

WRITTEN TESTIMONY ON SUBSTITUTE HOUSE BILL 62
SENATE TRANSPORTATION, COMMERCE AND WORKFORCE COMMITTEE
SUBMITTED MARCH 20, 2019
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The Ohio Contractors Association is presenting this written testimony in opposition to changes included in Substitute House Bill 62 which dramatically increase force account limits for county, township and municipal projects. In very general terms, “force account” is a term related to the cost of a road or highway project. Below the amount established for a force account project, a governmental agency may use its own labor force and equipment; above the amount established by law, the governmental agency must competitively bid the project. Raising force account limits allow governmental entities to perform more work at the expense of private sector businesses who rely on this work to maintain their workforce and remain viable as a business entity. Because of the work types that are typically associated with force account work, small construction businesses, new-starts and minority-owned businesses bear the brunt of this impact.

Competitive bidding is a cornerstone in providing best value and lowest price when constructing public sector projects. It demands that, for a company to be successful, operations must be efficient, hours must be minimized, the materials must be obtained at the lowest market price, and innovative strategies are employed that are superior to competitors. All of these requirements must be achieved while producing a product that meets plan and specification requirements under the watchful eye of governmental entity inspectors. These competitive attributes are largely given away when projects are performed by government forces. In effect, the governmental entity is accountable to no one but themselves. Government is quick to apply contractual requirements upon a hired, private-sector contractor but feel a lesser obligation to apply these same aggressive mandates upon themselves.

While government continually claims to be able to construct a less expensive product, there are always challenges that project costing does not reflect an apples-to-apples comparison. Examples of these disparities would include: project bonding; equipment ownership (life cycle utilization rates, purchase, transportation, repairs, etc.); overhead for building and support staff costs; and taxes. Costs such as these are necessary when anticipating the totality of projects costs for a private sector business; however, for government, they are costs that are either not mandated by virtue of being a governmental entity or they are hidden costs within the operation of government but not included when addressing the entirety of a project’s true cost.

The private-sector construction industry relies on highway and bridge projects from all levels of government to sustain good paying jobs, entice the work force of tomorrow to adopt construction as a viable career choice, and produce a quality outcome that will enhance the quality of life for those who produce and use Ohio’s roads and bridges. The maintenance forces of Ohio’s local governments have a role to play in maintaining the highways and bridges under their charge. However, there is a notable distinction between maintaining and constructing. Recognizing that distinction, there must be limits between each that are put into place.

In 2015, the Ohio Department of Transportation and the Ohio Contractors Association worked cooperatively to put into place a definition of “force account” that changed the paradigm for both organizations. This new concept moved away from a monetary definition of force account limits for major items of work to one that created a dividing line between maintenance and construction defined by the magnitude or scope of the work. We believe this same paradigm shift would be applicable for counties, townships and municipalities in Ohio. Instead of debating financial limits, scope-of-work limits could be established that would forego the cyclic debate over this issue.

With this in mind, we would request that the force account limit changes hastily added to Substitute House Bill 62 be removed and an opportunity be given to the impacted entities to debate a new concept of force account limits similar to those mutually agreed upon by ODOT and OCA in 2015. Our goal should be to devise a methodology that permanently puts to rest the ongoing debate over force account limits.

Thank you for your consideration of this request.

Respectfully submitted,

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President
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