

1 State of Arkansas  
2 80th General Assembly  
3 Regular Session, 1995  
4 By: Senator Bradford

# A Bill

SENATE BILL 716

## For An Act To Be Entitled

"AN ACT TO AMEND ARKANSAS CODE § 19-4-1405 PERTAINING TO  
BIDDING REQUIREMENTS FOR STATE AGENCY CONTRACTING AND  
ARKANSAS CODE § 22-9-203 PERTAINING TO PUBLIC WORKS  
CONTRACTS; AND FOR OTHER PURPOSES."

## Subtitle

"AN ACT TO AMEND SECTIONS OF THE  
ARKANSAS CODE PERTAINING TO BIDDING  
REQUIREMENTS FOR STATE AGENCY  
CONTRACTING AND PUBLIC WORKS  
CONTRACTING."

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

SECTION 1. Arkansas Code § 19-4-1405 is amended to read as follows:

"19-4-1405. Bidding procedure.

(a)(1) After a state agency has caused the preparation and has approved plans and specifications, it shall then proceed to advertise for bids for the contemplated work by the publication of notice one (1) time each week, for not less than two (2) consecutive weeks. This notice shall be published in one (1) or more newspapers of general circulation published in Little Rock, Arkansas, and in such other newspapers or trade or construction journals as, in the opinion of the agency, may be desirable. The last insertion shall be not less than one (1) week prior to the date on which the bids are to be received.

(2) The notice shall:

(A) Provide for the receipts of sealed bids;

1 (B) Set forth the time and place in which the bids will be received;

2 (C) Specify from whom copies of the plans and specifications and a  
3 draft of the proposed contract may be obtained for examination;

4 (D) Contain the amount of the bid bond; and

5 (E) Contain such other information and requirements as, in the opinion  
6 of the agency, may be necessary or desirable.

7 (b)(1) On the date and time fixed in the notice, the agency shall open,  
8 tabulate, and compare bids, and award the contract to the lowest responsible  
9 bidder. However, the agency shall have the right to reject any or all bids.

10 (2) The successful bidder shall be required to furnish bonds to the  
11 State of Arkansas, with corporate guaranty or indemnity sureties thereon. The  
12 bonds shall be both for the completion of the construction free of all liens  
13 and encumbrances, in an amount fixed by Arkansas State Building Services, and  
14 for the protection of the agency and its members against all liability for  
15 injury to person or damage to, or loss of, property arising, or claimed to  
16 have arisen, in the course of the work project, within limits fixed by  
17 Arkansas State Building Services. Every bid submitted on state agency  
18 construction contracts shall be void unless accompanied by a certified check  
19 or by *corporate bid bond*. Such *bid security* shall indemnify the public  
20 against failure of the contractor to execute and deliver the contract and  
21 necessary bonds for faithful performance of the contract. The *bid security*  
22 shall provide that the contractor or surety must pay the damage, loss, cost  
23 and expense subject to the amount of the *bid security* directly arising out of  
24 the contractor's default in failing to execute and deliver the contract *and*  
25 *bonds. Liability under this bid security shall be limited to five percent*  
26 *(5%) of the amount of the bid.*

27 (c) Whenever it is obvious from examination of the bid document that it  
28 was the intent of a bidder to submit a responsive bid, and the bid, because  
29 of scrivener error such as transposition of figures, if accepted would create  
30 a serious financial loss to the bidder, the Director of State Building  
31 Services has the authority to relieve the bidder from responsibility under  
32 his bond and may reject his bid."

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34 SECTION 2. Arkansas Code § 22-9-203 is amended to read as follows:

35 "§ 22-9-203. Public improvements generally - Award procedure.

1 (a) No contract providing for the making of major repairs or  
2 alterations, for the erection of buildings or other structures, or for making  
3 other permanent improvements shall be entered into by the state, or any  
4 agency thereof, any county, municipality, school district, or other local  
5 taxing unit with any contractor in those instances where all estimated costs  
6 of the work shall exceed the sum of ten thousand dollars (\$10,000) for  
7 counties and municipalities and the sum of thirty thousand dollars (\$30,000)  
8 for any school district. This sum of thirty thousand dollars (\$30,000) is to  
9 be adjusted annually by the Director of State Building Services by issuing a  
10 new sum, adjusted according to the building costs increase for the previous  
11 twelve (12) months, by June 30 of each year, with his order being published  
12 in the Arkansas Register. These sums shall not be exceeded unless the taxing  
13 unit shall have first published notice of its intention to receive bids  
14 therefor one (1) time each week for not less than two (2) consecutive weeks  
15 in a newspaper of general circulation published in the county in which the  
16 proposed improvements are to be made or in a trade journal reaching the  
17 construction industry.

