

HOUSE OF REPRESENTATIVES

Olympia Washington

BilAnalysis

BilNo. HB 2974

Regulating Competitive Bidding on Public Contracts
Brief title

Hrg. Date: 2/4/98

Reps. D. Schmidt/Scott
Sponsor

Staff Contact: Steve Lundin
Comm. on Govt. Admin.
Phone: 786-7127

BACKGROUND:

Each invitation to bid on a contract for the construction, alteration, repair of a public building or public work, that is expected to cost in excess of \$100,000, must require a bidder to submit the name or names of every subcontractor who is proposed to be used if the subcontract amount is more than 10 percent of the total bid price. The bidder must include the subcontract names as part of the bid or within one hour of the published bid submit time. Failure to name each of these subcontractors renders the bid nonresponsive and void.

SUMMARY:

Requirements are altered for contractors to name subcontractors they intend to use as part of a bid submitted for the construction, alteration, repair of a public building or public work with an expected cost in excess of \$100,000.

1. Naming subcontractors in a bid.

A contractor submitting such a bid is required to name each subcontractor who will perform the following work: (1) Any work described in construction specification institut division 5" of the contract specification; (2) any work described in construction specification institut division 6" of the contract specifications; (3) any subcontract amount that is more than 15 percent of the bid price.

[Construction specifications institut division 15 or 16 are not defined in Washington State statute or administrative rule.]

The naming of two or more subcontractors for the same work renders the bid nonresponsive and void.

Continued

2. Substituting subcontractors named in the bid.

A contractor who has been awarded a contract for a public works or repair project may not substitute another subcontractor for a subcontractor named in the bid except in certain circumstances. A subcontractor may be substituted if the awarding authority objects to the subcontractor and requests in writing a change. In addition, the awarding authority may approve a substitution if:

- o The subcontractor fails or refuses to execute a contract with the bidder within a reasonable time, if the terms were offered to the subcontractor that were similar to terms offered to the other subcontractors on the project;
- o The subcontractor files for bankruptcy or becomes insolvent;
- o The subcontractor does not perform within a reasonable time;
- o The subcontractor does not furnish a performance bond and payment bond, if the subcontractor agreed in writing to furnish the performance and payment bond;
- o The bidder demonstrates to the awarding agency that a subcontractor is listed as a result of a good faith, inadvertent clerical error;
- o The subcontractor is not registered as a contractor or electrical contractor; or
- o If the bidder determines that the work performed by the subcontractor is substantially satisfactory and not in substantial accordance with plans and specifications, that the subcontractor is substantially delaying or disrupting work progress.

Any bidder who substitutes a subcontractor in violation of these requirements is liable to the named subcontractor in the amount of 10 percent of the substantiated subcontractor bid price or subcontract price. Legal action to enforce these requirements shall be brought in the superior court where the work is to be performed and the prevailing party is entitled to reasonable attorneys fees, costs, and disbursements.

FISCAL NOTE: Not requested.

EFFECTIVE DATE: Ninety days after adjournment of session in which bills passed.