

To: Senate Committee on Procurement

Re: Communications reporting requirement hindering communications, unfairly penalizing private firms, especially small and new firms.

Senate Bill 51 from the last General Assembly amended the Procurement Code in a number of ways with the intent of enhancing ethics in procurement. One of the provisions added to the law was a new requirement that all state employees report detailed information to the Procurement Policy Committee website on all written or verbal communications with private companies wanting to work for the state. We believe this requirement was intended to add transparency and to discourage inappropriate contact for purposes of influencing selection of contractors, especially by lobbyists.

The net effect of the law was to discourage state employees from talking to any private company about their services. State employees have told us that they are afraid that they could be called into question because they reported talking to a company that later happened to be selected for a state contract. In some cases, such as the Department of Transportation, employees have refused to talk to private companies. This is particularly unfair to those new companies, in many cases disadvantaged businesses, that need to talk to state employees about contract opportunities and explain their firm's qualifications. Companies with a long established track record are at an obvious advantage because they don't need to present their credentials. Many minority and women owned companies believe they are being treated unfairly in this regard.

One approach is to repeal the communications reporting requirement entirely and there has been legislation submitted to that affect. Another approach is for the Administration to compel state employees to talk to private companies about state opportunities regardless of their fear of the reporting requirement.

While we recognize that some of the answers to this problem may be administrative action requiring state employees to talk to vendors, we also believe there could be a Legislative amendment making the communications reporting requirement less burdensome while maintaining transparency. It may not be necessary to eliminate the communications reporting requirement and its commensurate transparency. Rather, we recommend that the reporting requirement apply only to those state employees directly involved in procurement decisions and on those projects actually under consideration as evidenced by advertising in a bulletin. This change would allow private companies to present their credentials and qualifications to state employees without the employee having to report the communications. Further, companies could learn more about upcoming programs and projects that may become available in the future, allowing the private company to plan which projects they might want to submit proposals or bids. Last, transparency is maintained as state employees actually involved in the selection process would still report on all communications for any advertised project.

We believe the aforementioned proposal is a moderate approach to a real problem for private companies wanting to compete for state contracts.

Supporters for change to the communications reporting requirement of the Procurement Code include:

American Council of Engineering Companies of IL (represented by David Kennedy)

American Society of Civil Engineers-IL Section (Michelle Kelm)

American Institute of Architects-Illinois (Mike Waldinger, Shirley Anderson)

Illinois Professional Land Surveyors Association (John Nicolay)

Illinois Road and Transportation Builders Association (Mike Sturino)

Illinois Society of Professional Engineers (Kim Robinson, Linda Renee Baker)

Structural Engineers Association of IL (Elizabeth O'Connor)