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NOTICE

To: Registered Architects, Engineers, and Landscape Architects
State and Local Government Agencies

From: Tennessee Board of Architectural and Engineering Examiners

Date: February 13, 2014

Re: Proposals for professional services for public projects

The purpose of this notice is to educate registrants and those who issue Requests for Proposals (RFP) for architectural, engineering, and landscape architectural services for public projects.

T.C.A. § 12-4-107(a) requires that design professionals for public projects in Tennessee be selected through qualifications-based selection rather than the competitive bid process. Additionally, the Board recently adopted a rule, which took effect on March 11, 2013, that precludes registered architects, engineers, and landscape architects from participating in any system requiring a comparison of compensation for public projects. The relevant portion of this rule reads as follows:

0120-02-.02 Proper Conduct of Practice.

- (6) A registrant may not enter into a contract for professional services on any basis other than direct negotiation with any governmental entity that is prohibited by T.C.A. § 12-4-106(a)(2)(A) [now T.C.A. § 12-4-107(a)] from making a selection or awarding a contract on the basis of competitive bids, thereby precluding participation in any system requiring a comparison of compensation. Upon selection, a registrant may state compensation to a prospective client in direct negotiation where architectural, engineering, or landscape architectural services necessary to protect the public health, safety, and welfare have been defined.

A registered architect, engineer, or landscape architect who violates this rule may be subject to disciplinary action by this Board.

In accordance with T.C.A. § 12-4-107(a), once the public body (client) has selected the most qualified design professional/firm, it may request a fee proposal from that firm. The agency may then negotiate a satisfactory contract with the selected firm. If an agreement cannot be reached and the negotiations are formally terminated, the agency may then proceed to select the next most qualified design professional/firm on the list and continue negotiations until an agreement is reached.

If you have any questions about this regulation, please contact the Board's Executive Director, John Cothron, at 615-741-3221 or 1-800-256-5758.