

HOUSE BILL 1218

By Curtiss

AN ACT to amend Tennessee Code Annotated, Title 12,  
Chapter 3, Part 10, relative to reverse auctions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 12, Chapter 3, Part 10, is amended by adding the following language as a new, appropriately designated section:

Section 12-3-10\_\_.

(a)

(1) As used in this section, "local governmental unit" means and includes a county, city, municipality, special district, utility district, school district, authority, or any other entity created or appointed by a local governmental unit of the state.

(2) For a purchase of goods and services, any local governmental unit may purchase goods or services through a competitive reverse auction process that allows offerors to bid on specified goods or services electronically and adjust bid pricing during a specified time period.

(b) The purchasing agent of the local governmental unit shall solicit bids by public notice inserted at least once in a newspaper of county-wide circulation five (5) days prior to the final date for submitting bids, by posting notices on a public bulletin board in the county courthouse, by soliciting bid requests by mail to prospective bidders, or by distributing invitations to bid electronically via e-mail or by a posting to the entity's web site. All invitations to bid shall include a general description of the goods or services to be purchased and information related to the time and place of opening bids.

(c) In order to assure the fullest possible participation of small business and minority owned businesses, local governmental units shall not require such small

businesses and minority owned businesses to participate in reverse auctions or to receive or respond to invitations to bid electronically. However, local governmental units must provide a mechanism either through the local governmental unit itself or through a third party, if a third party source is utilized to conduct the reverse auction, to facilitate participation of small and minority-owned businesses in a reverse auction.

(d) All bids received shall be opened publicly at the time and place identified in the invitation to bid. An award shall be made to the offeror determined to be the lowest responsible and responsive bidder at the close of the specified bid period. Each bid, with the name and address of the bidder, shall be recorded and the names of the bidders, the amounts of their bids, and the name of the successful bidder shall, after the award, be open to public inspection. All bids should be preserved for a period of five (5) years.

(e) Prior to any local governmental unit initiating a reverse auction, the local governmental unit shall file a plan with the comptroller of the treasury. The plan shall indicate the technology to be utilized, whether a third party source will be utilized to conduct a reverse auction or auctions, a description of policies and procedures related to the implementation of the reverse auction process, and documentation of internal controls that will ensure the integrity of the process. Furthermore, the plan shall indicate whether such a process will be implemented within the existing operating resources of the local governmental unit or indicate prior approval of the governing body of the local governmental unit if additional operating resources are needed.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring

it.