

1 SB50
2 164656-2
3 By Senator Allen
4 RFD: Governmental Affairs
5 First Read: 03-MAR-15
6 PFD: 02/27/2015

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To amend Sections 23-1-2 and 39-2-4 of the Code of
12 Alabama, to increase the maximum amount of the bid guarantee
13 required to be filed under certain conditions by a bidder on
14 public works project for the Department of Transportation and
15 other awarding authorities.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 23-1-2 and 39-2-4 of the Code of
18 Alabama 1975, are amended to read as follows:

19 "§23-1-2.

20 "Any other provisions of the law to the contrary
21 notwithstanding, bidders for contract projects which contracts
22 are with the State of Alabama, in behalf of the State
23 Department of Transportation, to be paid, in whole or in part,
24 from funds allocated to the State Department of Transportation
25 from any source whatsoever, or where contracts are with any of
26 the several counties of the state for a highway, road, street,
27 or bridge project, to be paid for, in whole or in part, from

1 funds allocated to the county from any source whatsoever,
2 shall be required to file with the bid, as a bid guaranty, a
3 certified check or bid bond payable to the awarding authority
4 as follows:

5 "(1) A certified check payable to the awarding
6 authority for an amount not less than five percent of the
7 contractor's bid, but in no event more than ~~\$10,000.00~~ fifty
8 thousand dollars (\$50,000); or

9 "(2) A bid bond payable to the awarding authority in
10 an amount not less than five percent of the bid, but in no
11 event more than ~~\$10,000.00~~ fifty thousand dollars (\$50,000).

12 "§39-2-4.

13 "(a) The bidder shall be required to file with his
14 or her bid either a cashier's check drawn on an Alabama bank
15 or a bid bond executed by a surety company duly authorized and
16 qualified to make such bonds in the State of Alabama, payable
17 to the awarding authority for an amount not less than five
18 percent of the awarding authority's estimated cost or of the
19 contractor's bid, but in no event more than ten thousand
20 dollars (\$10,000), except if the awarding authority is the
21 Department of Transportation, the amount shall not be less
22 than five percent of the department's estimated cost or of the
23 contractor's bid, but in no event more than fifty thousand
24 dollars (\$50,000). The bid guaranties as provided in this
25 section shall constitute all of the qualifications or guaranty
26 to be required of contractors as prerequisites to bidding for
27 public works, except as required by the State Licensing Board

1 for General Contractors and the prequalification as required
2 by the Department of Transportation, the Building Commission,
3 or any other awarding authority.

4 "(b) With the exception of the Department of
5 Transportation which has prequalification procedures and
6 criteria set forth by statute, any awarding authority that
7 proposes to prequalify bidders shall establish written
8 prequalification procedures and criteria that (1) are
9 published sufficiently in advance of any affected contract so
10 that a bona fide bidder may seek and obtain prequalification
11 prior to preparing a bid for that contract, such publication
12 to be accomplished by the methods specified in subsection (a)
13 of Section 39-2-2; (2) are related to the purpose of the
14 contract or contracts affected; (3) are related to contract
15 requirements or the quality of the product or service in
16 question; (4) are related to the responsibility, including the
17 competency, experience, and financial ability, of a bidder;
18 and (5) will permit reasonable competition at a level that
19 serves the public interest. The prequalification publication
20 may run concurrently with the publication required under
21 subsection (a) of Section 39-2-2, provided it produces the
22 above required advance notice.

23 "(c) Within the bounds of good faith, the awarding
24 authority retains the right to determine whether a contractor
25 has met prequalification procedures and criteria.

26 "(d) Any bidder who has prequalified pursuant to the
27 requirements in subsection (b) shall be deemed "responsible"

1 for purposes of award unless the prequalification is revoked
2 by the awarding authority under the following procedures: (1)
3 No later than five working days or the next regular meeting
4 after the opening of bids, the awarding authority issues
5 written notice to the bidder of its intent to revoke
6 prequalification and the grounds therefor; (2) the bidder is
7 then provided an opportunity to be heard before the awarding
8 authority on the intended revocation; (3) the awarding
9 authority makes a good faith showing of a material inaccuracy
10 in the prequalification application of a bidder or of a
11 material change in the responsibility of the bidder since
12 submitting its prequalification application; and (4) the
13 revocation of prequalification is determined no later than 10
14 days after written notice of intent to revoke, unless the
15 bidder whose qualification is in question agrees in writing to
16 an extension in time.

17 "(e) Nothing in this section shall preclude the
18 rejection of a bidder determined not responsible nor the
19 inclusion of criteria in the bid documents which would limit
20 contract awards to responsible bidders where no
21 prequalification procedure is employed by the awarding
22 authority."

23 Section 2. This act shall become effective
24 immediately following its passage and approval by the
25 Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Governmental Affairs..... 03-MAR-15

Read for the second time and placed on the calen-
dar..... 07-APR-15

Read for the third time and passed as amended 05-MAY-15

Yeas 26
Nays 1

Patrick Harris
Secretary