



H.B. 458

124th General Assembly
(As Passed by the House)

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

BILL SUMMARY

- Makes a bid guaranty issued by a surety licensed to do business in Ohio evidence of financial responsibility for the purposes of a contract to be awarded by a state agency or a political subdivision to the lowest responsive and responsible bidder.
- Permits a state agency or political subdivision to request additional financial information from an apparent low bidder.
- Requires that a political subdivision or state agency that requests additional financial information from an apparent low bidder keep such information confidential and exempts such information from the Public Records Law.

CONTENT AND OPERATION

Background

The Public Improvements Law (R.C. Chapter 153.), unchanged by the bill, 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. The amount of the check or letter of credit must equal 10% of the amount of the bid. A letter of credit is revocable only at the option of the beneficiary. (Sec. 153.54(A), not in the bill.)

Award of a contract to the lowest responsive and responsible bidder

Existing law permits a political subdivision that is required to award contracts by competitive bidding to adopt a policy of awarding 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 which 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. Current law does not specifically define the standards that must be used to determine financial responsibility. (Sec. 9.312.)

Evidence of financial responsibility

The bill stipulates that for the purposes of determining the financial responsibility of a bidder who bids on a contract which 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 in the form of a bond for the full amount of the bid is considered evidence of financial responsibility. The bond must be issued by a surety licensed to do business in Ohio. The bill 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 bill exempts additional financial information requested from an apparent low bidder from the Public Records Law, and specifies that the state agency or political subdivision must keep the additional financial information confidential, except under proper order of a court (sec. 149.43). (Sec. 9.312(A).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	12-20-01	p. 1180
Reported, H. Commerce & Labor	02-27-02	p. 1471
Passed House (94-1) h0458-ph.124/kl	03-19-02	p. 1558