WEST VIRGINIA CODE: §5-22-2

§5-22-2. Designation of time and place for opening of bids; right to reject or withdraw bid; bid resubmission; bid validity date.

(a) The public entity accepting public contract bids shall, in its resolution providing for the contract or purchase and for the advertisement for bids, designate the time and place that the bids will be received and shall at that time and place publicly open the bids and read them aloud. No public entity may accept or take any bid, including receiving any hand-delivered bid, after the time advertised to take bids. No bid may be opened on days which are recognized as holidays by the United States Postal Service. No public entity may accept or consider any bids that do not contain a valid bid bond or other surety approved by the state of West Virginia or its subdivisions.

(b) The provisions and requirements of this section, §5-22-1 of this code, the requirements stated in the advertisement for bids, and the requirements on the bid form may not be waived by any public entity. The public entity may only reject an erroneous bid after the opening if all of the following conditions exist: (1) An error was made; (2) the error materially affected the bid; (3) rejection of the bid would not cause a hardship on the public entity involved, other than losing an opportunity to receive construction projects at a reduced cost; and (4) enforcement of the bid in error would be unconscionable. If a public entity rejects a bid, it shall maintain a file of documented evidence demonstrating that all the conditions set forth in this subdivision existed. If the public entity determines the bid to be erroneous, the public entity shall return the bid security to the contractor.

(c) A contractor who withdraws a bid under the provisions of this section may not resubmit a bid on the same project. If the bid withdrawn is the lowest bid, the next lowest bid may be accepted.

(d) The provisions of a bid shall remain valid and legally binding for a period of 90 calendar days. The 90 days begin to run from the date of the bid opening as prescribed by the public entity bid solicitation. The 90-day period as set forth in this section may be extended by mutual agreement of the contractor and the public entity. Any extension shall be in writing.

WV Legislature