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# ASSEMBLY, No. 2414

## STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED MAY 11, 2000

**Sponsored by:**

**Assemblyman ALAN M. AUGUSTINE**

**District 22 (Middlesex, Morris, Somerset and Union)**

**SYNOPSIS**

Revises law concerning award of State contracts to multiple bidders.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning the award of State contracts to multiple bidders  
2 and amending P.L.1986, c.26.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 1 of P.L.1986, c.26 (C.52:34-12.1) is amended to read  
8 as follows:

9 1. a. When awarding contracts pursuant to section 7 of P.L. 1954,  
10 c. 48 (C. 52:34-12), the Director of the Division of Purchase and  
11 Property may make awards to **[two or more]** multiple bidders, to  
12 furnish the same or similar materials, supplies, services or equipment,  
13 where **[more than one contractor is]** multiple bidders are necessary:

14 (1) to furnish the quantities required by using agencies;

15 (2) to provide expeditious and cost-efficient local deliveries to  
16 using agencies; **[or]**

17 (3) to enable using agencies to purchase materials, supplies,  
18 services or equipment which are compatible with those previously  
19 purchased;

20 (4) to provide for standardization of equipment, interchangeability  
21 of parts or continuation of services;

22 (5) to facilitate compliance with the "Set-Aside Act for Small  
23 Businesses, Female Businesses, and Minority Businesses," P.L.1983,  
24 c.482 (C.52:32-17 et seq.);

25 (6) to facilitate compliance with the recycling requirements of  
26 section 18 of P.L.1987, c.102 (C.13:1E-99.26);

27 (7) to provide participants in cooperative purchasing arrangements  
28 with a diversity of product choices to meet the individual needs of a  
29 community; or

30 (8) to further the State's best interest as a purchaser.

31 b. The director may consider whether the anticipated use of a  
32 contract by entities authorized by law to participate in cooperative  
33 purchasing arrangements with the State justifies awarding a contract  
34 to multiple bidders on the basis of the criteria set forth in subsection  
35 a. of this section .

36 **[b.] c.** Where multiple contracts have been awarded pursuant to  
37 subsection a. of this section, a using agency shall make purchases  
38 from that contractor whose contract terms and conditions are most  
39 advantageous to the agency, price and other factors considered.

40 **[c.] d.** All purchases made by using agencies under subsection  
41 **[b.] c.** of this section shall be reported to the director, in a manner  
42 prescribed by the director. The report shall include the reasons for

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 selecting a particular contractor under subsection [b.] c. of this  
2 section.

3 [d.] e. [An award to more than one bidder shall not be made when  
4 a single contractor can serve the purchasing needs of using agencies.  
5 Any multiple awards shall be made only to the number of vendors  
6 necessary to serve the using agencies' needs] Nothing contained in  
7 this section shall be construed as limiting the number of bidders who  
8 may respond to any request for proposal.

9 (cf: P.L. 1996, c.26. s.1)

10

11 2. This act shall take effect immediately

12

13 .

14

#### STATEMENT

15

16 Current law allows the Director of the Division of Purchase and  
17 Property to award contracts to two or more bidders to furnish the  
18 same or similar materials, supplies, services or equipment when more  
19 than one contractor is necessary to: furnish the quantities required by  
20 using agencies; provide expeditious and cost-efficient local deliveries  
21 to using agencies; or enable using agencies to purchase materials,  
22 supplies, services or equipment which are compatible with those  
23 previously purchased.

24 This bill would permit the director to also award contracts to  
25 multiple bidders when necessary to: provide for standardization of  
26 equipment, interchangeability of parts or continuation of services;  
27 facilitate compliance with set-aside requirements for small, minority  
28 and female businesses; facilitate compliance with the certain recycling  
29 requirements; provide participants in cooperative purchasing  
30 arrangements with a diversity of product choices to meet the individual  
31 needs of a community; or further the State's best interest as a  
32 purchaser.

