

SENATE, No. 1846

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED FEBRUARY 15, 2018

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

SYNOPSIS

Requires contracts for professional services be awarded by certain bi-state authorities pursuant to competitive contracting process.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the awarding of certain professional services
2 contracts by bi-state authorities and supplementing various parts
3 of the statutory law.

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

7
8 1. a. Any contract for services, which are of a technical and
9 professional nature, including, but not limited to, architectural,
10 engineering, and land surveying services, to be performed by a
11 contractor that is to be awarded by the Port Authority of New York
12 and New Jersey shall be publicly announced prior to being awarded.
13 Contracts for these services shall be negotiated on the basis of
14 demonstrated competence and qualification for the type of technical
15 and professional service required and at fair and reasonable
16 compensation and awarded pursuant to a competitive contracting
17 process in the manner provided by this section.

18 b. A professional firm that wishes to be qualified to provide
19 technical and professional services to the port authority seeking to
20 negotiate a contract or agreement for the performance of those
21 services shall file with the port authority a current statement of
22 qualifications and supporting data. The statement may be filed at
23 any time during a calendar year.

24 c. Notwithstanding the provisions of any other law to the
25 contrary, a contract or agreement with the port authority for the
26 procurement of technical and professional services shall be publicly
27 advertised prior to the solicitation of proposals or expressions of
28 interest from interested firms. The advertisement shall include a
29 statement of the criteria by which the port authority shall evaluate
30 the qualifications of professional firms and determine the order of
31 preference to be used in designating the firms most highly qualified
32 to perform the services. In addition, the advertisement shall include
33 notice that professional firms wishing to be considered for selection
34 as a potential provider of such services in connection with a
35 proposed project must have submitted to the port authority a current
36 statement of qualifications and supporting data as provided in
37 subsection b. of this section.

38 d. For each proposed contract, the port authority shall evaluate
39 current statements of qualifications and supporting data on file with
40 the port authority. The port authority may solicit proposals or
41 expressions of interest unique to the specific contract that would in
42 narrative form outline concepts and methods of approach to the
43 contract. The port authority shall select, in order of preference,
44 based upon the criteria included in the advertisement required by
45 subsection c. of this section, at least three professional firms
46 deemed to be the most highly qualified to provide the services
47 required, except that the port authority may select fewer
48 professional firms if fewer such firms responded to the solicitation

1 or meet the qualifications required for the project.

2 e. The port authority shall, before publishing an advertisement
3 of notice with respect to any such contract or agreement, notify the
4 public of the criteria by which it shall make, with respect to any
5 such contract or agreement, the selection of qualified firms as
6 prescribed by this section.

7 f. Once the top three or more ranked firms have been
8 identified, each firm, at the request of the port authority, shall
9 submit a fee proposal. The firms shall not be told of their ranking
10 position at that time. Using the three fee proposals to provide a
11 general guideline, the port authority shall negotiate a contract with
12 the most qualified professional firm at compensation which the port
13 authority determines to be fair and reasonable. In making this
14 determination, the port authority shall take into account the
15 estimated value of the services to be rendered and the scope,
16 complexity, and professional nature thereof. Should the port
17 authority be unable to negotiate a satisfactory contract with the
18 professional firm considered to be the most qualified at a fee the
19 port authority determines to be fair and reasonable, negotiations
20 with that professional firm shall be formally terminated. The port
21 authority shall then undertake negotiations with the second most
22 qualified professional firm. Failing accord with the second most
23 qualified professional firm, the port authority shall formally
24 terminate negotiations. The port authority shall then undertake
25 negotiations with the third most qualified professional firm. Should
26 the port authority be unable to negotiate a satisfactory contract with
27 any of the selected professional firms, it shall select additional
28 professional firms in order of their competence and qualifications
29 and it shall continue negotiations in accordance with this section
30 until an agreement is reached.

31 g. Nothing in this section shall preclude the port authority from
32 using procurement processes other than those prescribed herein if
33 those processes are required by the federal government or in the
34 event of a declared state of emergency.

35 h. As used in this section:

36 “Declared state of emergency” means any state of emergency
37 declared by the Governor of New York, the Governor of New
38 Jersey, or the President of the United States.

39 “Port authority” means the Port Authority of New York and New
40 Jersey.

41 “Professional firm” means any individual, firm, partnership,
42 corporation, association, or other legal entity permitted by law to
43 provide technical and professional services.

44
45 2. a. Any contract for services, which are of a technical and
46 professional nature, including, but not limited to, architectural,
47 engineering, and land surveying services, to be performed by a
48 contractor that is to be awarded by the Delaware River Port

1 Authority shall be publicly announced prior to being awarded.
2 Contracts for these services shall be negotiated on the basis of
3 demonstrated competence and qualification for the type of technical
4 and professional service required and at fair and reasonable
5 compensation and awarded pursuant to a competitive contracting
6 process in the manner provided by this section.

