

AMENDED IN SENATE APRIL 28, 2010

AMENDED IN SENATE APRIL 8, 2010

SENATE BILL

No. 1215

Introduced by Senator Price
(Coauthor: Senator Pavley)

February 18, 2010

An act to add and repeal Chapter 10.2 (commencing with Section 4529.25) of Division 5 of the Government Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1215, as amended, Price. Public contracts: architectural and engineering services firms: prequalification lists.

The California Constitution provides that state and other governmental entities have the choice and authority to contract with qualified private entities for architectural and engineering services, as defined. Existing law also requires that the choice and authority to contract extend to all phases of project development, including permitting, environmental studies, rights-of-way services, design phase services, and construction phase services.

This bill would, at the election of the Department of Transportation, until January 1, 2014, authorize the department to establish prequalified lists of architectural and engineering services firms. The bill would require the department, for each category of architectural and engineering service, to establish separate lists for small, medium, and large projects ~~by geographical area~~ *for each of the department's 12 districts*. The bill would require the department to comply with certain requirements relating to the advertisement and award of contracts in the event the department utilizes the prequalification list, and would

require, on or before January 1, 2014, the department to submit a report to the Legislature containing a description of any contract that is awarded.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Chapter 10.2 (commencing with Section 4529.25) is added to Division 5 of the Government Code, to read:

CHAPTER 10.2. PREQUALIFICATION LISTS

4529.25. At the election of the Department of Transportation, contracts for engineering, architectural, environmental planning, landscape architectural, or land surveying services shall be advertised and awarded in accordance with this chapter.

4529.26. For purposes of this chapter, the following terms shall have the following meanings:

(a) "Architectural and engineering services" shall have the same meaning as in Section 4529.10.

(b) "Prequalified list" means a list of architectural and engineering services firms that possess the qualifications established by the Department of Transportation to perform specific types of architectural and engineering services with each firm ranked in order of qualifications.

(c) "Price schedule" means an agreement between the Department of Transportation and a firm pursuant to which the firm agrees to accept orders from the department for a service at a set price for a specified period of time, but which does not oblige the department to purchase the service from the firm.

(d) "Small projects" means contracts that have an estimated value of greater than five thousand dollars (\$5,000), but less than five hundred thousand dollars (\$500,000).

(e) "Medium projects" means contracts that have an estimated value of five hundred thousand dollars (\$500,000) or more, but less than five million dollars (\$5,000,000).

(f) "Large projects" means contracts that have an estimated value of five million dollars (\$5,000,000) or more.

4529.27. The Department of Transportation shall establish prequalified lists of architectural and engineering services firms in accordance with the following process:

(a) (1) For each type of architectural and engineering service for which the department elects to use this process for advertising and awarding contracts, the department shall request statements of qualifications from interested firms and also may request price schedules. The request for statements of qualifications and price schedules shall be announced statewide throughout the California State Contracts Register.

(2) Each announcement shall describe the general scope of services to be provided within each generic project category, be defined such that each specific project to be awarded within that generic project category shall be substantially similar to all other projects within that generic project category, shall be the same size, range, and geographical area, and shall require substantially similar skills and magnitude of professional effort as every other project within that generic project category.

(b) For each category for architectural and engineering services, the department shall establish separate lists for small, medium, and large projects ~~by geographical area for each of the department's 12 districts~~ to provide opportunities for various-sized firms. A firm can only be on one list for each category ~~per geographic area for each of the department's 12 districts~~.

(c) The department shall evaluate the statements of qualifications and performance data, and develop a list of qualified firms that meet the criteria established and published by the department. Discussions shall be held regarding each firm's qualifications with all listed firms. The firms shall then be ranked according to each firm's qualifications and the evaluation criteria established and published by the department.

(d) (1) The department shall maintain prequalified lists for not more than two years. Each prequalified list shall include no less than three firms. The number of firms placed on a list shall be based on the anticipated workload during the life of the list. Once a list is developed, another list of the same category and contract size within the same ~~geographic area~~ district may not be developed until 90 percent of the anticipated workload has been contracted or two years has expired.

(2) During the term of the prequalified lists, as specific services are identified as being eligible for contracting, the department shall contact the top three firms on the appropriate prequalified list to determine if those firms have teams and are available for performance of the services. If none of the firms is available, the department shall continue to contact firms on the prequalified list, in order of rank, until a firm is identified that has a team available.

(e) The department shall negotiate a contract for the project or services with the firm that has the top ranked team at an amount that it determines is fair and reasonable. If the department is unable to negotiate a satisfactory contract with the identified firm, negotiations with that firm shall be terminated and negotiations shall be undertaken with the next firm that has the top ranked team. If a satisfactory contract cannot be negotiated with the second identified firm, negotiations shall be terminated and the negotiation process shall be continued with the remaining firms, in order of their team qualifications, until a satisfactory contract is negotiated.

(f) Once a satisfactory contract is negotiated and awarded to a firm from the prequalified list, that firm shall be moved to the bottom of the prequalified list. If the department is unable to negotiate a satisfactory contract with a firm on two separate occasions, that firm shall be removed from the prequalified list.

(g) Notwithstanding any other provision of this chapter, the Department of Transportation may award contracts that have an estimated value of greater than five thousand dollars (\$5,000), but less than two hundred fifty thousand dollars (\$250,000), to certified small businesses, including microbusinesses, or to disabled veteran business enterprises, in accordance with Section 14838.5.

4529.28. (a) On or before January 1, 2014, the Department of Transportation shall submit a report to the Legislature containing a description of any contract that is awarded in accordance with this chapter. The report shall include, but shall not be limited to, all of the following information:

(1) The type of services for which the department elected to use the process described in Section 4529.27.

(2) The number of small, medium, and large projects.

(3) The firm that was awarded the project.

(4) An assessment of the prequalification process and criteria.

1 (b) (1) The requirement for submitting a report imposed under
2 subdivision (a) is inoperative on January 1, 2014, pursuant to
3 Section 10231.5.

4 (2) A report to be submitted pursuant to subdivision (a) shall
5 be submitted in compliance with Section 9795.

6 (c) This chapter shall remain in effect only until January 1, 2014,
7 and as of that date is repealed, unless a later enacted statute, that
8 is enacted before January 1, 2014, deletes or extends that date.

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