

AMENDED IN SENATE JUNE 28, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 574

Introduced by Assembly Member Hertzberg

February 19, 1999

An act to add Sections 1103 and 20101 to the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 574, as amended, Hertzberg. Public contracts: responsible bidder.

Existing law defines the terms “public entity” and “public works contract” for the purposes of specified provisions of the Public Contract Code.

This bill would define the term “responsible bidder” for these purposes, and would authorize a public entity to require each prospective bidder for a contract to complete and submit to the entity a standardized questionnaire and financial statement. This bill would require, with a specified exception, any public entity requiring standard questionnaires and financial statements to adopt and apply a uniform system of rating bidders on the basis of standard questionnaires and financial statements. This bill would require the Department of Industrial Relations, in collaboration with affected agencies and interested parties, to develop and draft the standardized questionnaire and to develop guidelines for rating bidders. *The bill would also require the department to establish an*

appeal process to permit prospective bidders to dispute their prequalification rating.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature hereby finds and
2 declares that the establishment by public agencies of a
3 uniform system to evaluate the ability, competency, and
4 integrity of bidders on public works projects is in the
5 public interest, will result in the construction of public
6 works projects of the highest quality for the lowest costs,
7 and is in furtherance of the objectives stated in Section
8 100 of the Public Contract Code.

9 SEC. 2. Section 1103 is added to the Public Contract
10 Code, to read:

11 1103. “Responsible bidder,” as used in this part,
12 means a bidder who has demonstrated the attributes of
13 trustworthiness, as well as quality, fitness, and capacity to
14 perform satisfactorily the public works contract.

15 *The Legislature finds and declares that this section is*
16 *declaratory of existing law.*

17 SEC. 3. Section 20101 is added to the Public Contract
18 Code, to read:

19 20101. (a) Except as provided in ~~Article 2~~
20 ~~(commencing with Section 20105)~~ Section 20111.5, a
21 public entity subject to this part may require that each
22 prospective bidder for a contract complete and submit to
23 the entity a standardized questionnaire and financial
24 statement in a form specified by the entity, including a
25 complete statement of the prospective bidder’s financial
26 ability and experience in performing public works. *The*
27 *standardized questionnaire may not require prospective*
28 *bidders to disclose any violations of Chapter 1*
29 *of the Labor Code committed prior to January 1, 1998, if*
30 *a violation was based on a subcontractor’s failure to*
31 *comply with these provisions and the bidder had no*
32 *knowledge of the subcontractor’s violations. The*



1 Department of Industrial Relations, in collaboration with
2 affected agencies and interested parties, shall develop
3 model guidelines for rating bidders, and draft the
4 standardized questionnaire, for use by public entities for
5 the purposes of this part. The questionnaire and financial
6 statement shall be verified under oath by the bidder in
7 the manner in which civil pleadings in civil actions are
8 verified. The questionnaires and financial statements
9 shall not be public records and shall not be open to public
10 inspection.

11 (b) Any public entity requiring prospective bidders to
12 complete and submit questionnaires and financial
13 statements, as described in subdivision (a), shall adopt
14 and apply a uniform system of rating bidders on the basis
15 of the completed questionnaires and financial
16 statements, in order to determine both the minimum
17 requirements permitted for qualification to bid, and the
18 *type and* size of the contracts upon which each bidder
19 shall be deemed qualified to bid. The uniform system of
20 rating prospective bidders shall be based on objective
21 criteria.

22 (c) A public entity may establish a process for
23 prequalifying prospective bidders pursuant to this
24 section on a quarterly basis and a prequalification
25 pursuant to this process shall be valid for one calendar
26 year following the date of initial prequalification.

27 ~~(d) A public entity shall establish an appeal process~~
28 ~~pursuant to this section whereby prospective bidders may~~
29 ~~appeal their prequalification rating.~~

30 *(d) The Department of Industrial Relations shall*
31 *establish an appeal process to be used by public entities*
32 *that will allow prospective bidders to dispute their*
33 *prequalification rating. The appeal proces shall include*
34 *the following:*

35 *(1) Upon request of the prospective bidder, the public*
36 *entity shall provide notification to the prospective bidder*
37 *in writing of the basis for the prospective bidder's*
38 *disqualification and any supporting evidence that has*
39 *been received from others or adduced as a result of an*
40 *investigation by the public entity.*



1 (2) *The prospective bidder shall be given the*
2 *opportunity to rebut any evidence used as a basis for*
3 *disqualification and to present evidence to the public*
4 *entity as to why the prospective bidder should be found*
5 *qualified.*
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