7 b. A professional firm that wishes to be qualified to provide
8 technical and professional services to the authority seeking to
9 negotiate a contract or agreement for the performance of those
10 services shall file with the authority a current statement of
11 qualifications and supporting data. The statement may be filed at
12 any time during a calendar year.

13 c. Notwithstanding the provisions of any other law to the
14 contrary, a contract or agreement with the authority for the
15 procurement of technical and professional services shall be publicly
16 advertised prior to the solicitation of proposals or expressions of
17 interest from interested firms. The advertisement shall include a
18 statement of the criteria by which the authority shall evaluate the
19 qualifications of professional firms and determine the order of
20 preference to be used in designating the firms most highly qualified
21 to perform the services. In addition, the advertisement shall include
22 notice that professional firms wishing to be considered for selection
23 as a potential provider of such services in connection with a
24 proposed project must have submitted to the authority a current
25 statement of qualifications and supporting data as provided in
26 subsection b. of this section.

27 d. For each proposed contract, the authority shall evaluate
28 current statements of qualifications and supporting data on file with
29 the authority. The authority may solicit proposals or expressions of
30 interest unique to the specific contract that would in narrative form
31 outline concepts and methods of approach to the contract. The
32 authority shall select, in order of preference, based upon the criteria
33 included in the advertisement required by subsection c. of this
34 section, at least three professional firms deemed to be the most
35 highly qualified to provide the services required, except that the
36 authority may select fewer professional firms if fewer such firms
37 responded to the solicitation or meet the qualifications required for
38 the project.

39 e. The authority shall, before publishing an advertisement of
40 notice with respect to any such contract or agreement, notify the
41 public of the criteria by which it shall make, with respect to any
42 such contract or agreement, the selection of qualified firms as
43 prescribed by this section.

44 f. Once the top three or more ranked firms have been
45 identified, each firm, at the request of the authority, shall submit a
46 fee proposal. The firms shall not be told of their ranking position at
47 that time. Using the three fee proposals to provide a general
48 guideline, the authority shall negotiate a contract with the most

1 qualified professional firm at compensation which the authority
2 determines to be fair and reasonable. In making this determination,
3 the authority shall take into account the estimated value of the
4 services to be rendered and the scope, complexity, and professional
5 nature thereof. Should the authority be unable to negotiate a
6 satisfactory contract with the professional firm considered to be the
7 most qualified at a fee the authority determines to be fair and
8 reasonable, negotiations with that professional firm shall be
9 formally terminated. The authority shall then undertake
10 negotiations with the second most qualified professional firm.
11 Failing accord with the second most qualified professional firm, the
12 authority shall formally terminate negotiations. The authority shall
13 then undertake negotiations with the third most qualified
14 professional firm. Should the commission be unable to negotiate a
15 satisfactory contract with any of the selected professional firms, it
16 shall select additional professional firms in order of their
17 competence and qualifications and it shall continue negotiations in
18 accordance with this section until an agreement is reached.

19 g. Nothing in this section shall preclude the authority from
20 using procurement processes other than those prescribed herein if
21 those processes are required by the federal government or in the
22 event of a declared state of emergency.

23 h. As used in this section:

24 "Authority" means the Delaware River Port Authority.

25 "Declared state of emergency" means any state of emergency
26 declared by the Governor of Pennsylvania, the Governor of New
27 Jersey, or the President of the United States.

28 "Professional firm" means any individual, firm, partnership,
29 corporation, association, or other legal entity permitted by law to
30 provide technical and professional services.

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32 3. a. Any contract for services, which are of a technical and
33 professional nature, including, but not limited to, architectural,
34 engineering, and land surveying services, to be performed by a
35 contractor that is to be awarded by the Delaware River and Bay
36 Authority shall be publicly announced prior to being awarded.
37 Contracts for these services shall be negotiated on the basis of
38 demonstrated competence and qualification for the type of technical
39 and professional service required and at fair and reasonable
40 compensation and awarded pursuant to a competitive contracting
41 process in the manner provided by this section.

42 b. A professional firm that wishes to be qualified to provide
43 technical and professional services to the authority seeking to
44 negotiate a contract or agreement for the performance of those
45 services shall file with the authority a current statement of
46 qualifications and supporting data. The statement may be filed at
47 any time during a calendar year.

48 c. Notwithstanding the provisions of any other law to the

1 contrary, a contract or agreement with the authority for the
2 procurement of technical and professional services shall be publicly
3 advertised prior to the solicitation of proposals or expressions of
4 interest from interested firms. The advertisement shall include a
5 statement of the criteria by which the authority shall evaluate the
6 qualifications of professional firms and determine the order of
7 preference to be used in designating the firms most highly qualified
8 to perform the services. In addition, the advertisement shall include
9 notice that professional firms wishing to be considered for selection
10 as a potential provider of such services in connection with a
11 proposed project must have submitted to the authority a current
12 statement of qualifications and supporting data as provided in
13 subsection b. of this section.

