

**ASSEMBLY, No. 3633**

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**STATE OF NEW JERSEY**

**214th LEGISLATURE**

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INTRODUCED JANUARY 6, 2011

**Sponsored by:**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex)**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex)**

**Co-Sponsored by:**

**Assemblywoman Wagner and Assemblyman Benson**

**SYNOPSIS**

Requires plans, specifications, and bid proposal documents for certain local public contracts to address soil contamination.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/30/2011)**

1 AN ACT concerning certain local public contracts for projects  
2 involving the removal of soil and amending P.L.1999, c.39.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. Section 1 of P.L.1999, c.39 (C.40A:11-23.1) is amended to  
8 read as follows:

9 1. All plans, specifications and bid proposal documents for the  
10 erection, alteration, or repair of a building, structure, facility or  
11 other improvement to real property, the total price of which exceeds  
12 the amount set forth in, or the amount calculated by the Governor  
13 pursuant to, section 3 of P.L.1971, c.198 (C.40A:11-3), shall  
14 include:

15 a. a document for the bidder to acknowledge the bidder's  
16 receipt of any notice or revisions or addenda to the advertisement or  
17 bid documents; and

18 b. a form listing those documentary and informational forms,  
19 certifications, and other documents that the contracting agent  
20 requires each bidder to submit with the bid. The form shall list each  
21 of the items to be submitted with the bid proposal and a place for  
22 the bidder to indicate, by initialing each entry, that the bidder has  
23 included those required items with the completed bid proposal.  
24 Each bidder shall complete this form and submit it with the bid  
25 proposal in addition to those documentary and informational forms,  
26 certifications, and other documents that are listed on the form; and

27 c. a statement indicating whether uniformed law enforcement  
28 officers will be required for the project. The statement shall include  
29 a line item allowance, which shall be a good faith effort on the part  
30 of the contracting unit, to reasonably estimate the total cost of  
31 traffic control personnel, vehicles, equipment, administrative, or  
32 any other costs associated with additional traffic control  
33 requirements required by the contracting unit, or any other public  
34 entity affected by the project, above and beyond the bidder's traffic  
35 control personnel, vehicles, equipment, and administrative costs.  
36 The individuals responsible for the assignment of uniformed law  
37 enforcement officers for any municipalities affected by a project  
38 shall be required to determine where traffic safety control is needed  
39 for a project, and calculate the number and placement of all  
40 necessary personnel, equipment, and the costs associated with these,  
41 including hourly rates, and submit this information to the  
42 contracting unit.

43 The contracting unit shall not be responsible for additional traffic  
44 control costs beyond the number of working days specified in the  
45 construction contract in accordance with section 17 of P.L.1971,

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 c.198 (C.40A:11-17), when such a delay is caused by the contractor  
2 and liquidated damages have been assessed.

3 The statement prescribed under this subsection shall not be  
4 required if the contracting unit will provide for the direct payment  
5 of uniformed law enforcement officers and any additional costs  
6 directly associated with the provision of those officers; and

7 d. at the option of the contracting unit, specified alternate  
8 proposals in addition to a base specification. When the contracting  
9 unit specifies alternate proposals, the determination of which  
10 bidder's response to a request for bids offers the lowest price shall  
11 be made on the basis of the price of: (i) the base specification plus  
12 the price of any selected specified alternate proposals; or (ii) a  
13 choice of specified alternative proposals within the limit of funds  
14 that may be made available for a project. If a contracting unit  
15 provides for more than one specified alternate proposal, the  
16 contracting unit shall specify in the bid specification the criteria or  
17 ranked order by which specified alternate proposals shall be  
18 selected and included in the award of the contract by the governing  
19 body, provided that this requirement shall only apply to a project  
20 with a total estimated cost, including specified alternate proposals,  
21 of greater than \$500,000. The aggregate dollar value of accepted  
22 specified alternative proposals shall not exceed 50 percent of the  
23 base bid. If a contracting unit is found in a court of law to have  
24 chosen specific alternative proposals in a manner intended to award  
25 a contract to a specific vendor, the bids shall be voided, the  
26 contracting unit shall rebid the project, and a plaintiff who prevails  
27 in any proceeding shall be entitled to a reasonable attorney's fee.

28 For the purposes of this subsection:

29 "Specified alternate proposal" means a requirement of the bid  
30 specification for bidders to submit prices for reduced, modified or  
31 supplemental work in addition to the base proposal which may  
32 include, but not be limited to, a change in project scope or the use  
33 of alternative materials or methods of construction;

34 "Base specification" means the plans and specifications for the  
35 erection, alteration or repair of the building, structure, facility or  
36 other improvement to real property that are required to be met by all  
37 bidders without exception ; and

38 e. in the case of a project that includes the removal of soil from  
39 the site, a statement provided by a laboratory using testing methods  
40 approved by the Department of Environmental Protection  
41 specifying the level of contamination, if any, of the soil that has  
42 been found at the site of the project, or a line item allowance, which  
43 shall be a good faith effort on the part of the contracting unit to  
44 reasonably estimate the total cost of testing the soil, and if found to  
45 be contaminated, the cost of disposal of the contaminated soil .

46 (cf: P.L.2009, c.292, s.1)

47  
48 2. This act shall take effect immediately.

STATEMENT

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3       This bill amends section 1 of P.L.1999, c.39 (C.40A:11-23.1),  
4 the section of law concerning plans, specifications, and bid proposal  
5 documents for the erection, alteration, or repair of a building,  
6 structure, facility or any other improvement to real property, for  
7 which the total price exceeds the amount set forth in, or the amount  
8 calculated by, the Governor pursuant to section 3 of P.L.1971, c.198  
9 (C.40A:11-3). Under this bill, any plans, specifications, and bid  
10 proposal documents for such projects that involve the removal of  
11 soil from the site would be required to include a statement provided  
12 by a laboratory using sampling methods approved by the  
13 Department of Environmental Protection specifying the level of  
14 contamination of the soil that has been found at the site of the  
15 project, or in lieu of a statement, a line item allowance, which shall  
16 be a good faith effort on the part of the contracting unit to  
17 reasonably estimate the total cost of testing the soil and, if found to  
18 be contaminated, the cost of disposal of the contaminated soil.