

LC002535

JANUARY SESSION, A.D. 2025

RELATING TO PUBLIC PROPERTY AND WORKS -- RHODE ISLAND BID RIGGING ACT

(Attorney General)

19 (A) Price fixing;

1 (B) Submitting identical bids;

2 (C) Rotating bids;

3 (D) Sharing profits with a contractor who does not submit the low bid;

4 (E) Submitting prearranged bids, agreed-upon higher or lower bids or other complementary
5 bids;

6 (F) Dividing up territories to restrict competition; and/or

7 (G) Not submitting a bid;

8 (ii) Notwithstanding other provisions of this chapter, it is not unlawful for the same person
9 to simultaneously submit bids for the same work, or a portion thereof, as a proposed prime
10 contractor and subcontractor.

11 (2) “Debarment” means the exclusion from all state procurements and termination of
12 existing or outstanding contracts.

13 (3) “Person” means an individual or a firm, association, organization, business trust,
14 company, corporation, joint venture, partnership, proprietorship, or other business entity, whether
15 or not for profit, and any government or public entity.

16 (4) “Government entity” means any department, commission, council, board, bureau,
17 committee, institution, legislative body, agency, or government corporation of the executive,
18 legislative, or judicial branches of state, and/or local governments including, but not limited to,
19 those entities defined in § 37-2-7 relating to state governmental entities, public agencies, state
20 agencies, and governmental entities.

21 (5) “Prime contractor” means any person who has entered into a public contract.

22 **37-27-3. Bid rigging prohibited.**

23 It is unlawful for any person to knowingly conspire, collude, combine, or agree with
24 another to commit or attempt to commit bid rigging involving:

25 (1) A contract for the purchase of equipment, goods, services or materials or for
26 construction or repair proposed, offered, or otherwise submitted by a government entity; or

27 (2) A subcontract for the purchase of equipment, goods, services or materials or for
28 construction or repair with a prime contractor or proposed prime contractor for a government entity.

29 **37-27-4. Interference with contract submission and award by public official.**

30 (a) It is unlawful for any person who is an official of or employed by any unit of state or
31 local government, or any public officers who are subject to the code of ethics set forth in § 36-14-
32 4, to knowingly convey, either directly or indirectly, outside of any publicly available official
33 procurement process adopted pursuant to law, regulation or ordinance by that unit of government
34 including, but not limited, to procurement processes established pursuant to chapter 2 of title 37 or

1 chapter 55 of title 45, or regulations promulgated thereto, to any person any information concerning
2 the specifications for such contract or the identity of any particular potential subcontractors, when
3 inclusion of such information concerning the specifications or contractors in the bid or offer would
4 influence the likelihood of acceptance of such bid or offer. It shall not constitute a violation of this
5 subsection to convey information intended to clarify plans or specifications regarding a public
6 contract where such disclosure of information is also made generally available to the public.

7 (b) It is unlawful for any person who is an official of or employed by any unit of state or
8 local government, or any public officers who are subject to the code of ethics set forth in § 36-14-
9 4, to take any action to deliberately influence the award or attempted award of a contract to a
10 particular bidder, prime contractor or subcontractor in contravention of any official procurement
11 process set forth pursuant to law, regulation or ordinance including, but not limited, to procurement
12 processes established pursuant to chapter 2 of title 37 or chapter 55 of title 45, or regulations
13 promulgated thereto, when such invitation to bid is required by law, regulation, or ordinance.

14 **37-27-5. Penalties.**

15 (a) Unless otherwise specified, any violation of any provision of this chapter shall be
16 deemed a felony punishable by imprisonment not exceeding three (3) years and by a fine of up to
17 one million dollars (\$1,000,000) or three (3) times the value of the submitted award or bid,
18 whichever is greater. Any criminal proceeding brought pursuant to this chapter must be commenced
19 within six (6) years after the alleged criminal act occurred.

20 (b) The attorney general may also institute in the name of the state actions or proceedings
21 to prevent or restrain civil violations of this chapter. The attorney general may apply for an order
22 enjoining the continuance of any violation of this chapter, and directing restitution, damages,
23 penalties of up to one million dollars (\$1,000,000) and, in an appropriate case, cancelling any
24 certificate filed with the secretary of state and debarment from state contracting for a period of up
25 to five (5) years, and the court may award the relief applied for or so much thereof as it may deem
26 proper.

27 (b) It shall not constitute a violation of this chapter where any person who is an official of
28 or employed by any unit of state or local government follows procedures established by federal,
29 state or local laws or regulations including, but not limited, to processes established pursuant to
30 chapter 2 of title 37 or chapter 55 of title 45, or regulations promulgated thereto.

31 (c) It shall not constitute a violation of this chapter for any person who is an official of or
32 employed by any unit of state or local government to provide to any person a copy of the transcript
33 or other summary of any pre-bid conference where such transcript or summary is also made
34 generally available to the public.

1 **37-27-6. Civil investigative demands.**

2 When the attorney general has reasonable cause to believe that any person has engaged in,
3 is engaging in, or may have information related to a civil violation of § 37-27-3, the attorney general
4 is authorized to take proof and make a determination of the relevant facts and to issue civil
5 investigative demands to any person, in accordance with and subject to the limitations of the rules
6 set forth in § 6-13.1-7. Such authorization may precede any application, action or proceeding
7 instituted pursuant to § 37-27-5 and shall not abate or terminate by reason of any application, action,
8 or proceeding brought by the attorney general under this chapter.

9 **37-27-7. Debarment.**

10 (a) Any vendor debarred pursuant to this chapter shall not perform work as a prime
11 contractor, consultant, subcontractor or subconsultant for the state and shall be excluded from all
12 state procurements and any contract between the state and the vendor shall be terminated.

13 (b) Any person who is found to be in violation of any provision of this chapter shall be
14 subject to debarment, pursuant to chapter 2 of title 37 or any regulations promulgated thereto, from
15 state contracting for a period of up to five (5) years.

16 (c) A government entity that proposes, offers, or otherwise submits a contract for
17 competitive bidding shall maintain a current list of persons excluded or ineligible, by reason of
18 debarment, for participation in contracts or subcontracts with that government entity.

19 **37-27-8. Severability.**

20 Should any part of this chapter be declared invalid or unenforceable, or the enforcement or
21 compliance with it is suspended, restrained, or barred, either by the state or by the final judgment
22 of a court of competent jurisdiction, the remainder of this chapter shall remain in full force and
23 effect.

24 SECTION 3. Chapter 37-2 of the General Laws entitled "State Purchases" is hereby
25 amended by adding thereto the following section:

26 **37-2-83. Penalties.**

27 Any person who knowingly and intentionally violates any provision of this chapter shall
28 be subject to a misdemeanor, punishable by a fine of not more than five hundred dollars (\$500), or
29 by imprisonment for not more than one year, or both.

30 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PUBLIC PROPERTY AND WORKS -- RHODE ISLAND BID RIGGING ACT

- 1 This act would establish the Rhode Island Bid Rigging Act.
- 2 This act would take effect upon passage.

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