33 The bill would also authorize the director to consider whether the  
34 anticipated use of a contract by entities authorized by law to  
35 participate in the State's Cooperative Purchasing Program justifies  
36 awarding a contract to multiple bidders on the basis of the above  
37 criteria. That program currently enables quasi-State agencies, political  
38 subdivisions, school districts, volunteer fire departments, first aid  
39 squads, independent institutions of higher education, county colleges,  
40 and State colleges to benefit from the State's greater purchasing  
41 power.

42 Finally, the bill eliminates certain restrictions in existing law which  
43 limit the director's discretion to award contracts to multiple bidders

[First Reprint]

**ASSEMBLY, No. 2414**

**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

INTRODUCED MAY 11, 2000

**Sponsored by:**

**Assemblyman ALAN M. AUGUSTINE**

**District 22 (Middlesex, Morris, Somerset and Union)**

**Co-Sponsored by:**

**Assemblymen Biondi, Blee, Doria, Charles and Senator Bennett**

**SYNOPSIS**

Revises law concerning award of State contracts to multiple bidders.

**CURRENT VERSION OF TEXT**

As reported by the Assembly State Government Committee on June 8, 2000,  
with amendments.



**(Sponsorship Updated As Of: 6/27/2000)**

1 AN ACT concerning the award of State contracts to multiple bidders  
2 and amending P.L.1986, c.26.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 1 of P.L.1986, c.26 (C.52:34-12.1) is amended to read  
8 as follows:

9 1. a. When awarding contracts pursuant to section 7 of P.L. 1954,  
10 c. 48 (C. 52:34-12), the Director of the Division of Purchase and  
11 Property may make awards to **[two or more]** multiple bidders, to  
12 furnish the same or similar materials, supplies, services or equipment,  
13 where **[more than one contractor is]** multiple bidders are necessary:

14 (1) to furnish the quantities required by using agencies;

15 (2) to provide expeditious and cost-efficient local deliveries to  
16 using agencies; **[or]**

17 (3) to enable using agencies to purchase materials, supplies,  
18 services or equipment which are compatible with those previously  
19 purchased;

20 (4) to provide for standardization of equipment, interchangeability  
21 of parts or continuation of services;

22 <sup>1</sup>[(5) to facilitate compliance with the "Set-Aside Act for Small  
23 Businesses, Female Businesses, and Minority Businesses," P.L.1983,  
24 c.482 (C.52:32-17 et seq.);

25 (6) to facilitate compliance with the recycling requirements of  
26 section 18 of P.L.1987, c.102 (C.13:1E-99.26);

27 (7) to provide participants in cooperative purchasing arrangements  
28 with a diversity of product choices to meet the individual needs of a  
29 community; or

30 (8) to further the State's best interest as a purchaser.]or

31 (5) to provide using agencies or participants in cooperative  
32 purchasing arrangements with a diversity of product choices to meet  
33 the collective safety, environmental or technological needs of such  
34 agencies or cooperative purchasers.<sup>1</sup>

35 b. The director may <sup>1</sup>[consider] determine<sup>1</sup> whether the  
36 anticipated use of a contract by entities authorized by law to  
37 participate in cooperative purchasing arrangements with the State  
38 justifies awarding a contract to multiple bidders on the basis of <sup>1</sup>any  
39 one or more of<sup>1</sup> the criteria set forth in subsection a. of this section .

40 **[b.] c.** Where multiple contracts have been awarded pursuant to  
41 subsection a. of this section, a using agency shall make purchases

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Assembly ASG committee amendments adopted June 8, 2000.

1 from that contractor whose contract terms and conditions are most  
2 advantageous to the agency, price and other factors considered.

3 [c.] d. All purchases made by using agencies under subsection  
4 [b.] c. of this section shall be reported to the director, in a manner  
5 prescribed by the director. The report shall include the reasons for  
6 selecting a particular contractor under subsection [b.] c. of this  
7 section.