18 (b)(1) The date of publication of the last notice shall be not less than  
19 one (1) week before the day fixed therein for the receipt of bids.

20 (2) If there is no newspaper regularly published in the county in which  
21 the proposed work is to be done, the notices may be published in any  
22 newspaper having a general circulation in the county.

23 (3) Nothing in this section shall be construed as limiting to two (2)  
24 the number of weeks the notices may be published.

25 (c) All notices shall contain a brief description of the kind or type of  
26 work contemplated; the approximate location thereof; the place at which  
27 prospective bidders may obtain plans and specifications; the date, time, and  
28 place at which sealed bids will be received; the amount, which may be stated  
29 in a percentage, of the bid bond required; a statement of the taxing unit's  
30 reservation of the right to reject any or all bids and to waive any  
31 formalities; and such other pertinent facts or information which to it may  
32 appear necessary or desirable. Every bid submitted on public construction  
33 contracts for the state or any agency or department of the state or any  
34 political subdivision of the state shall be void unless accompanied by a  
35 certified check or by *corporate bid bond*. This *bid security* shall indemnify

1 the public against failure of the contractor to execute and deliver the  
2 contract and necessary bonds for faithful performance of the contract. *The*  
3 *bid security shall provide that the* contractor or surety must pay the  
4 damage, loss, cost and expense subject to the amount of the *bid security*  
5 directly arising out of the contractor's default in failing to execute and  
6 deliver the contract and bonds. Liability under this *bid security shall be*  
7 *limited to five percent (5%) of the amount of the bid.*

8 (d) On the date and time fixed in the notice, the board, commission,  
9 officer, or other authority in which or in whom authority is vested to award  
10 contracts, shall open and compare the bids and thereafter award the contract  
11 to the lowest responsible bidder, but only if it is the opinion of the  
12 authority that the best interests of the taxing unit would be served thereby.

13 (e) In the event that all bids submitted exceed the amount appropriated  
14 for the award of the contract and if bidding on alternates was not required  
15 by the plans and specifications, the state agency or its designated  
16 representatives shall have the authority to negotiate an award with the  
17 apparent responsible low bidder, but only if the low bid is within twenty  
18 percent (20%) of the amount appropriated.

19 (f)(1) Should the plans and specifications for the project require bids  
20 on alternates in addition to a base bid, the alternates shall be deductive,  
21 as distinguished from additive, and shall be set forth in the plans and  
22 specifications in numerical order.

23 (2) In the event that all bids submitted exceed the amount appropriated  
24 for the award of the contract, the state agency may determine the apparent  
25 responsible low bidder by deducting the alternates in numerical order.

26 (3) After making the deductions, if the cost of the project is less than  
27 twenty percent (20%) above the amount appropriated, then, and only in that  
28 event, the state agency may negotiate an award with the low bidder so  
29 determined.

30 (g) Whenever it is obvious from examination of the bid document that it  
31 was the intent of a bidder to submit a responsive bid, and the bid, if  
32 accepted, would create a serious financial loss to the bidder because of  
33 scrivener error such as transposition of figures, the board, commission,  
34 officer, or other authority in which or in whom authority is vested has the  
35 authority to relieve the bidder from responsibility under his bond and may

1 reject his bid."

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3 SECTION 3. All provisions of this act of a general and permanent  
4 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
5 Code Revision Commission shall incorporate the same in the Code.

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7 SECTION 4. If any provision of this act or the application thereof to  
8 any person or circumstance is held invalid, such invalidity shall not affect  
9 other provisions or applications of the act which can be given effect without  
10 the invalid provision or application, and to this end the provisions of this  
11 act are declared to be severable.

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13 SECTION 5. All laws and parts of laws in conflict with this act are  
14 hereby repealed.

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16 */s/Bradford*

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