



H.B. 458

124th General Assembly
(As Passed by the General Assembly)

Reps. Williams, Fessler, Husted, Britton, Willamowski, Seitz, Hollister, Lendrum, Collier, Distel, D. Miller, Rhine, Young, Setzer, Reidelbach, Flowers, Schmidt, Coates, Otterman, Niehaus, Barrett, Webster, Schaffer, Manning, Widowfield, Hagan, G. Smith, Redfern, Brown, Oakar

Sens. Nein, Wachtmann, Jacobson, Mumper

Effective date : *

ACT SUMMARY

- For purposes of determinations by state agencies and political subdivisions regarding the lowest responsive and responsible bidder for certain types of contracts, makes a bid guaranty issued by a surety licensed to do business in Ohio evidence of financial responsibility.
- Permits a state agency or political subdivision to request additional financial information from an apparent low bidder after opening all bids.
- Requires a political subdivision or state agency that requests additional financial information from an apparent low bidder to keep such information confidential, and exempts such information from the Public Records Law.

CONTENT AND OPERATION

Award of a contract to the lowest responsive and responsible bidder

Continuing law unchanged by the act permits a political subdivision that is required to award contracts by competitive bidding to adopt a policy of awarding

** The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

each competitively bid contract to the "lowest responsive and responsible bidder." For political subdivisions that have adopted such a policy, and for state agencies that are required by law to award a contract to the lowest responsive and responsible bidder, the law provides guidelines to determine whether a bidder is considered to be responsive and responsible. To be considered "responsive," the bid proposal must respond to the bid specifications in all material respects and contain no irregularities or deviations from the specifications that would affect the amount of the bid or otherwise give the bidder a competitive advantage. The factors that a state agency or political subdivision must consider in determining whether a bidder is "responsible" include the bidder's experience, financial condition, conduct and performance on previous contracts, facilities, management skills, and ability to execute the contract properly. Prior law did not specifically define standards for determining financial responsibility. (Sec. 9.312.)

Evidence of financial responsibility

The act stipulates that for purposes of determining the financial responsibility of a bidder who bids on a contract that is to be awarded by a state agency or political subdivision to the lowest responsive and responsible bidder, a bid guaranty given in accordance with the Public Improvements Law (R.C. Chapter 153.) in the form of a bond for the full amount of the bid is considered evidence of financial responsibility.¹ The bond must be issued by a surety licensed to do business in Ohio. The act also permits a state agency or political subdivision to request additional financial information for review from an apparent low bidder after it opens all submitted bids. The act exempts additional financial information requested from an apparent low bidder from the Public Records Law (sec. 149.43), and specifies that the state agency or political subdivision must keep the additional financial information confidential, except under proper order of a court. (Sec. 9.312(A).)

¹ *Under the Public Improvements Law, unchanged by the act, each person bidding for a contract with the state, political subdivision, district, institution, or other agency, except the Department of Transportation, must file a bid guaranty with the bid. A bid guaranty may be either in the form of a bond for the full amount of the bid or in the form of a certified check, cashier's check, or letter of credit equal to 10% of the amount of the bid. (Sec. 153.54(A)(1) and (B).)*

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	12-20-01	p. 1180
Reported, H. Commerce & Labor	02-27-02	p. 1471
Passed House (94-1)	03-19-02	p. 1558
Reported, S. Insurance, Commerce, & Labor	05-29-02	p. 1843
Passed Senate (25-8)	05-29-02	p. 1848
Concurrence	05-29-02	p. 1868

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