

FIRST REGULAR SESSION

SENATE BILL NO. 427

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CALLAHAN.

Read 1st time February 28, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

1715S.011

AN ACT

To repeal section 227.100, RSMo, and to enact in lieu thereof one new section relating to the highway construction bidding process.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 227.100, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 227.100, to read as follows:

227.100. 1. All contracts for the construction of said work shall be let to the lowest responsible bidder or bidders after notice and publication of an advertisement in a newspaper published in the county where the work is to be done, and in such other publications as the commission may determine.

2. Each bid shall be accompanied by a certified check or a cashier's check or a bid bond, guaranteed by a surety company authorized by the director of the department of insurance to conduct surety business in the state of Missouri, equal to five percent of the bid, which certified check, cashier's check, or bid bond shall be deposited with the commissioner as a guaranty and forfeited to the state treasurer to the credit of the state road fund in the event the successful bidder fails to comply with the terms of the proposal, and return to the successful bidder on execution and delivery of the performance bond provided for in subsection 4. The checks of the unsuccessful bidders shall be returned to them in accordance with the terms of the proposal.

3. All notices of the letting of contracts under this section shall state the time and place when and where bids will be received and opened, and all bids shall be sealed and opened only at the time and place mentioned in such notice and in the presence of some member of the commission or some person named by

the commission for such purpose.

4. The successful bidders for the construction of said work shall enter into contracts furnished and prescribed by the commission and shall give good and sufficient bond, in a sum equal to the contract price, to the state of Missouri, with sureties approved by the commission and to ensure the proper and prompt completion of said work in accordance with the provisions of said contracts, and plans and specifications; provided, that if, in the opinion of the majority of the members of the commission, the lowest bid or bids for the construction of any of the roads, or parts of roads, herein authorized to be constructed, shall be excessive, then, and in that event, said commission shall have the right, and it is hereby empowered and authorized to reject any or all bids, and to construct, under its own direction and supervision, all of such roads and bridges, or any part thereof.

5. Notwithstanding the provisions of sections 34.073 and 34.076, RSMo, or any other provision of law to the contrary, when bids are received from nonresident business bidders and resident business bidders and the lowest responsible bid is from a nonresident business bidder, the contract shall be awarded to the resident business bidder if:

(1) The resident business bidder is otherwise qualified by law to be awarded the contract; and

(2) The bid submitted by the resident business bidder is nearest to the bid price of the otherwise low nonresident business bidder and is no more than ten percent higher than the bid price of the nonresident business bidder.

The provisions of this subsection shall not preclude a resident business bidder from taking advantage of the provisions of section 34.706, RSMo, if otherwise applicable. The provisions of this subsection shall not apply to any bidder who is qualified for bidding purposes with the department of transportation and submits a successful bid wherein part or all of the funds are furnished by the United States.

6. As used in subsection 5 of this section, the term "resident business" shall mean a corporation, partnership, sole proprietorship, limited liability company, or other business entity that is authorized to do and is doing business under the laws of this state and:

(1) Maintains its principal place of business within the state;

(2) Has staffed an office and has paid applicable sales taxes for

two years prior to the awarding of the bid and has five or more employees who are residents of this state; or

(3) Is an affiliate of a business that meets the requirements of subdivisions (1) or (2) of this subsection.

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