

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: H3/6/03
A Bill

Act 487 of 2003
HOUSE BILL 1544

5 By: Representative Dangeau
6 By: Senator Baker
7
8

9 **For An Act To Be Entitled**

10 AN ACT TO AMEND VARIOUS PROVISIONS OF THE
11 ARKANSAS PROCUREMENT LAW; AND FOR OTHER PURPOSES.
12

13 **Subtitle**

14 AN ACT TO AMEND VARIOUS PROVISIONS OF
15 THE ARKANSAS PROCUREMENT LAW.
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 19-11-203(14), concerning exempt
21 commodities and services under the Arkansas Procurement Law, is amended to
22 add a new subdivision to read as follows:

23 (BB) Capital improvements valued at less than twenty thousand dollars
24 (\$20,000), subject to State Building Services minimum standards and criteria.
25

26 SECTION 2 Arkansas Code § 19-11-205(2), concerning the definition of
27 nonexpendable commodities, is amended to read as follows:

28 (2) "Nonexpendable commodities" means all tangible commodities
29 having an original acquisition cost of over ~~three hundred dollars (\$300)~~ two
30 thousand five hundred dollars (\$2,500) per unit and a useful life of more
31 than one (1) year;
32

33 SECTION 3. Arkansas Code § 19-11-218(3), concerning the duties of the
34 State Procurement Director, is amended to read as follows:

35 (3) Delegate authority to such designees or to any state agency
36 as the director may deem appropriate, within the limitations of state law and



1 the state procurement ~~rules and~~ regulations.

2
3 SECTION 4. Arkansas Code § 19-11-222(a), concerning the State
4 Procurement Director's exclusive jurisdiction over procurement of certain
5 commodities and services, is amended to read as follows:

6 (a) The State Procurement Director shall have exclusive jurisdiction
7 over the procurement of the following commodities and services:

8 (1) Items subject to Arkansas Constitution, Amendment 54;

9 (2) Wholesale gasoline, oil, ~~antifreeze~~, and related products;

10 (3) Tires;

11 ~~(4) Tubes;~~

12 ~~(5)~~(4) Passenger motor vehicles and trucks, except highway
13 construction and highway maintenance equipment or any specialized type of
14 equipment used in highway construction except as otherwise provided in this
15 subchapter;

16 ~~(6)~~(5) Paper products;

17 ~~(7)~~(6) New and used school buses for state agencies and school
18 districts; and

19 ~~(8)~~(7) A purchasing card program and travel card program to
20 include implementation and administration, and

21 (8) An electronic commerce procurement solution consistent with
22 the established financial systems of the state to include *planning and*
23 *administration.*

24
25 SECTION 5. Arkansas Code § 19-11-229(f), concerning the evaluation of
26 competitive bids, is amended to read as follows:

27 (f) Bids shall be evaluated based on the requirements set forth in the
28 invitation for bids. These requirements may include criteria to determine
29 acceptability such as inspection, testing, quality, workmanship, delivery,
30 past performance, and suitability for a particular purpose and criteria
31 affecting price such as life-cycle or total ownership costs. The invitation
32 for bids shall set forth the evaluation criteria to be used. No criteria may
33 be used in bid evaluation that were not set forth in the invitation for bids.

34
35 SECTION 6. Arkansas Code § 19-11-234(d), concerning copies of
36 competitive bid orders and purchase orders and records to be kept of

1 procurements involving bids of less than twenty-five thousand dollars
2 (\$25,000), is repealed.

3 ~~(d)(1) Copies of the competitive bid form and the purchase order must~~
4 ~~be forwarded to the Office of State Procurement within the first ten (10)~~
5 ~~days of each month by all state agencies not having agency procurement~~
6 ~~officials.~~

7 ~~(2) The director or agency procurement official shall keep a~~
8 ~~record of all procurements requiring bids less than or equal to twenty-five~~
9 ~~thousand dollars (\$25,000). An abstract of the bids shall be retained in the~~
10 ~~bid file and shall be available for public inspection.~~

11
12 SECTION 7. Arkansas Code § 19-11-244(c), concerning the resolution of
13 protested solicitations and awards, is amended to read as follows:

14 (c) If the protest is not resolved by mutual agreement, and after
15 reasonable notice to the person involved and reasonable opportunity for that
16 person to ~~be heard~~ respond to the protest issues according to the regulations
17 promulgated by the director, the director, the head of a procurement agency,
18 or a designee of either officer shall promptly issue a decision in writing.
19 The decision shall state the reasons for the action taken.

