

MAINE STATE LEGISLATURE

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DATE: April 10, 2001

(Filing No. S-54)

TRANSPORTATION

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STATE OF MAINE
SENATE
120TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 211, L.D. 776, Bill, "An Act to Authorize the Department of Transportation to Use the Design-Build Method of Project Delivery"

Amend the bill in section 1 in that part designated "S753-A." in subsection 2 in the first paragraph in the last line (page 2, line 4 in L.D.) by inserting after the following: "basis." the following: 'If the scope of work requires substantial engineering judgment, the quality of which may vary significantly as determined by the department, then the basis of award must be best value.'

The department shall identify in its planning process those projects it believes are candidates for design-build contracting. The failure of the department to identify such projects does not prevent the department from using design-build contracting in extraordinary circumstances including emergency work, unscheduled projects or loss of funding.'

Further amend the bill in section 1 in that part designated "S753-A." by striking out all of subsection 4 and inserting in its place the following:

'4. Request for proposals. If the department requires prequalification, it shall issue a draft request for proposals to those firms prequalified. The department shall give prequalified firms adequate time to review and comment on a draft request for proposals. The department shall consider those comments in the best interest of the State before issuing the request for proposals. If the department does not require prequalification, it shall give public notice of the request for proposals in at least 2 newspapers distributed in the State.'

COMMITTEE AMENDMENT

2 The request for proposals must set forth the scope of work,
4 design parameters, construction requirements, time constraints
6 and all other requirements that have a substantial impact on the
8 cost or quality of the project and the project development
10 process, as determined by the department. The request for
12 proposals must include the criteria for acceptable proposals.
14 For projects to be awarded on a best-value basis, the scoring
16 process and quality criteria must also be contained in the
18 request for proposals. In the department's discretion, the
20 request for proposals may provide for a process, including the
22 establishment of a team to review proposals, for the department
24 to review conceptual technical elements of each proposal before
26 full proposal submittal for the purposes of identifying defects
that would cause rejection of the proposal as nonresponsive. The
majority of the members of the team reviewing proposals for
responsiveness must be persons not employed by the department.
Rejection of any proposal as nonresponsive requires a unanimous
vote of the review team. All such conceptual submittals and
responses are confidential until award of the contract. Upon
award of the contract and after resolution of any procurement
disputes, the department shall return documents submitted by
unsuccessful proposers upon request. The request for proposals
may also provide for a stipend upon specified terms to
unsuccessful proposers that submit proposals conforming to all
request-for-proposals requirements.'

28 Further amend the bill in section 1 in that part designated
30 "§753-A." by inserting after subsection 6 the following:

32 '7. Procurement disputes. The request for proposals must
34 provide for resolution of disputes that may arise before award of
36 the contract by including a dispute review board procedure in
38 accordance with the department's standard specifications and a
provision that provides that the procurement process must be
suspended pending final resolution of such disputes. This
subsection does not prevent an aggrieved party from seeking
judicial review.'

SUMMARY

42 This amendment adds the following provisions to the bill.

44 1. The Department of Transportation shall use the
46 best-value basis of awarding a contract in the case that a scope
48 of work requires substantial engineering judgment.

COMMITTEE AMENDMENT "A" to S.P. 211, L.D. 776

- 2 2. The department shall identify in its planning process
those projects that are likely candidates for design-build
contracting.
- 4
- 6 3. The department shall issue a draft request for proposals
to prequalified firms for review and comment.
- 8 4. A majority of the team that reviews proposals for
responsiveness may not be employed by the department.
- 10
- 12 5. The request for proposals must provide a process for
resolution of procurement disputes.