
**State Government Operations &
Accountability Committee**

HB 1444

Brief Description: Requiring contracts to be awarded to the lowest responsible bidder.

Sponsors: Representatives Haigh, Nixon, Miloscia, Shabro, McDermott, Blake and Hasegawa.

Brief Summary of Bill

- Finds fair and open competition integral to public works procurement.
- Requires letting of open bids for state or municipal public works to the responsible bidder with the lowest responsive bid, unless good cause for rejection of all bids is provided in writing.

Hearing Date: 2/9/05

Staff: Hannah Lidman (786-7291).

Background:

The requirements for awarding public works contracts vary throughout Washington's public works bidding statutes. Most relevant laws require the awarding of contracts to the lowest responsible bidder or the responsible bidder with the lowest responsive bid. However, in some cases the awarding authority may reject all bids. While some statutes allow for rejection of bids with good cause or for the reason that the work will be provided for less by the public authority, others are silent on the reasons for rejection.

Some public works bidding statutes, such as the small works roster statute, refer to specific criteria used to determine a "lowest responsible bidder." Some determining elements of a "lowest responsible bidder" may be:

- the ability, capacity and skill of the bidder;
- the character, integrity, reputation, experience and efficiency of the bidder;
- whether the bidder can perform the contract within the given timeline;
- the quality of previous contracts; and
- the previous and existing compliance by the bidder with laws relating to contracts.

Under certain circumstances in public works contracting, alternative public works contracting procedures may be used if the procedures are implemented in an open and fair process based on objective and equitable criteria. A general contractor/construction manager is a firm that a public

body has selected and with whom it has negotiated a maximum allowable public works construction cost to be guaranteed by the firm, after competitive bidding selection.

All subcontract work is competitively bid with public bid openings. A general contractor/construction manager and the public authority offering the bid determine together eligible subcontract bidders. Subcontract bid packages are awarded to the responsible bidder submitting the low responsive bid.

Summary of Bill:

The legislature finds fair and open competition integral to public works procurement. Fair competition reduces the opportunity for and appearance of conflicts of interest. Unless evidence of good cause is provided, contracts for public works should be awarded to the responsible bidder with the lowest responsive bid.

Whether for state, municipal or institute of higher education public works projects, bids must be awarded to the responsible bidder with the lowest responsive bid unless good cause, with the reasons specified in writing, is shown for rejecting all bids and cancelling the invitation.

For the procurement of subcontract bid package work under the alternative public works contracting procedure, both the public owner and the general contractor/construction manager must determine the good cause reasons for rejecting all bids and provide them in writing.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.