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S.B. 413

An Act Concerning the Denial of Prequalification Certificates by the Commissioner of Administrative Services

Committee on Transportation

March 10, 2010

The Department of Administrative Services ("DAS") **supports S.B. 413**, and offers the following written testimony for the Committee's background and information.

Overview of DAS Construction Contractor Prequalification

First, DAS would like to underscore that the statutes governing DAS's construction contractor prequalification program, C.G.S. § 4a-100 *et seq.*, do not apply to Department of Transportation ("DOT") projects or to contractors that seek to bid on DOT contracts. Such contracts and projects are specifically exempt from the DAS prequalification statutes.

DAS contractor prequalification is a screening process that evaluates construction companies to ensure they meet certain baseline standards to work on state-funded construction projects. By statute, the contractor prequalification unit evaluates a number of factors, such as a company's financial background, its experience in certain construction classifications, its record of performance, integrity, the company's safety record, and other criteria. Obtaining a prequalification certificate from DAS does not guarantee a company any state work; it only allows a company to bid on state projects or on municipal projects that receive some state funding. Again, the DAS program does not prequalify companies to bid on DOT "horizontal construction" contracts.

Strengthening Performance Evaluations in the Prequalification Process Makes Sense

DAS strongly believes that performance evaluations are the backbone of the prequalification process. We have been considering ways for the DAS prequalification team to obtain more performance evaluations on contractors; to strengthen the truthfulness, accuracy and timeliness of performance evaluations; and to bolster our use of performance evaluations in our prequalification process. **S.B. 413, coupled with administrative changes we plan to make to the program, will help DAS move in the right direction with regard to these goals.**

The most significant administrative change we plan to implement involves modifying our application process to ensure that we receive more performance evaluations for contractors seeking renewals of their prequalification certificate. Currently, when a contractor first applies for prequalification, it must submit performance evaluations for its three most

recently completed projects in each classification sought. These evaluations are completed by private or public projects owners, in-state or out-of-state. When a contractor files a renewal application, however, it currently provides only evaluations for any construction project subject to the prequalification statutes (i.e., projects with a value of \$500,000 or more, funded in whole or part by the State of Connecticut) on which it worked as a prime contractor in the preceding year. DAS does not believe that the current process affords enough of an opportunity to review the recent performance of companies seeking prequalification renewal.

Under the new process, if a contractor did not work on enough large state-funded projects subject to prequalification during the preceding year, DAS will require the company to provide evaluations from its three most recently completed projects as part of its renewal application. As with the initial application process, these evaluations may come from either public or private project owners, in-state and out-of-state. This will enable DAS to obtain a more complete view of the contractor's current record of performance.

We anticipate that this change in our renewal process will result in more evaluations from private project owners. S.B. 413 supports this administrative change by extending the liability protections currently provided to public project owners who complete evaluations to the private project owners as well. Extending this liability protection will promote compliance and will help ensure that we receive honest evaluations from these private project owners.

S.B. 413 also strengthens DAS's ability use the evaluations in a meaningful way. Currently, DAS is able to deny prequalification or disqualify a company with a poor performance record only if the average of all of the company's evaluations on file falls below the minimum threshold for satisfactory performance. Thus, even if DAS receives several unsatisfactory evaluations about a contractor, DAS cannot disqualify that contractor if the average continues to remain above the minimum threshold as a result of older, better evaluations.

S.B. 413 allows DAS to address such situations by giving DAS the authority to deny prequalification or disqualify a company if the company receives four or more unsatisfactory evaluations within a three year period. This would eliminate the problem of failing contractors remaining prequalified based solely on outdated evaluations, while continuing to reward contractors that demonstrate consistently good performance over the years.

DAS believes that the legislative changes in S.B. 413, coupled with the administrative changes that we will be making to the program, will enable us to get access to more performance evaluations on contractors and to use those evaluations more effectively.

Thank you for considering DAS's views on Senate Bill 413. If the Committee has any questions regarding this testimony or about the DAS prequalification program, please contact DAS's legislative liaison, Andrea Keilty (860) 713-5267.