

**TEXT OF PROPOSED AMENDED REGULATIONS**

The California Department of Veterans Affairs has illustrated changes to the original regulation text in the following manner: original regulation text is not altered, deletions from the original regulation text are shown using a “strikeout” line, and proposed additions to the original regulation text are “underlined”.

TITLE 12 . MILITARY AND VETERANS AFFAIRS  
DIVISION 2. DEPARTMENT OF VETERANS AFFAIRS  
CHAPTER 7. SELECTION OF PROFESSIONAL SERVICE FIRMS  
SUBCHAPTER 4. SELECTION PROCESS FOR PRIVATE

§ 801.1. Definitions, as Used in This Chapter.

a) “Architectural and engineering services” shall include architectural, landscape architectural, engineering, environmental, and land surveying services, construction project management, and environmental services as defined in Government Code section 4525, subdivisions (d), (e), and (f). ~~“Architectural, landscape, architectural, engineering, environmental, land surveying, and construction project management services: or “A&E services” are those services to be procured outside State of California Civil Service procedures and of a character necessarily rendered by an architect, landscape architect, engineer, environmental specialist, land surveyor, and construction project management contractor, but may include ancillary services logically or justifiably performed in connection therewith.~~

~~(b) “CCCI” means California Construction Cost Index.~~

~~(b)(e) “Division” means the Administrative Services Division in the Department of Veterans Affairs.~~

~~(c)(d) “Disabled Veteran Business Enterprise” or “DVBE” shall mean a business entity certified by the Director of General Services pursuant to Section 1896.61, Title 2 of California Code of Regulations and Sections 999.5 et seq. of the Military and Veterans Code.~~

~~(d)(e) “Project” means a retainer project or specific project, as follows: “Project” means a project as defined in Section 10105 of the Public Contract Code.~~

(1) “Retainer Project” means a project involving a general architectural and engineering services subject matter expert where targeted specific projects are unknown at the time of contracting.

(2) “Specific Project” means a project as defined in Public Contract Code section 10105 and reasonably related to architectural and engineering services involving a single subject matter at one or more sites known at the time of contracting and a readily identifiable targeted outcome known at the time of contracting.

~~(f) “Retainer contract” shall mean a contract whereby the A&E services are provided on an as-needed basis over a set period of time by the selected professional services firm. Each individual A&E professional service task shall not exceed \$25,000 and may be awarded pursuant to said retainer contract.~~

(e) (g) "Small business" shall mean a business entity certified by the Director of General Services pursuant to Section 1896, Title 2 of California Code of Regulations and Section 14837 of the Government Code.

Note: Authority cited: Sections 4525 and 4526, Government Code; and Section 700, Military and Veterans Code. Reference: Sections 4525, 4526 4527, 4529.10 and 14837, Government Code; and Section 10105, Public Contract Code.

§ 803. Request for Qualifications.

~~(a) The Division shall make an announcement in a publication of the respective professional society whenever a project requires architectural, landscape architectural, engineering, environmental, land surveying, or engineering trade journal or in other appropriate publication, if any exist.~~

~~(b) The announcement shall contain the following information: The nature of the work, the criteria upon which the award shall be made, and the time within which statements of interest, qualifications, and performance data will be received.~~

~~(c) The Division shall endeavor to provide a copy of each announcement for projects to all certified Disabled Veteran Business Enterprises and certified small business firms who have indicated an interest in receiving such. Failure of the Division to send a copy of an announcement to any firm shall not operate to preclude any contract.~~

~~(d) The Division may make annual announcements, published as above, which identify the general needs of the Department for those projects where such services shall not exceed \$25,000.~~

(a) The Division may solicit and enter into specific project contracts to accomplish each specific project and/or solicit and enter into retainer project contracts to accomplish retainer projects. Unless a specific project is to be accomplished by amendment to an existing retainer contract, the Division shall make a statewide announcement of each specific project through publication of the project announcement in respective professional societies utilizing one or more of the following options: (1) in a construction journal or other appropriate publications; (2) through electronic communications media which support bulletin boards or Internet web sites that have demonstrated statewide accessibility and are regularly maintained at established addresses by professional organizations which are representative of the services to be procured. The Division shall solicit each retainer project contract by the same method.

