HB 1456 - AS INTRODUCED

2018 SESSION

18-2302
05/03

HOUSE BILL ***1456***

AN ACT relative to state acceptance of the lowest reasonable bid contract and relative to the sale, lease, or transfer of state property.

SPONSORS: Rep. Cushing, Rock. 21; Rep. Edgar, Rock. 21; Rep. Cilley, Straf. 4; Rep. McConnell, Ches. 12; Rep. Ebel, Merr. 5; Rep. M. Smith, Straf. 6; Sen. Woodburn, Dist 1; Sen. Fuller Clark, Dist 21

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill requires the department of administrative services to consider the lowest reasonable bid rather than the lowest bid from a qualified bidder.

The bill also provides that if the state sells, leases, or transfers less than its full interest in property, any subsequent transfer must be approved by the governor and council.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eighteen

AN ACT relative to state acceptance of the lowest reasonable bid contract and relative to the sale, lease, or transfer of state property.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Public Works Design and Construction; Major Projects; Lowest Reasonable Bid. Amend the introductory paragraph of RSA 21-I:80, I to read as follows:

I. Each state project whose estimated cost is more than $25,000 shall be built under contracts awarded to the [~~lowest qualified~~] bidder ***with the lowest reasonable bid,*** who meets all project specifications through competitive bidding. The following are excluded from this competitive bidding requirement:

2 Public Works Design and Construction; Competitive Bidding; Lowest Reasonable Bid. Amend RSA 21-I:81 to read as follows:

21-I:81 Competitive Bidding. No project subject to the competitive bidding requirements of RSA 21-I:80 shall be awarded to any independent contractor except:

I. If the commissioner decides that the [~~bid of the lowest bidder~~] ***lowest reasonable bid*** should be accepted, he or she shall prepare a contract of acceptance of the lowest ***reasonable*** bid within 60 days from the opening of bids. He or she shall execute the contract in the name of the state. After the contract is executed by the [~~lowest~~] bidder, the form of it approved by the attorney general, and the availability of funds approved by the commissioner of administrative services, he or she shall transmit the contract to the governor and council. Upon approval by the governor and council, it shall become a valid contract of the state.

II. The state reserves the right to reject any and all bids or to negotiate with the lowest [~~qualified~~] ***reasonable*** bidder who meets all project specifications.

III. If the commissioner decides that for just cause shown the lowest ***reasonable*** bid submitted should be rejected, he or she shall promptly transmit to the governor and council the recommendation for rejection including reasons. The governor and council shall review the recommendation and any other facts available to them, and make such determination as in their judgment shall be for the best interest of the state. They shall require a public hearing upon request of any bidder or on their own motion to fully establish such facts. Their determination shall be entered upon the records of the secretary of state.

IV. If not more than one bid is received on any state project advertised for contract construction, the commissioner may negotiate a contract for such construction upon terms which he or she may deem most advantageous to the state, subject to the approval of the governor and council. For projects built with federal aid, if any provision of this section is inconsistent with the

requirements of applicable federal law and regulations, the latter shall control.

3 Identical Qualified Lowest Bids; Lowest Reasonable Bid. Amend RSA 21-I:11-b, II to read as follows:

II. To promote business in this state, when [~~qualified~~] lowest ***reasonable*** bids, proposals, or quotations are received by the division of procurement and support services at the same price, the division's selection or recommendation for selection shall, if the process is not canceled by the state, be made by drawing lots, provided, however, that if only one of the vendors offering that price has a principal place of business in New Hampshire, that vendor shall, if the process is not canceled by the state, be selected or recommended for selection. When [~~qualified~~] lowest ***reasonable*** bids, proposals, or quotations are received at the same price from more than one vendor which has a principal place of business in New Hampshire, selection or recommendation for selection shall, if the process is not canceled by the state, be made by drawing lots from among the vendors with a principal place of business in New Hampshire.

4 New Section; Powers of Governor and Council; Sale, Lease, or Transfer of State Property. Amend RSA 4 by inserting after section 47 the following new section:

4:48 Sale, Lease, or Transfer of State Property. For any instance in which the state sells, gives, leases, hypothecates, or otherwise transfers less than its full interest in property, whether real property or anything else of value, said conveyance shall be presumed to include a non-dischargeable right to approve any further transfer of all or part of the partial interest by the governor and council. This right of approval shall include any and all forms of direct or indirect transfer, whether for value or without value, and shall also be conclusively deemed to include a transfer of the controlling interest of any legal entity that owns the interest received from the state, no matter how the transfer of control is affected. Any approvals required by this section shall be made in the sole discretion of the governor and council. Any waiver of the terms of this section shall be in a writing signed by the governor with the approval of the council.

5 Effective Date. This act shall take effect 60 days after its passage.