

Regular Session, 2011

SENATE BILL NO. 250

BY SENATOR WILLARD-LEWIS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PUBLIC CONTRACTS. Allows agencies to reject bids from entities convicted of or found to have committed any unethical or discriminatory practice or conduct by a state or federal agency. (8/15/11)

AN ACT

To enact R.S. 38:2212.10 and R.S. 39:2193, relative to procurement; to allow for the prohibition of certain entities from participating in the contract and procurement process; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 38:2212.10 is hereby enacted to read as follows:

§2212.10. Right to prohibit awards or procurement with certain individuals

A. In awarding contracts, any public entity is authorized to reject the lowest bid from, or not award the contract to, any person or business that has been convicted of or found to have committed by a state or federal agency any unethical or discriminatory practice or conduct.

B. Nothing in this Section shall impose a duty, responsibility, or requirement on a public entity to research whether there is a state or federal agency conviction or finding of an unethical or discriminatory practice or conduct by a bidder. The bidding document, request for proposal, or any other type of solicitation document shall include a question of whether the bidder has been convicted of or found to have committed by a state or federal agency any

1 unethical or discriminatory practice or conduct. This question is to be
2 completed by affidavit.

3 C. If a bidder fails to disclose a known conviction or finding by a state
4 or federal agency of an unethical or discriminatory practice or conduct and the
5 public entity awards the bid to the entity, the entity shall be responsible to the
6 public entity for the costs of rebidding the contract, the increased costs of
7 awarding the contract to the second low bidder, or forfeiture of the bid bond,
8 whichever is higher.

9 Section 2. R.S. 39:2193 is hereby enacted to read as follows:

10 §2193. Right to prohibit awards or procurement with certain individuals

11 A. In awarding contracts, any public entity is authorized to reject the
12 lowest bid from, or not award the contract to, any person or business that has
13 been convicted of or found to have committed by a state or federal agency any
14 unethical or discriminatory practice or conduct.

15 B. Nothing in this Section shall impose a duty, responsibility, or
16 requirement on a public entity to research whether there is a state or federal
17 agency conviction or finding of an unethical or discriminatory practice or
18 conduct by a bidder. The bidding document, request for proposal, or any other
19 type of solicitation document shall include a question of whether the bidder has
20 been convicted of or found to have committed by a state or federal agency any
21 unethical or discriminatory practice or conduct. This question is to be
22 completed by affidavit.

23 C. If a bidder fails to disclose a known conviction or finding by a state
24 or federal agency of an unethical or discriminatory practice or conduct and the
25 public entity awards the bid to the entity, the entity shall be responsible to the
26 public entity for the costs of rebidding the contract, the increased costs of
27 awarding the contract to the second low bidder, or forfeiture of the bid bond,
28 whichever is higher.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jerry J. Guillot.

DIGEST

Present law provides a competitive bid process for the awarding of public works contracts, awarding of professional, personal, consulting and social service contracts, and for the procurement of materials, supplies, equipment and other services.

Proposed law provides that in awarding contracts, any public entity is authorized to reject the lowest bid from, or not award the contract to, any person or business that has been convicted of or found to have committed by a state or federal agency any unethical or discriminatory practice or conduct.

Proposed law provides that proposed law does not impose a duty, responsibility, or requirement on a public entity to research whether there is a state or federal agency conviction or finding of an unethical or discriminatory practice or conduct by a bidder. Requires that the bidding document, request for proposal, or any other type of solicitation document include a question of whether the bidder has been convicted of or found to have committed by a state or federal agency any unethical or discriminatory practice or conduct. Requires that this question be completed by affidavit.

Proposed law provides that if a bidder fails to disclose a known conviction or finding by a state or federal agency of an unethical or discriminatory practice or conduct and the public entity awards the bid to the entity, the entity shall be responsible to the public entity for the costs of rebidding the contract, the increased costs of awarding the contract to the second low bidder, or forfeiture of the bid bond, whichever is higher.

Effective August 15, 2011.

(Adds R.S. 38:2212.10 and R.S. 39:2193)