

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[Second Reprint]

## ASSEMBLY, No. 1285

with committee amendments

# STATE OF NEW JERSEY

DATED: NOVEMBER 12, 2020

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1285 (2R), with committee amendments.

As amended and reported, this bill, known as the “Design-Build Construction Services Procurement Act,” sets forth the procedures for the awarding of design-build contracts for State and local contracting units.

In order to enter into a design-build contract, a contracting unit is required to demonstrate why the design-build approach better meets the contracting unit’s needs than the traditional public procurement method. When proceeding with a design-build contract, the contracting unit is required to get guidance from a registered design professional, develop performance criteria and a scope of work statement, establish evaluation factors for proposals, solicit proposals from design-builders, and utilize a technical review committee. On the basis of the proposal, the technical review committee is to select the most highly qualified design-builders and request those design-builders to submit a second proposal and sealed bid, which is then evaluated by the technical review committee. The contracting unit separately evaluates the submissions and awards the contract in accordance with the bill.

The bill outlines all requirements for solicitations for design-build contracts, the requirements for design-build teams and the submission of proposals, and the procedures for awarding of a contract.

All design-build construction projects entered into under the bill are required to comply with the “New Jersey Prevailing Wage Act” and are encouraged to adhere to the Leadership in Energy and Environmental Design Green Building Rating System.

The bill requires that certain State contracting units adopt rules and regulations to govern the award of design-build contracts by those contracting units. The bill requires the Office of the Secretary of Higher Education to adopt rules and regulations to govern the award of design-build contracts by state colleges and county colleges. The bill requires the Department of Community Affairs to adopt rules and regulations to govern the award of design-build contracts by certain

local contracting units. The bill further requires the Department of Education to adopt rules and regulations to govern the award of design-build contracts by school districts.

The bill requires the State to compile and make public all proceedings, records, contracts, and other public records relating to procurement transactions authorized under the bill.

#### COMMITTEE AMENDMENTS:

The committee amendments divide the bill so that certain State contracting units, state colleges, county colleges, certain local contracting units, and school districts may be subject to different rules and regulations in awarding of design-build contracts.

The amendments require that:

(1) certain State contracting units adopt rules and regulations to govern the award of design-build contracts by those contracting units;

(2) the Office of the Secretary of Higher Education adopt rules and regulations to govern the award of design-build contracts by state colleges and county colleges;

(3) the Department of Community Affairs adopt rules and regulations to govern the award of design-build contracts by certain local contracting units; and

(4) the Department of Education to adopt rules and regulations to govern the award of design-build contracts by school districts.

The amendments provide for the composition of design-build teams and allow individual contracting units to designate employees to provide architectural, engineering, or surveying services under the bill. The amendments also require the head of a contracting unit to make design-build contract award decisions, consistent with certain recommendations.

The amendments also clarify the proposals of qualification and second proposal provisions of the bill, and make additional technical changes.

#### FISCAL IMPACT:

The Office of Legislative Services projects the bill's provision requiring the State and local contracting units to pay stipends of up to three percent of a project's estimated cost to designer-builders in certain instances will result in indeterminate cost increases to the State and local governments.