8 [d.] e. [An award to more than one bidder shall not be made when  
9 a single contractor can serve the purchasing needs of using agencies.  
10 Any multiple awards shall be made only to the number of vendors  
11 necessary to serve the using agencies' needs] <sup>1</sup>[Nothing contained in  
12 this section shall be construed as limiting the number of bidders who  
13 may respond to any request for proposal.] Any multiple award shall  
14 be made only to the number of contractors necessary to serve the  
15 needs of using agencies and cooperative purchasers for the service,  
16 item or group of items that is the subject of the award. This provision,  
17 however, does not limit in any way the director's discretion to  
18 structure an invitation to bid to encompass more than one service, item  
19 or group of items and to award the number of contracts contemplated  
20 by the invitation to bid.<sup>1</sup>

21 (cf: P.L. 1996, c.26. s.1)

22

23 2. This act shall take effect immediately.



# ASSEMBLY STATE GOVERNMENT COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 2414**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 8, 2000

The Assembly State Government Committee reports favorably and with committee amendments Assembly, No. 2414.

Current law allows the Director of the Division of Purchase and Property to award contracts to two or more bidders to furnish the same or similar materials, supplies, services or equipment when more than one contractor is necessary to: furnish the quantities required by using agencies; provide expeditious and cost-efficient local deliveries to using agencies; or enable using agencies to purchase materials, supplies, services or equipment which are compatible with those previously purchased.

As amended, this bill permits the director to also award contracts to multiple bidders when necessary to provide for standardization of equipment, interchangeableness of parts or continuation of services or to provide using agencies or participants in cooperative purchasing arrangements with a diversity of product choices to meet the collective safety, environmental or technological needs of such agencies or cooperative purchasers.

The bill allows the director to determine whether the anticipated use of a contract by entities authorized by law to participate in the State's Cooperative Purchasing Program justifies awarding a contract to multiple bidders on the basis of the above criteria. That program currently enables quasi-State agencies, political subdivisions, school districts, volunteer fire departments, first aid squads, independent institutions of higher education, county colleges, and State colleges to benefit from the State's greater purchasing power.

The bill provides that any multiple award will be made only to the number of contractors necessary to serve the needs of using agencies and cooperative purchasers for the service, item or group of items that is the subject of the award. The bill states that this provision does not limit in any way the director's discretion to structure an invitation to bid to encompass more than one service, item or group of items and to award the number of contracts contemplated by the invitation to bid.

The committee amended the bill to remove the language permitting the director to award contracts to multiple bidders when necessary to: facilitate compliance with set-aside requirements for small, minority and female businesses; facilitate compliance with certain recycling requirements; provide participants in cooperative purchasing arrangements with a diversity of product choices to meet the individual needs of a community; or further the State's best interest as a purchaser. It added language to permit the director to award contracts to multiple bidders to provide using agencies or participants in cooperative purchasing arrangements with a diversity of product choices to meet the collective safety, environmental or technological needs of such agencies or cooperative purchasers.

The committee also amended the bill to replace language providing that nothing in the amended statute will be construed as limiting the number of bidders who may respond to any request for proposal with language providing, instead, that any multiple award will be made only to the number of contractors necessary to serve the needs of using agencies and cooperative purchasers for the service, item or group of items that is the subject of the award. The amendments provide that this provision will not limit the discretion of the Director of the Division of Purchase and Property to structure an invitation to bid to encompass more than one service, item or group of items and to award the number of contracts contemplated by the invitation to bid.

P.L. 2000, CHAPTER 74, *approved July 24, 2000*  
Assembly, No. 2414 (*First Reprint*)

1 AN ACT concerning the award of State contracts to multiple bidders  
2 and amending P.L.1986, c.26.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 1 of P.L.1986, c.26 (C.52:34-12.1) is amended to read  
8 as follows:

9 1. a. When awarding contracts pursuant to section 7 of P.L. 1954,  
10 c. 48 (C. 52:34-12), the Director of the Division of Purchase and  
11 Property may make awards to **[two or more]** multiple bidders, to  
12 furnish the same or similar materials, supplies, services or equipment,  
13 where **[more than one contractor is]** multiple bidders are necessary:

14 (1) to furnish the quantities required by using agencies;

15 (2) to provide expeditious and cost-efficient local deliveries to  
16 using agencies; **[or]**

