

Stricken language would be deleted from and underlined language would be added to present law.
Act 1059 of the Regular Session

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: H3/4/15
A Bill

HOUSE BILL 1480

By: Representative Blake

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE PREFERENCE OF
MUNICIPAL BIDDING; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING THE
PREFERENCE OF MUNICIPAL BIDDING.

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

SECTION 1. Arkansas Code Title 14, Chapter 58, Subchapter 1, is amended to add an additional section to read as follows:

14-58-105. Purchase of commodities or services by municipalities through competitive bidding -- Preference among bidders -- Definitions.

(a) As used in this section:

(1) "Commodities" means all property, including without limitation equipment, printing, stationery, supplies, insurance, and capital improvements, but excluding leases on real property, real property, or a permanent interest in real property, and exempt commodities and services;

(2) "Firm resident in the municipality" means any individual, partnership, association, or corporation, whether domestic or foreign, that:

(A) Maintains at least one (1) staffed place of business located within the corporate limits of the municipality; and

(B) For not less than two (2) successive years immediately before submitting a bid, has paid taxes to the county that benefit the municipality on either real or personal property used or intended to be used in connection with the firm's business;



(3) "Lowest qualified bid" means the lowest bid that conforms to the specifications and request for bids;

(4) "Municipality" means an incorporated town, a city of the first class, and a city of the second class;

(5) "Nonresident firm" means a firm that is not included in the definition of a "firm resident in the municipality"; and

(6) "Services" means labor, time, or effort furnished by a contractor.

(b)(1)(A) In the purchase of commodities or services by competitive bidding, a municipality may grant by ordinance a percentage preference to the lowest qualified bid from a firm resident in the municipality.

(B) The ordinance may provide a preference of up to five percent (5%) for a bidder that qualifies as a firm resident in the municipality.

(C) The ordinance may place a specific dollar cap on the total monetary amount of preference granted, regardless of the bid amount or percentage of preference designated in the ordinance.

(D)(i) In calculating the preference to be allowed, the appropriate procurement officials shall take the total amount of each bid of each firm resident in the municipality who claimed the preference and deduct the percentage mandated by ordinance, if applicable, from the total amount of each bid.

(ii) If after making the deduction the bid of any firm resident in the municipality claiming the preference is lower than the bid of the nonresident firm, then the award shall be made to the firm resident in the municipality that submitted the lowest qualified bid, whether or not that particular firm resident in the municipality claimed the preference.

(2)(A) The preference provided for in this section only applies in comparing bids when one (1) or more bids are by a firm resident in the municipality and the other bid or bids are by a nonresident firm.

(B) The preference provided for in this section does not apply to competing bids if each bidder is a firm resident in the municipality.

(C)(i) If any provision or condition of this section or the municipal ordinance conflicts with any provision of federal or state law

or any rule or regulation made under federal or state law pertaining to federal grants-in-aid programs or other federal or state aid programs, the provision or condition shall not apply to the state-supported or federal-supported contracts for the purchase of commodities or services to the extent that the conflict exists.

(ii) However, all provisions or conditions of this section with which there is no conflict apply to contracts to purchase commodities or services to be paid, in whole or in part, from federal funds.

(c) The provisions of this section, if adopted by local ordinance, shall apply to public works projects, capital improvements, commodities, materials, equipment, and services procured by the municipality.

(d) When circumstances arise to which this section and § 19-11-259 apply, both the preference provided under this section and the preference provided under § 19-11-259 also apply.

(e) To the extent that federal purchasing laws or bidding preferences conflict, this section does not apply to projects related to supplying water or wastewater utility services, operations, or maintenance to a federal military installation by a municipality of the state.

SECTION 2. The lead-in language of Arkansas Code § 22-9-203(a), concerning the award procedure for public improvement projects generally, is amended to read as follows:

(a) ~~No~~ Except as provided under § 14-58-105, a contract providing for the making of major repairs or alterations, for the erection of buildings or other structures, or for making other permanent improvements shall not be entered into by the state or ~~any an~~ an agency thereof, ~~any of the state or by a~~ county, municipality, school district, or other local taxing unit with any contractor in instances ~~where~~ in which all estimated costs of the work shall exceed the sum of twenty thousand dollars (\$20,000) unless:

/s/Blake

APPROVED: 04/04/2015