

HOUSE OF REPRESENTATIVES

Olympia, Washington

Bill Analysis

Bill No. HB 1438

Bidding public contracts.

Brief title

Hearing Date 2/24/99

Rep(s) Milos Campbell

Sponsor(s)

Staff Scot MacColl

State Government Committee

Phone 786-7106

**BACKGROUND:**

General contracts whose bid on public works contracts exceeds \$100,000 are required to submit as part of the bid, within one hour after the published submission time, the names of all subcontractors whose subcontract amounts more than 10 percent of the contract price. Failure to list these subcontractors in the manner prescribed by statute renders the bid void.

These contracts are specifically designated for the construction or repair of any public building or public work of the state or a state agency, municipal city, county, higher education, or school district.

**SUMMARY:**

General contracts are required to name each subcontractor whose subcontract amounts more than 10 percent of the bid price in the submitted bid. Failure to name each subcontractor, including two more subcontractors in the same work will render the bid void. Bidders on general contracts whose bids are accepted expressly prohibit substitution of other subcontractors named as part of the original bid.

Specific exemptions to this law are defined as: 1) The awarding authority rejects the subcontractor or requests a change in the subcontract; 2) The substitution is approved by the awarding authority, and any of the following specific examples are met:

- a) The subcontractor, after a reasonable period of time, refuses to execute a written contract with the bidder, and such subcontract was offered to the subcontractor under the same terms that all the subcontractors on the project were offered;
- b) The subcontractor files for bankruptcy or becomes insolvent;
- c) The subcontractor refuses to perform the subcontract within a reasonable time;
- d) The subcontractor refuses, or is unable, to furnish performance and payment bonds where the named subcontractor agreed to furnish performance bonds before being named.

by the bidder in the submitted bid;  
e) When the bidder demonstrates to the awarding agency that the name of the subcontractor was listed as a result of good faith, in an advertisement or;  
f) When the subcontractor is not registered or licensed in the state and  
g) When the bidder determines that the work performed by the subcontractor is substantially unsatisfactory in substantial accordance with the contract documents, that the subcontractor is substantially delaying or disrupting the progress of the work.

Substitution of subcontractors for any other reason is prohibited and a bidder who violates this section shall be liable to the named subcontractor for a sum of 10 percent of the substituted contractor's price as a subcontractor. Enforcement of this section shall be brought through a petition in the superior court of the county where the work is to be performed. The prevailing party is entitled to recover reasonable attorney's fees, costs and disbursements.

**FISCAL NOTE:** Not requested.

**EFFECTIVE DATE:** Ninety days after adjournment of session in which it is passed.