

CHAPTER 1055**SHARE DRAFT AS SECURITY ON BID***S.F. 2285*

AN ACT permitting the deposit of a credit union certified share draft as security on a bid for a contract for a public improvement.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 18.37, Code 1983, is amended to read as follows:

18.37 DEPOSIT WITH BID OR YEARLY BOND. ~~Each~~ A bidder ~~must shall~~ deposit with the director at the time ~~he~~ the bidder files his a bid, a certified check or credit union certified share draft payable to the state treasurer for an amount to be fixed in the specifications, either covering all classes or items, or separate checks or drafts for each bid in case ~~he~~ the bidder makes more than one bid; ~~or in.~~ In lieu of checks or share drafts the bidder may furnish a yearly bond in an amount to be established by the director. Checks or share drafts deposited by unsuccessful bidders, and by successful bidders when they have entered into the contract, shall be returned to them.

Sec. 2. Section 18.43, Code 1983, is amended to read as follows:

18.43 DUTY TO ENTER INTO CONTRACT—FORFEITURE. ~~Each~~ A successful bidder ~~must shall~~ within ten days after the award, enter into a contract in accordance with ~~his~~ the bid, ~~and unless.~~ Unless this is done, or the delay is for reasons satisfactory to the director, the certified check or credit union certified share draft submitted with the bid shall be forfeited to the state. The specifications on which the bid is made ~~shall~~ constitute a part of the contract.

Sec. 3. Section 23.18, Code 1983, is amended to read as follows:

23.18 BIDS REQUIRED—PROCEDURE. When the estimated total cost of construction, erection, demolition, alteration or repair of ~~any~~ a public improvement exceeds twenty-five thousand dollars, the municipality shall advertise for bids on the proposed improvement by two publications in a newspaper published in the county in which the work is to be done, ~~the first of which.~~ The first advertisement for bids shall be not less than fifteen days prior to the date set for receiving bids; ~~and.~~ The municipality shall let the work to the lowest responsible bidder submitting a sealed proposal. However, if in the judgment of the municipality bids received are not acceptable, all bids may be rejected and new bids requested. ~~All bids must~~ A bid shall be accompanied, in a separate envelope, by a deposit of money or a certified check or credit union certified share draft in an amount to be named in the advertisement for bids as security that the bidder will enter into a contract for the doing of the work. The municipality shall fix the bid security in an amount equal to at least five percent, but not more than ten percent of the estimated total cost of the work. The checks, share drafts or deposits of money of the unsuccessful bidders shall be returned as soon as the successful bidder is determined, and the check, share draft or deposit of money of the successful bidder shall be returned upon execution of the contract documents. This section ~~shall~~ does not apply to the construction, erection, demolition, alteration or repair of ~~any~~ a public improvement when the contracting procedure for the doing of the work is provided for in another provision of law.

Sec. 4. Section 218.61, Code Supplement 1983, is amended to read as follows:

218.61 PRELIMINARY DEPOSIT. A preliminary deposit of money, ~~or a certified check~~ upon a solvent bank or a credit union certified share draft in ~~such the~~ amount as the commissioner of the department of human services may prescribe, shall be required as an evidence of good faith, upon all proposals for the construction of said improvements, ~~which.~~ The deposit, or certified check or certified share draft shall be held under the direction of such the commissioner.

Sec. 5. Section 262.34, Code 1983, is amended to read as follows:

262.34 IMPROVEMENTS—ADVERTISEMENT FOR BIDS. When the estimated cost of construction, repairs, or improvement of buildings or grounds under charge of the state board of regents exceeds twenty-five thousand dollars, the board shall advertise for bids for the contemplated improvement or construction and shall let the work to the lowest responsible bidder. However, if in the judgment of the board bids received are not acceptable, the board may reject all bids and proceed with the construction, repair, or improvement by ~~such a~~ method as the board may determine. All plans and specifications for repairs or construction, together with bids ~~thereon~~ on the plans or specifications, shall be filed by the board and be open for public inspection. All bids submitted under this section shall be accompanied by a deposit of money, ~~or a certified check or a credit union certified share draft~~ in an amount as the board may prescribe.

