



Ohio Legislative Service Commission

Bill Analysis

Bethany Boyd

H.B. 246

129th General Assembly
(As Introduced)

Reps. Roegner, Blessing, Huffman, Thompson, Martin, Derickson, Uecker, J. Adams, Sprague, Wachtmann, Young, Slaby, Rosenberger, Hayes

BILL SUMMARY

- Expands the authority of political subdivisions to purchase by reverse auction certain services and supplies that they are currently prohibited from purchasing in that manner.

CONTENT AND OPERATION

Expansion of reverse auction purchasing authority

The bill authorizes political subdivisions to purchase by reverse auction services or supplies under a contract for the design, construction, alteration, repair, reconstruction, or demolition of a building, highway, road, street, alley, drainage system, water system, waterworks, ditch, sewer, sewage disposal plant, or any other structure or works of any kind. Current law prohibits the purchase of any of these services or supplies by reverse auction under this type of contract.¹

A reverse auction is a purchasing process in which proposals for selling services or supplies are submitted in an open environment via the Internet.² A reverse auction generally works in the same way as a regular auction, except that the object is to bid lower than previous bidders. The types of "services" that may be purchased by reverse auction under continuing law are "the furnishing of labor, time, or effort by a person, *not involving the delivery of a specific end product* other than a report which, if provided, is merely incidental to the required performance" and does not include services furnished pursuant to employment agreements or collective bargaining agreements. And

¹ R.C. 9.314(B).

² R.C. 9.314(A)(3).

continuing law provides that the types of "supplies" that may be purchased by reverse auction are all property, including equipment, materials, other tangible assets, and insurance, but excluding real property or interests in real property.³

Under continuing law, a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities only in geographic areas smaller than that of the state, including a "contracting authority," are the political subdivisions that may use the reverse auction procedure. Also under continuing law, a "contracting authority" is any board, department, commission, authority, trustee, official, administrator, agent, or individual that has authority to contract for or on behalf of the county or any agency, department, authority, commission, office, or board thereof.⁴

Existing reverse auction procedure

Under law retained by the bill, when a political subdivision determines that the use of a reverse auction to purchase services or supplies is advantageous to it, the political subdivision must solicit proposals through a request for proposals. The request must state the relative importance of price and other evaluation factors. The political subdivision may conduct discussions with responsible offerors who, via the Internet, have submitted proposals determined to be reasonably susceptible of being selected for award of the contract. These discussions are intended to ensure full understanding of and responsiveness to solicitation requirements. Political subdivisions are required to treat offerors fairly and equally in regard to clarification, correction, or revision of their proposals. A political subdivision may award the contract to the offeror whose proposal the political subdivision determines to be the most advantageous to it, taking into consideration factors such as price and the evaluation criteria set forth in the request for proposals. The contract file must contain the basis on which the award is made.⁵

HISTORY

ACTION	DATE
Introduced	06-01-11

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³ R.C. 9.314(A)(4) and (5).

⁴ R.C. 307.92, not in the bill.

⁵ R.C. 9.314(C) to (E).

