

RS 38:2214

§2214. Designation of time and place for opening bids; right to reject bids

A. The public entity desiring to let a public contract shall, in the advertisement for bids, designate the time and place that the bids will be received and shall at that time and place publicly open the bids and read them aloud; however, no public entity shall accept or take any bids, including receiving any hand-delivered bids, on days which are recognized as holidays by the United States Postal Service.

B. The public entity may reject any and all bids for just cause. Just cause for the purpose of the construction of public works is defined, but is not limited to the following circumstances:

(1) The public entity's unavailability of funds sufficient for the construction of the proposed public work.

(2) The failure of any bidder to submit a bid within an established threshold of the preconstruction estimates for that public work, as part of the bid specifications.

(3) A substantial change by the public entity prior to the award in the scope or design of the proposed public work.

(4) A determination by the public entity not to build the proposed public work within twelve months of the date for the public opening and reading of bids.

(5) The disqualification by the public entity of all bidders.

C. Bids containing patently obvious, unintentional, and substantial mechanical, clerical, or mathematical errors, or errors of unintentional omission of a substantial quantity of work, labor, material, or services made directly in the compilation of the bid, may be withdrawn by the contractor if clear and convincing sworn, written evidence of such errors is furnished to the public entity within forty-eight hours of the bid opening excluding Saturdays, Sundays, and legal holidays. Such errors must be clearly shown by objective evidence drawn from inspection of the original work papers, documents, or materials used in the preparation of the bid sought to be withdrawn. If the public entity determines that the error is a patently obvious mechanical, clerical, or mathematical error, or unintentional omission of a substantial quantity of work, labor, material, or services, as opposed to a judgment error, and that the bid was submitted in good faith it shall accept the withdrawal and return the bid security to the contractor.

D.(1) A contractor who attempts to withdraw a bid under the provisions of this Section shall not be allowed to resubmit a bid on the project. If the bid withdrawn is the lowest bid, the next lowest bid may be accepted. If all bids are rejected no withdrawal of the bid which would result in the award of the contract on another bid of the same bidder, his partner, or to a corporation or business venture owned by or in which he has an interest shall be permitted. No bidder who is permitted to withdraw a bid shall supply any material or labor to, or perform any subcontract work agreement for, any person to whom a contract or subcontract is awarded in the performance of the contract for which the withdrawn bid was submitted.

(2) Whoever violates the provisions of the foregoing sentence shall be imprisoned for not more than six months, or fined not more than two thousand dollars, or both.

Acts 1991, No. 1043, §1, eff. July 26, 1991; Acts 1995, No. 484, §1; Acts 2010, No. 625, §1.