(b) The announcement shall include information describing the project, a Division contact for obtaining the request for qualifications and the due date, time and location for submission of the statement of qualifications. The announcement may also identify the criteria upon which the award will be made.

(c) The Division shall disseminate the request for qualifications to those firms responding to the statewide announcement. The request for qualifications shall include a description of the project, the criteria upon which the award shall be made, the due date, and statement of qualifications submission and contract requirements.

(d) Each specific project included in a retainer contract shall not exceed the cost limit identified in Public Contract Code section 10105. If a specific project would be substantially jeopardized by any delay in initiation or performance that would result in substantial waste of state resources, the Deputy Secretary of the Administrative Services Division or Assistant Deputy Secretary of Facilities and Business Services Division may waive the cost limit of that specific project by written finding detailing the basis for the urgency and the potential waste avoided.

(e) The Division shall endeavor to provide a copy of each announcement for projects to all certified Disabled Veteran Business Enterprises and certified small business firms who have indicated an interest in receiving such. Failure of the Division to send a copy of an announcement to any firm shall not operate to preclude any contract.

Note: Authority cited: Section 4526, Government Code and Section 700, Military and Veterans Code. Reference: Sections 4526, ~~and 4527,~~ and 4529.12 Government Code; and Article XXII, California Constitution, Sections 1-2.

#### § 804. Selection of Firm.

~~(a) The Division shall evaluate statements of qualifications and performance data which have been submitted to the Division only after expiration of the time period stated in the announcement.~~

~~(b) The Division shall conduct discussions, for the purpose of evaluating qualifications, with no less than three firms regarding the required service. Where three firms cannot be found which could provide the required service, a full explanation including names and addresses of firms and individuals requested to submit proposals must be entered in the files.~~

~~(c) The Division shall select no less than three firms which are deemed to be the most highly qualified to provide the services required from amongst those firms with whom discussions were held (provided at least three firms submit proposals). The selection shall rank these firms in order of preference based upon the established criteria.~~

After expiration of the period stated in the publications, the Division shall evaluate statements of qualifications and performance data submitted to the Division. The Division shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required service. From the firms with which discussions are held, the Division shall select no less than three, in order of preference, based upon the established criteria, who are deemed to be the most highly qualified to provide the services required. If three qualified firms that could provide the required service cannot be found, a full explanation including names and addresses of firms and individuals requested to submit qualifications must be entered in the Division's files.

Note: Authority cited: Section 4525 and 4526, Government Code and Section 700 Military and Veterans Code. Reference: Sections 4526 ~~and 4527,~~ and 4529.12, Government Code; and Article XXII, California Constitution, Sections 1-2.

~~§ 808. Retainer Contracts.~~

~~(a) Should the Division determine that a retainer contract is appropriate and in the best interest of the State, the Division may establish such a contract with a qualified firm for the type of professional services described in this Chapter.~~

~~(b) The contract term shall not exceed one year. No individual contract task may exceed \$25,000 in value. This value may be increased from year to year by the same amount that the CCCI changes on July 1 of each year following implementation of this section.~~

~~(c) The Secretary may, but is not required to, set a minimum guaranteed compensation amount for such services. These tasks may be awarded under a single retainer contract with amendments to the retainer contract incorporating each individual task as needed.~~

~~(d) The process for selecting the firm shall be the same as the selection process for single project contracts.~~

~~Note: Authority cited: Section 4526, Government Code and Section 700 Military and Veterans Code. Reference: Sections 4526 and 4527, Government Code; and Section 1, California Constitution.~~

§ ~~808~~809. Division's Power to Require Bids.