

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

SENATE, No. 2194

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 18, 1997

The Senate Transportation Committee reports favorably Senate Bill No. 2194 with committee amendments.

This amended bill concerns the award of certain professional service contracts in connection with State construction projects. The bill requires that the selection by a State agency of a person or firm to perform architectural, engineering, or land surveying services, including planning, environmental, and construction inspection services (or "construction-related professional services"), shall be based upon professional qualification. The bill does not alter the current provision of the State public contracts law (N.J.S.A.52:34-9(a)) that exempts professional services contracts from the regular competitive bidding process. Rather, it establishes certain uniform statutory procedures to govern both the qualification of firms wishing to provide construction-related professional services and the awarding of contracts for such services to firms meeting those qualifications.

State contracts for construction-related professional services are to be negotiated on the basis of demonstrated competence and qualifications and at fair and reasonable compensation.

Firms wishing to be considered are required to file with the agency a "statement of qualification and supporting data". To retain this qualification, a firm would have to file such a statement at least once every two years. The content of the statement would have to conform to regulations promulgated by the State Treasurer and be deemed to be a public record under the "right-to-know" law. No State agency could negotiate or award a contract for construction-related professional services with or to a professional firm that does not have a current statement of qualifications and supporting data on file with the agency.

A State agency which anticipates engaging in the procurement of these services would first be required to promulgate by regulation the criteria by which the agency will select firms qualified to perform any such contract.

Before a State agency makes, negotiates, or awards a contract for these services, public notice would have to be given that the contract

is to be made, negotiated, or awarded. This notice would have to conform to the existing content and publication requirements applicable to an advertisement for bids or may be publicly advertised through electronic means. The advertisement would include a statement of the criteria by which the agency will evaluate the technical qualifications of the professional firms and determine the order of preference to be used in designating the firms most highly qualified to perform the service.

For each proposed State project, an agency shall, before contracting for those services, select in order of preference and based upon criteria established by the agency at least three professional firms deemed to be most qualified, except that the agency may select fewer than three professional firms if fewer than three such firms respond to the solicitation or meet the qualifications required for the project. This designation is to be based on an evaluation of current statements of qualifications and supporting data on file with the agency.

The agency is then to undertake negotiation of the contract with the most technically qualified firm, taking into account "the estimated value of the services to be rendered and the scope, complexity, and professional nature thereof." If these negotiations fail, negotiations are to be attempted with the next most qualified firm, and so on.

The bill does not apply to professional services contracts of \$25,000 or less.

The amendments make several technical changes and provide an exception to the minimum requirement of three professional firms to permit an agency to select from fewer professional firms if fewer such firms responded to the solicitation of proposals or meet the qualifications required for a project. The amendments change the requirement that a firm file a "statement of qualification and supporting data" from at least once annually to at least once every two years. The amendments allow an agency to advertise for solicitations of proposals or expressions of interest through electronic means. The amendments require that an advertisement include the criteria an agency will use to evaluate the technical qualifications of professional firms. The amendments require an agency to negotiate a contract with the most technically qualified professional firm. Finally, the amendments change the effective date of the act to the 360th day after enactment and provide that an agency may take any anticipatory administrative action in advance of the effective date as may be necessary for the implementation of the act.