

Testimony before the
Joint Committee on Transportation

January 28, 2020
Albany, NY

Dear Members of the Committee:

I want to thank you for holding this hearing and giving me an opportunity to submit testimony about the State's transportation needs and opportunities.

The executive budget released on January 21 signals a strong commitment to supporting New York's transportation systems. The two-year NYSDOT program shows an understanding of the importance of vital programs. These programs – particularly Bridge NY – have been successful in providing funding for improvement of local roads and bridges. However, we support increased funding for local programs including CHIPS. Our members who are directly involved in implementing these programs report that DOT and local components of the program are uniquely valuable in delivering for the State's road users.

The State's professional design community prides itself on its responsiveness, creativity and problem-solving power. ACEC New York is gratified to see this budget's continued commitment to empowering public owners to use the services of their private sector partners. Consulting engineering firms are force multipliers and allow system owners to nimbly and powerfully deliver projects for the public.

ACEC New York member consulting firms range from solo entrepreneurs practicing a specialty discipline to growing midsize multidisciplinary design firms to multinational firms with integrated construction, operations and management practices. We are proud that our firms owned and staffed by people of all races, genders and ethnic origins. Their work provides a wide range of solutions from time-tested designs perfected over years of collaboration with State entities to cutting-edge concepts using advanced materials, computing power and processes developed abroad.

Our member firms are headquartered in places across the state like Buffalo, Owego, Corning, Watertown, Cazenovia, Clifton Park, Poughkeepsie, Hauppauge, Jericho, and New York City. Their employees are proud to have attended schools like SUNY Poly, Manhattan College, Clarkson, Syracuse University, Columbia, University at Buffalo and Binghamton University. Our member firms and their employees have designed and overseen the construction of some of New York State's greatest landmark buildings, world-famous roads and bridges and their work has directly contributed to our State's economic vitality for generations. What unites our firms is their bedrock nondelegable commitment to protecting the public's health, safety and welfare while designing the systems that make modern life possible now, and designing our cleaner, safer and smarter future.

The State's consulting engineers not only deliver world-class ingenuity but do it *efficiently*. Repeated independent studies conducted by NYU have shown that when all costs, including overhead, pension, health care and related costs are compared, consulting engineers save the State 15-20%. This increased efficiency allows the State to invest more money and provide more of the benefits that our State's taxpayers rely on:



American Council of Engineering Companies of New York

energy grid resiliency, green infrastructure, modernized storm and waste water management, building energy upgrades, transit improvements and the road and bridge projects that tie the State together.

Continued Contractual Certainty:

The State's professional design community has experienced significant upheaval and disruption by having certain existing agreements unilaterally altered. This uncertainty threatens the timely and effective completion of projects. Our professional community prides itself on responsive and productive working relations with public owners. We hope that these contractual modifications are reconsidered.

Federal Action:

The Federal political climate remains challenging, and infrastructure plans have repeatedly been proposed and then abandoned. Despite the uncertainty this brings, we are heartened by the recent removal of the FAST Act's rescission provision and the corresponding funding clarity this brings. We are encouraged that State-level stakeholders have indicated their continued commitment to delivering for the State's needs, despite the uncertainty and challenges flowing from the Federal government's lack of clarity in policy direction and funding.

ACEC New York continues to communicate with Congressional leaders and industry partners about the long-term value of infrastructure investment, and we encourage State legislative and Agency leaders to continue to promote this message. Long-term, stable transportation funding helps New York plan long-term capital programs on the State level. For reference, FHWA has estimated that for every billion dollars spent on infrastructure, 28,000 jobs are created. These jobs will benefit workers across the skill and economic spectrum and bolster minority- and women-owned businesses. More jobs will positively influence spin-off economies and related service and material suppliers throughout the state. This investment will also result in new tax bases that will pay an immediate dividend. Besides improving the economy, investment will provide necessary rehabilitation and improvements to our deteriorating infrastructure, the decline of which negatively impacts public health and impairs our ability to compete nationally and globally. Sound infrastructure will attract businesses to invest in the city, while crumbling roads and bridges will make investment less attractive and could lead to an exodus of businesses and the jobs they create.

Alternative Project Delivery and Procurement:

The use of design-build procurement continues to increase. When done correctly and on appropriate projects, design-build can reward efficiency and innovation, bring about faster and more responsive solutions, and reduce disruption to system users and surrounding communities.

These time savings can, in certain circumstances, lead to cost savings. Still, design-build or other alternative delivery methods bring advantages only when applied to projects of appropriate scope and complexity, managed by sophisticated and experienced owners. Design-build is not appropriate for all jobs and, in many cases, has unintended negative consequences for the professionals tasked with designing and constructing the project. It is not in the State's interest to move to an environment where design-build makes up most procurements issued. Responding to design-build procurements involves considerable up-front outlay by

ACEC New York

American Council of Engineering Companies of New York

design firms. Without clear and fair rules regarding compensation for this work, qualified firms will be less likely to pursue these opportunities. In addition, factors such as liability limits, schedule accelerations, additional insurance policies, quantity estimate responsibilities, multipliers, win bonuses and other items need to be addressed carefully and developed to promote success by design firms and clients alike.

Finally, we encourage this committee to continue supporting the use of Qualifications-Based Selection (QBS) for procurement of professional design services. This method – applied to State Agencies via State Finance Law §136a – leads to increased competition by proposing firms. Utilizing a QBS system to procure the professional services of a design professional provides the client and the public with the most important aspect of that service – namely, the innovative approaches and alternative methods which arise when working together with the design professional on the precise scope of a project. In 2005, New York City adopted QBS via Procurement Policy Board rule, and a subsequent study issued by the City noted that (in comparison to the prior cost-based procurement model) the number of firms proposing on projects increased, many of which were small and had not pursued City work before, and were also highly qualified and competitive for the work being sought. We appreciate the State's commitment to QBS procurement of professional design services, and we hope that it can inform the procurement practices of other State and municipal transportation-related clients.

New York State's various projects to maintain and repair our transportation infrastructure are critical to the State's interest in driving broad-based and inclusive economic prosperity. ACEC New York is committed to working with our public counterparts to maximize the benefit of every taxpayer dollar spent on the State's transportation and infrastructure programs.



Jay Simson, CAE
President & CEO
ACEC New York