

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

TESTIMONY OF DAVID L. YODER, GLASTONBURY, CONNECTICUT:

Good Morning, My name is David Yoder. I have lived in Glastonbury, Connecticut for over 50 years. I am Owner and President of Industrial Construction Company, Inc. of Newington, Connecticut. My career in the local institutional and commercial construction industry extends over 44 years. My company was founded in 1921 and is a medium-sized locally owned General Contractor and Construction Manager which works exclusively in Connecticut. Over the last twenty years we have been Construction Manager for about two dozen very successful large public school construction projects in Connecticut. On all of these we were selected on the basis of our ability, our experience, the credentials of the people who would be assigned to the specific project and, to some extent, on our fee for the work (our Overhead and Profit – not the total cost of the project). My company is an active member of the Associated General Contractors of CT and CCIA, the Connecticut Construction Industries Association.

I strongly oppose H.B. 5373, An Act Expanding Certain Reverse Auction Authority to the Purchase of Services by Towns, School Districts and State Agencies, because reverse auctions are not an equitable or ethical way of procuring construction management services either for the Municipality or for the Construction Manager. This method will lead to projects being poorly performed, highly susceptible to large Change Orders, Delays and Litigation since the lowest “Bidder” will undoubtedly bid so low that they cannot adequately perform and they will have to take on an extremely adversarial position to recover the profit they lost in the bidding process. Also, the Owner (Municipality, Board of Education or State, will have lost the ability to include in their bid analysis the ability, experience, project team, similar project experience, current workload and other factors that are a key to a proper selection of a Construction Manager on a large complex project such as a school. Also, my opinion is that many of the best Construction Managers will not even “Bid” school projects under this system because of its inequity and the probability of an inexperienced cheap bidder being awarded the project.

I have been briefly exposed to this form of procurement about 7 years ago when UTC used the Reverse Auction Bid Shopping method for procurement of General Contracting Services on a few simple projects. At the time we were instrumental, I believe, in proving to UTC that this method might be applicable to buying nuts and bolts or other materials that are easily quantified but that it is not applicable to complicated projects where labor, management, material and equipment is being bought and where the ability of the bidder to produce a successful project on a unique site is a large factor. Until last week, in fact, we had not seen additional Bid Shopping by UTC using this system for 7 years; at that time a small project was put out for auction (35 minutes before the bid was due) by some UTC group.

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Last year's state legislation extending Reverse Auction Bidding to items such as furniture, and other somewhat standardized materials and equipment makes some sense although even then there are quality differences that are ignored by this process. Reverse Auctions also give bidders that feeling in the back of their minds that there is someone in the big Reverse Auction Software War Room entering false bids to drive down prices --- who knows? I believe that this concept depends on proprietary software that is sold to unsophisticated purchasers of goods and services and so, if passed, this legislation would enrich a single software firm. I am not totally sure of this, but I believe it to be true. The whole process seems quite unethical.

Construction Management is a Professional Service, the same as the practice of Architecture or Law. As such, it requires specialized training, experience and licensing, and during award negotiations it is subject to detailed scrutiny by contracting agencies and not just awarded based on price alone. For example, see last year's state legislation on selection of Architects (and designers) and Construction Managers, which is based first on a Quality -Based Selection System - not price.

In conclusion, and somewhat facetiously, I submit that if this is such a good way of contracting professional services, that Towns should be required to purchase Legal Services by Reverse Auctioning attorneys' Hourly Rates or, as another example, perhaps School Superintendents should Reverse Auction their yearly salaries when they are being selected. It's a GOOD ANALOGY!!

Please carefully consider how unfair and how harmful Reverse Auction Bidding will be to the Construction Process and do not pass this legislation. Thank you.

Please contact me at (860) 953-5667 or email me at dave@indconst.com if you have any questions or if you need additional information.