WEST VIRGINIA CODE CHAPTER 5G ARTICLE 1

WV Legislature

§5G-1-1. Declaration of legislative policy.

The Legislature hereby declares it to be the policy of the state, and its political subdivisions, to procure architectural or engineering services or both on the basis of demonstrated competence and qualification for the type of professional services required.

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§5G-1-2. Definitions.

As used in this section:

(a) The term "agency" means all state departments, agencies, authorities, quasi-public corporations and all political subdivisions, including cities, counties, boards of education and public service districts, except, for the purposes of this section, the term "agency" does not include the state institutions of higher education known as Marshall University and West Virginia University.

(b) The term "architectural and engineering services" includes those professional services of an architectural or engineering nature as well as incidental services that members of those professions and those in their employ may logically or justifiably perform.

(c) The term "director of purchasing" means any individual assigned by any agency to procure the services of architects and engineers.

(d) The term "firm" or "professional firm" means any individual, firm, partnership, corporation, association or other legal entity permitted by law to practice the professions of architecture and engineering.

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§5G-1-3. Contracts for architectural and engineering services; selection process where total project costs are estimated to cost $250,000 or more.

In the procurement of architectural and engineering services for projects estimated to cost $250,000 or more, the director of purchasing shall encourage firms engaged in the lawful practice of the profession to submit an expression of interest, which shall include a statement of qualifications and performance data, and may include anticipated concepts and proposed methods of approach to the project. All jobs shall be announced by public notice published as a Class II legal advertisement in compliance with the provisions of §59-3-1 et seq. of this code. A committee of three to five representatives of the agency initiating the request shall evaluate the statements of qualifications and performance data and other material submitted by interested firms and select three firms which, in their opinion, are best qualified to perform the desired service: Provided, That if such circumstances exist, such that seeking competition could result in a compromise to public safety, significantly increase costs, or an extended interruption of essential services, the agency may, with the prior approval of the director of purchasing, select a firm on the basis of previous satisfactory performance and knowledge of the agency's facilities and needs: Provided, however, That on projects funded, wholly or in part, by School Building Authority moneys, in accordance with §18-9D-15 and §18-9D-16 of this code, two of said three firms shall have had offices within this state for a period of at least one year prior to submitting an expression of interest regarding a project funded by School Building Authority moneys. Interviews with each firm selected shall be conducted and the committee shall conduct discussions regarding anticipated concepts and proposed methods of approach to the assignment. The committee shall then rank, in order of preference, no less than three professional firms deemed to be the most highly qualified to provide the services required, and shall commence scope of service and price negotiations with the highest qualified professional firm for architectural or engineering services or both. Should the agency be unable to negotiate a satisfactory contract with the professional firm considered to be the most qualified, at a fee determined to be fair and reasonable, price negotiations with the firm of second choice shall commence. Failing accord with the second most qualified professional firm, the committee shall undertake price negotiations with the third most qualified professional firm. Should the agency be unable to negotiate a satisfactory contract with any of the selected professional firms, it shall select additional professional firms in order of their competence and qualifications and it shall continue negotiations in accordance with this section until an agreement is reached: Provided further, That county boards of education may either elect to start the selection process over in the original order of preference, or it may select additional professional firms in order of their competence and qualifications, and it shall continue negotiations in accordance with this section until an agreement is reached: And provided further, That for any water or wastewater construction project the engineering design and construction inspection costs may not exceed the amount calculated pursuant to the compensation curves for consulting engineering services based upon project construction costs published by the American Society of Civil Engineers manual of practice, unless granted a variance by the Infrastructure and Jobs Development Council established

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pursuant to §31-15A-1 et seq. of this code.

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§5G-1-4. Contracts for architectural and engineering services; selection process where total project costs are estimated to cost less than $250,000; division of highways procurements.

(a) In the procurement of architectural and engineering services for projects estimated to cost less than $250,000, competition shall be sought by the agency. The agency shall conduct discussions with three or more professional firms solicited on the basis of known or submitted qualifications for the assignment prior to the awarding of any contract: Provided, That if a judgment is made that special circumstances exist and that seeking competition is not practical, the agency may, with the prior approval of the director of purchasing, select a firm on the basis of previous satisfactory performance and knowledge of the agency's facilities and needs. After selection, the agency and firm shall develop the scope of services required and negotiate a contract.

(b) The Division of Highways may procure the services of architectural and engineering firms under the provisions of this section in an amount not to exceed $750,000 for the services per project.

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