

THE ASSOCIATED GENERAL CONTRACTORS OF CONNECTICUT, INC.



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House Bill 5373, An Act Expanding Certain Reverse Auction Authority to the Purchase of Services by Towns, School Districts and State Agencies Government Administration and Elections Committee March 23, 2009

AGC/CT Position: Opposed

Connecticut Construction Industries Association, Inc. (CCIA) represents the commercial construction industry in Connecticut and is committed to working together to advance and promote a better quality of life for all citizens in the state. CCIA is comprised of more than 350 members, including contractors, subcontractors, suppliers and affiliated organizations representing all aspects of the construction industry. Associated General Contractors of Connecticut (AGC/CT), a division of CCIA, represents commercial, industrial, and institutional construction contractors, subcontractors, material suppliers and professionals serving the construction industry. AGC/CT is the Connecticut chapter of the Associated General Contractors of America, a national contractors trade association.

House Bill 5373, An Act Expanding Certain Reverse Auction Authority to the Purchase of Services by Towns, School Districts and State Agencies, specifies that, whenever a contracting agency determines that the use of a reverse auction is advantageous to the contracting agency and will ensure a competitive contract award, the contracting agency may use a reverse auction to award a contract for services, in addition to goods or supplies, in accordance with any applicable requirement of the general statutes and policies of the contracting agency. Under the bill, the contracting agency may contract with a third party to prepare and manage a reverse auction. AGC/CT **opposes** House Bill 5373 because reverse auctions cannot be used with any degree of success in the acquisition of construction services.

In a typical online reverse auction, there is an initial starting price that is posted by the purchaser. Sellers have the ability to submit multiple and consecutively lower bids for a requirement during a set time period. Each seller has the ability to see the lowest bid although he is not able to see the identity of that bidder.

The case against the use of reverse auctions in purchasing construction services is best made by one of the nation's largest and most sophisticated customers of construction services, the U.S. Army Corps of Engineers. In testimony before Congress last year, the Corps, through a pilot study it conducted in 2003, found no basis to claim that reverse auctioning provided any significant or marginal savings over a traditional contracting process for construction or construction services. The Army Corps of Engineers has a

great deal of experience in construction contracting. For example, in 2008 alone, it was responsible for managing approximately \$1.5 billion in construction projects.

Reverse auctioning has a chance to save the government when it is purchasing commodities, the manufacture of which are controlled and consistent with little or no variability. By contrast, construction and construction services are, by their very nature, variable. Contractors do not 'manufacture' buildings, highways, or other facilities. Each is subject to the unique demands of the project, such as the needs, requirements, personnel and budgetary criteria of the owner, site conditions, design features and parameters, and the composition of the project team.

The Corps' report puts some blame on the practice of 'bid gaming' in which a contractor does not offer a best bid initially so that he can see the relative cards of all the other players. Bid gaming continues throughout the entire process because, the study points out, "the name of the game is how low do I have to go and not necessarily how low can I afford to go." In the traditional sealed bid system, you get one shot, winner takes all.

The Corps' study also found that there is considerably more time involved in the preparation and execution of reverse auctions which increases the level of labor and project costs associated with the procurement. The issue of savings, in terms of manpower and man-hours, cannot be ignored as government budget and contracting personnel are continuously reduced.

In sum, we leave you with the conclusion that the Corps reached: reverse auctioning is neither an efficient nor effective method to procure construction services.

Please contact John Butts of AGC/CT or Matthew Hallisey of CCIA at (860) 529-6855 if you have any questions or if you need additional information.