

**April 27, 2011**

**Honorable Don Harmon, Co-Chairperson  
Honorable Pamela Althoff, Co-Chairperson**

**Illinois State Senate**

**Senate Committee on Procurement**

**Comments by James E. Wolfe, Chairman & CEO, Knight Partners, LLC**

Honorable Co-Chairperson's Harmon and Althoff and other distinguished committee members, I want to thank you for this opportunity to address the State's procurement system. Knight Partners LLC and its subsidiary, Knight E/A, Inc., provide engineering and architectural services to a number of State agencies, including the Illinois Department of Transportation ("IDOT"), the Capital Development Board ("CDB") and the Illinois State Toll Highway Authority ("Tollway"). As a professional design firm, we are currently adversely impacted by language contained in 30 ILCS 500/50-39 in four primary areas:

- Conflicting language between 30 ILCS 500/50-39/ Procurement Communications Reporting Requirements ("Procurement Reporting Act") and 30 ILCS 535/ Architectural, Engineering and Land Surveying Qualifications Based Selection Act ("QBS Act").
- The Procurement Reporting Act reporting requirements have essentially stopped all communications between State agencies and professional design firms.
- This has a direct impact on all engineering, architectural and land surveying firms but is particularly harmful to new companies and DBE/MBE/WBE firms attempting to become established with State agencies.

- The existing reporting requirements actually discourage communication because every discussion can be seen as a potential procurement matter, thus severely limiting conversations between the State and its outside professionals. The end result of this “strained” communication is delayed projects and additional costs to the State.

Public Act 096-0795 (30 ILCS 500/50-39) provides the following: “Sec. 50-39. Procurement communications reporting requirement. (a) Any written or oral communication, received by a state employee that imparts or requests material information or makes a material argument regarding potential action concerning a procurement matter including, but not limited to, an application, a contract, or a project, shall be reported to the Procurement Policy Board.”

The above language creates a conflict between the Procurement Reporting Act and the QBS Act. The QBS Act clearly anticipates and encourages discussion between the procurement agencies and architects, engineers and land surveyors.

Section 30 of the QBS Act provides the following: “A State agency shall evaluate the firms submitting letters of interest and other prequalified firms, taking into account qualifications; and the State agency may consider, but shall not be limited to considering, ability of professional personnel, past record and experience, performance data on file, willingness to meet time requirements, location, workload of the firm and any other qualifications based factors as the State agency may determine in writing are applicable. The State agency may conduct discussions with and require public presentations by firms deemed to be the most qualified regarding their qualifications, approach to the project and ability to furnish the required services.” The above referenced discussion is absolutely critical for State agencies to thoroughly evaluate the professionals’

experience and ability to perform design services. Without said discussion, the State agencies are simply relying on a hollow piece of paper.

The Procurement Reporting Act does not explicitly prohibit communications between the procurement agencies and architects, engineers and land surveyors. However, the unduly burdensome reporting requirements have created a "chilling effect" on all communications between State agencies and engineers, architects and land surveyors. Section B of the Procurement Reporting Act requires that reports be submitted monthly with the following detail: "(i) the date and time of each communication (ii) the identity of each person from whom the written or oral communication was received; the individual or entity represented by that person, and any action the person requested or recommended (iii) the identity and job title of the person to whom each communication was made; (iv) if a response is made, the identity and job title of the person making each response; (v) a detailed summary of the points made by each person involved in the communication; (vi) the duration of the communication; (vii) the location or locations of all persons involved in the communication and, if the communication occurred by telephone, the telephone numbers for the callers and recipients of the communication; and (viii) any other pertinent information."

While the Procurement Reporting Act is well intentioned, it has imposed an unrealistic reporting system which is in direct conflict with free flowing communication necessary for successful design and construction. The "building agencies", i.e., IDOT, CDB and the Tollway, are unwilling, afraid or unable to actually meet the professionals they are doing business with. The end result is severely flawed system in which the State agencies cannot evaluate and understand the professional capabilities of architects, engineers and land surveyors because they are unable or unwilling to meet or speak with them.

This has a direct impact on all engineering, architectural and land surveying companies but is particularly harmful to new companies and DBE/MBE/WBE firms seeking to become established with the "building agencies". In most cases, these companies do not have existing contracts with the State, so the State agencies have no reason to talk with these firms. The Procurement Reporting Act has created a "Catch-22" wherein professional firms seeking to do business with the State have no real vehicle of communicating with the State.

As an alternative, we propose the following language: "Public Act 096-0795 (30 ILCS 500/50-39). Sec. 50-39. Procurement communications reporting requirement. (a) Any written or oral communication, excluding those related to the Qualification Based Selection process as set forth in 30 ILCS 535/ Architectural, Engineering and Land Surveying Qualifications Based Selection Act, received by a state employee that imparts or requests material information or makes a material argument regarding potential action concerning a procurement matter in excess of \$250,000, including, but not limited to, an application, a contract, or a project, shall be reported to the Procurement Policy Board."

The changes to the current law (underlined above) would enhance the existing reporting requirements in a number of ways. First, a minimum dollar threshold of \$250,000 would be required to trigger the reporting requirements under the Procurement Reporting Act. While \$250,000 is not an insignificant dollar figure, it would allow the "building agencies" to discuss matters in the field and the design stage so that construction can move forward. As a practical matter, most larger construction and design projects at some point require these discussions. The \$250,000 threshold would provide a much more reasonable framework for ongoing discussions while still requiring reporting for matters over \$250,000. Moreover, the \$250,000 threshold triggers additional signatures,

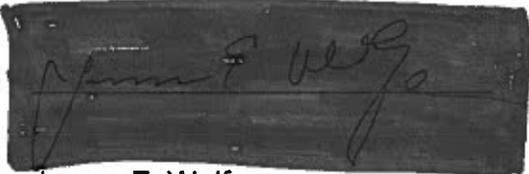
reporting and accounting as well as the reporting requirements under the Procurement Reporting Act.

Second, the suggested language would remove any conflicts between the Procurement Code and QBS Act.

Finally, the new language would allow meaningful discussions between the State agencies and engineers, architects and land surveyors provided said communication falls within the parameters of the QBS Act. This would allow State agencies to communicate with all architects, engineers and land surveyors either currently performing work for the State or seeking to do business with the State. This would also have an immediate impact on new firms, especially DBE/MBE/WBE firms seeking to become established with the State.

Thank you for the opportunity to submit my comments.

Respectfully submitted,

A black rectangular redaction box covering a handwritten signature in cursive script.

James E. Wolfe

Chairman & CEO

Knight Partners, LLC