

Innovation and Creativity

Current legislation promotes an atmosphere of innovation and creativity that encourages the design professionals to develop an approach which would reduce construction and/or operation and maintenance (O&M) costs of a project. Typically the negotiation period between the owner and the design professional includes not only price but scope clarifications and refinement to improve the overall project performance. The proposed bill language brings pricing for design services into the selection before this often beneficial dialog has occurred. New approach forces the design professional to put together the cheapest design without regard to construction or long-term O&M costs.

Education and Communication

The addition of the cost component essentially eliminates the education and communication process design professionals currently pursue both before and during project execution. The costs provided will essentially be prepared in a vacuum without dialog with the client. It is often during this process that key project issues are uncovered and addressed preventing change orders during both project design and construction.

Need for Technical Professionals

Many local governments do not have technical professionals on staff to develop a scope of services that would allow a realistic comparison of the cost submitted. (i.e. Not comparing apples to apples). Again the lost opportunity of scope refinement, definition with the end users is lost if pricing is part of the selection prior to this exchange.

CCNA is a principle, not a process...

and principles should NOT be tweaked by legislation such as this. CCNA requires government agencies select a professional services consulting firm for specific projects based on qualifications rather than on a "lowest bid" basis. The principle of CCNA is designed to protect the health and safety of the public and ensures the procurement process for these specific professional services are based on qualifications, competence, and track record.

Negotiations are a Part of the Current CCNA Law

CCNA Reformers believe that the current statute (F.S.287.055, F.S.) prohibits public agencies in Florida from considering price when hiring an architect, engineer, landscape architect, surveyor or mapper. They assert that neither public agencies nor their constituencies can transparently determine if they are truly receiving value for the tax dollar for these services.

The first statement is untrue. No public agency hires a design professional without negotiating price first. Often the negotiation helps significantly to define the scope and or align the owner's expectations (because of the input from the design professional) for the project with reality. The logic of the second sentence seems to break down if you consider that by this admission the public agencies are unable to determine a fair market value for the services requested without multiple bids, then how would those same public agencies be able to craft a definitive scope to insure the bids received are in fact based on comparable deliverables.

By moving the price consideration BEFORE the negotiation/scope definition dialog, the "best value" design product and therefore the total project is endangered.

Common Misconceptions

“CCNA is a waste of taxpayer money”

False: In fact, low-bid is more expensive because it leads to increased change orders and high project maintenance costs. Furthermore, CCNA ensures the public gets a high quality and safe design.

“CCNA takes longer”

False: CCNA fosters teamwork between the client and engineering and facilitates construction, leading to faster project delivery.



Public Interest

The United States has suffered its share of faulty buildings. After incidents such as the collapse of the Hyatt regency in Kansas City and the implosion of the roof of the Hartford Civic Center, Congress investigated these incidents and issued a report on “Structural Failures in Public Facilities” in 1984. It found, “procurement practices that lead to or promote the selection of architects and engineers on a low bid basis should be changed to require prequalification of bidders with greater consideration given to prior related experience and past performance.”

Federal law requires the use of QBS (CCNA), known as the Brooks Act, on any project funded with federal-aid highway (23 U.S.C. 112(b)(2)) or transit (49 U.S.C. 5325(b)) funds. So, Florida would not be able to use federal funds on any A/E contract that didn't comply with the Brooks Act.

Pressure on Public Agencies

The political reality of adding cost to the evaluation criteria is that it forces elected officials to go with the apparent low cost alternative rather than the “best value” because the complexity and nuances of many design projects cannot be effectively communicated to a public that has not had the technical education nor one-on-one dialog to facilitate the best value. The low bid engineering firm may not provide the most experienced staff (since more experienced teams may be higher priced), which may be critical in ensuring the highest level of public safety. Unfortunately, the design costs are a small part of the total project costs and a “cheap” design effort may in fact contribute to larger overall project costs. The elected official could be punished for making the best long-term decisions for their constituents.

The Small vs. Large Firm

Allowing firms to bid against each other is a potential job killer for small firms. Larger firms would have the advantage to low bid projects and send the work to their overseas offices. The argument that small firms may be able to compete due to lower overhead also has issue when small firms accept a lower price without a clear explanation of the scope. One mis-scoped large project can bankrupt a small firm. Small firms compete by focusing on a certain market sector or expertise, so by opening up competition based on price, it is taking away from the sole competitive advantage that a small firm has. By and large, the small firm community feel that there needs to be something done to assist our firms in this challenging time, but the CCNA reform language has more potential pitfalls than opportunities.

The Current CCNA Process

The overwhelming majority of states (and all major states) follow the Federal Brooks Act in their state laws, which requires qualification based selection (Reference: Title 23 Code of Federal Regulations, Part 172; Title 40 United States Code, Chapter 10, Subchapter VI, paragraphs 541- 544). Only four states utilize best value selection (reference ACEC survey of state QBS laws). Florida's Consultant s' Competitive Negotiation Act is derived from the Federal Brooks Act, which became law in 1972.

The CCNA process, formally adopted in Florida in the 1970's, is used by federal agencies and by 47 of the 50 states. It is also the prevailing method for procuring similar services in the private sector. This process contrasts with the more traditional competitive bidding method in which bids end up primarily ranked based upon price. The CCNA responds to several concerns about applying the “low-bid” scenario to these types of services:

- (a) Concerns about compromising public safety by awarding such work to the low bidder rather than the firm most qualified to do the work;
- (b) The public entity's desire to solicit innovative solutions from responding firm's, which history has shown often alter the public entity's original concept for the project and save taxpayer dollars;
- (c) The public entity's difficulty in precisely defining the scope of the work in most instances; and
- (d) Concerns that a firm might initially propose a fee structure and get the contract award, only later to face the choice of raising its prices or “cutting corners” when the actual scope of the work turns out to be more extensive than anticipated.

According to a two-year study led by Paul S. Chinowsky, Ph.D., of the University of Colorado and Gordon A. Kingsley, Ph.D. of Georgia Tech, public entities that use CCNA-style procurement methods for these types of services are better able to control construction costs and achieve a consistently higher degree of project satisfaction than those using other procurement methods.