17 (3) to enable using agencies to purchase materials, supplies,  
18 services or equipment which are compatible with those previously  
19 purchased;

20 (4) to provide for standardization of equipment, interchangeability  
21 of parts or continuation of services;

22 <sup>1</sup>[(5) to facilitate compliance with the "Set-Aside Act for Small  
23 Businesses, Female Businesses, and Minority Businesses," P.L.1983,  
24 c.482 (C.52:32-17 et seq.);

25 (6) to facilitate compliance with the recycling requirements of  
26 section 18 of P.L.1987, c.102 (C.13:1E-99.26);

27 (7) to provide participants in cooperative purchasing arrangements  
28 with a diversity of product choices to meet the individual needs of a  
29 community; or

30 (8) to further the State's best interest as a purchaser.]or

31 (5) to provide using agencies or participants in cooperative  
32 purchasing arrangements with a diversity of product choices to meet  
33 the collective safety, environmental or technological needs of such  
34 agencies or cooperative purchasers.<sup>1</sup>

35 b. The director may <sup>1</sup>[consider] determine<sup>1</sup> whether the  
36 anticipated use of a contract by entities authorized by law to  
37 participate in cooperative purchasing arrangements with the State  
38 justifies awarding a contract to multiple bidders on the basis of <sup>1</sup>any  
39 one or more of<sup>1</sup> the criteria set forth in subsection a. of this section .

40 **[b.] c.** Where multiple contracts have been awarded pursuant to

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Assembly ASG committee amendments adopted June 8, 2000.

1 subsection a. of this section, a using agency shall make purchases  
2 from that contractor whose contract terms and conditions are most  
3 advantageous to the agency, price and other factors considered.

4 ~~[c.] d.~~ All purchases made by using agencies under subsection  
5 ~~[b.] c.~~ of this section shall be reported to the director, in a manner  
6 prescribed by the director. The report shall include the reasons for  
7 selecting a particular contractor under subsection ~~[b.] c.~~ of this  
8 section.

9 ~~[d.] e.~~ ~~[An award to more than one bidder shall not be made when~~  
10 ~~a single contractor can serve the purchasing needs of using agencies.~~  
11 ~~Any multiple awards shall be made only to the number of vendors~~  
12 ~~necessary to serve the using agencies' needs]~~ <sup>1</sup>~~[Nothing contained in~~  
13 ~~this section shall be construed as limiting the number of bidders who~~  
14 ~~may respond to any request for proposal.]~~ ~~Any multiple award shall~~  
15 ~~be made only to the number of contractors necessary to serve the~~  
16 ~~needs of using agencies and cooperative purchasers for the service,~~  
17 ~~item or group of items that is the subject of the award. This provision,~~  
18 ~~however, does not limit in any way the director's discretion to~~  
19 ~~structure an invitation to bid to encompass more than one service, item~~  
20 ~~or group of items and to award the number of contracts contemplated~~  
21 ~~by the invitation to bid.~~<sup>1</sup>

22 (cf: P.L. 1996, c.26. s.1)

23

24 2. This act shall take effect immediately.

25

26

27

28

29 Revises law concerning award of State contracts to multiple bidders.

## CHAPTER 74

AN ACT concerning the award of State contracts to multiple bidders and amending P.L.1986, c.26.

**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.1986, c.26 (C.52:34-12.1) is amended to read as follows:

C.52:34-12.1 Awarding of contracts to multiple bidders.

