SENATE, No. 1650



STATE OF NEW JERSEY

220th LEGISLATURE



INTRODUCED FEBRUARY 14, 2022

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.



An Act concerning the awarding of certain professional services contracts by bi-state authorities and supplementing various parts of the statutory law.

 Be It Enacted by the Senate and General Assembly of the State of New Jersey:

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

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

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

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

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

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

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

 h. As used in this section:

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

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

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

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

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

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

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

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

 f. Once the top three or more ranked firms have been identified, each firm, at the request of the authority, shall submit a fee proposal. The firms shall not be told of their ranking position at that time. Using the three fee proposals to provide a general guideline, the authority shall negotiate a contract with the most qualified professional firm at compensation which the authority determines to be fair and reasonable. In making this determination, the authority shall take into account the estimated value of the services to be rendered and the scope, complexity, and professional nature thereof. Should the authority be unable to negotiate a satisfactory contract with the professional firm considered to be the most qualified at a fee the authority determines to be fair and reasonable, negotiations with that professional firm shall be formally terminated. The authority shall then undertake negotiations with the second most qualified professional firm. Failing accord with the second most qualified professional firm, the authority shall formally terminate negotiations. The authority shall then undertake negotiations with the third most qualified professional firm. Should the commission be unable to negotiate a satisfactory contract with any of the selected professional firms, it shall select additional professional firms in order of their competence and qualifications and it shall continue negotiations in accordance with this section until an agreement is reached.

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

 h. As used in this section:

 “Authority” means the Delaware River Port Authority.

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

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

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

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

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

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

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

 f. Once the top three or more ranked firms have been identified, each firm, at the request of the authority, shall submit a fee proposal. The firms shall not be told of their ranking position at that time. Using the three fee proposals to provide a general guideline, the authority shall negotiate a contract with the most qualified professional firm at compensation which the authority determines to be fair and reasonable. In making this determination, the authority shall take into account the estimated value of the services to be rendered and the scope, complexity, and professional nature thereof. Should the authority be unable to negotiate a satisfactory contract with the professional firm considered to be the most qualified at a fee the authority determines to be fair and reasonable, negotiations with that professional firm shall be formally terminated. The authority shall then undertake negotiations with the second most qualified professional firm. Failing accord with the second most qualified professional firm, the authority shall formally terminate negotiations. The authority shall then undertake negotiations with the third most qualified professional firm. Should the authority be unable to negotiate a satisfactory contract with any of the selected professional firms, it shall select additional professional firms in order of their competence and qualifications and it shall continue negotiations in accordance with this section until an agreement is reached.

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

 h. As used in this section:

 “Authority” means the Delaware River and Bay Authority.

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

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

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

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

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

STATEMENT

 This bill requires that contracts entered into by the Port Authority of New York and New Jersey, the Delaware River Port Authority, and the Delaware River and Bay Authority (collectively, the “authorities”) for professional services be subject to a competitive bidding process. Specifically, the bill requires that any contract for services, which are of a technical and professional nature, including, but not limited to, architectural, engineering, and land surveying services, to be performed by a contractor that is to be awarded by the authorities shall be publicly announced prior to being awarded.

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