20
21 SECTION 8. Arkansas Code § 19-11-245(b), concerning the debarment or
22 suspension of consideration for award of contracts, is amended to read as
23 follows:

24 (b) After reasonable notice to the person involved and reasonable
25 *opportunity for that person to be heard* have a hearing before a committee
26 according to regulations promulgated by the State Procurement Director, the
27 ~~State Procurement Director~~ director or the head of a procurement agency shall
28 have authority to debar a person for cause from consideration for award of
29 contracts, provided that doing so is in the best interests of the state. The
30 debarment shall not be for a period of more than three (3) years. The same
31 officer shall have authority to suspend a person from consideration for award
32 of contracts, provided that doing so is in the best interests of the state
33 and there is probable cause for debarment. The suspension shall not be for a
34 period exceeding three (3) months. The authority to debar or suspend shall be
35 exercised in accordance with regulations promulgated by the director.

36

1 SECTION 9. Arkansas Code § 19-11-246(c), concerning the written
2 decision issued when a contract-based claim between the State and a
3 contractor are not resolved by mutual agreement, is amended to read as
4 follows:

5 (c) If such a claim or controversy is not resolved by mutual
6 agreement, and after reasonable notice to the person involved and reasonable
7 opportunity for that person to ~~be heard~~ respond to the claim or controversy
8 in accordance with the regulations promulgated by the director, the director,
9 the head of a procurement agency, or the designee of either officer shall
10 promptly issue a decision in writing. The decision shall state the reasons
11 for the action taken.

12
13 SECTION 10. Arkansas Code § 19-11-250 is amended to read as follows:

14 19-11-250. Sale, etc., of commodities.

15 Any public procurement unit by agreement with another public
16 procurement unit may sell to, acquire from, or use any commodities belonging
17 to or produced by another public procurement unit or external procurement
18 activity independent of the ~~requirement~~ requirements of §§ 19-11-204,
19 19-11-228 - 19-11-240, and 19-11-263, which refer to source selection and
20 contract formation, and §§ 19-11-205, 19-11-242, and 19-11-243, which refer
21 to commodity management.

22
23 SECTION 11. Arkansas Code 19-11-259(a), concerning definitions
24 regarding preferences among bidders, is amended to read as follows:

25 (a) Definitions. The definitions in this subsection shall not be
26 applicable to other sections of this subchapter. As used in this section,
27 unless the context otherwise requires:

28 (1) ~~"Public agencies" shall mean all counties, municipalities,~~
29 ~~and political subdivisions of the state;~~ "Commodities" shall mean materials
30 and equipment used in the construction of public works projects;

31 (2) "Lowest qualified bid" shall mean the lowest bid which
32 conforms to the specifications and request for bids;

33 (3) "Firm resident in Arkansas" shall mean any individual,
34 partnership, association, or corporation, whether domestic or foreign, who:

35 (A) Maintains at least one (1) staffed office in this
36 state;

1 (B) For not less than two (2) successive years immediately
 2 prior to submitting a bid, has paid taxes under the Arkansas Employment
 3 Security Law, § 11-10-101 et seq., unless exempt there from, and either the
 4 Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., or the Arkansas
 5 Compensating Tax Act of 1949, § 26-53-101 et seq., on any property used or
 6 intended to be used for or in connection with the firm's business; and

7 (C) Within the two-year period, has paid any taxes to one
 8 (1) or more counties, school districts, or municipalities of the State of
 9 Arkansas on either real or personal property used or intended to be used or
 10 in connection with the firm's business; and

11 (4) ~~"Commodities" shall mean materials and equipment used in the~~
 12 ~~construction of public works projects; and~~ "Public agencies" shall mean all
 13 counties, municipalities, and political subdivisions of the state; and

14 (5) "Nonresident firm" shall mean a firm which is not included
 15 in the definition of a "firm resident in Arkansas".

16
 17 SECTION 12. Arkansas Code 15-4-313(5), concerning the definition of
 18 "minority" under the Minority Business Economic Development Act, is amended
 19 to read as follows:

20 (5) "Minority" means a *black citizen or black lawful permanent*
 21 *resident of the State of Arkansas*, black African American, Hispanic
 22 American, American Indian, or Asian and Pacific Islander;

23
 24 /s/ Dangeau

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 27 APPROVED: 3/18/2003
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