

CONSULTANT'S COMPETITIVE NEGOTIATION ACT

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The Consultants' Competitive Negotiation Act (CCNA) is a public procurement law passed by the Florida Legislature in 1973 (Chapter 287, Florida Statutes). Its purpose is to promote fair and open competition and reduce the opportunity for the appearance of favoritism. Additionally, it serves to promote public confidence that the government awards contracts in an equitable manner.

All cities, counties, state agencies and political subdivisions (e.g., school boards and improvement districts) must use these procurement procedures. Under the CCNA, contracts awarded to Engineers, Surveyors, Architects and Landscape Architects are not to be awarded based on fee, but on qualifications.

While the CCNA process definitely has merit, it does take time and there is cost involved.

The CCNA lists five purchasing categories or threshold amounts:

Category One:	\$ 20,000
Category Two:	\$ 35,000
Category Three:	\$ 65,000
Category Four:	\$ 195,000
Category Five:	\$ 325,000

A Request for Qualifications (RFQ) is required when professional services must be purchased in conjunction with a project where the *construction cost* is estimated by the agency to exceed the threshold amount provided in Category Five (\$325,000) and for all *planning or study activities* where the fee for professional services exceeds the threshold amount provided in Category Two (\$35,000). The exception to this is in cases of valid public emergencies certified by the head of the municipal government or agency. The public notice must include a general description of the project and must indicate how interested consultants may apply for consideration.

In response to the published RFQ, the municipal government or agency must receive Statements of Qualifications (SOQ) from the interested professional firms. Based upon their SOQs, the professional firms are evaluated on their qualifications, which include an analysis of their capabilities, adequacy of personnel, past record, experience, whether the firm is a certified minority business enterprise as defined by the Florida Small and Minority Business Assistance Act, and other factors determined by the municipality or agency to be applicable to its particular project requirements.

A chosen number of professional firms are then selected by the municipal government or agency for interview. From the interview, the firms are ranked and an attempt to negotiate a contract begins with the highest ranked firm. In the event that the municipality is unsuccessful in negotiating a contract with the first ranked firm, then the municipality must move on to the second ranked firm and this process continues until a contract agreement is reached.

Municipalities or government agencies having *continuing contracts* with professional Engineering, Surveying, Architecture or Landscape Architecture firms, are not restricted to the requirements listed above. A *continuing contract* as defined by F.S. 287.055, "is a contract for professional services entered into in accordance with all the procedures of CCNA between an agency and a firm, whereby the firm provides professional services to the agency for projects in which the estimated construction cost of each individual project under the contract does not exceed \$2 million, for study activity if the fee for professional services for each individual study under the contract does not exceed \$200,000, or for work of a specified nature as outlined in the contract required by the agency, with the contract being for a fixed term or with no time limitation except that the contract must provide a termination clause. Firms providing professional service under continuing contracts shall not be required to bid against one another."

In summary, projects that fall beneath the thresholds required for compliance with CCNA are as follows:

1. A professional services contract for Engineering, Surveying, Architecture or Landscape Architecture for projects with an estimated *construction cost* of up to \$325,000 or a *planning or study activity* up to \$35,000; and

2. Under an existing *continuing contract*, Engineering, Surveying, Architecture or Landscape Architecture services for projects with an *estimated construction cost* up to \$2 million or a *planning or study activity* up to \$200,000.

Upon meeting either of these two conditions, the municipality or public agency must comply only with the municipal or agency purchasing policy.

Should you have any questions concerning the CCNA process, CSI recommends consulting with your Staff Counsel or Purchasing Agent. Our CSI staff members are an additional resource for CCNA information.

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