



Ohio Revised Code Section 9.31 Erroneous bids.

Effective: August 1, 1980

Legislation: Senate Bill 157 - 113th General Assembly

A bidder for a contract with the state or any political subdivision, district, institution, or other agency thereof, excluding therefrom the Ohio department of transportation, for the construction, demolition, alteration, repair, or reconstruction of any public building, structure, highway, or other improvement may withdraw his bid from consideration if the price bid was substantially lower than the other bids, providing the bid was submitted in good faith, and the reason for the price bid being substantially lower was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional and substantial arithmetic error or an unintentional omission of a substantial quantity of work, labor, or material made directly in the compilation of the bid. Notice of a claim of right to withdraw such bid must be made in writing filed with the contracting authority within two business days after the conclusion of the bid opening procedure.

No bid may be withdrawn under this section when the result would be the awarding of the contract on another bid of the same bidder.

No bidder who is permitted to withdraw a bid shall for compensation supply any material or labor to, or perform any subcontract or other work agreement for, the person to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted, without the approval of the contracting authority. The person to whom the contract was awarded and the withdrawing bidder are jointly liable to the contracting authority in an amount equal to any compensation paid to or for the benefit of the withdrawing bidder without such approval, in addition to the penalty provided in section 2913.31 of the Revised Code.

If a bid is withdrawn under authority of this section, the contracting authority may award the contract to the next lowest bidder or reject all bids and resubmit the project for bidding. In the event the contracting authority resubmits the project for bidding the withdrawing bidder shall pay the costs, in connection with the resubmission, of printing new contract documents, required advertising, and printing and mailing notices to prospective bidders, if the contracting authority finds that such costs would not have been incurred but for such withdrawal.



The contracting authority, if it intends to contest the right of a bidder to withdraw a bid, shall hold a hearing thereon within ten days after the opening of such bids and issue any order allowing or denying the claim of such right within five days after such hearing is concluded. The contracting authority shall give to the withdrawing bidder timely and reasonable notice of the time and place of any such hearing. The contracting authority shall make a stenographic record of all testimony, other evidence, and rulings on the admissibility of evidence presented at the hearing. Such order may be appealed under section 119.12 of the Revised Code. The bidder shall pay the costs of the hearing.

In the event the contracting authority denies the claim for withdrawal and the bidder elects to appeal or otherwise refuses to perform, the contracting authority may reject all bids or award to the next lowest bidder.