

# Government Affairs

## States Tackle Outsourcing, Support Using Private-Sector Firms

by Stan Bowman

*AIA State and Local Government Affairs*

As the Congress wrangles about what to do on the outsourcing of professional services, many states are already deciding the issue for themselves. Despite a massive effort by government employee unions, legislatures have found that reliance on the private sector for professional services makes sense.

Nearly a dozen states had pending legislation that would have restricted the outsourcing of government services or even required bringing services in-house that had previously been performed by private sector companies (meaning that state agencies would be forced to perform most services). Because these bills are generally broadly worded regarding the type of services to which they refer, they can be interpreted to include architecture and engineering (A/E) services. Some legislation, such as in New Mexico and California, specifically target A/E services.

In New Mexico, Governor Gary Johnson (R) vetoed a bill that would have required extensive cost comparisons between private-sector proposals and performing the work using public employees. In California, two bills have been introduced that essentially reverse voters' decision in passing Proposition 35 last fall, which authorized the state to complete projects using private sector archi-

tects and engineers. In 1998, California voters rejected a government employee union-sponsored initiative (Proposition 224) that would have virtually eliminated the use of private-sector A/E firms by state and local governments.

### Other concerns

Just as worrisome as the restriction of work for the private sector, many bills would also overturn the qualifications-based selection (QBS) laws. For instance, the bills often require a government agency to compare the costs of outsourcing a service against performing that service in-house. Thus, an agency must seek price quotes in its initial solicitation for A/E services.

Also, some bills would require allowing a state agency's employees to "compete" for a project once it is identified. This would delay many projects for months while agency personnel prepare their own cost estimates. Often, when calculating the cost of outsourcing a service, the outsourced price must include the agency's cost to manage the contract. The result is that private sector proposals are artificially inflated.

### Move toward more private work

However, despite nearly a dozen states considering the issue, every legislature has rejected this approach. In fact, some states are moving to increasing their utilization of private sector service. In Ha-

waii, a new law explicitly authorizes state and local government to turn to the private sector for services. The law reverses a series of court decisions that forced work back into the state agencies and out of the private sector.

The AIA is advocating at the state and federal level for governments to rely upon the expertise of private sector firms in the design of public facilities. Government agencies manage and coordinate the design process but look to the specialized expertise of private-sector architects and engineers to perform the actual design work. Innovative design and cost savings in the private sector get transferred to the public-sector client when private firms bring their specialized skills and experience to federal contract projects.

The AIA advocates that the way to enhance and protect the jobs of government employees is to ensure that they are well-trained and educated in the area of contract governance. Money spent on new cost comparisons mandated by the state or federal laws should instead be spent on government employee training. This would improve the ability of governments to operate in a cost-effective manner.

For more information on government contracting issues, contact Stan L. Bowman, director, State & Local Affairs, [sbowman@aia.org](mailto:sbowman@aia.org) or (202) 626-7461. ■