

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. CAHILL -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state finance law, in relation to state contracts for interior design services

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 136-a of the state finance law, as amended by chap-
2 ter 746 of the laws of 1982, subdivision 4 as amended by chapter 383 of
3 the laws of 1994, is amended to read as follows:

4 S 136-a. Contracts for architectural, engineering, INTERIOR DESIGN,
5 and surveying services. 1. As used in this section: the term "profes-
6 sional firm" shall be defined as any individual or sole proprietorship,
7 partnership, corporation, association or other legal entity permitted by
8 law to practice the professions of architecture, engineering, INTERIOR
9 DESIGN, or surveying.

10 The term "state department" shall be defined as those state government
11 departments, divisions or commissions empowered by the state to enter
12 into contractual agreements on behalf of the state of New York.

13 2. It is the policy of New York state to negotiate contracts for
14 architectural and/or engineering services AND/OR INTERIOR DESIGN
15 SERVICES and/or surveying services on the basis of demonstrated compe-
16 tence and qualification for the type of professional services required
17 and at fair and reasonable fees.

18 3. (I) In the procurement of architectural, engineering, INTERIOR
19 DESIGN, and surveying services, the requiring state department shall
20 encourage professional firms engaged in the lawful practice of the
21 profession to submit an annual statement of qualifications and perform-
22 ance data. The requiring state department for each proposed project
23 shall evaluate current statements of qualifications and performance data
24 on file with the department. If desired, the requiring state department

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.

1 may conduct discussions with three or more professional firms regarding
2 anticipated design concepts and proposed methods of approach to the
3 assignment. The state department shall select, in order of preference,
4 based upon criteria established by the requiring state department, no
5 less than three professional firms deemed to be the most highly quali-
6 fied to provide the services required.

7 (II) THE ANNUAL STATEMENT OF QUALIFICATIONS FOR INTERIOR DESIGN
8 SERVICES SHALL INCLUDE INFORMATION DEMONSTRATING THAT SUCH SERVICES ARE
9 PROVIDED BY AN INTERIOR DESIGNER POSSESSING CERTIFICATION PURSUANT TO
10 ARTICLE ONE HUNDRED SIXTY-ONE OF THE EDUCATION LAW OR PROVIDED UNDER THE
11 SUPERVISION OF A CERTIFIED INTERIOR DESIGNER.

12 4. The requiring state department shall negotiate a contract with the
13 highest qualified professional firm for architectural and/or engineering
14 services AND/OR INTERIOR DESIGN SERVICES and/or surveying services at
15 compensation which the department determines in writing to be fair and
16 reasonable to the state of New York. In making this decision, the
17 department shall take into account the estimated value of the services
18 to be rendered, including the costs, the scope, complexity, and profes-
19 sional nature thereof. The department shall not refuse to negotiate
20 with a professional firm solely because the ratio of the "allowable
21 indirect costs" to direct labor costs of the professional firm or the
22 hourly labor rate in any labor category of the professional firm exceeds
23 a limitation generally set by the department in the determination of the
24 reasonableness of the estimated cost of services to be rendered by the
25 professional firm, but rather the department should also consider the
26 reasonableness of cost based on the total estimated cost of the service
27 of the professional firm which should include, among other things, all
28 the direct labor costs of the professional firm for such services plus
29 all "allowable indirect costs," other direct costs, and negotiated
30 profit of the professional firm. "Allowable indirect costs" of a profes-
31 sional firm are defined as those costs generally associated with over-
32 head which cannot be specifically identified with a single project or
33 contract and are considered reasonable and allowable under specific
34 state contract or allowability limits. Should the requiring state
35 department be unable to negotiate a satisfactory contract with the
36 professional firm considered to be the most qualified, at a fee the
37 department determines to be fair and reasonable to the state of New
38 York, negotiations with that professional firm shall be formally termi-
39 nated. The requiring state department shall then undertake negotiations
40 with the second most qualified professional firm. Failing accord with
41 the second most qualified professional firm, the department shall
42 formally terminate negotiations. The requiring state department shall
43 then undertake negotiations with the third most qualified professional
44 firm. Should the requiring state department be unable to negotiate a
45 satisfactory contract with any of the selected professional firms, it
46 shall select additional professional firms in order of their competence
47 and qualification and it shall continue negotiations in accordance with
48 this section until an agreement is reached.

49 5. This legislation shall only apply to engineering and/or architec-
50 tural services AND/OR INTERIOR DESIGN SERVICES and/or surveying services
51 in excess of twenty-five thousand dollars.

52 S 2. This act shall take effect on the ninetieth day after it shall
53 have become a law.