Sec. 6. Section 357.14, unnumbered paragraph 2, Code 1983, is amended to read as follows:

When the completed plans and specifications are on file with the county auditor, the board of supervisors shall advertise for bids and shall ~~cause notice to be given by publication~~ publish a notice once each week for two consecutive weeks in some newspaper published in the county ~~wherein in which~~ the improvement is to be constructed, setting forth the location and nature of the improvement and the date and place where bids will be received by the board. The last published notice to bidders shall be at least seven days before the time set for receiving bids. Bidders ~~will~~ shall be required to submit certified checks or credit union certified share drafts for five percent of the amount of the bid.

Sec. 7. Section 357A.2, unnumbered paragraph 2, Code 1983, is amended to read as follows:

There shall be filed with the petition a bond, certified check, credit union certified share draft or cash in an amount and with sureties approved by the auditor, sufficient for the payment of all costs and expenses incurred in the proceedings if the district is not finally established.

Sec. 8. Section 358.2, unnumbered paragraph 3, Code 1983, is amended to read as follows:

There shall be filed with the petition a bond, certified check, credit union certified share draft or cash in an amount and with sureties approved by the auditor, sufficient for the payment of all costs and expenses incurred in the proceedings if the district is not finally established.

Sec. 9. Section 384.97, subsection 5, Code 1983, is amended to read as follows:

5. That each bidder shall accompany ~~his~~ the bid with a bid security as defined ~~herein in this~~ subsection and as specified by the governing body, as security that the successful bidder will enter into a contract for the work bid upon and will furnish after the award of contract a corporate surety bond, acceptable to the governing body, for the faithful performance of the contract, in an amount equal to one hundred percent of the amount of the contract. The bidder's security ~~must~~ shall be in an amount fixed by the governing body, and ~~must~~ shall be in the form of a cashier's or certified check drawn on a bank in Iowa or a bank chartered under the laws of the United States, or a certified share draft drawn on a credit union in Iowa or chartered under the law of the United States, or the governing body may provide for a bidder's bond with corporate surety satisfactory to the governing body, ~~which.~~ The bid bond shall contain no condition except as provided in this section.

Sec. 10. Section 455.40, Code 1983, is amended to read as follows:

455.40 ADVERTISEMENT FOR BIDS. The board shall ~~cause notice to be given by publication~~ publish notice once each week for two consecutive weeks in ~~some a~~ a newspaper published in the county ~~wherein such in which the~~ in which the improvement is located, and ~~such~~ publish additional advertisement and publication elsewhere as ~~it the board may direct, of.~~ the board may direct, of. The notice shall state the time and place of letting the work of construction of ~~said the~~ said improvement, specifying the approximate amount of work to be done in each numbered section of the district, the time fixed for the commencement, and the time of the completion ~~thereof of the~~ work, that bids will be received on the entire work and in sections or divisions ~~thereof of the~~ entire work, and that ~~each a~~ each bidder will be required to deposit with ~~his the~~ his bid cash, or a certified check on and certified by a bank in Iowa, or a certified share draft from a credit union in Iowa payable to the auditor or ~~his the~~ his auditor's order, at ~~his the~~ his auditor's office, in an amount equal to ten percent of ~~his the~~ his bid, in no case to exceed ten thousand dollars. When the estimated cost of the improvement exceeds fifteen thousand dollars, the board may make additional publication for two consecutive weeks in ~~some a~~ a contractors journal of general circulation, giving only the type of proposed construction or repairs, estimated amount, date of letting, amount of bidder's bond, and the name and address of the county auditor. All notices shall fix the date to which bids will be received and upon which ~~said the~~ said work will be let. ~~Except, however~~ However, when the estimated cost of the improvement is less than twenty-five hundred dollars, the board may let the contract for ~~such the~~ such construction without taking bids ~~therefor~~ and without publishing any notice as above provided.

