§ 905. **Procurement of design professional services.**

(a) **Applicability.**--Design professional services shall be procured as provided in this section except as authorized by sections 514 (relating to small procurements), 515 (relating to sole source procurement) and 516 (relating to emergency procurement).

(b) **Policy.**--It is the policy of this Commonwealth to publicly announce all requirements for design professional services and to award contracts for design professional services on the basis of demonstrated competence and qualification for the types of services required. There shall be a committee to review the qualifications, experience and work of design professionals seeking contracts with purchasing agencies.

(c) **Selection committees for Department of Transportation, Department of Environmental Protection, Department of Conservation and Natural Resources and State-affiliated entities.**--Where they are authorized by law to act as purchasing agency for design professional services, the Department of Transportation, the Department of Environmental Protection, the Department of Conservation and Natural Resources and State-affiliated entities shall each establish as many selection committees as the department deems appropriate and a procedure for the selection of committee members.

(d) **Selection committee for all other Commonwealth agencies.**--Except as provided for in subsection (c), all purchasing agencies shall use the selection committee appointed by the Governor which shall be composed of five members, none of whom shall be employees of the Commonwealth or hold any elective office or office in any political party. The members shall be architects, engineers or other persons knowledgeable in construction. The members shall serve for terms of two years and shall not be removed except for cause. Of the original members, three shall serve for terms of two years and two for terms of one year. Thereafter, all terms shall be for two years. Each member shall be reimbursed for reasonable travel and other expenses incurred incident to attendance at meetings and to assigned duties and also a per diem allowance in accordance with Commonwealth travel policies.

(e) **Procedure for selection committees.**--The selection committees shall use the procedure set forth in this subsection:

(1) The committee shall give public notice of projects requiring design services and publicly recommend to the purchasing agency three qualified design professionals for each project.

(2) If desired, the committee may conduct discussions with three or more professionals regarding anticipated design concepts and proposed methods of approach to the assignment. The committee shall select, based upon criteria established by the head of the purchasing agency, no less than three design professionals deemed to be the most highly qualified to provide the services required. In exercising its responsibility, the committee shall consider the following factors:

(i) An equitable distribution of contracts to design professionals.

(ii) Particular capability to perform the design or construction services for the contract being considered.

(iii) Geographic proximity of the design professional to the proposed facility.

(iv) The design professional selected has the necessary available personnel to perform the services required by the project.

(v) Any other relevant circumstances peculiar to the proposed contract.

(f) **Design professionals.**--Except as provided for in subsection (g), the head of the purchasing agency shall select design professionals as follows:

(1) Where the amount of the base construction allocation is less than $20,000,000, the head of the purchasing agency shall choose one of the three firms approved by the selection committee. The fee to be paid to the appointed design professional may be established by the selection committee or may be negotiated at the discretion of the head of the purchasing agency. The $20,000,000 threshold shall be adjusted by the department to reflect the annual percentage change in the Composite Construction Cost Index of the United States Department of Commerce occurring in the one-year period ending December 31 each year.

(2) Where the amount of base construction allocation is in excess of or equal to $20,000,000, as annually adjusted, the head of the purchasing agency shall choose one of the three firms approved by the selection committee to begin contract negotiations. The fee to be paid to the design professional and the terms of the contract between the design professional and the department shall be negotiated by the head of the purchasing agency. In negotiating the contract and the fee, the head of the purchasing agency shall take into account the estimated

value, scope, complexity, uniqueness and the professional nature of the services to be rendered. In the event the head of the purchasing agency is unable to negotiate a satisfactory contract or fee with the appointed design professional, negotiations with that design professional shall be terminated, and the head of the purchasing agency shall commence negotiations with one of the other firms chosen by the selection committee. In the event the head of the purchasing agency is unable to negotiate a satisfactory contract or fee with the second firm, the head of the purchasing agency shall terminate negotiations with the second design professional and commence negotiation with the third firm. In the event the head of the purchasing agency is unable to negotiate a satisfactory contract with any of the selected firms, the selection committee shall choose additional qualified firms, and the head of the purchasing agency shall continue negotiations in accordance with this subsection until an agreement is reached.