

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Senators Walker and Lewellen

A Bill

SENATE BILL 254

For An Act To Be Entitled

"AN ACT TO PROTECT SUBCONTRACTORS AND BIDDERS NAMED IN COMPLIANCE WITH ARKANSAS CODE 22-9-204, AND TO REQUIRE GENERAL CONTRACTORS BIDDING ON STATE BUILDING SERVICES AND OFFICE OF STATE PURCHASING CONTRACTS TO IDENTIFY MINORITY VENDORS USED AS SUBCONTRACTORS IN BIDDING AND FULFILLING STATE CONTRACTS; AND FOR OTHER PURPOSES."

Subtitle

"AN ACT TO TRACK THE USE OF MINORITY SUBCONTRACTORS IN STATE CONTRACTS."

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

SECTION 1. The General Assembly recognizes that the state has established a goal of doing ten percent (10%) of its procurements with minority vendors. The state also encourages all minority businesses to participate in and compete for state contracts. In awarding of contracts and subcontracts, discrimination is prohibited as stated in Arkansas Code 25-17-101. *It is the policy of the state to award contracts to the lowest responsive and responsible bidder.*

SECTION 2. *All competitive sealed bids and requests for proposals issued by the Office of State Purchasing and State Building Services shall require the following language to be included in the bid proposals: "It is the policy of the state of Arkansas that minority business enterprises shall have the maximum opportunity to participate in the state purchasing process. Therefore, the state of Arkansas encourages all minority businesses to compete for contracts for goods, services, and construction. The state also*

1 encourages all general contractors to subcontract portions of any state
2 contract to minority business enterprises."

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4 SECTION 3. Arkansas Code 22-9-204 is amended by adding the following
5 subsection:

6 "(g) The naming of a subcontractor or vendor shall create a rebuttable
7 presumption that a valid contract exists between the general contractor and
8 the subcontractor or vendor."

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10 SECTION 4. STATE BUILDING SERVICES. All competitive sealed bids and
11 requests for proposals issued by the State Building Services shall require
12 bidders to submit documentation indicating the expected levels of
13 subcontracts awarded to minority vendors for those subcontractors in the
14 areas of: (1) mechanical, indicative of heating, air conditioning, and
15 ventilating; (2) plumbing; (3) electrical, indicative of wiring and
16 illuminating fixtures; (4) roofing and sheet metal work, indicative of
17 roofing applications. If bidders fail to submit such documentation within
18 ten (10) days of notice of intent to award such failure to submit a report
19 shall be subject to rules and regulations established and practiced by State
20 Building Services bidding procedures and policies. Within thirty (30)
21 calendar days from substantial contract completion, the general contractor
22 shall submit a report identifying all subcontractors and suppliers of goods
23 purchased in excess of five hundred dollars (\$500), used in fulfillment of
24 that contract. This report shall also identify those Arkansas owned minority
25 subcontractors and suppliers used in that contract and the dollar amount
26 spent with those persons. Failure to submit a report shall be subject to
27 rules and regulations established and practiced by State Building Services
28 bidding procedures and policy.

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30 SECTION 5. OFFICE OF STATE PURCHASING. All competitive sealed bids
31 and requests for proposals issued by the Office of State Purchasing and
32 agency purchasing officials shall require bidders to include a statement
33 indicating the expected level of subcontracts to be awarded to minority
34 vendors when subcontracting is expected or allowed in the bid or proposal.
35 Upon contract completion the vendor shall report the level of subcontracts

1 awarded to minority vendors if the bid indicated a subcontract to a minority
2 vendor was expected for that contract.

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4 SECTION 6. Information gathered from the submission of bids and
5 proposals from the Office of State Purchasing and State Building Services
6 regarding minority subcontract involvement, shall be used to aid in measuring
7 the state's level of procurement with minority vendors and therefore should
8 be sent to the Minority Business Development Division of the Arkansas
9 Industrial Development Commission for analysis.

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11 SECTION 7. All provisions of this act of a general and permanent
12 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
13 Code Revision Commission shall incorporate the same in the Code.

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15 SECTION 8. If any provision of this act or the application thereof to
16 any person or circumstance is held invalid, such invalidity shall not affect
17 other provisions or applications of the act which can be given effect without
18 the invalid provision or application, and to this end the provisions of this
19 act are declared to be severable.

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21 SECTION 9. EMERGENCY. It is hereby found and determined by the
22 General Assembly that the use of minority subcontractors in state contracts
23 should be tracked in order to determine how well the state is doing to meet
24 its goal of ten percent (10%) of its procurements with minority vendors; and
25 that this act is immediately necessary to promote the goal established by the
26 state. Therefore, an emergency is hereby declared to exist and this act
27 being necessary for the immediate preservation of the public peace, health
28 and safety shall be in full force and effect from and after its passage and
29 approval.

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31 SECTION 10. All laws and parts of laws in conflict with this act are
32 hereby repealed.

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/s/Walker et al

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As Engrossed: 2/24/95 3/7/95

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