of Transportation or a designee from the Minnesota Department of Transportation, Division of State Aid for Local Transportation.

The following members were appointed to the Design-Build Project Selection Council:

Al Forsberg, Blue Earth County Engineer
Gary Brown, former City Engineer
Dennis Berg, Anoka County Commissioner
Butch Trebesch, Ames Construction
Jeff Carlson, Ulland Brothers
Edward Terhaar, Wenck Associates, Inc.
Arun Shirole, Arora & Associates, P.C.
Carol Duff, Red Wing City Council
Rick Kjonaas, Mn/DOT Deputy State Aid Engineer

The following members were appointed as alternates:

Myra Peterson, Washington County Commissioner
Greg Isakson, Goodhue County Engineer
Scott Schulte, Coon Rapids City Council
Richard Freese, Rochester City Engineer

The following ex-officio members were invited to assist the Design-Build Project Selection Council:

David Oxley, American Council of Engineering Companies
Tim Worke, Associated General Contractors
Ryan O'Connor, Association of Minnesota Counties
Anne Finn, League of Minnesota Cities

The Design-Build Project Selection Council met on July 29 and November 2, 2009. They discussed their duties and the need for developing a process for the projects selected for the pilot program to follow. They reviewed the legislation and had a discussion with the ex-officio members about expectations for the program. Mn/DOT gave an overview of its design build process. The Federal Highway Administration noted that use of federal funds on a local project would require special permission from their agency and that the approval would require a



process similar to Mn/DOT's, with identified milestones when approval from Mn/DOT and the Federal Highway Administration would be needed.

At the second meeting, the Design-Build Project Selection Council received a proposal from Anoka County for County State Highway 14 from TH 10 to TH 65. The county presented a proposal that if their project was approved, they would work with Mn/DOT and the Design-Build Project Selection Council, and agreed to follow the Mn/DOT process as closely as possible. They offered to take the extra time to develop the needed concepts of a local design-build program for use with other projects selected for the pilot program. They acknowledged that their project cost would likely be higher using design-build, but they felt that the benefit to them would be a reduced construction period of perhaps two years versus six years using design-bid-build.

The Anoka County project was approved by the Design-Build Project Selection Council. There was unanimous agreement that there was benefit to the program to allow this project to develop and document local design-build processes.

In conclusion:

The Design-Build Project Selection Council was appointed and has met.

One application was received and approved. Anoka County has attended meetings with Mn/DOT and FHWA to begin the development of the local process steps.

In an attempt to methodically design a program that is structured for maximum success, the Design-Build Project Selection Council decided to observe and learn from the initial progress of the selected Anoka County project before beginning to actively solicit design-build project applications from other interested cities and counties around the state sometime later in 2010.

An informational paper for locals is being developed by Mn/DOT to assist the local governments' understanding of the design-build process.

