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# COUNTY ADVISORY BULLETIN

CAB

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**Bulletin 2003-02**

**September 2003**

**House Bill 95 Raises Competitive Bid Cost Threshold for Counties and Other Contracting Authorities from \$15,000 to \$25,000, Exempts Programming Services for Information Technology from Competitive Bidding Law, Eliminates Mandate for Second Newspaper Advertisement of a Bid if the Bid is Published on a County Internet Website, and Revises Criteria for Selecting Professional Design Services**

**Effective Date: September 26, 2003.**

**Revised Code Sections Affected: 307.86 amended (bid amount threshold and exemption for information technology), 307.87 amended (changes in advertising procedures), 153.65 amended and 153.691 newly-enacted (professional design services).**

House Bill 95, the state budget bill for state fiscal years 2004 and 2005, includes several provisions related to competitive bidding procedures and the selection of professional design services by counties and other public authorities. The purpose of this county advisory bulletin (CAB) is to inform commissioners and other county officials and staff of these changes.

The effective date of these provisions is September 26<sup>th</sup>, 2003. Unlike some provisions of the budget bill, these sections were not effective immediately after the bill was filed in the office of the secretary of state. The determination of effective dates is governed by ORC 1.471 Under the provisions of ORC 1.471, these provisions were not effective immediately because they do not contain appropriations for current expenses. Nor do they earmark an appropriation for current expenses. Nor is implementation of any of these sections dependent upon an appropriation for current expenses that is contained in House Bill 95. Therefore, the effective date is the 91<sup>st</sup> day after the date on which the bill is filed in the office of the secretary of state.

If you have questions about any of the changes discussed in this CAB, please contact Doug Putnam of CCAO at 614-221-5627 or [dputnam@ccao.org](mailto:dputnam@ccao.org)

### New Competitive Bid Cost Threshold - ORC 307.86.

House Bill 95 creates a new cost threshold of \$25,000 for all items and projects that must be competitively bid by, or on behalf of, a county or other contracting authority. This is an increase from the former competitive bid cost threshold of \$15,000. ORC 307.86 (A).

Unless exempted by statute, anything to be purchased, leased, leased with an option or agreement to purchase, or constructed, after September 26<sup>th</sup>, 2003, at a cost in excess of \$25,000, is to be obtained through competitive bidding.

This threshold applies to all competitive bids processed by a county or other contracting authority for any product, service, repair or building project. A Contracting authority@ is defined in ORC 307.92 to include Any board, department, commission, authority, trustee, official, administrator, agent or individual which has authority to contract for or on behalf of the county, or any agency, department, authority, commission, office or board thereof.@

### New Exemption from Competitive Bidding B ORC 307.86 (B) (2).

The bill also adds a new type of purchase to the list of those that are not required to be bid competitively. This new exemption applies to the purchase of services related to information technology, such as programming services, that are proprietary or limited to a single source. ORC 307.86 (B) (2).

### Changes in Advertising Procedure for Bids B ORC 307.87.

The bill makes a change in the advertising requirements that must be followed by a county or other contracting authority during a competitive bidding procedure. Under former law, notice had to be provided in a newspaper of general circulation once a week for at least two consecutive weeks, meaning that a minimum of two newspaper notices were required for each bid.

House Bill 95 allows a county or other contracting authority, under specified conditions, to eliminate the second mandated newspaper notice of a bid. The first condition is that the notice has been posted on the county or the contracting authority=s Internet site on the worldwide web. The second condition is that the first notice appearing in a newspaper of general circulation must be published at least two weeks before the opening of bids and must contain the following information:

- 1) a statement that the notice is posted on the Internet site of the county or other contracting authority;
- 2) the Internet address of the county or other contracting authority;
- 3) instructions on how the notice may be accessed on the county or other contracting authority=s Internet site.

Please note that House Bill 95 does *not* change the requirement contained in 307.86 (B) that *any* bid notice, posted either in a newspaper of general circulation, or in trade or other publications, or on the Internet site of a county or other contracting authority, also contain the following information:

- 1) a general description of the subject of the proposed contract and the time and place where the plans and specifications or an itemized list of supplies, facilities, or equipment and estimated quantities can be obtained or examined;
- 2) the time and place where the bids will be opened;
- 3) the time and place for filing bids;
- 4) the terms of the proposed purchase;
- 5) conditions under which bids will be received; and
- 6) the existence of a system of preference, if any, adopted under ORC section 307.90, for products mined and or produced in Ohio and the USA.

New Procedures for Selecting Professional Design Services B ORC 153.65 and 153.691.

Current ORC 153.65(D) lists a number of qualifications that public authorities are to list and consider when preparing bid proposals for professional design services. These services are defined to include those provided by architects or landscape architects registered under ORC Chapter 4703, as well as by professional engineers or surveyors registered under ORC Chapter 4733.

Before the enactment of House Bill 95, the qualifications listed and considered under ORC 153.65 (D) included the following:

- 1) the competence of the professional design firm Ato perform the required professional design services as indicated by the technical training, education, and experience of the firm=s personnel, especially the technical training, education and experience of the employees within the firm who would be assigned to perform the services@ on behalf of the public authority.
- 2) the ability of the firm in terms of its workload and the availability if qualified personnel, equipment, and facilities to perform the required professional design services competently and expeditiously;
- 3) past performance of the firm as reflected by the evaluations of previous clients, quality of work, and meeting of deadlines; and
- 4) other similar factors as determined by the public authority.

With the enactment of House Bill 95, number 4 above has been replaced by the term *Any other relevant factors as determined by the public authority.*@ This change will give counties and other professional authorities more discretion in the process of selecting providers of professional design services.

The bill also contains ORC 153.691, a newly-enacted section related to the provision of professional design services to public authorities. This section states that no county, county contracting authority or other public authority that is planning to contract for such services under ORC 153.69 shall require any form of fee estimate, fee proposal, or other estimate or measure of compensation prior to selecting and ranking professional design firms.@

However, this prohibition does not apply in instances where firms are selected and ranked by a state agency from a list of pre-qualified firms created under ORC 153.98 and the state agency=s payment of funds for the professional design services has been pre-approved by the controlling board.

*Prepared by the County Commissioners Association of Ohio (CCAO)*

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