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HOUSE BILL NO. 334

Offered January 11, 2012

Prefiled January 10, 2012

A BILL to amend and reenact § 2.2-4324 of the Code of Virginia, relating to the Virginia Public Procurement Act; bid match preference for Virginia businesses.

Patrons—Villanueva, Carr, Surovell and Torian

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That § 2.2-4324 of the Code of Virginia is amended and reenacted as follows:**

§ 2.2-4324. Preference for Virginia products with recycled content and for Virginia firms.

A. In the case of a tie bid, preference shall be given to goods produced in Virginia, goods or services or construction provided by Virginia persons, firms or corporations; otherwise the tie shall be decided by lot.

B. Whenever the lowest responsive and responsible bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a percentage preference, a like preference shall be allowed to the lowest responsive and responsible bidder who is a resident of Virginia and is the next lowest bidder.

C. If the lowest responsive and responsible bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a price-matching preference, a like preference shall be allowed to responsive and responsible bidders who are residents of Virginia. *For procurements of up to \$100,000, whenever the lowest responsive and responsible bidder is a resident of any other state and a bidder who is a resident of Virginia has competed for the same contract, the Virginia bidder shall be given the opportunity to match the lowest bid provided the Virginia bidder's bid is within five percent or \$10,000 of the lowest bid, whichever is less. Such Virginia bidder shall have two business days in which to communicate his ability to match the lowest bid.*

If there are multiple Virginia bidders that are within five percent or \$10,000 of the lowest bid, the Virginia bidders shall be rank ordered based on their bids' closeness to the lowest bid. The opportunity to submit a matching bid shall be first given to the Virginia bidder whose bid is closest to the lowest bid. If the lowest bid is matched by the Virginia bidder ranked first, the award shall be made to that Virginia bidder. Otherwise, the opportunity to submit a matching bid shall be given to the Virginia bidder ranked second, and so on until a determination of whether the lowest bid can be matched is made.

D. If the lowest bidder is a resident contractor of a state with an absolute preference, the bid shall not be considered. The Department of General Services shall post and maintain an updated list on its website of all states with an absolute preference for their resident contractors and those states that allow their resident contractors a percentage preference, including the respective percentage amounts. For purposes of compliance with this section, all public bodies may rely upon the accuracy of the information posted on this website.

~~C.E.~~ Notwithstanding the provisions of ~~subsections A and B~~ *this section*, in the case of a tie bid in instances where goods are being offered, and existing price preferences have already been taken into account, preference shall be given to the bidder whose goods contain the greatest amount of recycled content.

~~D.F.~~ For the purposes of this section, a Virginia person, firm or corporation shall be deemed to be a resident of Virginia if such person, firm or corporation has been organized pursuant to Virginia law or maintains a principal place of business within Virginia.

INTRODUCED

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