



# AIA North Carolina

February 10, 2014

The Honorable Dean Arp  
North Carolina House Representative, 69<sup>th</sup> District  
North Carolina General Assembly  
300 N. Salisbury St., Room 531  
Raleigh, NC 27603

**RE: HB 857 Clean Up Provision**

Dear Representative Arp:

As co-chair of the Legislative Purchase and Contract Study Committee, the AIA, PENC and ACEC would like to draw your attention to an issue that has arisen since the passage and implementation of HB 857 last year.

As you know HB 857 enacted some very specific requirements with regard to implementing a public selection process for both the Design/Build and Design/Build Bridging project delivery construction methods. While we know the intention behind the adoption of two new alternative delivery methods was to base the selection processes for design/build teams on professional qualifications, some local jurisdictions have seen fit to begin asking for project designs in their requests for qualifications (RFQs). We feel this is a violation of the intent of the law and request that language be amended into the Qualifications Based Selection (QBS) statute to make clear that North Carolina public policy does not endorse asking professionals to provide free services to compete for public work.

A possible solution could read like this:

**§ 143-64.31. Declaration of public policy.**

(a) It is the public policy of this State and all public subdivisions and Local Governmental Units thereof, except in cases of special emergency involving the health and safety of the people or their property, to announce all requirements for architectural, engineering, surveying, construction management at risk services, design-build services, and public-private partnership construction services to select firms qualified to provide such services on the basis of demonstrated competence and qualification for the type of professional services required without regard to design solutions or fee other than unit price information at this stage, and thereafter to negotiate a contract for those services at a fair and reasonable fee with the best qualified firm. If a contract cannot be negotiated with the best qualified firm, negotiations with that firm shall be terminated and initiated with the next best qualified firm. Selection of a firm under this Article shall include the use of good faith efforts by the public entity to notify minority firms of the opportunity to submit qualifications for consideration by the public entity.

On Wednesday your study committee will meet to take up issues with regard to the implementation of HB 857 and we would request the committee spend some time on this important development.

Respectfully,

David A. Crawford  
Executive Vice President