

**SENATE, No. 1756**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED FEBRUARY 13, 2020

**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.

31

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 negotiations  
45 with the second most qualified professional firm. Failing accord  
46 with the second most qualified professional firm, the authority shall  
47 formally terminate negotiations. The authority shall then undertake  
48 negotiations with the third most qualified professional firm. Should

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

18  
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.

#### 40 41 42 STATEMENT

43  
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

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.