

1 HOUSE BILL NO. 1273

2 AMENDMENT IN THE NATURE OF A SUBSTITUTE

3 (Proposed by the House Committee on General Laws

4 on _____)

5 (Patron Prior to Substitute--Delegate Krizek)

6 A BILL to amend and reenact § 2.2-4302.1 of the Code of Virginia, relating to Virginia Public
7 Procurement Act; competitive sealed bidding; required criteria in invitations to bid for certain
8 construction projects.

9 **Be it enacted by the General Assembly of Virginia:**10 **1. That § 2.2-4302.1 of the Code of Virginia is amended and reenacted as follows:**11 **§ 2.2-4302.1. Process for competitive sealed bidding.**

12 The process for competitive sealed bidding shall include the following:

13 1. Issuance of a written Invitation to Bid containing or incorporating by reference the specifications
14 and contractual terms and conditions applicable to the procurement. Unless the public body has provided
15 for prequalification of bidders, the Invitation to Bid shall include a statement of any requisite qualifications
16 of potential contractors. Any locality may include in the Invitation to Bid criteria that ~~may~~ will be used in
17 determining whether a bidder ~~who is not prequalified by the Virginia Department of Transportation~~ is a
18 responsible bidder ~~pursuant to § 2.2-4301. Such criteria may~~ Except with respect to procurement of
19 transportation-related construction, such criteria shall include a history ~~or good faith assurances~~ of (i)
20 completion by the bidder and any potential subcontractors of specified safety training programs
21 established by the U.S. Department of Labor, Occupational Safety and Health Administration; (ii)
22 participation by the bidder and any potential subcontractors in any registered apprenticeship training
23 programs approved by state agencies or the U.S. Department of Labor; ~~or~~ and (iii) maintenance by the
24 bidder and any potential subcontractors of records of compliance with applicable local, state, and federal
25 laws. For nontransportation-related construction above \$250,000, such criteria shall also require at least
26 12.5 percent of total labor hours of any construction required with respect to such bid be performed by

27 individuals registered with and enrolled in approved apprenticeship programs. No Invitation to Bid for
28 construction services shall condition a successful bidder's eligibility on having a specified experience
29 modification factor. When it is impractical to prepare initially a purchase description to support an award
30 based on prices, an Invitation to Bid may be issued requesting the submission of unpriced offers to be
31 followed by an Invitation to Bid limited to those bidders whose offers have been qualified under the
32 criteria set forth in the first solicitation;

33 2. Public notice of the Invitation to Bid at least 10 days prior to the date set for receipt of bids by
34 posting on the Department of General Services' central electronic procurement website or other
35 appropriate websites. In addition, public bodies may publish in a newspaper of general circulation. Posting
36 on the Department of General Services' central electronic procurement website shall be required of any
37 state public body. Local public bodies are encouraged to utilize the Department of General Services'
38 central electronic procurement website to provide the public with centralized visibility and access to the
39 Commonwealth's procurement opportunities. In addition, bids may be solicited directly from potential
40 contractors. Any additional solicitations shall include certified businesses selected from a list made
41 available by the Department of Small Business and Supplier Diversity;

42 3. Public opening and announcement of all bids received;

43 4. Evaluation of bids based upon the requirements set forth in the Invitation to Bid, which may
44 include special qualifications of potential contractors, life-cycle costing, value analysis, and any other
45 criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose,
46 which are helpful in determining acceptability; and

47 5. Award to the lowest responsive and responsible bidder. When the terms and conditions of
48 multiple awards are so provided in the Invitation to Bid, awards may be made to more than one bidder.

49 For the purposes of subdivision 1, "experience modification factor" means a value assigned to an
50 employer as determined by a rate service organization in accordance with its uniform experience rating
51 plan required to be filed pursuant to subsection D of § 38.2-1913.

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