1. a. When awarding contracts pursuant to section 7 of P.L.1954, c.48 (C.52:34-12), the Director of the Division of Purchase and Property may make awards to multiple bidders, to furnish the same or similar materials, supplies, services or equipment, where multiple bidders are necessary:

- (1) to furnish the quantities required by using agencies;
- (2) to provide expeditious and cost-efficient local deliveries to using agencies;
- (3) to enable using agencies to purchase materials, supplies, services or equipment which are compatible with those previously purchased;
- (4) to provide for standardization of equipment, interchangeability of parts or continuation of services;

or

(5) to provide using agencies or participants in cooperative purchasing arrangements with a diversity of product choices to meet the collective safety, environmental or technological needs of such agencies or cooperative purchasers.

b. The director may determine whether the anticipated use of a contract by entities authorized by law to participate in cooperative purchasing arrangements with the State justifies awarding a contract to multiple bidders on the basis of any one or more of the criteria set forth in subsection a. of this section.

c. Where multiple contracts have been awarded pursuant to subsection a. of this section, a using agency shall make purchases from that contractor whose contract terms and conditions are most advantageous to the agency, price and other factors considered.

d. All purchases made by using agencies under subsection c. of this section shall be reported to the director, in a manner prescribed by the director. The report shall include the reasons for selecting a particular contractor under subsection c. of this section.

e. Any multiple award shall be made only to the number of contractors necessary to serve the needs of using agencies and cooperative purchasers for the service, item or group of items that is the subject of the award. This provision, however, does not limit in any way the director's discretion to structure an invitation to bid to encompass more than one service, item or group of items and to award the number of contracts contemplated by the invitation to bid.

2. This act shall take effect immediately.

Approved July 24, 2000.

*Office of the Governor*  
**NEWS RELEASE**

PO BOX 004  
TRENTON, NJ 08625

CONTACT: Jayne O'Connor  
609-777-2600

RELEASE: July 24, 2000

**Governor Christie Whitman today signed the following legislation:**

**A-2465**, sponsored by Assemblymen Christopher Bateman (R-Morris/Somerset), Neil M. Cohen (D-Union), John S. Wisniewski (D-Middlesex), David C. Russo (R-Bergen/Passaic), and Senators Anthony R. Bucco (R-Morris), and James S. Cafiero (R-Cape May/Atlantic/Cumberland), creates a new traffic violation for which no motor vehicle penalty points are assessed for a first or second offense.

The bill makes it unlawful for any person "to drive or operate a motor vehicle in an unsafe manner likely to endanger a person or property." A person convicted of a first offense under the bill would be subject to a fine of not less than \$50.00 or more than \$150.00. The fine for a second offense would be not less than \$100.00 or more than \$250.00. A person convicted of a third or subsequent offense would be subject to a fine of not less than \$200.00 or more than \$500.00 and may be assessed motor vehicle penalty points, if the offense occurs within five years of the prior offense.

Finally, this bill supplements recently enacted legislation concerning the duties and responsibilities of municipal prosecutors to clarify that a prosecutor may at any time move before the municipal court to accept a plea to a lesser or other offense that was originally charged. The bill also provides that the municipal prosecutor may make a motion to amend the original charge.

The bill is a response to an April 24, 2000 directive by the Administrative Office of the Courts clarifying that municipal prosecutors may not accept plea agreements that downgrade traffic offenses unless a factual basis can be shown to support the lesser offense.

**A-2414**, sponsored by Assemblyman Alan M. Augustine (R-Middlesex/Morris/Somerset/Union) and Senator John O. Bennett (R-Monmouth), revises the law concerning the award of State contracts to multiple bidders. The law currently contains three exceptions to the general rule that a contract award must be made to one vendor. This bill adds two new exceptions to provide for additional flexibility in appropriate circumstances.

The first new exception allows the award of a contract to multiple vendors when necessary to provide for standardization of equipment, interchangeability, of parts or continuation of services.

The second new exception allows the Director of Purchase and Property to award a contract to more than one bidder to meet the collective safety, environmental or technological needs of participants in the State's Cooperative Purchasing Program. The bill also provides that when determining whether multiple awards are appropriate, the Division of Purchase and Property may consider whether the anticipated use of a contract by members of the cooperative purchase program justifies such an award. This will allow the Division of Purchase and Property to factor in, for example, the needs of local public entities when deciding to award to more than one vendor for reasons of supplying necessary quantities or to provide for local deliveries.

Lastly, the bill provides that any multiple award will be made only to the number of contractors necessary to serve the needs of using agencies and cooperative purchasers for the service, item or group of items that is the subject of the award.