

State Government Committee

HB 1343

Brief Description: *Allowing governmental entities that award publicly funded contracts to select contractors using the lowest responsible bidder method.*

Sponsors: *Representatives Keiser, Cairnes, Conway, Lantz, Reardon, McIntire, Kenney, Dunshee, Wood, Schual-Berke and Santos.*

Brief Summary of Bill

- *Requires state agencies and local governments to determine which contractor is the lowest responsible bidder when awarding contracts by soliciting information through a questionnaire about each contractor and subcontractor and their level of experience.*

Hearing Date: *2/12/01*

Staff: *Steve Lundin (786-7127).*

Background:

A myriad of statutes establish requirements for different state agencies and local governments to award contracts for public works projects and for the purchase of materials, supplies and equipment. Requirements vary, but generally a contract of a relatively small monetary value may be awarded without following a competitive bidding procedure, while a contract of a relatively medium or high monetary value must be awarded following some sort of competitive bidding procedure. Generally, more flexibility is allowed for awarding contracts of medium estimated dollar values than higher dollar values. The basic proposition of competitive bidding procedures is that the contract, if awarded, is awarded to the lowest responsible bidder.

A few public entities are given express authority to pre-qualify or to post-quality contractors.

The Department of Transportation may pre-qualify contractors by requiring specific

information answers to various questions and by only allowing a firm to obtain a contract proposal form if the firm meets certain standards. The standards include: (1) Financial resources; (2) Experience, organization, and technical qualifications; (3) Ability to comply with the required performance schedule; and (4) A satisfactory record of performance, integrity, judgement and skills.

The Department of General Administration has a similar post-qualifying system and may consider the various factors when determining the lowest responsible bidder for its purchases. These factors include: (1) Ability, capacity, and skill; (2) Character, integrity, reputation, judgement, experience, and efficiency; (3) Ability to perform the contract within the time specified; (4) Work performance of previous contracts; and (5) Previous and existing compliance by the bidder with contract laws.

Summary of Bill:

A new system is established for state agencies and local governments to award contracts for publically funded projects and purchases where contracts are required to be awarded to the lowest responsible bidder.

Each contractor and affected subcontractor is required to submit information in a questionnaire to assist the government in determining whether a contractor or subcontractor is a responsible bidder. The information must be supplied with the bid or within 48 hours after the bid is submitted. If information is not supplied, or supplied information is false on a material point, the bid from the contractor will be ruled unresponsive. The information supplied is subject to public inspection. A contractor or subcontractor is not a responsible bidder unless information clearly indicates the contractor is a responsible bidder. The government entity and contracting officer are immune from any suit or litigation brought on behalf of a bidder found not to be responsible.

The following elements must be considered in determining the lowest responsible bidder:

- The ability, capacity, and skill of the bidder to perform the contract or provide the service required;*
- The character, integrity, reputation, judgement, experience, and efficiency of the bidder;*
- Whether the bidder can perform the contract within the time specified;*
- The quality of performance of previous contracts or service;*
- The previous and existing compliance by the bidder with laws relating to the contract or service; and*
- Other information having a bearing on the decision to award the contract.*

*However, in determining the lowest responsible bidder for purchases, manufacture, or leases, a **life-cycle costing technique** must be used. A life-cycle cost is the total cost of the item over its estimated useful life, including costs of selection, acquisition, operation,*

maintenance, and, where applicable, a reduction in cost equal to the salvage value at the end of the estimated useful life. Life-cycle cost techniques do not prohibit an agency from allowing preferential purchase of products made from recycled materials of products.

An agency or local government may create its own questionnaire or may use a questionnaire created by the Department of General Administration or Superintendent of Public Instruction.

Rulemaking Authority: No express authority.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.