Sec. 11. Section 455.42, Code 1983, is amended to read as follows:

455.42 MANNER OF MAKING BIDS - DEPOSIT. ~~Each A~~ Each bid shall be in writing, specifying the portion of the work upon which the bid is made, and filed with the auditor, ~~accompanied.~~ The bid shall be accompanied with a deposit of cash, or a certified check on and certified by a bank in Iowa or a certified share draft drawn on a credit union in Iowa, payable to the auditor or ~~his the~~ his auditor's order at ~~his the~~ his auditor's office in a sum equal to ten percent of the amount of the bid, but in any event not to exceed ten thousand dollars. However, if the maximum limit on bid deposits would cause a denial of funds or services from the federal government which would otherwise be available, or if the maximum limit would otherwise be inconsistent with the requirements of federal law, the maximum limit may be suspended to the extent necessary to prevent denial of federal funds or services or to eliminate the inconsistency with federal requirements. The checks or share drafts of unsuccessful bidders shall be returned to them, but the checks of successful bidders shall be held as a guarantee that they will enter into contract in accordance with their bids.

Sec. 12. Section 455.43, Code 1983, is amended to read as follows:

455.43 PERFORMANCE BOND - RETURN OF CHECK. ~~Each A~~ Each successful bidder shall be is required to execute a bond with sureties approved by the auditor in favor of the county for the use and benefit of the levee or drainage district and all persons entitled to liens for labor or material in an amount not less than seventy-five percent of the contract price of the work to be done, conditioned for the timely, efficient, and complete performance of ~~his the~~ his contract, and the payment, as they become due, of all just claims for labor performed and material used in carrying out ~~said the~~ said contract. When ~~such a~~ such contract is executed and bond approved by the board, the certified check or certified share draft deposited with the bid shall be returned to the bidder.

Sec. 13. Section 467D.20, Code 1983, is amended to read as follows:

467D.20 BIDS ON WORK. When the estimated total cost of construction, enlargement, alteration or repair of ~~any~~ an internal improvement exceeds five thousand dollars, the conservancy district shall advertise for bids on the proposed improvement by two publications in at least one newspaper of general circulation in the conservancy district; ~~the first of which.~~ The first advertisement shall be not less than fifteen days prior to the date set for receiving bids, and shall let the work to the lowest responsible bidder submitting a sealed proposal; provided that if, However, if in the judgment of the board, the bids received are not acceptable, all bids may be rejected and new bids requested. All bids ~~must~~ shall be accompanied, in a separate envelope, by a deposit of money, credit union certified share draft or certified check, in an amount to be named in the advertisement for bids, as security that the bidder will enter into a contract in accordance with the terms of ~~his~~ the bid. The board shall fix the bid security in an amount equal to at least five percent, but not more than ten percent of the estimated total cost of the work. The checks or deposits of money of the unsuccessful bidders shall be returned as soon as the successful bidder is determined, and the share draft, check or deposit of money of the successful bidder shall be returned upon execution of the contract documents.

Sec. 14. Section 573.4, Code 1983, is amended to read as follows:

573.4 DEPOSIT IN LIEU OF BOND. A deposit of money, ~~or~~ a certified check on a solvent bank of the county in which the improvement is to be located, a credit union certified share draft, ~~or~~ state or federal bonds, ~~or~~ bonds issued by ~~any~~ a city, school corporation, or county of this state, or bonds issued on behalf of ~~any~~ a drainage or highway paving district of this state, may be received in an amount equal to the amount of the bond and held in lieu of a surety on ~~such~~ the bond, and when so received ~~such~~ the securities shall be held on the terms and conditions applicable to a surety.

Approved April 10, 1984