

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

House Bill 3429

By Delegate Riley

[Originating in the Committee on Energy and Public

Works; Reported on March 25, 2025]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section
2 designated §22-2-11, relating to the abandoned mine lands and reclamation act; providing
3 definitions; providing advertisements; establishing directives for the prequalification
4 process for hiring consultants; clarifying the prequalification agreement terms; and
5 establishing directives for project assignments.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. ABANDONED MINE LANDS AND RECLAMATION ACT.

§22-2-11. Prequalification process for consultants; project assignments.

1 (a) Definitions. — For purposes of this section:

2 "Professional services" means engineering service provided by consultants which include
3 those professional services of an engineering nature as well as incidental services that members
4 of those professions and those in their employ may logically or justifiably perform.

5 (b) The secretary shall publish a Class II legal advertisement, in compliance with the
6 provisions of article three, chapter fifty-nine of this code. An advertisement shall be published at
7 least once in at least one daily newspaper published in the city of Charleston and in other journals
8 or magazines as may seem advisable to the secretary. The advertisement shall solicit letters of
9 interest for professional services used in engineering procurement and shall state a time and place
10 for submitting letters of interest, a description of the services required, and reserving the right to
11 reject any and all letters of interest.

12 (c) The Department of Environmental Protection (DEP) shall evaluate the letters of interest
13 received and generate a list of all qualified firms which will establish the "Prequalified List of
14 Consultants".

15 (d) The Purchasing Division will enter a prequalification agreement pursuant to §5A-3-10e
16 of this code, on the recommendation of the DEP. This agreement will cover the services defined in
17 the letters of interest and will be for a term of one year with an optional two-year extension, if
18 requested by the DEP.

19 (e) For all project assignments the following shall be done:

20 (1) The DEP shall issue an expression of interest (EOI) for the individual project or projects
21 which need to be solicited and delivered specifically to those prequalified consultants with which
22 the Purchasing Division has an active prequalification agreement;

23 (2) The EOI will be issued to prequalified consultants and only responses with existing
24 prequalification agreements will be considered for review;

25 (3) The DEP shall conduct discussions with three or more professional firms solicited on
26 the basis of known or submitted qualifications for the assignment prior to the awarding of any
27 contract: *Provided*, That if a judgment is made that special circumstances exist and that seeking
28 competition is not practical, the agency may, with the prior approval of the director of purchasing,
29 select a firm on the basis of previous satisfactory performance and knowledge of the agency's
30 facilities and needs. After selection, the agency and firm shall develop the scope of services
31 required and negotiate a contract;

32 (4) The DEP/Dept of Administration – Purchasing will receive the recommended selection
33 from the DEP and notify the selected consultant;

34 (5) The DEP will schedule and conduct a scope of work meeting with the selected
35 consultant within 45 days of selection;

36 (6) Within 60 days, unless an extension is requested by both parties, the DEP and
37 consultant will complete cost negotiations;

38 (7) The accepted costs shall be advanced to the DEP/DOA procurement along with all
39 required forms necessary to initiate a contract; and

40 (8) The DEP may issue an advanced notice to proceed, if requested by the consultant.

NOTE: The purpose of this bill is to provide the DEP a process for prequalifying consultants for Abandoned Mine Lands.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.