

STATE OF NEW YORK

48

2019-2020 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 9, 2019

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 388 of the laws of 2017, is amended to read as follows:

3 § 136-a. Contracts for architectural, engineering, interior design,
4 geological and surveying services. 1. As used in this section: the term
5 "professional firm" shall be defined as any individual or sole proprie-
6 torship, partnership, corporation, association or other legal entity
7 permitted by law to practice the professions of architecture, engineer-
8 ing, interior design, geology or surveying.

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

12 2. It is the policy of New York state to negotiate contracts for
13 architectural and/or engineering services and/or interior design
14 services and/or geological and/or surveying services on the basis of
15 demonstrated competence and qualification for the type of professional
16 services required and at fair and reasonable fees.

17 3. (i) In the procurement of architectural, engineering, interior
18 design, geological and surveying services, the requiring state depart-
19 ment shall encourage professional firms engaged in the lawful practice
20 of the profession to submit an annual statement of qualifications and
21 performance data. The requiring state department for each proposed
22 project shall evaluate current statements of qualifications and perform-
23 ance data on file with the department. If desired, the requiring state
24 department may conduct discussions with three or more professional firms

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

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1 regarding anticipated design concepts and proposed methods of approach
2 to the assignment. The state department shall select, in order of pref-
3 erence, based upon criteria established by the requiring state depart-
4 ment, no less than three professional firms deemed to be the most highly
5 qualified to provide the services required.

6 (ii) The annual statement of qualifications for interior design
7 services shall include information demonstrating that such services are
8 provided by an interior designer possessing certification pursuant to
9 article one hundred sixty-one of the education law or provided under the
10 supervision of a certified interior designer.

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

48 5. This legislation shall only apply to engineering and/or architec-
49 tural services and/or interior design services and/or geological and/or
50 surveying services in excess of twenty-five thousand dollars.

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