

109TH CONGRESS
1ST SESSION

H. R. 2834

To assure quality and best value with respect to Federal construction projects
by prohibiting the practice known as bid shopping.

IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 2005

Mr. KANJORSKI (for himself, Mr. MORAN of Virginia, Mr. WYNN, Mr. UDALL of Colorado, Mr. JEFFERSON, Mrs. MALONEY, Mr. BISHOP of New York, and Mr. OWENS) introduced the following bill; which was referred to the Committee on Government Reform

A BILL

To assure quality and best value with respect to Federal construction projects by prohibiting the practice known as bid shopping.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Construction Quality
5 Assurance Act of 2005”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Certain abhorrent and undesirable prac-
9 tices, known as bid shopping, have arisen from time

1 to time in construction work for the Federal Govern-
2 ment.

3 (2) Bid shopping threatens the integrity of the
4 procurement of construction services.

5 (3) The practice of bid shopping deprives tax-
6 payers of the full benefits of fair competition among
7 contractors and subcontractors, and often results in
8 poor quality of material and workmanship to the
9 detriment of the public.

10 (4) When bid shopping occurs, the cost savings
11 gained are not passed on to the Federal Govern-
12 ment, but the simultaneous reductions in quality and
13 value are passed on to the Federal Government.

14 (5) The procurement practices of the Federal
15 Government should be modified to prohibit bid shop-
16 ping at all levels.

17 **SEC. 3. DEFINITIONS.**

18 In this Act:

19 (1) **CONTRACT.**—The term “contract” means
20 any contract with the Federal Government, exceed-
21 ing \$1,000,000 in amount, for the construction, al-
22 teration, or repair of any public building or public
23 work of the United States.

24 (2) **BID SHOPPING.**—The term “bid shopping”
25 means the practice of divulging, or causing to be di-

1 vulged, a contractor’s or subcontractor’s bid or pro-
2 posal or requiring a contractor or subcontractor to
3 divulge its bid or proposal to another prospective
4 contractor or subcontractor before the award of a
5 contract or subcontract in order to secure a lower
6 bid or proposal.

7 (3) CONTRACTOR.—The term “contractor”
8 means an individual or entity that has been awarded
9 or is seeking to be awarded a construction contract
10 by the Federal Government.

11 (4) SUBCONTRACTOR.—The term “subcon-
12 tractor” means an individual or entity with which an
13 offeror on a contract proposes to enter into a sub-
14 contract for manufacturing, supplying, fabricating,
15 installing, or otherwise performing with respect to
16 the contract, whether the work is to be performed by
17 the subcontractor at the construction site or off the
18 site.

19 **SEC. 4. PROHIBITION AGAINST BID SHOPPING.**

20 (a) PROHIBITION.—Neither the Federal Government,
21 nor a contractor or subcontractor, shall participate in the
22 practice of bid shopping with respect to a contract.

23 (b) NOTICE REQUIREMENT.—Any invitation for bid
24 or request for proposal issued by the Federal Government
25 shall include a clause explicitly prohibiting the practice of

1 bid shopping and specifying the penalties for violating the
2 prohibition against bid shopping.

3 **SEC. 5. PENALTIES.**

4 (a) IN GENERAL.—A contract shall provide for termi-
5 nation of the contract or the imposition of liquidated dam-
6 ages in the amount described in subsection (b) upon a de-
7 termination by the contracting officer, in accordance with
8 applicable provisions of the Federal Acquisition Regula-
9 tion (including provisions relating to due process), that a
10 violation of section 4(a) has occurred.

11 (b) AMOUNT.—The amount of liquidated damages
12 that may be imposed pursuant to subsection (a) is an
13 amount equal to the greater of—

14 (1) the final bid on the contract (before the
15 award of the contract) by either a contractor or sub-
16 contractor; or

17 (2) the price paid to the contractor or any sub-
18 contractor for work performed.

19 **SEC. 6. IMPLEMENTATION THROUGH THE FEDERAL ACQUI-**
20 **SITION REGULATION.**

21 Not later than 120 days after the date of the enact-
22 ment of this Act, the Federal Acquisition Regulation shall
23 be modified to provide appropriate solicitation provisions,
24 contract clauses, and investigatory procedures to imple-
25 ment this Act.

1 **SEC. 7. EFFECTIVE DATE.**

2 This Act shall apply with respect to contracts award-
3 ed on or after the date of the beginning of the first fiscal
4 quarter beginning more than 120 days after the date of
5 the enactment of this Act.

○