

# ASSEMBLY, No. 1461

## STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

**Sponsored by:**

**Assemblyman JOHN S. WISNIEWSKI**

**District 19 (Middlesex)**

**Assemblywoman LINDA R. GREENSTEIN**

**District 14 (Mercer and Middlesex)**

**SYNOPSIS**

Provides for specified alternative proposals and base specifications for certain public contracts; requires contracting unit to specify basis for determining lowest responsible bid and criteria for selection of alternate bids.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning local public contracts and amending P.L.1999,  
2 c.39.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 1 of P.L.1999, c.39 (C.40A:11-23.1) is amended to  
8 read as follows:

9 1. All plans, specifications and bid proposal documents for the  
10 erection, alteration, or repair of a building, structure, facility or  
11 other improvement to real property, the total price of which exceeds  
12 the amount set forth in, or the amount calculated by the Governor  
13 pursuant to, section 3 of P.L.1971, c.198 (C.40A:11-3), shall  
14 include:

15 a. a document for the bidder to acknowledge the bidder's receipt  
16 of any notice or revisions or addenda to the advertisement or bid  
17 documents; and

18 b. a form listing those documentary and informational forms,  
19 certifications, and other documents that the contracting agent  
20 requires each bidder to submit with the bid. The form shall list each  
21 of the items to be submitted with the bid proposal and a place for  
22 the bidder to indicate, by initialing each entry, that the bidder has  
23 included those required items with the completed bid proposal.  
24 Each bidder shall complete this form and submit it with the bid  
25 proposal in addition to those documentary and informational forms,  
26 certifications, and other documents that are listed on the form; and

27 c. a statement indicating whether uniformed law enforcement  
28 officers will be required for the project. The statement shall include  
29 a line item allowance, which shall be a good faith effort on the part  
30 of the contracting unit, to reasonably estimate the total cost of  
31 traffic control personnel, vehicles, equipment, administrative, or  
32 any other costs associated with additional traffic control  
33 requirements required by the contracting unit, or any other public  
34 entity affected by the project, above and beyond the bidder's traffic  
35 control personnel, vehicles, equipment, and administrative costs.  
36 The individuals responsible for the assignment of uniformed law  
37 enforcement officers for any municipalities affected by a project  
38 shall be required to determine where traffic safety control is needed  
39 for a project, and calculate the number and placement of all  
40 necessary personnel, equipment, and the costs associated with these,  
41 including hourly rates, and submit this information to the  
42 contracting unit.

43 The contracting unit shall not be responsible for additional traffic  
44 control costs beyond the number of working days specified in the  
45 construction contract in accordance with section 17 of P.L.1971,

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 c.198 (C.40A:11-17), when such a delay is caused by the contractor  
2 and liquidated damages have been assessed.

3 The statement prescribed under this subsection shall not be  
4 required if the contracting unit will provide for the direct payment  
5 of uniformed law enforcement officers and any additional costs  
6 directly associated with the provision of those officers; and

7 d. at the option of the contracting unit, specified alternate  
8 proposals in addition to a base specification. When the contracting  
9 unit specifies alternate proposals, the determination of which  
10 bidder's response to a request for bids offers the lowest price shall  
11 be made on the basis of the price of: (i) the base specification plus  
12 the price of any selected specified alternate proposals; or (ii) a  
13 choice of specified alternative proposals within the limit of funds  
14 that may be made available for a project. If a contracting unit  
15 provides for more than one specified alternate proposal, the  
16 contracting unit shall specify in the bid specification the criteria or  
17 ranked order by which specified alternate proposals shall be  
18 selected and included in the award of the contract by the governing  
19 body. The aggregate dollar value of accepted specified alternative  
20 proposals shall not exceed 50 percent of the base bid. If a  
21 contracting unit is found in a court of law to have chosen specific  
22 alternative proposals in a manner intended to award a contract to a  
23 specific vendor, the bids shall be voided, the contracting unit shall  
24 rebid the project, and a plaintiff who prevails in any proceeding  
25 shall be entitled to a reasonable attorney's fee. These requirements  
26 shall only apply to a project with a total estimated cost, including  
27 specified alternate proposals, of greater than \$500,000.

28 For the purposes of this subsection:

29 "Specified alternate proposal" means a requirement of the bid  
30 specification for bidders to submit prices for reduced, modified or  
31 supplemental work in addition to the base proposal which may  
32 include, but not be limited to, a change in project scope or the use  
33 of alternative materials or methods of construction;

34 "Base specification" means the plans and specifications for the  
35 erection, alteration or repair of the building, structure, facility or  
36 other improvement to real property that are required to be met by all  
37 bidders without exception.

38 (cf: P.L.2006, c.9, s.1)

39  
40 2. This act shall take effect on the first day of the fourth month  
41 next following the date of enactment.

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43  
44 STATEMENT

45  
46 This bill would amend P.L.1999, c.39 concerning plans,  
47 specifications, and bid proposal documents for the erection,

1 alteration, or repair of a building, structure, facility or other  
2 improvement to real property, for which the total price exceeds the  
3 amount set forth in, or the amount calculated by, the Governor  
4 pursuant to section 3 of the "Local Public Contracts Law," P.L. 1971,  
5 c.198 (C.40A:11-3).

6 The bill clarifies that the criteria for determining the lowest bid  
7 will be based on the price of the base specification plus the price of  
8 any selected specified alternative proposal within the limit of  
9 available funds for a project. For the purposes of the bill, "base  
10 specification" means the plans and specifications for the erection,  
11 alteration or repair of the building, structure, facility or other  
12 improvement to real property that are required to be met by all  
13 bidders without exception, and "specified alternate proposal" means  
14 a requirement of the bid specification for bidders to submit prices  
15 for reduced, modified or supplemental work in addition to the base  
16 proposal which may include, but not be limited to, a change in  
17 project scope or the use of alternative materials or methods of  
18 construction.

19 The bill requires that if a contracting unit provides for more than  
20 one specified alternative proposal, the contracting unit is to specify  
21 in the bid specification the criteria or ranked order by which  
22 specified alternate proposal shall be selected and included in the  
23 award of the contract by the governing body.

24 The bill specifies that the aggregate dollar value of accepted  
25 specified alternative proposals must not exceed 50 percent of the  
26 base bid and if a contracting unit is found in a court of law to have  
27 chose specific alternative proposals in a manner intended to award a  
28 contract to a specific vendor, the contracting unit must rebid the  
29 project, and a plaintiff who prevails in any proceeding would be  
30 entitled to a reasonable attorney's fee; and

31 Finally, the bill provides that these requirements apply only to  
32 projects with a total estimated cost of greater than \$500,000.