

# ASSEMBLY STATE GOVERNMENT COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 2035

# STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 1996

The Assembly State Government Committee reports favorably Assembly, No. 2035.

This bill concerns the award of certain professional service contracts in connection with State construction projects. The bill requires that the selection by a State agency of a person or firm to perform architectural, engineering, or land surveying services, including planning, environmental, and construction inspection services (hereafter, "construction-related professional services"), shall be based upon professional qualification. The bill does not alter the current provision of the State public contracts law (N.J.S.A.52:34-9(a)) that exempts professional services contracts from the regular competitive bidding process. Rather, it establishes certain uniform statutory procedures to govern both the qualification of firms wishing to provide construction-related professional services and the awarding of contracts for such services to firms meeting those qualifications.

The provisions of the bill may be summarized as follows:

(1) It is declared to be a policy of the State that State contracts for construction-related professional services are to be negotiated on the basis of demonstrated competence and qualifications and at fair and reasonable compensation.

(2) Firms wishing to be considered qualified to provide construction-related professional services to a State agency are required to file with the agency a "statement of qualification and supporting data". To retain its qualification as a potential provider of such services, a firm would have to file such a statement at least annually. The content of the statement would have to conform to regulations promulgated by the State Treasurer. The statement would be deemed to be a public record under the "right to know" law.

No State agency could negotiate or award a contract for construction-related professional services with or to a professional firm that does not have a current statement of qualifications and supporting data on file with the agency.

(3) A State agency which anticipates that it will engage in the procurement of construction-related professional services would first be required to promulgate by regulation the criteria by which the agency will select firms qualified to perform any such contract. The agency would not be required to promulgate the selection criteria to

be applicable to a particular contract if appropriate criteria have already been promulgated and remain in effect with respect to such a contract.

(4) Before a State agency makes, negotiates, or awards a contract for the provision of construction-related professional services, public notice would have to be given that the contract is to be made, negotiated, or awarded. To the extent consistent with other provisions of the bill, this notice would have to conform to the existing content and publication requirements applicable to an advertisement for bids. The notice would have to identify, either explicitly or by reference to the appropriate agency regulation, the criteria by which the agency establishes the order of preference to be used in designating the firms most highly qualified to perform the services in question.

(5) For each proposed State project involving construction-related professional services, an agency shall, preparatory to contracting for the performance of those services, select in order of preference and based upon criteria established by the agency at least three professional firms deemed to be the most highly qualified to provide the services required. This preference-ordered designation of qualified firms is to be based on an evaluation of current statements of qualifications and supporting data that construction-related professional service providers have on file with the agency. The agency may solicit narrative statements of qualifications unique to the specific project which would outline design concepts and proposed methods of approach to the assignment.

The agency is then to undertake negotiation of the contract with the "most qualified professional firm . . . at compensation which the agency determines to be fair and reasonable to the State of New Jersey", taking into account "the estimated value of the services to be rendered and the scope, complexity, and professional nature thereof." If these negotiations fail, negotiations are to be attempted with the next most qualified firm, and so on.

The bill does not apply to professional services contracts of \$25,000 or less.