14 d. For each proposed contract, the authority shall evaluate
15 current statements of qualifications and supporting data on file with
16 the authority. The authority may solicit proposals or expressions of
17 interest unique to the specific contract that would in narrative form
18 outline concepts and methods of approach to the contract. The
19 authority shall select, in order of preference, based upon the criteria
20 included in the advertisement required by subsection c. of this
21 section, at least three professional firms deemed to be the most
22 highly qualified to provide the services required, except that the
23 authority may select fewer professional firms if fewer such firms
24 responded to the solicitation or meet the qualifications required for
25 the project.

26 e. The authority shall, before publishing an advertisement of
27 notice with respect to any such contract or agreement, notify the
28 public of the criteria by which it shall make, with respect to any
29 such contract or agreement, the selection of qualified firms as
30 prescribed by this section.

31 f. Once the top three or more ranked firms have been
32 identified, each firm, at the request of the authority, shall submit a
33 fee proposal. The firms shall not be told of their ranking position at
34 that time. Using the three fee proposals to provide a general
35 guideline, the authority shall negotiate a contract with the most
36 qualified professional firm at compensation which the authority
37 determines to be fair and reasonable. In making this determination,
38 the authority shall take into account the estimated value of the
39 services to be rendered and the scope, complexity, and professional
40 nature thereof. Should the authority be unable to negotiate a
41 satisfactory contract with the professional firm considered to be the
42 most qualified at a fee the authority determines to be fair and
43 reasonable, negotiations with that professional firm shall be
44 formally terminated. The authority shall then undertake
45 negotiations with the second most qualified professional firm.
46 Failing accord with the second most qualified professional firm, the
47 authority shall formally terminate negotiations. The authority shall
48 then undertake negotiations with the third most qualified

1 professional firm. Should the authority be unable to negotiate a
2 satisfactory contract with any of the selected professional firms, it
3 shall select additional professional firms in order of their
4 competence and qualifications and it shall continue negotiations in
5 accordance with this section until an agreement is reached.

6 g. Nothing in this section shall preclude the authority from
7 using procurement processes other than those prescribed herein if
8 those processes are required by the federal government or in the
9 event of a declared state of emergency.

10 h. As used in this section:

11 “Authority” means the Delaware River and Bay Authority.

12 “Declared state of emergency” means any state of emergency
13 declared by the Governor of Delaware, the Governor of New Jersey,
14 or the President of the United States.

15 “Professional firm” means any individual, firm, partnership,
16 corporation, association, or other legal entity permitted by law to
17 provide technical and professional services.

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19 4. a. Section 1 of this act shall take effect immediately, but
20 shall remain inoperative until the enactment into law of legislation
21 substantially similar to P.L. , c. (C.) (pending before the
22 Legislature as this bill) by the State of New York, but if such
23 legislation shall have been enacted prior to the enactment of
24 P.L. , c. (C.) (pending before the Legislature as this bill), this
25 act shall take effect immediately.

26 b. Section 2 of this act shall take effect immediately, but shall
27 remain inoperative until the enactment into law of legislation
28 substantially similar to P.L. , c. (C.) (pending before the
29 Legislature as this bill) by the Commonwealth of Pennsylvania, but
30 if such legislation shall have been enacted prior to the enactment of
31 P.L. , c. (C.) (pending before the Legislature as this bill), this
32 act shall take effect immediately.

33 c. Section 3 of this act shall take effect immediately, but shall
34 remain inoperative until the enactment into law of legislation
35 substantially similar to P.L. , c. (C.) (pending before the
36 Legislature as this bill) by the State of Delaware, but if such
37 legislation shall have been enacted prior to the enactment of
38 P.L. , c. (C.) (pending before the Legislature as this bill), this
39 act shall take effect immediately.

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STATEMENT

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44 This bill requires that contracts entered into by the Port
45 Authority of New York and New Jersey, the Delaware River Port
46 Authority, and the Delaware River and Bay Authority (collectively,
47 the “authorities”) for professional services be subject to a
48 competitive bidding process. Specifically, the bill requires that any

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1 contract for services, which are of a technical and professional
2 nature, including, but not limited to, architectural, engineering, and
3 land surveying services, to be performed by a contractor that is to
4 be awarded by the authorities shall be publicly announced prior to
5 being awarded.

6 Contracts for these services shall be negotiated on the basis of
7 demonstrated competence and qualification for the type of technical
8 and professional service required and at fair and reasonable
9 compensation and awarded pursuant to a competitive contracting
10 process.