

Procurement law and public records

R.C. 9.28, 125.071, 125.11

Clarifies that all documents related to a competitive selection, (including competitive sealed bidding, competitive sealed proposals, reverse auctions, and electronic procurement) are not public records until after the contract has been awarded.

Eliminates a provision that specifies such documents are public records after a competitive selection is cancelled.

Affirmative action programs in state contracts

R.C. 125.111, 153.59, and 9.47 (repealed) R.C. 125.111, 153.59, and 9.47 (repealed)

Eliminates a requirement for all contractors from whom the state or a political subdivision makes purchases to have a written affirmative action program for the employment and utilization of economically disadvantaged persons.

Repeals a requirement that a person receive a certificate of compliance with affirmative action programs from DEV before bidding on a public improvement construction contract or a transportation construction contract awarded by DOT.

Disqualifying subcontractors - affirmative action programs

R.C. 153.502 R.C. 153.502

Prohibits public authorities, for subcontracts of construction managers at risk, integrated project contractors, and designbuild firms, from eliminating a bidder as unqualified on the basis that the bidder has not complied with an affirmative action program, or a diversity, equity, and inclusion program.

Allows exceptions to the above prohibition for both of the following: (1) county policies to assist minority business enterprises in competitively bid contracts; and (2) any setaside programs for minority business enterprises or EDGE business enterprises.

School counselor professional development in building trades

R.C. 3319.2213, (repealed) R.C. 3319.2213, (repealed)

Eliminates law that requires: (1) SBE to enter into an agreement with a construction trade organization located in Ohio, such as affiliated construction trades (ACT) Ohio, or its successor organization, to develop a mandatory training program to educate school counselors on building and construction trades career pathways; and (2) each licensed school counselor serving students in grades 7-12 to complete four hours of that training every five years.

Board of Building Standards Grant Program – Removed by Senate

R.C. 3781.10, 3781.102

Permits the Board of Building Standards to establish a grant program to assist local building departments in the recruitment, training, and retention of qualified personnel. Allows the Board to use fees credited to the Industrial Compliance Operating Fund (Fund 5560) in connection with inspections and approval of plans and specifications by local building departments to administer and award the grants.

Fire code changes and enforcement

R.C. 3737.83, 3781.062 R.C. 3737.83, 3781.062

House - Prohibits the State Fire Marshal (SFM) from including certain accessory spaces in determining whether an agricultural structure requires an automatic sprinkler system or other fire suppression system.

Senate - Replaces the House provision with one that prohibits the SFM, when determining sprinkler thresholds, from including the occupant load of a covered patio and its area if the building or structure is incident to the agricultural purpose of the land, exempt from Board of Building Standards rules, and meets other specified criteria.

Public improvements contract retainage

R.C. 153.12, 153.13, 153.14, 153.63

Requires a public authority's retainage amount on partial payments on a public improvements contract to be 4% or less for 100% of the contract, rather than 8% on the first 50%, and 0% on the second 50%, of the contract.

Prohibits contractors from paying subcontractors at a retainage rate lower than the retainage rate being paid to the contractor by the public authority.

Eliminates provisions of law requiring the public authority to deposit the retained amount in an escrow account.

Senate only - Requires that funds retained on a public works contract be paid to the primary contractor within 30 days of substantial completion of the project, withholding only that amount reasonably necessary to assure final completion of it.

Executive only - Clarifies that any retained funds and the interest accrued by the funds is property of the contractor and must be paid to the contractor no later than 30 days after the date of substantial completion of the work.

Senate replacement - Replaces the Executive provision with one that clarifies any retained withheld funds and interest accrued thereon be paid to the primary contractor no later than 30 days after the date of final completion of the project.

OFCC public notice, forms, and other changes

R.C. 9.312, 9.331, 9.47, 123.10, 153.01, 153.07, 153.08, 153.09, 153.54, 1311.252, Repealed:
R.C. 9.47

Requires a state agency or political subdivision that finds a low bidder for contracts let by competitive bidding is not responsive or responsible, to send the bidder a notice electronically, permitting certified mail delivery only if an electronic method is not available (rather than by either method).

Requires a public authority to advertise its intent to employ a construction manager by electronic means, and permits advertising in news media available in the county, (rather than requiring advertisement in a newspaper of general circulation and permitting electronic advertisement).

Reduces the minimum advertisement period for contracts to employ a construction manager from 30 days to 14 days.

Requires the public authority to give notice of the time and place where bids for public works contracts will be received by electronic means at least 14 days in advance, and permits the authority to publish the notice in other news media in the county where the work is to occur (rather than requiring publication in a newspaper at least eight days in advance).

Requires copies of the plans, details, estimates of cost, and specifications to be available electronically or at OFCC's office (rather than just at OFCC's office).

Senate replacement - Same as the Executive, but requires copies of the plans, details, estimates of cost, and specifications to be available both electronically and at OFCC's office.

Requires the advertisement for public works contracts, when the public authority rejects all bids and re-advertises, to be in such electronic media, rather than newspaper, as OFCC directs.

Removes the requirement that a public authority file a notice of commencement in affidavit form.

Changes the frequency for receiving an updated certificate of compliance with affirmative action programs from once every 180 days to once every two years. Lengthens the validity of certificates of compliance (on which certain public works contracts with bidders are contingent) from 180 days to two years.

Senate replacement - Replaces the Executive provision with one that eliminates the requirement that a person receive a certificate of compliance with affirmative action programs before bidding on certain public works contracts.

Requires a state agency director to enter in to a contract with the proper persons to address an exigency, when, at the request of a state agency, the OFCC Director issues a declaration of public exigency.

Permits, for public works contracts worth \$200,000 or more, a public authority to require an architect or engineer, in preparing plans, details, specifications, estimates, analyses, or other data to use a building information model system, as long as the system is based on a nationally recognized standard for building information models.

Permits a bidder for most contracts with the state or a political subdivision to file a bid guaranty in the form of an electronic verification through an electronic verification and security system, if the state or political subdivision accepts bids electronically.

Expedited processes for design-build firms and managers at risk

R.C. 9.334, 153.501, 153.693

Establishes, for contracts between public authorities and construction managers at risk (CMRs) or design-build firms (DBFs), an expedited proposal and selection process for projects under \$4.0 million, adjusted biannually for the rate of inflation by OFCC.

Senate replacement - Same as the Executive, but removes the requirement that OFCC adjust the \$4.0 million threshold amount biannually for the rate of inflation.

Authorizes a public authority, for contracts under \$4.0 million, to require a CMR or DBF to submit an initial qualification proposal or statement, respectively, along with a pricing proposal, instead of sending them in separate rounds.

Requires the public authority to have a pre-proposal meeting with any CMRs or DBFs who desire to jointly submit a statement or proposal and pricing proposal, at which the public authority must give the CMR or DBF a description of the project, including the scope and nature of the proposed services and potential technical approaches.

House replacement - Same as the Executive, but clarifies that the public authority must evaluate the CMR or DBF's initial proposals and rank and select candidates before evaluating the pricing proposals of the selected candidates.

Exempts CMRs and DBFs from the requirement to submit a sealed bid to self-perform a portion of work before accepting and opening any bids for the same work when the public authority requests a guaranteed maximum price proposal due at the time of selection.

Mechanic's liens – Added by House, Removed by Senate

R.C. 1311.04

Changes the default expiration date of a notice of commencement from six years to four years.

Specifies that the expiration of a notice of commencement does not affect the attachment, continuance, or priority of any lien.

Specifies that an owner's failure to serve an affidavit on a contractor of an improvement does not affect the owner's rights or obligations under continuing law.